

Cdn. \$565,000,000 Extendible Revolving Term Credit Facility

Cdn. \$35,000,000 Operating Facility

Amended and Restated First Lien Credit Agreement

among

**Secure Energy Services Inc.
(as Borrower)**

and

**Each of the Financial Institutions Named as Lenders Herein
(as Lenders)**

and

**ATB Financial
(as Administrative Agent)**

with

**ATB Financial and National Bank Financial Inc.
(as Co-Lead Arrangers and Co-Bookrunners)**

and

**National Bank Financial Inc.
(as Syndication Agent)**

Dated effective as of April 29, 2019

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SCHEDULES:

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Schedule "C"	-	Form of Notice of Rollover or Notice of Repayment or Notice of Conversion
Schedule "D"	-	Form of Compliance Certificate
Schedule "E"	-	Form of Request for Extension
Schedule "F"	-	Form of Assignment and Assumption
Schedule "G"	-	Form of Subsidiary Guarantee
Schedule "H"	-	Power of Attorney Terms - Bankers' Acceptances
Schedule "I"	-	Form of Power of Attorney Terms – BA Equivalent Advances
Schedule "J"	-	Form of Environmental Certificate
Schedule "K"	-	Form of Fronting Lender Acknowledgment
Schedule "L"	-	Organizational Chart of the Borrower
Schedule "M"	-	Existing Lender Swaps, Continuing Letters of Credit and Outstanding BAs
Schedule "N"	-	Transferred Letters of Credit

THIS FIRST LIEN CREDIT AGREEMENT is dated effective as of April 29, 2019

AMONG:

SECURE ENERGY SERVICES INC., a corporation under the laws of Alberta, having its principal office in Calgary, Alberta, as Borrower

AND:

EACH OF THE FINANCIAL INSTITUTIONS SIGNATORIES HERETO AS LENDERS, OR AS FROM TIME TO TIME BECOME LENDERS HEREUNDER, in their capacity as Lenders

AND:

ATB FINANCIAL, in its capacity as Agent

WHEREAS the Borrower, the Lenders and the Agent are parties to the Existing Credit Agreement and have agreed to amend and restated the Existing Credit Agreement on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the premises, the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, including the recitals and the Schedules hereto and in all notices pursuant to this Agreement, unless something in the subject matter or context is inconsistent therewith, the following words and phrases shall have the following meanings:

“Acceleration Notice” is defined in Section 10.2(b);

“Accommodations” means:

- (a) the advance of Loans by the Syndicated Lenders, the acceptance and purchase of Bankers’ Acceptances or, if applicable, the advance of BA Equivalent Advances by the Syndicated Lenders and the issuance of Fronted Letters of Credit by a Fronting Lender (the **“Syndicated Accommodations”**); and
- (b) the advance of Prime Loans and U.S. Base Rate Loans by the Operating Lender (the **“Operating Accommodations”**);

“Accounts” means the accounts and records established by the Agent and the Operating Lender pursuant to Section 4.7 to record the Borrower’s liability to each of the Lenders in respect of the Borrowings and other amounts outstanding by the Borrower to each of the Lenders and the Agent hereunder;

“Acquisition” means, with respect to any Loan Party, any purchase or other acquisition, including any such purchase or other acquisition effected by way of amalgamation, merger, arrangement, business combination or other form of corporate reorganization, or by way of purchase, lease or other acquisition arrangements, or by way of entering into a joint venture or partnership with any other Person, of (a) any other Person (including by acquisition of equity securities of such other Person), (b) all or any substantial part of the property of any other Person, (c) all or substantially all of any division, business, operations or undertaking of any other Person, or (d) any site or facility that will, following such Acquisition, be a Site Facility;

“Adjustment Time” means the time of occurrence of the last event necessary (being either the delivery of a Demand for Repayment or the occurrence of a Termination Event) to ensure that all Lender Outstandings are thereafter due and payable and such time shall conclusively be:

- (a) in the case where such last event is the delivery of a Demand for Repayment, the time of delivery for such Demand for Repayment or, where not delivered as required within a time period specified in Section 10.3, then the last day of such time period; and
- (b) in the case where such last event is the occurrence of a Termination Event, the time of occurrence of such Termination Event determined pursuant to the provisions of the Loan Document giving rise to such Termination Event;

“Affiliate” means any Person which, directly or indirectly controls, is controlled by, or is under common control with another Person, and for the purpose of this definition, **“control”** (including with correlative meanings, the terms **“controlled by”** or **“under common control with”**) means the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of Voting Shares, by contract or otherwise;

“Agent” means ATB and includes any successor agent appointed pursuant to Section 12.6, and any successor entity to ATB;

“Agent’s Account for Payments” means:

- (a) for all payments in Canadian Dollars, the following account maintained by the Agent to which payments and transfers are to be effected as follows:

[REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION]

Attention: Manager of Loan Syndications

- (b) for all payments in U.S. Dollars, the following account maintained by the Agent to which payments and transfers are to be effected as follows:

[REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION]

Attention: Manager of Loan Syndications

or such other places or accounts as may be agreed upon by the Agent and the Borrower from time to time and notified in writing to the Lenders;

“Agent’s Branch of Account” means the office of the Agent located at the address set forth opposite the Agent’s name on the signature pages to this Agreement or such other office or branch of the Agent in Canada as the Agent may from time to time advise the Borrower and the Lenders in writing;

“Agreement” means this first lien credit agreement, all Schedules attached hereto and any future amendments and restatements, replacements or supplements hereto or thereto;

“AML Legislation” is defined in Section 14.11(a);

“Anti-Money Laundering Laws” is defined in Section 2.1(dd)(iv)(A);

“Applicable Law” means, in relation to any Person, property, transaction or event, all applicable provisions of federal, provincial, state, municipal or local laws, statutes, rules, regulations, by-laws, official directives and orders of all Governmental Authorities and all Governmental Actions in which the Person in question is a party or by which it is bound or having application to the Person, property, transaction or event, and includes Environmental Laws;

“Applicable Lenders” means, in the case of the Syndicated Facility and in respect of a Borrowing Notice, Conversion Notice or Rollover Notice given under the Syndicated Facility, all of the Syndicated Lenders and, in the case of the Operating Facility and in respect of a Borrowing Notice given under the Operating Facility, means only the Operating Lender;

“Applicable Margin” means a margin, expressed as a rate per annum, payable to, in the case of the Syndicated Facility, the Agent on behalf of all of the Lenders, and in the case of the Operating Facility, to the Operating Lender, with respect to Borrowings, as set forth in the table below for the applicable Consolidated Senior Debt to EBITDA Ratio:

Level	Consolidated Senior Debt to EBITDA Ratio	Prime Loans and U.S. Base Rate Loans (bps)	Libor Loans, Bankers' Acceptances and Financial Letters of Credit (bps)	Non- Financial Letters of Credit (bps)	Standby Fees (bps)
1	< 0.50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2	≥ 0.50 and <1.00	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3	≥ 1.00 and < 1.50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
4	≥ 1.50 and < 2.00	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5	≥ 2.00 and < 2.50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
6	≥ 2.50 and < 3.00	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
7	≥ 3.00 and < 3.50	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

provided that changes in the Applicable Margin shall be effective and adjusted in accordance with Section 5.13; and provided further that, as at the Effective Date, the Applicable Margin shall be set at Level 4. For the purposes of calculating the Applicable Margins for Prime Loans, U.S. Base Rate Loans and Bankers' Acceptances, the per annum rate is expressed on the basis of a 365 day year, as applicable, and the Applicable Margin for Libor Loans is calculated as a per annum rate expressed on the basis of a 360 day year. Upon the occurrence and during the continuance of any Default or Event of Default, each of the above Applicable Margins will increase by [REDACTED: CONFIDENTIAL COMMERCIAL TERMS];

"Applicable Percentage" means, at any time prior to the Adjustment Time with respect to each Lender and each Facility, the proportion that such Lender's Commitment in respect of such Facility bears to the amount of the total Commitments of all Lenders in respect of such Facility at such time and, if such total Commitment in respect of such Facility is cancelled or terminated, **"Applicable Percentage"** shall mean the Applicable Percentage of such Lender in effect immediately prior to such cancellation or termination; provided that when such term is used in reference to or in relation to:

- (a) the Operating Facility, the Applicable Percentage for the Operating Lender shall be 100% and for all other Lenders shall be 0%; and
- (b) the Syndicated Lenders, the Applicable Percentage for a Syndicated Lender shall be the proportion that the Syndicated Facility Commitment of such Syndicated Lender bears to the Total Syndicated Facility Commitment at such time.

After the Adjustment Time, the Applicable Percentage of each Lender shall be calculated based on its Commitment as a proportion of the Total Commitment and without any distinction as to which Facility may be relevant to such Lender, and when used in Section 12.18(b) in relation to both Lenders and Swap Lenders, the "Lender Outstandings" of Swap Lenders for the purposes of such calculation shall be their Permitted Swap Indebtedness as calculated after the Adjustment Time;

"Applicable Percentage of the Total Commitment" means in respect of each Lender, the proportion that such Lender's Commitment bears to the Total Commitment;

“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;

“Assets” means, with respect to any Loan Party, all property, assets and undertaking of such Loan Party of every kind and wheresoever situate, whether now owned or hereafter acquired;

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 13.1), and accepted by the Agent, substantially in the form of Schedule “F” or any other form approved by the Agent;

“ATB” means ATB Financial and its successors and permitted assigns;

“Authorizations” means all authorizations, permits, decisions, determinations, judgments, directions, entitlements, licences, orders, consents, approvals, notices, correspondence, directives, exemptions, registrations, rulings, advance rulings, rights, and certifications, whether now existing or hereafter issued or obtained or required to be issued or obtained and which are or may be given or issued by any Governmental Authority pursuant to Applicable Law;

“BA Acceptance Fee” means, with respect to Bankers’ Acceptances, the fee, expressed as a rate per annum, payable to each Lender or retained by each Lender, in each case with respect to Bankers’ Acceptances to be accepted and purchased by such Lender as set forth in the table in the definition of Applicable Margin for Bankers’ Acceptances;

“BA Equivalent Advance” means an advance made in Canadian Dollars by a Non-Acceptance Lender as part of an Accommodation by way of Bankers’ Acceptances;

“BA Purchasing Lender” means each Applicable Lender that purchases a Bankers’ Acceptance accepted by such Applicable Lender and to the extent applicable, includes Non-Acceptance Lenders providing BA Equivalent Advances;

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

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

“Bankers’ Acceptances” means bankers’ acceptances denominated in Cdn. Dollars which are issued by the Borrower pursuant to Sections 3.6, 3.18 or 3.19 and accepted and purchased by the Applicable Lender pursuant to Section 3.8; all references herein to **“Bankers’ Acceptances”** shall, unless otherwise expressly provided herein or unless the context otherwise requires, be deemed to include BA Equivalent Advances made by a Non-Acceptance Lender as part of a Borrowing by way of Bankers’ Acceptances;

“Basel III” means the agreements on capital requirements, leverage ratios and liquidity standards contained in “Basel III: A global regulatory framework for more resilient banks and banking systems”, “Basel III: International framework for liquidity risk measurement, standards and monitoring” and “Guidance for national authorities operating the countercyclical capital buffer” published by the Basel Committee on Banking Supervision in December 2010, each as amended, modified, supplemented, reissued or replaced from time to time;

“Bilateral LC Facility Agreements” means, as the context requires, the bilateral commitment letter between ATB and the Borrower dated and accepted as of the date hereof or the bilateral commitment letter dated and accepted as of the date hereof between National Bank of Canada and the Borrower, or both, as each such agreement may be amended, restated, amended and restated, refinanced, or otherwise replaced from time to time;

“Blocked Person” is defined in Section 2.1(dd)(i)(B);

“Borrower” means Secure Energy Services Inc., a corporation under the laws of the Province of Alberta;

“Borrowing Notice” means a notice to effect an Accommodation delivered under Section 3.6 and substantially in the form of Schedule “B” with all applicable blanks completed;

“Borrowings” means, at any time:

- (a) the principal amount outstanding by way of Loans made by the Syndicated Lenders, the face amount of Bankers’ Acceptances outstanding (and, if applicable, any related BA Equivalent Advances) issued and purchased by the Syndicated Lenders and the undrawn amount of all outstanding Fronted Letters of Credit issued by a Fronting Lender (collectively, the **“Syndicated Borrowings”**); and
- (b) the principal amount outstanding by way of Prime Loans and U.S. Base Rate Loans made by the Operating Lender (collectively, the **“Operating Borrowings”**);

“bps” means 1/100 of 1%;

“Branch of Account” means, with respect to each Lender, the branch or office of such Lender (being, in the case of the Operating Lender, the Operating Lender’s Branch of Account) located at the address set forth under such Lender’s name on Schedule “A” or in its Assignment and Assumption or such other branch or office in Canada as such Lender may from time to time advise the Borrower and the Agent in writing; provided that, for purposes of delivering any notice required to be delivered by the Agent to a Lender pursuant to Section 12.13 and for purposes of effecting any payments to a Lender in connection with this Agreement, a Lender may specify in writing to the Agent any other branch or office of such Lender in Canada and such branch or office shall thereafter be the Branch of Account of such Lender for such purpose;

“Business” means providing safe and environmentally responsible fluids and solids solutions to the oil and gas industry. More specifically, services provided include clean oil terminalling, rail transloading, pipeline transportation, crude oil storage and marketing, custom treating of crude oil, crude oil marketing, produced and waste water disposal, oilfield waste processing, landfill

disposal, oil purchase/resale service, drilling fluid systems for producers drilling for oil, bitumen and natural gas, water management, recycling, pumping and storage solutions and reclamation and remediation of former wellsites, facilities, commercial and industrial properties;

“Business Day” means a day, excluding Saturday and Sunday, on which banking institutions are open for the transaction of commercial business in Calgary, Alberta, Toronto, Ontario and Montreal, Quebec; also, if such term is considered in the context of a U.S. Base Rate Loan, New York, New York and also, if such term is considered in the context of a Libor Loan or determination of Libor, London, England;

“Canadian Dollars”, **“Cdn. Dollars”** and the symbols **“Cdn. \$”** and **“\$”** each means lawful money of Canada;

“Canadian Economic Sanctions” means those laws, executive orders, enabling legislation or regulations administered and enforced by Canada pursuant to which economic sanctions have been imposed on any Person, or relating to funding operations, or financing investments, in any country, or to making payments to, or receiving payments or property from, any country or Person, including the *Special Economic Measures Act* (Canada), the *United Nations Act* (Canada), Section 2.1 of the *Criminal Code* (Canada) or the *Freezing Assets of Corrupt Foreign Officials Act* (Canada) and any associated rules and regulations, or any other economic sanctions law, rules or regulations administered and enforced by Canada, or any enabling legislation or directives relating to any of the foregoing;

“Canadian Sanctions Designated Person” is defined in Section 2.1(dd)(vi);

“Cash Collateral Account” means an account with the Agent, or such other financial institution as designated by the Agent, from which the Borrower does not have any withdrawal rights or privileges until repayment of the Borrowings in full, termination of the Total Commitment and termination of this Agreement, except to apply the amount represented thereby to the Borrowings or a portion thereof, which account and all funds credited thereto and interest earned thereon (which interest shall be at the prevailing rate of the Agent or such other financial institution, as the case may be, for demand deposits of comparable amounts) shall be the subject of a Security Interest in favour of the Collateral Agent on behalf of the Lenders;

“Cash Management Services” means cash or treasury management services (including controlled disbursement, automated clearinghouse transactions, return items, overdrafts, interstate depository network services, wire payments and account netting and pooling services) or any similar services which a Cash Management Lender provides to a Loan Party;

“Cash Management Lender” means any Lender or Affiliate of a Lender that has agreed to provide Cash Management Services to a Loan Party as contemplated by this Agreement;

“CDOR Rate” means on any day:

- (a) with respect to Bankers’ Acceptances having a Standard Term which are required to be accepted and, if applicable, purchased on any day, the arithmetical average of the percentage discount rates for Canadian Dollar bankers’ acceptances in comparable amounts having an identical issue and maturity date which are quoted on the “Reuters Screen CDOR CAD-BA Page” (as defined in the International Swaps and Derivatives Association, Inc. definitions, as modified and amended from time to time) (or if such screen shall

not be available any successor or similar service selected by the Agent) as at approximately 8:00 a.m. (Calgary time) on such day, or if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by the Agent in good faith after 8:00 a.m. (Calgary time) or as soon thereafter as practicable to reflect any error in a posted rate of interest or in the posted average annual rate of interest); and

- (b) with respect to Bankers' Acceptances which do not have a Standard Term or if the rate referred to in paragraph (a) of this definition does not appear on such "Reuters Screen CDOR Page" (or a successor service as referred to in paragraph (a) of this definition), then the CDOR Rate, on any day, shall be the arithmetic average of the percentage discount rate quoted by each Schedule I Reference Lender (determined by the Agent as of 8:00 a.m. (Calgary time) on such day), which would be applicable in respect of an issue of bankers' acceptances in a comparable amount and with identical maturity dates to the Bankers' Acceptances proposed to be issued by the Borrower on such day or if such day is not a Business Day, then on the immediately preceding Business Day.

If any Lender does not furnish a timely quotation, the Agent shall determine the relevant discount rate on the basis of the quotation or quotations furnished by the remaining Lenders. Each determination of the CDOR Rate shall be conclusive and binding, absent manifest error, and be computed using any reasonable averaging and attribution method. If the CDOR Rate is determined to be less than zero, it will be deemed to be zero;

"CDS" is defined in Section 3.8(d);

"Change of Control" means any circumstances arising after the date hereof in which a Person or combination of Persons acting jointly or in concert (within the meaning of the *Securities Act* (Alberta)) acquires:

- (a) Voting Shares of the Borrower which, together with all other Voting Shares of the Borrower held by such Persons, constitute in the aggregate more than 50% of all outstanding Voting Shares of the Borrower; or
- (b) the right to elect a majority of the directors of the Borrower;

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following:

- (a) the adoption or taking effect of any Applicable Law or treaty,
- (b) any change in any Applicable Law or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority, or
- (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, to the extent applicable to the Lenders, (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 United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued;

“**CISADA**” means the *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010*, United States Public Law 111195, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect;

“**Claim**” is defined in Section 9.6(b);

“**Code**” means the United States Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time;

“**Collateral**” is a collective reference to all property, assets, rights and things (whether real, personal or mixed), tangible and intangible, and the proceeds and products thereof, subjected or intended to be subjected from time to time to any Security Interest under any of the Security;

“**Collateral Agent**” means ATB in its capacity as collateral agent holding any or all of the Security for the benefit of the Agent, the Lenders, the Swap Lenders, the Creditcard Lenders, the LC Facility Lenders and the Cash Management Lenders (whether or not designated in any Security document as ATB, the Agent or the Collateral Agent) and any successor entity to ATB in such capacity, or any other Person designated by the Agent to hold all or any part of the Security from time to time for the benefit of the Agent, the Lenders, the Swap Lenders, the Creditcard Lenders and the Cash Management Lenders;

“**Commitment**” means each Lender’s Syndicated Facility Commitment or Operating Facility Commitment, as the case may be or, if the context so requires, the aggregate thereof;

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

“**Commodity Swap**” means an agreement entered into between a Person and a counterparty on a case by case basis, the intent of which is to attempt to mitigate or reduce such Person’s exposure to fluctuations in commodity prices, whether physically or financially settled, as well as oil purchase and/or sale agreements and crude oil trading practices which create forward exposure to fluctuations in commodity prices, or which result in what is customarily referred to as “open positions”;

“**Compliance Certificate**” means a compliance certificate substantially in the form attached hereto as Schedule “D” executed by any financial officer or Vice President, Corporate Finance;

“**Consolidated EBITDA**” means, without duplication, in respect of the 12 month period ending on the last day of a Fiscal Quarter and as determined on a consolidated basis in respect of the Borrower, Consolidated Net Income for such period, plus:

- (a) Consolidated Interest Charges, to the extent deducted in the calculation of Consolidated Net Income;

- (b) all amounts deducted in the calculation of Consolidated Net Income in respect of the provision for income taxes (in accordance with GAAP);
- (c) all amounts deducted in the calculation of Consolidated Net Income in respect of non-cash items, including depletion, accretion (to the extent not included in clause (a) above), depreciation, amortization, and future income tax liabilities;
- (d) all customary out-of-pocket costs, fees and expenses paid or required to be paid in connection with an Acquisition or entering into a financing transaction, to the extent deducted in the calculation of Consolidated Net Income;
- (e) all amounts deducted in the calculation of Consolidated Net Income in respect of minority equity losses, extraordinary, non-recurring losses, any non-cash impairment charges, and any other non-cash charges;
- (f) all cash distributions received in such period by a Loan Party from any Person that is not a Loan Party;
- (g) to the extent deducted from Consolidated Net Income, non-cash losses resulting from marking-to-market the outstanding Swaps for such period in accordance with GAAP; and
- (h) all amounts deducted in the calculation of Consolidated Net Income in respect of share based compensation;

less:

- (i) earnings attributable to minority interests and extraordinary and non-recurring earnings and gains of the Borrower on a consolidated basis, in each case, to the extent included in the calculation of Consolidated Net Income;
- (j) to the extent included in Consolidated Net Income, non-cash gains resulting from marking-to-market the outstanding Swaps for such period in accordance with GAAP; and
- (k) all cash payments during such period relating to non-cash charges which were added back in determining Consolidated EBITDA in any prior period,

provided that for the purposes of this definition:

- (i) in the event the Borrower or a Material Subsidiary makes a Material Acquisition during any such period, all measures will be calculated *pro forma* based on the actual results of such Material Acquisition as if the assets or entity acquired had been owned by the Borrower or such Material Subsidiary over the entire period, with a methodology as approved by the Agent acting reasonably; and
- (ii) in the event the Borrower or a Material Subsidiary makes a Material Disposition during any such period, all measures will be calculated *pro forma* on the basis that such assets or entity was disposed of at the

beginning of such period, with a methodology as approved by the Agent acting reasonably;

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

- (a) all interest accrued or payable in respect of such period, including capitalized interest and the interest component of Financial Leases;
- (b) all fees (including standby and commitment fees, acceptance fees in respect of bankers’ acceptances and fees payable in respect of letters of credit, letters of guarantee and similar instruments) accrued or payable in respect of such period, prorated (as required) over such period;
- (c) accretion expenses;
- (d) any difference between the face amount and the discount proceeds of any bankers’ acceptances, commercial paper and other obligations issued at a discount, prorated (as required) over such period;
- (e) customary out-of-pocket costs, fees and expenses paid or required to be paid in connection with entering into a financing transaction, and
- (f) all net amounts charged or credited to interest expense under any Interest Swap in respect of such period;

“Consolidated Interest Coverage Ratio” means, as at the end of each Fiscal Quarter of the Borrower, the ratio of Consolidated EBITDA to Consolidated Interest Charges;

“Consolidated Net Income” means, for any fiscal period, the net earnings (loss), net of income tax, of the Borrower determined on a consolidated basis in accordance with GAAP, as shown on a consolidated statement of comprehensive income in the financial statements of the Borrower most recently provided to the Agent;

“Consolidated Senior Debt” means, as at any date of determination, Consolidated Total Debt excluding (i) the principal amount outstanding under the Second Lien Term Facility, and (ii) the principal amount outstanding under any Unsecured Notes;

“Consolidated Senior Debt to EBITDA Ratio” means, as at the end of any Fiscal Quarter of the Borrower, the ratio of Consolidated Senior Debt to Consolidated EBITDA;

“Consolidated Tangible Assets” means, as at any date of determination, an amount equal to the total assets of the Borrower on a consolidated basis as shown on the consolidated statement of financial position in the financial statements of the Borrower most recently provided to the Agent, less all amounts attributable to goodwill, patents, trademarks, affiliate investments, mark-to-market positions, and other similarly classified intangible assets;

“Consolidated Total Debt” means, as at any date of determination, the aggregate of all Debt of the Borrower determined on a consolidated basis in accordance with GAAP, excluding

Convertible Debentures, minus the aggregate amount of readily available cash, cash equivalents and investment grade securities owned by the Borrower free and clear of any Security Interests (other than the Security and the Second Lien Security), to the extent such amount exceeds \$5,000,000;

“Consolidated Total Debt to EBITDA Ratio” means, as at the end of any Fiscal Quarter of the Borrower, the ratio of Consolidated Total Debt to Consolidated EBITDA;

“Continuing Letters of Credit” means the letters of credit or letters of guarantee issued by ATB and/or The Bank of Nova Scotia under the Existing Credit Agreement, that are outstanding immediately prior to the Effective Date (excluding the Transferred Letters of Credit), and being those listed in Schedule “M”;

“Conversion” means a conversion of a Borrowing (other than a Letter of Credit) or part thereof from one basis of Borrowing to another (other than a Letter of Credit) and, where applicable, such term shall include the issuance of new Bankers’ Acceptances in respect of converted or unconverted portions of a Borrowing;

“Conversion Date” means each Business Day that the Borrower has notified the Agent as the date on which the conversion of a Borrowing or a portion thereof is to be made pursuant to a request from the Borrower under Section 3.18;

“Conversion Notice” means a notice to effect a Conversion delivered under Section 3.18 and substantially in the form of Schedule “C” with all applicable blanks completed;

“Convertible Debentures” means any convertible subordinated debentures or notes issued, created, incurred, assumed or guaranteed by the Borrower which have all of the following characteristics:

- (a) a final maturity or due date in respect of repayment of principal extending beyond the latest Maturity Date of any Lender outstanding at the time such debentures or notes are issued, created, incurred, assumed or guaranteed (in this definition, the **“Outside Maturity Date”**);
- (b) no scheduled or mandatory payment or repurchase of principal thereunder (other than acceleration following an event of default in regard thereto or payment which can be satisfied by the delivery of common shares of the Borrower as contemplated in paragraph (g) of this definition) prior to the Outside Maturity Date;
- (c) no Security Interest, guarantees nor any form of Financial Assistance has been created, provided, incurred or otherwise exists to directly or indirectly secure such debentures or notes;
- (d) upon and during the continuance of a Default, an Event of Default or acceleration of the time for repayment of any Lender Outstandings which has not been rescinded:
 - (i) all amounts payable in respect of principal, premium (if any) or interest under such debentures or notes are subordinate and junior in right of payment to all Lender Outstandings; and

- (ii) no enforcement steps or enforcement proceedings may be commenced in respect of such debentures or notes;
- (e) upon distribution of the assets of the Borrower on any dissolution, winding up, total liquidation or reorganization of the Borrower under any Debtor Relief Laws, all principal, accrued interest and all other amounts owing under this Agreement shall first be paid in full, or provision made for such payment, before any payment is made on account of principal, premium (if any) or interest payable in regard to such debentures or notes;
- (f) the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any of the Lender Outstandings or enforcement of the rights and remedies of the Lenders hereunder or under any other Loan Document shall not in and of themselves:
 - (i) cause a default or event of default (with the passage of time or otherwise) under such debentures or notes or the indenture governing the same; or
 - (ii) cause or permit the obligations under such debentures or notes to be due and payable prior to the stated maturity thereof;
- (g) except during an event of default under and as defined in the indenture or agreement governing such debentures or notes and provided the Borrower is in compliance with all applicable securities laws and such common shares are qualified for distribution as required and listed on the Toronto Stock Exchange or another national securities exchange in Canada, payments of interest or principal due and payable under such debentures or notes can be satisfied, at the option of the Borrower by delivering common shares of the Borrower in accordance with the indenture or agreement governing such debentures or notes (whether such common shares are received by the holders of such debentures or notes as payment or are sold by a trustee or representative under such indenture or agreement to provide cash for payment to holders of such debentures or notes); and
- (h) the holders of such debentures or notes, or a trustee on their behalf, have entered into either a subordination agreement with the Lenders, or a confirmation that the Lenders are entitled to the benefit of the subordination provisions contained in any agreement pursuant to which such debentures or notes are issued, provided that, in either case, the subordination agreement or subordination provisions are on terms and conditions satisfactory to the Agent, acting reasonably;

“Creditcard Facilities” means any corporate credit card facilities for commercial purposes (including “commercial credit cards” and “purchasing cards”);

“Creditcard Lender” means a Lender or an Affiliate of a Lender which has provided Creditcard Facilities to a Loan Party;

“Creditcard Obligations” means indebtedness, liabilities and obligations of any Loan Party to a Creditcard Lender arising under any Creditcard Facilities;

“Currency Swap” means a contract entered into between a Person and a counterparty on a case by case basis in connection with forward rate, currency swap or currency exchange and other similar currency related transactions, the intent of which is to attempt to mitigate or reduce such Person’s exposure to fluctuations in exchange rates;

“DBNA” is defined in Section 3.8(d);

“Debt” means, with respect to a Person at any time but without duplication, all obligations, indebtedness and liabilities:

- (a) for borrowed money;
- (b) arising pursuant to bankers’ acceptance facilities, note purchase facilities and commercial paper programs, or the stated amount of letters of credit or letters of guarantee supporting obligations which would otherwise constitute Debt within the meaning of this definition or indemnities issued in connection therewith (excluding, for certainty, Performance LC’s);
- (c) that are evidenced by bonds, debentures, notes or other similar instruments (whether or not with respect to the borrowing of money, and whether or not payable by, or convertible into, equity);
- (d) arising under Guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the indebtedness or other obligations of any other Person which would otherwise constitute Debt within the meaning of this definition and all other obligations incurred for the purpose of or having the effect of providing Financial Assistance;
- (e) with respect to the actual reimbursement and or indemnity obligations of such Person arising under surety and performance bonds;
- (f) arising in respect of the deferred purchase or acquisition price of property in excess of 120 days (but excluding, for certainty, accounts payable arising in the ordinary course of business);
- (g) arising under a Purchase Money Security Interest, a Sale-Leaseback or a Financial Lease,
- (h) arising in respect of the purchase from another Person of any of such other Person’s property, assets or undertaking, the purchase price in respect of which has been prepaid by the purchaser; and
- (i) arising in respect of redemption obligations of the Loan Parties with respect to any shares issued by the Borrower (excluding shares of the Borrower that may be redeemed in whole or in part in specie) or such other Loan Party which are not held by a Loan Party and which are by their terms or pursuant to any contract, agreement or arrangement:
 - (i) redeemable, retractable, payable or required to be purchased or otherwise retired or extinguished, or convertible into Debt of a Loan Party in any case, prior to the latest Maturity Date of any Lender (A) at a fixed

or determinable date, (B) at the option of any holder thereof, or (C) upon the occurrence of a condition not solely within the control and discretion of the Loan Parties, or

- (ii) convertible into any other shares described in (i) above;

“Debtor Relief Laws” means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of Canada or of any other applicable jurisdictions from time to time in effect;

“Default” shall mean the occurrence of any of the events specified in Section 10.1, whether or not any requirement for notice or lapse of time or other condition precedent has been satisfied;

“Defaulting Lender” means, subject to Section 14.2(c), any Lender that:

- (a) has failed to (i) fund all or any portion of any Accommodation required to be made by it hereunder within two Business Days of the date such Accommodation was required to be funded hereunder unless such Lender notifies the Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Agent or any Lender any other amount required to be paid by it hereunder within two Business Days of the date when due;
- (b) has notified the Borrower or the Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund an Accommodation hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied);
- (c) has failed, within three Business Days after written request by the Agent or the Borrower, to confirm in writing to the Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Agent and the Borrower);
- (d) has, or has a direct or indirect parent entity that has, (i) become the subject of a proceeding under any Debtor Relief Laws, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets; provided that a Lender shall not be a Defaulting Lender under this paragraph (d) solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within Canada or elsewhere or from the enforcement of judgments or writs of

attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender; or

- (e) becomes the subject of a Bail-In Action.

Any determination by the Agent that a Lender is a Defaulting Lender under clauses (a) through (e) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 14.2(c)) upon delivery of written notice of such determination to the Borrower and each Lender;

“Demand for Repayment” means delivery of an Acceleration Notice or a Swap Demand for Repayment;

“Discount Proceeds” means, in respect of any Bankers’ Acceptance required to be purchased by a Lender hereunder, an amount (rounded to the nearest whole cent with one-half of one cent being rounded-up) determined as of the applicable Drawdown Date, Conversion Date or Rollover Date which is equal to:

$$\text{Face Amount} \times \text{Price}$$

where **“Face Amount”** is the face amount of such bankers’ acceptance and **“Price”** is equal to:

$$\frac{1}{1 + \left(\frac{\text{Rate} \times \text{Term}}{365} \right)}$$

where the **“Rate”** is the applicable Discount Rate expressed as a decimal on the day of purchase; the **“Term”** is the term of such Bankers’ Acceptance expressed as a number of days; and the Price as so determined is rounded up or down to the fifth decimal place with .000005 being rounded-up;

“Discount Rate” means:

- (a) with respect to an issue of Bankers’ Acceptances having the same maturity date accepted by a Lender that is a bank under Schedule I of the *Bank Act* (Canada), the CDOR Rate; and
- (b) with respect to an issue of Bankers’ Acceptances having the same maturity date accepted by a Lender that is not a bank under Schedule I to the *Bank Act* (Canada), the CDOR Rate plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];

“Dissenting Lender” is defined in Section 13.5;

“Distribution” by a Person means:

- (a) any declaration, payment or setting aside for payment of any dividend, return of capital or other distribution on or in respect of any of the share, partnership or trust capital of such Person;

- (b) any redemption, retraction, purchase, retirement or other acquisition, in whole or in part, of any of the share, partnership or trust capital of such Person or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for share, partnership or trust capital of such Person, including options, warrants, conversion or exchange privileges and similar rights;
- (c) the payment of any principal, interest, fees, redemption amounts or other amounts on or in respect of any loans, advances or other indebtedness owing at any time by such Person to a holder of shares, partnership interests or trust units of such Person or an Affiliate of such holder;
- (d) any loan, advance, payment of management or consulting fees or reimbursement of costs which is made by the Person to or in favour of a holder of shares, partnership interests or trust units of such Person or an Affiliate of such holder except where any such payment is made to any such holder in such holder's capacity as an officer, director or employee of such Person in the ordinary course of business; or
- (e) the transfer by the Person of any property or assets for consideration of less than its or their fair market value or on non-arms' length terms and conditions to a holder of shares, partnership interests or trust units of such Person or an Affiliate of such holder;

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

"Drawdown" means the advance of a Borrowing other than as a result of a Conversion, Rollover or a drawing under a Letter of Credit;

"Drawdown Date" means each Business Day on which Borrowings are to be made pursuant to a request from the Borrower under Section 3.6;

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

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein and Norway;

"EEA Resolution Authority" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution;

"Effective Date" means the date on which the conditions precedent under Section 8.1 have been satisfied;

"Electing Lender" is defined in Section 3.3(b);

"Election Period" is defined in Section 3.3(b);

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 13.1(b)(iii), 13.1(b)(v) and 13.1(b)(vi) (subject to such consents, if any, as may be required under Section 13.1(b)(iii));

“Environmental Certificate” means a certificate substantially in the form of Schedule “J” hereto;

“Environmental Laws” means all Applicable Laws regarding the environment or occupational health and safety, or pursuant to which Environmental Liabilities would arise or have arisen, including relating to the Release or threatened Release of any Hazardous Substances or the generation, use, storage or transportation of any Hazardous Substances;

“Environmental Liabilities” means any and all indebtedness, obligations and liabilities for any Release, any environmental damage, any contamination or any other environmental problem caused or alleged to have been caused to any Person, property or the environment as a result of any Release or the condition of any Assets, whether or not caused by a breach of Applicable Laws, including all indebtedness, obligations and liabilities arising from or related to: any surface, underground, air, groundwater, or surface water contamination; the abandonment or plugging of any well; restorations and reclamations; the removal of or failure to remove any foundations, structures or equipment; the cleaning up, remediation or reclamation of storage sites; any Release; violation of pollution standards; and personal injury (including sickness, disease or death) and property damage arising from the foregoing;

“Equivalent Amount” in one currency (the **“First Currency”**) of an amount in another currency (the **“Other Currency”**) means, as of the date of determination, the amount of the First Currency which would be required to purchase such amount of the Other Currency at the Exchange Rate) or, if such date of determination is not a Business Day, on the Business Day immediately preceding such date of determination, or at such other rate as may have been agreed to by the Borrower and the Agent;

“ERISA” means the U.S. *Employee Retirement Income Security Act of 1974*, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect;

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is treated as a single employer together with the Borrower under section 414 of the U.S. Internal Revenue Code;

“ERISA Plan” shall mean any employee pension benefit plan (as such term is defined in section 3(2) of ERISA);

“Escrow Funds” is defined in Section 10.4;

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time;

“Event of Default” means any of the events or circumstances specified in Section 10.1;

“Excess Cash” means cash, cash equivalents or investment grade securities held by the Borrower on a consolidated basis that in aggregate exceeds \$10,000,000 or its equivalent and which are not reasonably forecasted to be expended within the next 10 Business Days, but excluding the proceeds of Permitted Dispositions and proceeds from the issuance by the

Borrower of its equity securities, in either case that are accumulated or maintained for a legitimate business purpose and not for the purpose of accumulating a cash reserve;

“Exchange Rate” means, on any date with respect to the conversion of one currency into another currency, the rate of exchange for such conversion as determined by the Agent using the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on such date (or, if not so quoted, the average rate of exchange for interbank transactions quoted by the Bank of Canada at approximately the close of business on the Business Day immediately preceding such date); provided that, if such average rate is for any reason unavailable, it shall mean the spot rate of exchange for wholesale transactions quoted by the Agent at approximately noon (Toronto time) on such date in accordance with its usual practice;

“Excluded Swap Indebtedness” means, with respect to any Person providing a Subsidiary Guarantee, any Permitted Swap Indebtedness if, and to the extent that, all or a portion of the Subsidiary Guarantee of such Person of, or the grant by such Person of a security interest to secure, such Permitted Swap Indebtedness (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Person's failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Person or the grant of such security interest becomes effective with respect to such Permitted Swap Indebtedness. If Permitted Swap Indebtedness arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Permitted Swap Indebtedness that is attributable to swaps for which such Guarantee or security interest is or becomes illegal;

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

- (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located,
- (b) any branch profits taxes or any similar tax imposed by any jurisdiction in which the recipient is located,
- (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 11.3(b)), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 11.2(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 11.2(a); and

- (d) any U.S. federal withholding Taxes imposed under FATCA and any Taxes arising from a Lender's failure to properly comply with such Lender's obligations imposed under legislation entered into pursuant to an agreement with the United States of America to provide for the implementation of FATCA-based reporting in that jurisdiction;

"Existing Credit Agreement" means the First Lien Credit Agreement dated as of June 30, 2017;

"Existing Lender Swaps" means all "Lender Swaps" as that phrase is defined in the Existing Credit Agreement, that are in place immediately prior to the Effective Date, and being those listed in Schedule "M", for certainty excluding the Second Lien Rate Swap;

"Extension" is defined in Section 3.3(a);

"Extension Notice" is defined in Section 3.3(d);

"Extension Request" is defined in Section 3.3(a);

"Facilities" means, collectively, the Syndicated Facility and the Operating Facility, and **"Facility"** means either of them;

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

"Federal Funds Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the annual rates of interest 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 day is not a Business Day, such weighted average for the immediately preceding Business Day for which the same is published 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 on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by it. If the Federal Funds Rate is determined to be less than zero, it shall be deemed to be zero;

"Financial Assistance" means, with respect to any person and without duplication, any loan, guarantee, indemnity, assurance, acceptance, extension of credit, loan purchase, share purchase, equity or capital contribution, investment or other form of direct or indirect financial assistance or support of any other person or any obligation (contingent or otherwise) primarily for the purpose of enabling another person to incur or pay any Debt or to comply with agreements relating thereto or otherwise to assure or protect creditors of the other person against loss in respect of Debt of the other person and includes any guarantee of or indemnity in respect of the Debt of the other person and any absolute or contingent obligation to (directly or indirectly):

- (a) advance or supply funds for the payment or purchase of any Debt of any other person;

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

The amount of any Financial Assistance is the amount of any loan or direct or indirect financial assistance or support, without duplication, given, or all Debt 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;

"Financial LC" means a stand-by letter of credit if it serves as a payment guarantee of the Borrower's financial obligations and is treated as a direct credit substitute for purposes of applicable capital adequacy guidelines;

"Financial Lease" means any lease of property, real or personal, or any similar arrangement which would, in accordance with GAAP, be required to be classified and accounted for as a lease on a consolidated balance sheet of the Borrower (where the lessee is the Borrower or a Subsidiary of the Borrower), provided that any lease which would not have been capitalized under GAAP as in effect on December 31, 2018 shall, notwithstanding any subsequent change in GAAP, not constitute a Financial Lease hereunder, including for the purposes of calculating the financial covenants in Section 9.01 (whether such lease is entered into or assumed before or after December 31, 2018);

"Financial Covenants" means the covenants in Section 9.1;

"Fiscal Quarter" means the three month period commencing on the first day of each Fiscal Year and each successive three month period thereafter during such Fiscal Year;

"Fiscal Year" means the Borrower's fiscal year commencing on January 1 of each year and ending on December 31 of such year;

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, Canada and each province and territory thereof shall be deemed to constitute a single jurisdiction and the United States of America, each State thereof and the District of Columbia are considered to be one jurisdiction;

"Fronted LC Commitment" means each Fronting Lender's obligation hereunder to issue Fronted Letters of Credit for the account of the Borrower in an aggregate principal amount in Cdn. Dollars (or the Equivalent Amount in U.S. Dollars) equal to the amount set forth opposite

such Fronting Lender's name on Schedule "A" hereto or in an Assignment and Assumption as such Fronting Lender's Fronted LC Commitment or in an agreement between the Borrower and such Lender of which the Agent has received a copy, in any case, as such amount may hereafter be increased, decreased, cancelled or terminated from time to time pursuant to this Agreement;

"Fronted Letter of Credit" means a Letter of Credit issued by a Fronting Lender for the account of the Lenders;

"Fronting Fee" is defined in Section 5.5(b);

"Fronting Fee Rate" means, for the purposes of fees payable by the Borrower pursuant to Section 5.5(b) in connection with Fronted Letters of Credit, the per annum fee to be charged by a Fronting Lender for the issuance by it of Fronted Letters of Credit, as such fee is agreed to in writing between the Borrower and the applicable Fronting Lender. In the absence of such Agreement, the Fronting Fee Rate shall be [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];

"Fronting Lender" means (a) ATB, (b) The Bank of Nova Scotia, (c) National Bank of Canada, and (d) each other Lender who from time to time agrees with the Agent and the Borrower, pursuant to a Fronting Lender Acknowledgement substantially in the form of Schedule "K", to issue or have outstanding Fronted Letters of Credit, in either case for so long as ATB, The Bank of Nova Scotia, National Bank of Canada or such other Lender(s), as applicable, has a Fronted LC Commitment hereunder or has issued Fronted Letters of Credit hereunder which remain outstanding, or has issued Existing Letters of Credit that as and from the Effective Date are outstanding hereunder;

"Fund" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities;

"GAAP" means generally accepted accounting principles which are in effect from time to time in Canada, and which effective January 1, 2011 encompass IFRS;

"Governmental Action" means any authorization, consent, approval, waiver, order, decree, license, exemption, permit, registration, filing, qualification or declaration of or with any Governmental Authority (other than routine reporting requirements) or the giving of notice to any Governmental Authority or any other action in respect of a Governmental Authority;

"Governmental Authority" means the government of Canada or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and including a Minister of the Crown, the Superintendent of Financial Institutions or other comparable authority or agency;

"Guarantee" means any undertaking to assume, guarantee, indemnify, endorse (other than the routine endorsement of cheques in the ordinary course of business), contingently agree to purchase or to provide funds for the payment of, or otherwise become liable in respect of, any indebtedness, obligations or liabilities of any Person; provided that the amount of each Guarantee shall be deemed to be the amount of the indebtedness, obligations or liabilities

guaranteed thereby, unless the Guarantee is limited to a specified amount or to realization exclusively on specified assets in which case the amount of such Guarantee shall be deemed to be the lesser of such specified amount or the fair market value of such specified assets, as the case may be, or the amount of such indebtedness, obligations or liabilities;

“Hazardous Substances” means, collectively, any materials, compounds, pollutants, contaminants, chemicals, substances (including dangerous substances, noxious substances, toxic substances, and deleterious substances), wastes and recyclables (including industrial wastes, toxic wastes, hazardous wastes, special wastes, dangerous or non-dangerous oilfield wastes, recyclable wastes and subject wastes), flammable or explosive materials, radioactive materials, petroleum or petroleum products, asbestos, polychlorinated biphenyls, urea formaldehyde foam insulation, or any other substances, materials or wastes now or in the future declared or defined to be regulated or controlled in or pursuant to Environmental Laws;

“IFRS” means International Financial Reporting Standards including International Accounting Standards and Interpretations together with their accompanying documents which are set by the International Accounting Standards Board, the independent standard-setting body of the International Accounting Standards Committee Foundation (the **“IASC Foundation”**), and the International Financial Reporting Interpretations Committee, the interpretative body of the IASC Foundation but only to the extent the same are adopted by the Chartered Professional Accountants of Canada (**“CPAC”**) as Generally Accepted Accounting Principles in Canada and then subject to such modifications thereto as are agreed by the CPAC;

“including” means “including, without limitation”, and shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it, and **“includes”** shall be construed in a like manner;

“Indemnified Party” is defined in Section 9.6(a);

“Indemnified Taxes” means Taxes other than Excluded Taxes;

“Indemnitee” is defined in Section 14.3(c);

“Information” is defined in Section 13.4;

“Insolvency Event” means an Event of Default specified in Sections 10.1(g) or 10.1(h);

“Intellectual Property” means, collectively, patents, patents pending, copyrights, proprietary, processes or programs, industrial designs, trademarks, trademark applications, trade names and other intellectual property of every nature and kind;

“Intercreditor Agreement” means the Amended and Restated Intercreditor and Priority Agreement dated the date hereof, to which, among others, the Lenders (or the Agent on their behalf) and the Second Lien Lenders (or an authorized agent or trustee on their behalf), are parties, and the Borrower and each Subsidiary Guarantor are acknowledging parties, as such agreement may be amended, modified, amended and restated or restated from time to time;

“Interest Date” means the last Business Day of each month;

“Interest Swap” means a contract entered into between a Person and a counterparty, on a case by case basis, in connection with interest rate swap transactions, interest rate options, cap

transactions, floor transactions, collar transactions and other similar interest rate related transactions, the intent of which is to mitigate or reduce such Person's exposure to fluctuations in interest rates;

"ISDA Master Agreement" means either the 1992 form of Master Agreement (Multi Currency-Cross Border) published by the International Swap Dealers Association, Inc. or the form of 2002 Master Agreement published by the International Swaps and Derivatives Association, Inc., or any successor form thereto, and as used in this Agreement in relation to Lender Swaps means the form of such agreement as entered into between the applicable Loan Party and the applicable Swap Lender;

"Issue Date" means, as to any Letter of Credit, the date on which such Letter of Credit is issued;

"Judgment Currency" is defined in Section 13.2;

"Judicial Order" is defined in Section 3.15(c);

"LC Application" means an application on the Fronting Lender's standard form of letter of credit application submitted to such Fronting Lender by the Borrower requesting the Fronting Lender to issue a Letter of Credit hereunder subject to such changes thereto as are requested by the Borrower and agreed to by the Fronting Lender, acting reasonably, and in any event consistent with the terms of this Agreement;

"LC Borrowings" means, at any time, the undrawn amount of all outstanding letters of credit and letters of guarantee issued by the LC Facility Lenders pursuant to the Bilateral LC Facility Agreements;

"LC Disbursement" means any payment by a Fronting Lender under a Letter of Credit plus all taxes and reasonable and customary fees, charges and other costs and expenses incurred by such Fronting Lender in connection with such payment;

"LC Expenses" is defined in Section 3.13(a);

"LC Facility Commitment" means, with respect to each LC Facility Lender, such LC Facility Lender's obligation to provide letters of credit or bank letters of guarantee to the Borrower under the applicable Bilateral LC Facility Agreement;

"LC Facility Lenders" means ATB and National Bank of Canada, in their capacities as issuing banks under a Bilateral LC Facility Agreement, as applicable;

"LC Facility Obligations" means indebtedness, liabilities and obligations of any Loan Party to any LC Facility Lender arising under any Bilateral LC Facility Agreement;

"LC Obligations" means the obligation of the Borrower at any time for an amount equal to the aggregate undrawn amount of all Letters of Credit then outstanding;

"LC Payment Period" is defined in Section 5.5(a);

"Lender BA Suspension Notice" is defined in Section 11.5(b);

“**Lender Libor Suspension Notice**” is defined in Section 11.5(a);

“**Lender Outstandings**” means collectively all Borrowings, Creditcard Obligations, Permitted Swap Indebtedness, and LC Facility Obligations;

“**Lender Parent**” means any person that directly or indirectly controls a Lender and, for the purposes of this definition, “**control**” shall have the same meaning as set forth in the definition of “**Affiliate**” contained herein;

“**Lender Swap**” means any Swap entered into by a Loan Party where the other party (other than such Loan Party), at the time the Swap was entered into, is a Lender or an Affiliate of a Lender, whether or not such Lender remains a Lender thereafter, including, for certainty, each Existing Lender Swap, but excluding the Second Lien Rate Swap;

“**Lenders**” means the Persons listed on the signature pages hereto as Lenders and any other Person that shall have become party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption, and “**Lender**” means any one of them;

“**Letter of Credit**” means any letter of credit or bank letter of guarantee issued by a Fronting Lender as the same may be amended, supplemented, extended or otherwise modified from time to time in accordance with the terms hereof and thereof. Each such Letter of Credit shall be designated pursuant as either:

- (a) a Financial LC; or
- (b) a Non-Financial LC;

and “**Letters of Credit**” shall refer collectively to all Letters of Credit outstanding at any time;

“**Letter of Credit Fee**” means a fee based on the applicable Consolidated Senior Debt to EBITDA Ratio as set out in the definition of “**Applicable Margin**” and expressed as a rate per 365 day period with respect to Letters of Credit;

“**Libor**” means, with respect to any Libor Interest Period applicable to a Libor Loan, a per annum rate of interest, based on a 360 day year, equal to the applicable Libor Screen Rate, provided that if the Libor Interest Period is for a period for which a Libor Screen Rate is not available, then Libor shall be equal to the Agent's cost of funds in the Libor market as advised by the Agent acting reasonably and in a manner consistent with comparable borrowers and transactions, in each case at 11:00 a.m. (London, England time), two Business Days before the first day of the applicable Libor Interest Period in an amount substantially equal to the Libor Loan and for a period equal to such Libor Interest Period. If Libor is determined to be less than zero, it shall be deemed to be zero;

“**Libor Interest Date**” means the date falling on the last day of each Libor Interest Period, provided that if the Borrower selects a Libor Interest Period for a period longer than three months, the Libor Interest Date shall be each date falling every three months after the beginning of such Libor Interest Period and the date falling on the last day of such Libor Interest Period;

“**Libor Interest Period**” means, with respect to each Libor Loan, the period (subject to availability) of approximately one month, two months, three months or six months (as selected

by the Borrower and notified to the Agent pursuant to Section 3.6 or 3.7) commencing on and including the Drawdown Date, Conversion Date or Rollover Date, as the case may be, applicable to such Libor Loan and ending on and including the last day of such period; provided that no Libor Interest Period may be selected which, in the case of any Libor Loan made by a Lender, ends after such Lender's Maturity Date;

"Libor Loans" means the advances or any portion thereof, made available by the Lenders to the Borrower pursuant to Sections 3.6, 3.18 or 3.19 and outstanding from time to time, which are denominated in U.S. Dollars and on which the Borrower has agreed to pay interest in accordance with Section 5.3;

"Libor Screen Rate" means, with respect to any Libor Interest Period applicable to a Libor Loan, the rate per annum, based on a 360 day year, determined by the Agent to be the offered rate that appears on the page of the LIBOR 01 screen of Reuters Limited (or any successor or other commercially available source providing quotations of Libor as designated by the Agent from time to time) that displays the average ICE Benchmark Administration Limited (or its successor) Interest Settlement Rate for deposits in U.S. Dollars (for delivery on the first day of such Libor Interest Period) with a term equal to such Libor Interest Period, determined as of approximately 11:00 a.m. (London, England time) two Business Days prior to the first day of such Libor Interest Period;

"Loan Documents" means collectively, this Agreement, the Swap Credit Documents, each Bilateral LC Facility Agreement, each Subsidiary Guarantee, each agreement between a Creditcard Lender and a Loan Party with respect to Creditcard Facilities, each agreement between a Cash Management Lender and a Loan Party with respect to Cash Management Services, the Security, the Intercreditor Agreement, each Bankers' Acceptance, each application and indemnity with respect to a Letter of Credit, the arrangement/syndication fee agreements pertaining to the Facilities, the agency agreement pertaining to the Facilities, and all other agreements, certificates, instruments and documents delivered by or on behalf of any Loan Party in connection herewith or therewith from time to time, and all future renewals, extensions or restatements of, or amendments, modifications or supplements to, all or any part of the foregoing; and "Loan Document" means any of them;

"Loan Parties" means, collectively, the Borrower and each Material Subsidiary, and **"Loan Party"** means any one of them;

"Loans" means Prime Loans, U.S. Base Rate Loans and Libor Loans;

"Loss" is defined in Section 9.6(a);

"Mark-to-Market" means, in respect of any Swap and for any day on which the Mark-to-Market is calculated, the amount, if any, that would be payable by any Loan Party to a counterparty (expressed as a positive number, a **"Positive Mark-to-Market"**) or by such counterparty to such Loan Party (expressed as a negative number, a **"Negative Mark-to-Market"**), estimated by making at mid-market the calculations required by the ISDA Master Agreement between such counterparty, on the one hand, and such Loan Party, on the other hand, as if such ISDA Master Agreement were being terminated as a result of a Termination Event (as defined in the ISDA Master Agreement) with two Affected Parties (as defined in the ISDA Master Agreement) on that day of calculation;

“Material Acquisition” means an acquisition by a Loan Party of shares or other assets which increases Consolidated Tangible Assets by more than 10%;

“Material Adverse Effect” means any event, circumstance, occurrence or change which could reasonably be expected to:

- (a) impair in any material manner the ability of any Loan Party to perform any material obligation under any Loan Document or any Lender Swap;
- (b) have any material and adverse effect upon the validity or enforceability of any of the Security or upon the ranking of any of the Security Interests granted thereby or the material rights or remedies intended or purported to be granted to the Agent or the Collateral Agent under or pursuant to the Security; or
- (c) be material and adverse to the business, operations, assets, condition (financial or otherwise) or results of operations of the Loan Parties, on a consolidated basis;

“Material Disposition” means a disposition by a Loan Party of shares or other assets which decreases Consolidated Tangible Assets by more than 10%;

“Material Subsidiary” means:

- (a) any Subsidiary of the Borrower which directly (i) owns 15% or more of Consolidated Tangible Assets as shown on the consolidated statement of financial position in the financial statements of the Borrower most recently provided to the Agent or (ii) accounts for 15% or more of Consolidated EBITDA for the 12 month period covered by the financial statements of the Borrower most recently provided to the Agent;
- (b) any Subsidiary of the Borrower which has a direct or indirect ownership interest in a Material Subsidiary,
- (c) any Subsidiary of the Borrower which holds Debt of a Material Subsidiary;
- (d) any Subsidiary of the Borrower which has provided a guarantee of the Second Lien Term Facility; and
- (e) any other Subsidiary of the Borrower designated (and not de-designated) as a Material Subsidiary by the Borrower from time to time pursuant to, and in compliance with, Section 9.5;

“Maturity Date” means, initially, June 30, 2023, as such date may be extended pursuant to Section 3.3 with respect to an Electing Lender;

“Negative Mark-to-Market” is defined in the definition of Mark-to-Market;

“Non-Acceptance Discount Rate” means, for any day, the Discount Rate in paragraph (b) of the definition thereof, other than as it relates to ATB, where it shall mean the CDOR Rate;

“Non-Acceptance Lender” means a Lender which does not accept bankers’ acceptances in the ordinary course of its business;

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time;

“Non-Electing Lender” is defined in Section 3.3(b);

“Non-Financial LC” means a Letter of Credit that is not a Financial LC;

“Non-Material Subsidiary” means any Subsidiary of the Borrower which is not a Material Subsidiary;

“Non-Recourse Debt” means, at any particular time and in respect of the Borrower or a Material Subsidiary, Debt incurred by it to finance all or part of the costs of acquisition, development, construction, exploitation, improvement or operation of a Non-Recourse Project where, at such particular time, the recourse of the lender thereof or any agent, trustee, receiver or other Person acting on behalf of the lender in respect of such Debt or any judgment in respect thereof is limited in all circumstances to:

- (a) the Non-Recourse Project acquired, developed, constructed, exploited, improved or operated and in respect of which such Debt has been incurred;
- (b) any and all facilities relating to such Non-Recourse Project and forming an integral and direct part of the same project, whether or not such facilities are in whole or in part located (or from time to time located) at or on any such property; and
- (c) the receivables, inventory, equipment, chattel payables, contracts, intangibles and other assets, rights or collateral directly connected with such property or assets and the proceeds thereof;

other than recourse (which shall be on an unsecured basis) against other Assets of the Borrower or a Material Subsidiary for a breach of representations and warranties made by the Borrower or a Material Subsidiary in connection with the incurrence of such Debt to the extent such representations and warranties are customarily given on a full recourse basis in similar type financings;

“Non-Recourse Project” means the acquisition, construction, exploitation, or development by the Borrower or a Material Subsidiary of previously undeveloped or newly acquired assets forming an economic unit capable of generating sufficient cash flow, based on the reasonable assumptions of the Borrower, to cover the operating costs and debt service required to finance the undertaking relating to such assets over a period of time which is less than the projected economic life of the assets, and includes any commercial operation for which such assets were so acquired, constructed or developed and which is subsequently carried on with such assets by such economic unit;

“Non-Takeover Lender” is defined in Section 3.21(c);

“Non-U.S. Plan” means any plan, fund or other similar program that (a) is established or maintained outside the United States of America by the Borrower or any Subsidiary primarily for

the benefit of employees of the Borrower or one or more Subsidiaries residing outside the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and (b) is not subject to ERISA or the U.S. Internal Revenue Code;

“Obligations” at any time means, in relation to the Facilities and the Bilateral LC Facility Agreements, all indebtedness, obligations and liabilities of the Borrower to the Lenders, the Swap Lenders, the Creditcard Lenders, the Cash Management Lenders, the Fronting Lenders, the LC Facility Lenders, the Agent and the Collateral Agent, direct or indirect, present or future, absolute or contingent and matured or not, including the aggregate at any such time of:

- (a) the Lender Outstandings;
- (b) all obligations of a Loan Party under Lender Swaps;
- (c) all obligations of a Loan Party in respect of Cash Management Services;
- (d) all obligations of the Borrower under any guarantees of the obligations of any other Loan Parties to the Lenders, the Swap Lenders, the Creditcard Lenders, the Cash Management Lenders, the Fronting Lenders, the LC Facility Lenders and/or the Agent (including the guarantees referred to in Section 6.1(g) and 6.3(e));
- (e) all accrued and unpaid interest outstanding from the Borrower in respect of Prime Loans, U.S. Base Rate Loans and Libor Loans and all other interest and fees payable pursuant to Article 5; and
- (f) all fees, expenses, reimbursement obligations, indemnities (including environmental indemnities included in the Security) and other amounts of any nature or kind that are payable by the Borrower under this Agreement or any other Loan Documents but not included in any of the foregoing, whether matured or unmatured;

“OFAC” is defined in Section 2.1(dd)(i)(A);

“OFAC Listed Person” is defined in Section 2.1(dd)(i)(A);

“OFAC Sanctions Program” means any economic or trade sanction that OFAC is responsible for administering and enforcing. A list of OFAC Sanctions Programs may be found at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>;

“Old GAAP” is defined in Section 1.6(b);

“One Month BA Rate” means, on any day, the CDOR Rate (determined as of 8:00 a.m. Calgary time on such day) which would be applicable in respect of an issuance of Bankers’ Acceptances issued on such day, or if such day is not a Business Day, then on the immediately preceding Business Day;

“Operating Facility” is defined in Section 3.1(a)(ii);

“Operating Facility Amount” means Cdn. \$35,000,000;

“Operating Facility Commitment” means, with respect to the Operating Lender, its obligation to make Prime Loans and U.S. Base Rate Loans available to the Borrower, subject to the terms of this Agreement, in an aggregate amount not at any time in excess of the Operating Facility Amount, as such amount may hereafter be cancelled, reduced, increased or terminated from time to time pursuant to the provisions of this Agreement;

“Operating Lender” means ATB in its capacity as the provider of the Operating Facility;

“Operating Lender’s Account for Payments” means:

- (a) for all payments in Canadian Dollars, the following account maintained by the Operating Lender to which payments and transfers are to be effected as follows:

[REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];

- (b) for all payments in U.S. Dollars, the following account maintained by the Operating Lender to which payments and transfers are to be effected as follows:

[REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];

or such other place or account as may be agreed upon by the Operating Lender and the Borrower from time to time;

“Operating Lender’s Branch of Account” means the office or branch of the Operating Lender located at the address set forth under the Operating Lender’s name on Schedule “A” or such other office or branch of the Operating Lender in Canada as the Operating Lender may advise the Borrower in writing;

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made under this Agreement or any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document but does not include Excluded Taxes;

“Outstanding BAs” means the bankers acceptances issued under the Existing Credit Agreement that are outstanding immediately prior to the Effective Date, and being those listed in Schedule “M”;

“Overdraft” means, in respect of the Operating Facility, an amount owing by the Borrower to the Operating Lender from time to time as a result of clearance of cheques or drafts drawn on, or transfers of funds from, accounts that the Borrower maintains with the Operating Lender at the Operating Lender’s Branch of Account in Canadian Dollars for such purpose;

“Participant” is defined in Section 13.1(d);

“Participation Date” is defined in Section 3.11(b);

“Performance LC’s” means LC’s issued under the Facilities and provided by the Borrower to its contractual counterparties to secure the performance by the Borrower or its Subsidiaries of contractual product delivery obligations or other similar non-financial performance obligations;

“Permitted Acquisition” means an Acquisition in respect of which the following conditions have been met:

- (a) if such Acquisition relates to the equity securities of any Person that are publicly traded, the board of directors or like body of such Person has approved, accepted or recommended to its security holders acceptance of the Acquisition;
- (b) no Default or Event of Default exists immediately prior to or would result from such Acquisition;
- (c) the property acquired pursuant to such Acquisition (in the case of an acquisition of equity securities, the property of the target) is located in Canada or the United States; and
- (d) if, upon completion of such Acquisition, the acquired entity will be, or will be required to be, a Material Subsidiary, the Borrower shall cause it to immediately become a party to a Subsidiary Guarantee and provide the Security required by Section 6.3;

“Permitted Capital Expenditures” means maintenance and growth capital expenditures by the Borrower and its Subsidiaries for any Fiscal Year as approved by the Borrower’s Board of Directors, whether through an approved budget or subsequently at a quarterly Board meeting or Board resolution;

“Permitted Debt” means:

- (a) the Lender Outstandings and the Security;
- (b) Debt under the Second Lien Term Facility up to a maximum outstanding principal amount of \$130,000,000 and the Second Lien Rate Swap;
- (c) Unsecured Notes;
- (d) Convertible Debentures;
- (e) Debt secured by Security Interests within the limitations specified in paragraphs (l), (m) and (n) of the definition of Permitted Encumbrances;
- (f) Debt that is Financial Assistance to the extent permitted by Section 9.3(g);

- (g) Debt in the form of credit support provided to a Loan Party pursuant to a Permitted Swap or the Second Lien Rate Swap; and
- (h) Debt of a Loan Party to another Loan Party;

“Permitted Dispositions” means, in respect of the Loan Parties:

- (a) sales of inventory in the ordinary course of business;
- (b) any sale, lease, transfer or other disposition of any tools, implements, equipment or machinery which may have become worn out, unserviceable, obsolete, unsuitable or unnecessary in operations or activities relating to the Business;
- (c) abandonments, surrenders or terminations of immaterial rights or interests in the ordinary course of business;
- (d) any sale, lease, transfer or other disposition of Assets in any Fiscal Year (excluding any sale or disposition included in clauses (a), (b) or (c) above), the fair market value of which, when taken in the aggregate in respect of all such sales and dispositions by all Loan Parties in such Fiscal Year, is not in excess of 10% of Consolidated Tangible Assets as at the end of the most recently completed Fiscal Year, provided that no Default or Event of Default has occurred and is continuing at the time such sale, lease, transfer or other disposition is agreed to or effected;
- (e) dispositions to a Bilateral LC Facility Lender pursuant to any requirement under a Bilateral LC Facility Agreement that the Borrower provide contingent funding to a Bilateral LC Facility Lender for the purposes of covering “Borrowings” that, as a result of currency fluctuations, are in excess of the “LC Commitment” (as those terms are used and defined in the Bilateral LC Facilities) or to cover “Contingent Liabilities” (as that term is used and defined in the Bilateral LC Facilities) in respect of letters of credit issued and outstanding under a Bilateral LC Facility Agreement that expire on a date that is after the maturity date of the applicable Bilateral LC Facility or are subject to a demand for repayment; and
- (f) any sale, lease, sublease, trade or other disposition of Assets by a Loan Party to another Loan Party in the ordinary course of business;

“Permitted Encumbrances” means:

- (a) Security Interests for taxes, assessments or governmental charges which are not due or delinquent, or the validity of which any Loan Party is diligently contesting in good faith and by appropriate proceedings if such contest involves no material risk of loss of any Assets of such Loan Party the loss of which would have a Material Adverse Effect;
- (b) the Security Interests of any judgment rendered, or claim filed, against any Loan Party which such Loan Party is diligently contesting in good faith and by appropriate proceedings if (i) the amount thereof does not exceed \$10,000,000 and (ii) such contest involves no material risk of loss of any Assets of such Loan Party the loss of which would have a Material Adverse Effect;

- (c) Security Interests imposed or permitted by law such as carriers' liens, builders' liens, materialmens' liens and other liens, privileges or other charges of a similar nature which relate to obligations not due or delinquent or, if due or delinquent, any lien, privilege or charge which any Loan Party is diligently contesting in good faith and by appropriate proceedings if such contest involves no material risk of loss of any Assets of such Loan Party the loss of which would have a Material Adverse Effect;
- (d) Security Interests arising in the ordinary course of and incidental to construction or current operations which have not been filed pursuant to law against any Loan Party or in respect of which no steps or proceedings to enforce such Security Interests have been initiated or which relate to obligations which are not due or delinquent or, if due or delinquent or if a filing or enforcement proceeding in respect thereof has been made or initiated, any Security Interest which any such Loan Party is contesting in good faith and by appropriate proceedings if such contest involves no material risk of loss of any Assets of such Loan Party the loss of which would have a Material Adverse Effect;
- (e) Security Interests arising in connection with workers' compensation, employment insurance, pension and employment or similar laws or regulations in respect of amounts which are not due or delinquent;
- (f) Security Interests in favour of any public utility or Governmental Authority when required by such public utility or Governmental Authority in the ordinary course of the business of any Loan Party in connection with operations of such Loan Party if such Security Interest does not, either alone or in the aggregate, materially impair the conduct of the business of such Loan Party;
- (g) easements, rights-of-way, servitudes, and similar rights in land (including rights-of-way and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved or taken by other Persons;
- (h) the reservations, limitations, provisos and conditions in any original grants from the Crown of any land or interests therein and statutory exceptions, qualifications and reservations in respect of title;
- (i) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under any lease, sublease, license or sublicense permitted by this Agreement;
- (j) deposits to secure performance of (i) bids, tenders, contracts (other than contracts for the payment of money) or (ii) leases of real property entered into in the ordinary course of business, in each case, to which the Borrower or a Material Subsidiary is a party;
- (k) Security Interests resulting from the deposit of cash or cash equivalents as security when the Borrower or a Material Subsidiary is required to do so by a Governmental Authority or by normal business practice in connection with

contracts, licenses or tenders or similar matters in the ordinary course of business and for the purpose of carrying on the same;

- (l) Security Interests securing Non-Recourse Debt, provided that:
 - (i) the aggregate principal amount of Non-Recourse Debt secured under this clause (l) does not exceed, in aggregate, \$30,000,000 for all Loan Parties at the time the Security Interests therefor are created, incurred or assumed; and
 - (ii) no Default or Event of Default exists at the time such Security Interests are created, incurred or assumed;
- (m) Security Interests securing indemnity obligations in respect of surety/performance bonds in the ordinary course of business, provided that:
 - (i) the aggregate principal amount of all obligations secured under this clause (m) does not exceed, in aggregate, 5% of Consolidated Tangible Assets for all Loan Parties at the time such Security Interests are created, incurred or assumed; and
 - (ii) no Default or Event of Default exists at the time such Security Interests are created, incurred or assumed;
- (n) Security Interests securing Purchase Money Security Interests, Financial Leases, Sale/Leasebacks, obligations arising under Permitted Swaps (other than Lender Swaps) and, other Security Interests for any other Debt permitted by this Agreement (excluding general Security Interests such as floating charges and general security agreements with respect to all or substantially all of the personal property of a Loan Party, or all or substantially all of the receivables of a Loan Party), provided that:
 - (i) the aggregate principal amount of all obligations secured under this clause (n) does not exceed, in aggregate, 5% of Consolidated Tangible Assets for all Loan Parties at the time such Security Interests are created, incurred or assumed; and
 - (ii) no Default or Event of Default exists at the time such Security Interests are created, incurred or assumed;
- (o) Security Interests in favour of the Agent or the Collateral Agent (for the benefit of the Agent, the Lenders, the Swap Lenders, the LC Facility Lenders, Cash Management Lenders and the Creditcard Lenders) pursuant to the Loan Documents;
- (p) the Second Lien Security, for so long as it is subject to the Intercreditor Agreement; and
- (q) any Security Interest from time to time disclosed by the Borrower to the Agent and which is consented to by all of the Lenders.

“Permitted Financial Assistance” means:

- (a) Financial Assistance by a Loan Party to another Loan Party; and
- (b) other Financial Assistance if (i) the maximum amount of all such Financial Assistance does not exceed, in aggregate, 5% of Consolidated Tangible Assets for all Loan Parties at any time outstanding, and (ii) no Default or Event of Default exists at the time such Financial Assistance is provided;

“Permitted Swap Indebtedness” means Swap Indebtedness of any Loan Party to a Swap Lender under a Permitted Swap and for which the only security is the Security and for certainty includes obligations of the Borrower under the Existing Lender Swaps, and excludes obligations of the Borrower under the Second Lien Rate Swap;

“Permitted Swaps” means any Swap entered into by a Loan Party in the ordinary course of business and for hedging purposes and not for speculative purposes, provided that such Swaps are permitted within the grant of authority by the Borrower's Board of Directors or otherwise approved by such board and for certainty includes Existing Lender Swaps, and excludes the Second Lien Rate Swap;

“Permitted Title Defects” means, in respect of any particular Asset of a Loan Party, the following defects in its title thereto:

- (a) Permitted Encumbrances;
- (b) title defects or irregularities which are of a minor nature and which in the aggregate will not materially impair the use of the Asset for the purposes for which it is held, or impair its saleability, or cause a material disruption or reduction in the operation thereof or the cash flow associated therewith; or
- (c) title defects which are disclosed to and expressly consented to in writing by the Required Lenders as constituting Permitted Title Defects hereunder;

“Person” means any individual, firm, partnership, corporation or other body corporate, Governmental Authority, trust, unincorporated body of persons or association and the heirs, executors, administrators or other legal representatives of an individual;

“Platform” is defined in Section 14.7(d)(i);

“Positive Mark-to-Market” is defined in the definition of “Mark-to-Market”;

“Prime Loan” means the advances or any portion thereof made available by the Lenders to the Borrower pursuant to any of Sections 3.6, 3.11, 3.18, 3.19 or 3.23 and outstanding from time to time, which are denominated in Canadian Dollars and on which the Borrower has agreed to pay interest in accordance with Section 5.1;

“Prime Rate” means, with respect to Prime Loans on any day, the greater of:

- (a) the annual rate of interest announced from time to time by the Agent or the Operating Lender, as applicable, as being its reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans

made by the Agent or the Operating Lender, as applicable, in Canada (the “**Floor Rate**”); and

- (b) the One Month BA Rate in effect on such day plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION].

If the Prime Rate is determined to be less than zero, it shall be deemed to be the greater of (i) the Floor Rate and (ii) zero;

“**Purchase Money Security Interest**” means:

- (a) a Security Interest taken or reserved in property to secure payment of all or part of its purchase price; and
- (b) a Security Interest taken in property by a Person who gives value for the purpose of enabling a Loan Party to acquire rights in such property, to the extent that the value is applied to acquire those rights;

“**Purchasing Lender**” is defined in Section 3.3(h);

“**Rateable**” and “**Rateably**” means, subject to adjustment pursuant to Section 10.8(c), the proportion that the Lender Outstandings of any Lender or Swap Lender (if not then a Lender) bears to the aggregate of the Lender Outstandings of all Lenders and Swap Lenders, as determined at the Adjustment Time;

“**Real Property Listing**” means a list of the Site Facilities and the other property, plant and equipment of the Loan Parties as would be classified as such on the financial statements of the Loan Parties in accordance with GAAP, to the extent comprising real property (or interests therein) and fixtures owned by the Loan Parties, showing for each a description of the property, location by municipal address, legal description (if applicable), cost, depreciation and net book value;

“**Register**” is defined in Section 13.1(c);

“**Related Parties**” means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates;

“**Release**” has the meaning prescribed in any Environmental Laws and includes any presence, release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, leaching, spraying, inoculation, abandonment, seeping, emptying, throwing, dumping, placing, exhaust, or migration of any element or compound in, on, under, into or out of the indoor or outdoor environment through the air, soil, subsoil, surface water, groundwater, rock formation, portions of a building or any other facility (including the abandonment, storage or disposal of any barrels, tanks, vessels, containers or receptacles containing any Hazardous Substances), or otherwise;

“**Removal Effective Date**” is defined in Section 12.6(b);

“**Repayment Notice**” means a notice to effect a repayment of Borrowings delivered under Section 3.16 and substantially in the form of Schedule “C” with all applicable blanks completed;

“Replacement Lender” is defined in Section 3.3(i);

“Request Period” is defined in Section 3.3(a);

“Required Lenders” means:

- (a) during the continuance of a Default or an Event of Default when there are any Borrowing and/or LC Borrowings, and subject to Section 10.5(a), (i) for the purpose of Articles 2, 6 and 9 and Sections 10.1, 10.5(a) and 10.7 only, those Lenders and LC Facility Lenders to whom there is owing 66⅔% or more of the sum the aggregate Borrowings under the Syndicated Facility and Operating Facility plus the LC Borrowings and (ii) for the purpose of all other provisions of this Agreement, those Lenders to whom there is owing 66⅔% or more of the aggregate Borrowings under the Syndicated Facility and Operating Facility; and
- (c) at any other time, (i) for the purpose of Articles 2, 6 and 9 and Sections 10.1, 10.5(a) and 10.7 only, those Lenders and LC Facility Lenders whose Commitments and LC Facility Commitments are, in the aggregate, at least 66⅔% of the sum of the Total Commitment and the Total LC Facility Commitment and (ii) for the purpose of all other provisions of this Agreement, those Lenders whose Commitments are, in the aggregate, at least 66⅔% of the Total Commitment.

“Resignation Effective Date” is defined in Section 12.6(a);

“Rollover” means, in respect of a maturing Bankers’ Acceptance or Libor Loan, the provision by a Lender of a further Borrowing by way of a Bankers’ Acceptance or Libor Loan, as applicable, in the same currency, the proceeds of which are to be applied in whole or part to the repayment of the maturing Borrowing, and with respect to any outstanding Letter of Credit, the extension of the expiry date thereof;

“Rollover Date” means each Business Day that the Borrower has notified the Agent as the date on which the rollover of a Borrowing or a portion thereof is to be made pursuant to a request from the Borrower under Section 3.19;

“Rollover Notice” means a notice to effect a Rollover delivered under Section 3.19 and substantially in the form of Schedule “C” with all applicable blanks completed;

“Sale/Leaseback” means an arrangement under which title to any property or asset, or an interest therein, is transferred by a Person (the **“First-Mentioned Person”**) to some other Person which leases or otherwise gives or grants the right to use such property or asset or interest therein to the First-Mentioned Person, whether or not in connection therewith the First Mentioned Person also acquires a right or is subject to an obligation to re-acquire the property, asset or interest, and regardless of the accounting treatment of such arrangement;

“Schedule I Reference Lender” means up to two Canadian chartered banks listed on Schedule I to the *Bank Act* (Canada) as are determined from time to time by the Agent;

“Second Lien Lenders” means the financial institutions party to the Second Lien Credit Agreement from time to time as lenders thereunder;

“Second Lien Loan Documents” means collectively, the Second Lien Term Credit Agreement, all ISDA Master Agreements between a Swap Lender (as defined in the Second Lien Term Credit Agreement) and the Borrower and all Transactions documented thereunder, each Subsidiary Guarantee (as defined in the Second Lien Term Credit Agreement), the Second Lien Security, the Intercreditor Agreement, the arrangement/syndication fee agreements pertaining to the Second Lien Credit Facility, the agency agreement pertaining to the Second Lien Credit Facility, and all other agreements, certificates, instruments and documents delivered by or on behalf of any Loan Party in connection therewith from time to time, and all future renewals, extensions or restatements of, or amendments, modifications or supplements to, all or any part of the foregoing to the extent not prohibited by this Agreement or the Intercreditor Agreement;

“Second Lien Rate Swap” means the Interest Swap entered into by the Borrower with one or more of the Second Lien Lenders (or their Affiliates) in order to swap the fixed rate of interest payable by the Borrower under the Second Lien Term Facility to a floating rate of interest, over the term to maturity of the Second Lien Term Facility;

“Second Lien Security” means any and all Security Interests held by any of the Second Lien Lenders or by any agent or trustee on their behalf or for their benefit, securing the obligations of the Borrower and/or any Material Subsidiary under or in respect of the Second Lien Term Facility and the Second Lien Rate Swap;

“Second Lien Swap Termination Proceeds” means, in the event of an early termination of the Second Lien Rate Swap for any reason whatsoever, any and all proceeds that may be due and payable to the Borrower from the Second Lien Lenders (or their Affiliates) party thereto under the Second Lien Rate Swap;

“Second Lien Term Credit Agreement” means the Credit Agreement dated June 30, 2017 between the Borrower, as borrower, and the Second Lien Lenders, as lenders, establishing the Second Lien Term Credit Facility, including any renewals, extensions, amendments, supplements, restatements, replacements or refinancings thereof to the extent not prohibited by this Agreement or the Intercreditor Agreement;

“Second Lien Term Facility” means the Cdn. \$130,000,000 term credit facility provided by the Second Lien Lenders to the Borrower pursuant to the Second Lien Term Credit Agreement;

“Security” has the meaning given to it in Section 6.1 and, for certainty, includes all documents, instruments or agreements directly or indirectly assuring or securing the Agent, the Lenders, the Creditcard Lenders, the LC Facility Lenders and the Swap Lenders in respect of the Obligations; any amendments to any of the foregoing; any indentures or instruments supplemental to or an implementation of any of the foregoing; and any and all other documents, instruments or agreements pursuant to which the Agent, the Lenders, the Creditcard Lenders and the Swap Lenders are assured or granted or receive a Security Interest pursuant to the terms hereof (including as provided in Section 6.1 and 6.3) or thereof;

“Security Interest” means any assignment, mortgage, charge, pledge, lien, hypothec, encumbrance securing or in effect securing an obligation or any indebtedness of any Person, conditional sale, title retention agreement or security interest whatsoever, howsoever created or arising, whether absolute or contingent, fixed or floating, legal or equitable, perfected or not, and includes a Purchase Money Security Interest and the rights of a lessor pursuant to a Financial Lease or a Sale/Leaseback, but does not include a right of set-off or a set-off unless such right of set-off has been created expressly for the purpose of securing Debt;

“Site Facility” means a terminalling, processing, storage and/or disposal facility in which a Loan Party has an interest;

“Standard Term” means the term to maturity of a Bankers’ Acceptance (subject to availability) of approximately one month, two months, three months or six months (as selected by the Borrower and notified to the Agent pursuant to Section 3.6 or 3.8) for which a quote is available pursuant to paragraph (a) of the definition of CDOR Rate, commencing on and including the Drawdown Date, Conversion Date or Rollover Date, as the case may be, applicable to such Bankers’ Acceptance;

“Standby Fee Rate” means, at any time, the rate, expressed as a rate per annum based on a year of 365 days, set out in the table in the definition of Applicable Margin in this Agreement, under the heading “Standby Fees (bps)”, opposite the applicable Consolidated Senior Debt to EBITDA Ratio;

“Subsidiary” means:

- (a) a Person of which another Person alone or in conjunction with its other Subsidiaries owns an aggregate number of the Voting Shares sufficient to enable the election of a majority of the directors (or other persons performing similar functions) regardless of the manner in which other Voting Shares are voted;
- (b) a Person of which another Person alone or in conjunction with its other Subsidiaries has, through the operation of any agreement or otherwise, the ability to elect or cause the election of a majority of the directors (or other Persons performing similar functions) or otherwise exercise control over the management and policies of such Person; and
- (c) any partnership or trust of which any Loan Party:
 - (i) is the general or managing partner or trustee; or
 - (ii) directly or indirectly owns more than 50% of the equity or beneficial interest thereof;

and shall include any Person in like relation to a Subsidiary;

“Subsidiary Guarantee” means a guarantee substantially in the form included in Schedule “G” and executed by a Material Subsidiary with such changes as the Agent may approve;

“Subsidiary Guarantors” mean each Subsidiary of the Borrower that is required by the terms of this Agreement to provide a Subsidiary Guarantee of the Obligations, being, as at the Effective Date:

- (a) Secure Energy (Drilling Services) Inc.,
- (b) Secure Energy (Logistics Services) Inc.,
- (c) Secure Energy (Onsite Services) Inc.,
- (d) SES USA Holdings Inc., and

(e) Secure Energy Services USA, LLC;

“successor entity” is defined in Section 9.3(b);

“Swap” means any Commodity Swap, Currency Swap or Interest Swap;

“Swap Credit Documents” mean all documents governing Lender Swaps and all Transactions effected with respect thereto;

“Swap Demand for Repayment” means a demand made, due to an “event of default” caused by any act or omission of a Loan Party, by a Swap Lender pursuant to a Lender Swap demanding repayment of all indebtedness, obligations and liabilities relating thereto;

“Swap Indebtedness” means:

- (a) at any time prior to the Adjustment Time, an amount determined by the Agent (or by the Borrower for the purposes of the Compliance Certificate) by,
 - (i) calculating, for each Swap Lender, the difference, if positive, between the Positive Mark-to-Market and Negative Mark-to-Market for all of its Lender Swaps, and
 - (ii) when such term is used in reference to all Lenders or Swap Lenders, adding together the aggregate net amounts calculated in (a)(i) under this definition above for all Swap Lenders; and
- (b) after the Adjustment Time, an amount being determined by each Swap Lender by,
 - (i) calculating for each of its Lender Swaps, the Termination Amount, and determining the difference, if positive, of the aggregate net amounts payable by any Loan Party to such Swap Lender, and
 - (ii) when such term is used in reference to all Lenders or Swap Lenders, adding together the amounts calculated in (b)(i) under this definition above for all Swap Lenders;

“Swap Lender” means a Lender or an Affiliate of a Lender (or any branch or office of either, wherever located) that is party to a Lender Swap;

“Syndicated Facility” is defined in Section 3.1(a)(i);

“Syndicated Facility Amount” means Cdn. \$565,000,000, as such amount may be increased or decreased pursuant to other provisions of this Agreement;

“Syndicated Facility Commitment” means, with respect to each Syndicated Lender, such Lender’s obligation to make Loans under the Syndicated Facility available to, and accept and purchase Bankers’ Acceptances from (or, if applicable, make BA Equivalent Advances) for the account of, the Borrower, subject to the terms of this Agreement, in an aggregate amount not at any time in excess of the amount set forth under such Lender’s name on Schedule “A” (or in any Assignment and Assumption executed hereafter) as such Lender’s Syndicated Facility

Commitment, as such amount may hereafter be cancelled, reduced, increased or terminated from time to time pursuant to the provisions of this Agreement;

“Syndicated Lender” means a Lender in its capacity as a provider of the Syndicated Facility and in no other capacity;

“Takeover” is defined in Section 3.21;

“Takeover Lender” is defined in Section 3.21(b);

“Takeover Loan” is defined in Section 3.21(c);

“Target” is defined in Section 3.21;

“Tax” or **“Taxes”** means all present and future taxes, rates, levies, imposts, assessments, dues, government fees, stamp taxes, deductions, charges or withholdings, and all liabilities with respect thereto, and any interest, additions to tax and penalties imposed with respect thereto, excluding, with respect to the Agent or any Lender, taxes (including sales, use or goods and services tax) imposed on its income, purchases or capital and franchise taxes imposed on it by any taxation authority;

“Termination Amount” means, in respect of a Lender Swap on any day, the amount (whether positive or negative) determined by the Swap Lender thereunder in accordance with its customary practices and acting reasonably as of the close of business as though such day were an “Early Termination Date” and the Swap was a “Terminated Transaction” in accordance with the payment measures provided for in the ISDA Master Agreement between any Loan Party and such Swap Lender, with any such termination amount being expressed in Canadian Dollars and all defined terms used in this definition and not otherwise defined in this Agreement having the meaning given to it in such ISDA Master Agreement;

“Termination Event” means:

- (a) an automatic acceleration of the repayment of indebtedness outstanding hereunder without any notice being required thereunder from the Agent or any Lender; or
- (b) an early termination of obligations relating to a Lender Swap due to an “event of default” (as defined in such Lender Swap) caused by any act or omission of a Loan Party;

“Total Commitment” means the aggregate of the Operating Facility Commitment and the Total Syndicated Facility Commitment;

“Total LC Facility Commitment” means the aggregate of the LC Facility Commitments;

“Total Syndicated Facility Commitment” means, at any time, the amount equal to the aggregate of the Syndicated Facility Commitment of each Syndicated Lender at such time;

“Transferred Letters of Credit” means the letters of credit and letters of guarantee listed in Schedule “N”;

“**Transaction**” has the meaning given to it in the applicable ISDA Master Agreement between a Loan Party and a Swap Lender;

“**Uniform Customs**” is defined in Section 3.12(d);

“**Unsecured Notes**” means any debentures or notes issued, created, incurred, assumed or guaranteed by a Loan Party which have all of the following characteristics:

- (a) no Default or Event of Default exists at the time such debentures or notes are issued, created, incurred, assumed or guaranteed, or would result therefrom;
- (b) no Security Interest has been created, incurred or otherwise exists to directly or indirectly secure such debentures or notes;
- (c) no Person has provided a guarantee or other financial assurance in respect of such debentures or notes, other than a Loan Party;
- (d) the final maturity or due date in respect of repayment of principal of such debentures or notes extends at least six months beyond the latest Maturity Date of any Lender outstanding at the time such debentures or notes are issued, created, incurred, assumed or guaranteed (in this definition, the “**Outside Payment Date**”);
- (e) no scheduled or mandatory payment or repurchase of principal of such debentures or notes is due at any time prior to the Outside Payment Date (other than as a result of the occurrence of an event of default thereunder);
- (f) the financial covenants shall not provide for any maintenance financial covenants and the other covenants and other terms and conditions relating to such debentures or notes when taken as a whole are not materially more restrictive on the Loan Parties than those in this Agreement;
- (g) without limiting clause (f), the terms and conditions relating to such debentures or notes do not adversely affect:
 - (i) the ability of the Borrower to incur debt and to increase borrowing in accordance with the provisions of the Loan Documents,
 - (ii) the ability of the Borrower to amend the terms of, the Loan Documents except with respect to incremental borrowings in excess of those provided for in the Loan Documents,
 - (iii) the ability of any Subsidiary to guarantee the Obligations,
 - (iv) the ability of the Borrower or any Subsidiary to create Security for the Lender Obligations,
 - (v) the ability of the Borrower or any Subsidiary to make payments or distributions among themselves, or

- (vi) the ability of any Loan Party to otherwise comply with its obligations under the Loan Documents;
- (h) such debentures or notes shall be subject to an intercreditor agreement in form and substance satisfactory to the Lenders, acting reasonably; and
- (i) the proceeds from the issuance of such debentures or notes must be used to repay or prepay the Second Lien Term Facility in accordance with Section 9.3(p) prior to any other use of such proceeds;

“U.S. Base Rate” means, with respect to U.S. Base Rate Loans 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 for determining interest rates on U.S. Dollar denominated commercial loans made by the Agent in Canada;
- (b) the Federal Funds Rate plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];and
- (c) the Libor rate for a Libor Interest Period of one month plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION];

“U.S. Base Rate Loan” means the advances or any portion thereof made available by the Lenders to the Borrower pursuant to either Section 3.6, 3.7, 3.11, 3.18 or 3.19 and outstanding from time to time, which are denominated in U.S. Dollars and on which the Borrower has agreed to pay interest in accordance with Section 5.2;

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

“U.S. Economic Sanctions” means those laws, executive orders, enabling legislation or regulations administered and enforced by the United States of America pursuant to which economic sanctions have been imposed on any Person, or relating to funding operations, or financing investments, in any country, or to making payments to, or receiving payments or property from, any country or Person, including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, the U.S. Bank Secrecy Act (31 U.S.C. §§ 5311 et seq.), the U.S. Money Laundering Control Act of 1986 (18 U.S.C. §§ 1956 et seq.), the USA Patriot Act of 2001, the U.S. International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.), the U.S. Trading with the Enemy Act (50 U.S.C. App. §§ 1 et seq.), the U.S. United Nations Participation Act, the U.S. Syria Accountability and Lebanese Sovereignty Act, U.S. Sudan Accountability and Divestment Act, the U.S. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 or the Iran Sanctions Act, all as amended, or any of the foreign assets control regulations of the U.S. Department of the Treasury (including but not limited to 31 CFR, Subtitle B, Chapter V, as amended) and any associated rules and regulations or any other economic sanctions law, rules or regulations administered and enforced by the United States, or any enabling legislation or directives relating to any of the foregoing;

“U.S. Real Property” means real property located in the United States of America;

“Voting Shares” means:

- (a) share capital of any class of any corporation or securities of any other Person which carry voting rights to elect the board of directors or other body exercising

similar functions under any circumstances, but shares or other securities which carry the right to so vote conditionally upon the happening of an event shall not be considered Voting Shares until the occurrence of such event; and

- (b) an interest in a general partnership, limited partnership, trust, joint venture or similar Person which entitles the holder of such interest to receive a share of the profits, or on dissolution or partition, of the assets, of such Person; and

“Write-Down and Conversion Powers” means with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.2 Headings and Table of Contents

The headings, the table of contents and the Article and Section titles are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3 References

Unless something in the subject matter or context is inconsistent therewith, all references to Sections, Articles and Schedules are to Sections and Articles of and Schedules to this Agreement. The words **“hereto”**, **“herein”**, **“hereof”**, **“hereunder”** and similar expressions mean and refer to this Agreement.

1.4 Rules of Interpretation

In this Agreement, unless otherwise specifically provided,

- (a) the singular includes the plural and vice versa, **“month”** means calendar month, **“quarter”** means calendar quarter, and **“in writing”** or **“written”** includes printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception, including facsimile;
- (b) references to any agreement, contract, document or other instrument means a reference to any such agreement, contract, document or other instrument as the same has been or may be amended, modified, supplemented or restated from time to time; provided that, if consent to any such amendment, modification, supplement or restatement is required under any Loan Document, such consent must have been obtained; and
- (c) references to any statute, act or other legislative enactment shall be to such statute, act or other legislative enactment as amended from time to time or replaced by a statute, act or other legislative enactment dealing with substantially the same subject matter as the statute, act or other legislative enactment so replaced.

1.5 Generally Accepted Accounting Principles

All financial statements required to be furnished by the Borrower to the Agent hereunder shall be prepared in accordance with GAAP. Each accounting term used in this Agreement, unless otherwise defined herein, has the meaning assigned to it under GAAP and, except as otherwise provided herein (including, for certainty, as set forth in the definition of “Financial Lease”), reference to any statement of financial position item, statement of income item or statement of cash flows item means such item as computed from the applicable financial statement prepared in accordance with GAAP.

1.6 Accounting Terms: Changes to Generally Accepted Accounting Principles

- (a) Each accounting term used in this Agreement, unless otherwise defined herein, has the meaning assigned to it under GAAP applied consistently throughout the relevant period and relevant prior periods.
- (b) If the Borrower, the Agent or the Required Lenders determine at any time that any amount required to be determined hereunder would be materially different if such amount were determined in accordance with:
 - (i) GAAP applied by the Borrower in respect of its financial statements on the date hereof (“**Old GAAP**”), rather than
 - (ii) GAAP subsequently in effect in Canada and applied by the Borrower in respect of its financial statements and utilized for purposes of determining such amount,

then written notice of such determination shall be delivered by the Borrower to the Agent, in the case of a determination by the Borrower, or by the Agent to the Borrower, in the case of a determination by the Agent or the Required Lenders.

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

- (d) Upon the delivery of a written notice pursuant to Section 1.6(b) or Section 1.6(c), the Borrower and the Agent on behalf of the Lenders shall meet to consider the impact of such change in Old GAAP or such change in accounting policy, as the case may be, on the rights of, or protections afforded to, the Agent and the Lenders or on the position of the Borrower or of the Agent and the Lenders and shall in good faith negotiate to execute and deliver an amendment or amendments to this Agreement in order to preserve and protect the intended rights of, or protections afforded to, the Agent and the Lenders on the date hereof or the position of the Borrower or the Agent and the Lenders (as the case may be); provided that, until this Agreement has been amended in accordance with the foregoing, then for all purposes hereof, the applicable changes from Old GAAP or in accounting policy (as the case may be) shall be disregarded hereunder and any amount required to be determined hereunder shall, nevertheless, continue to be determined under Old GAAP and the Borrower's prior accounting policy, as applicable. For the purposes of this Section 1.6, the Borrower, the Lenders and the Agent acknowledge that the amendment or amendments to this Agreement are to provide substantially the same rights and protection to the Agent and the Lenders as is intended by this Agreement on the date hereof. If the Borrower and the Agent on behalf of the Required Lenders do not (for any reason whatsoever) mutually agree (in their respective sole discretions, without any obligation to so agree) on such amendment or amendments to the Agreement within 60 days following the date of delivery of such written notice, the Borrower shall either (i) continue to provide financial calculations in accordance with Old GAAP or (ii) provide such financial information as the Agent may reasonably request in order for any amount required to be determined hereunder to be determined in accordance with Old GAAP; and, for all purposes hereof, the applicable changes from Old GAAP or in accounting policy (as the case may be) shall be disregarded hereunder and any amount required to be determined hereunder shall, nevertheless, continue to be determined under Old GAAP and the Borrower's prior accounting policy, as applicable.

1.7 Time

Unless otherwise provided herein, all references to a time in this Agreement shall mean local time in the city of Calgary, Alberta.

1.8 Payment for Value

All payments required to be made hereunder shall be made for value on the required day in same day immediately available funds.

1.9 Monetary References

Whenever an amount of money is referred to herein, such amount shall, unless otherwise expressly stated, be in Canadian Dollars.

1.10 Swap Lenders, Creditcard Lenders, LC Facility Lenders and Cash Management Lenders

Each Lender, in its capacity as a Swap Lender, Creditcard Lender, LC Facility Lender or Cash Management Lender and for and on behalf of any of its Affiliates which become a Swap Lender, a Creditcard Lender, LC Facility Lender or Cash Management Lender, agrees to comply with and to cause each such Affiliate in its capacity as a Swap Lender, Creditcard Lender, LC Facility Lender or Cash Management Lender to comply with the Loan Documents to the extent they apply to any Lender Swap or a Creditcard Lender, LC Facility Lender and agrees that any action taken by it under or in connection with such documents in its capacity as a Lender shall be binding on it, and, if applicable, any of its Affiliates, each in their capacity as a Swap Lender, Creditcard Lender, LC Facility Lender or Cash Management Lender.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties

The Borrower represents and warrants to each of the Lenders and the Agent (all of which representations and warranties the Borrower hereby acknowledges are being relied upon by the Lenders and the Agent in entering into this Agreement) that:

- (a) **Formation and Qualification:** each Loan Party is a corporation or partnership duly incorporated, continued, amalgamated or formed, as the case may be, and validly existing under the laws of its jurisdiction of incorporation, continuance, amalgamation or formation, as the case may be, has the legal right and all necessary corporate or partnership power and authority to own its Assets and carry on its business and is duly qualified, licensed or registered to carry on business under Applicable Laws in all jurisdictions in which it carries on business, except to the extent the absence of which would not have, or would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;
- (b) **Power:** each Loan Party has all requisite corporate or partnership power and authority, as applicable, to enter into and perform its obligations under each Loan Document to which it is a party and do all acts and things and execute and deliver all other documents and instruments as are required hereunder or thereunder to be done, observed or performed by it in accordance with the terms hereof and thereof;
- (c) **Authorization:** the execution and delivery by each Loan Party of each Loan Document to which it is a party and the performance by it of its obligations thereunder have been duly authorized by all necessary corporate or partnership action, as applicable, including the obtaining of all necessary shareholder or partner consents;
- (d) **Execution and Binding Obligations:** each Loan Document to which each Loan Party is a party has been duly executed and delivered by it and constitute legal, valid and binding obligations of it enforceable against it in accordance with their respective terms, subject only to any limitation under Applicable Laws relating to

- (i) Debtor Relief Laws; and (ii) the discretion that a court may exercise in the granting of equitable remedies;
- (e) **No Conflict:** the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party:
 - (i) does not and will not violate any provision of Applicable Law;
 - (ii) does not and will not violate its constating documents, including its articles, by-laws, partnership agreement or shareholders agreement, as applicable;
 - (iii) does not and will not result in a breach of or constitute a default or require any consent under, or result in the creation of any Security Interest (other than Permitted Encumbrances) upon any of its Assets pursuant to, any indenture or other agreement or instrument or by which it or its Assets may be bound or affected; and
 - (iv) does not and will not require any Governmental Action or notice to or filing with any Governmental Authority;
- (f) **Governmental Approvals:** except for registration of the Security Interests constituted by the Security, no authorization, consent, approval, registration, qualification, designation, declaration or filing with any Governmental Authority or other Person, is or was necessary in connection with the execution, delivery and performance of each Loan Party's obligations under each Loan Document to which it is a party, except such as are in full force and effect, unamended, at the date of this Agreement;
- (g) **Authorizations:** each Loan Party possesses all authorizations, permits, consents, registrations and approvals necessary under Applicable Laws to properly conduct the Business, except to the extent the absence of which would not have, or would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;
- (h) **Title to Assets:** each Loan Party has good and valid title to all of its Assets other than Permitted Title Defects;
- (i) **Security Interests:** the Assets of each Loan Party are free and clear of all claims and Security Interests other than Permitted Title Defects and Permitted Encumbrances;
- (j) **Default of Contracts/Instruments:** no Loan Party is in breach or default of, nor has any event or circumstance occurred, which, but for the passage of time or the giving of notice, or both, would constitute a breach or default, under any material agreement, instrument, authorization, permit, consent, registration or approval to which any Loan Party or any of its Assets are bound or subject, except to the extent that such breach or default would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;

- (k) **Litigation:**
- (i) there are no actions, suits or proceedings (whether or not purportedly on behalf of any Loan Party) pending or, to the best of its knowledge, information or belief, threatened against or affecting any Loan Party at law or in equity by or before any Governmental Authority or before any arbitrator of any kind which would reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; and
 - (ii) no Loan Party is in default with respect to any judgment, order, writ, injunction, decree, award, rule or regulation of any court, tribunal, governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign or any arbitrator of any kind which would reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (l) **Financial Condition:** all financial statements of each Loan Party submitted to the Agent fairly reflect, as of the dates thereof, the consolidated financial condition of such Loan Party, as applicable, and the results of its operations for the periods covered thereby, have been prepared in accordance with GAAP and, from the date of the latest of such financial statements submitted to the Agent which are audited, no event has occurred which has or would reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (m) **Taxes:** each Loan Party has filed all tax returns which were required to be filed, has paid or made provision for payment (in accordance with GAAP) of all Taxes which are due and payable, and has provided adequate reserves (in accordance with GAAP) for the payment of any Tax of which is being contested;
- (n) **Compliance with Laws:** each Loan Party is in compliance with all Applicable Laws except to the extent that non-compliance would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (o) **Employee Benefit Plans:**
- (i) no Loan Party nor any ERISA Affiliates maintains or contributes to any ERISA Plan subject to Title I or Title IV of ERISA; and
 - (ii) if applicable, all Non-U.S. Plans have been established, operated, administered and maintained in compliance with all laws, regulations and orders applicable thereto, except where failure so to comply could not be reasonably expected to have a Material Adverse Effect. All premiums, contributions and any other amounts required by applicable Non-U.S. Plan documents or Applicable Laws to be paid or accrued by the Loan Parties have been paid or accrued as required, and each Loan Party is otherwise in compliance with all employee benefit plans to which it is a party or by which it is bound, except where failure so to pay, accrue or comply could not be reasonably expected to have a Material Adverse Effect;

- (p) **Environmental Laws:** each Loan Party:
- (i) has obtained, made or given all Governmental Actions which are required under all applicable Environmental Laws except to the extent that failure to obtain, make or give the same, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;
 - (ii) is in compliance with all Environmental Laws and all terms and conditions of all such Governmental Actions, except to the extent failure to comply, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; and
 - (iii) has not received any notice of non-compliance with any Environmental Laws from any Governmental Authority or other Person or that any Release has occurred of, from, around, under or in respect of any Site Facility which would reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (q) **Security:** the Security Interests created by the Security rank as first priority Security Interests over all Assets of each Loan Party other than the Second Lien Swap Termination Proceeds and as second priority Security Interests over the Second Lien Swap Termination Proceeds (being second only to the Security Interests created by the Second Lien Security therein), subject to Permitted Encumbrances;
- (r) **Insurance:** each Loan Party has in full force and effect such policies of insurance in such amounts issued by insurers of recognized standing insuring its Assets and operations, including business interruption insurance and replacement cost insurance and including the Collateral Agent as first loss payee, and providing such coverage as would be maintained by a prudent Person engaged in the same or similar business of similar size in the localities where its Assets and operations are located;
- (s) **Intellectual Property:** each Loan Party has the legal right to use all Intellectual Property necessary for the operation and conduct of their business, affairs, operations and processes, except to the extent that the failure to have the same would not have or reasonably be expected to have a Material Adverse Effect and, to the best of their knowledge and belief, no Person has asserted any claim or taken any step or proceedings to prohibit or limit the use of such Intellectual Property by any Loan Party, in respect of which claim, step or proceedings there is a reasonable likelihood of a determination adverse to such Loan Party and which, if determined adversely, would have or would reasonably be expected to have a Material Adverse Effect;
- (t) **No Default:** no Default or Event of Default has occurred and is continuing;
- (u) **Debt:** no Loan Party has issued, created, incurred or assumed, nor has outstanding, any Debt other than Permitted Debt;
- (v) **Financial Assistance:** no Loan Party has provided, nor has outstanding, any Financial Assistance to any Person other than Permitted Financial Assistance;

- (w) **Subsidiaries:** as of the Effective Date the organizational structure of the Borrower and its Subsidiaries is as set forth in Schedule “L”;
- (x) **Loan Parties:** as of the Effective Date the only Loan Parties (and the only entities owning any interests in Site Facilities) are the Borrower and the Subsidiary Guarantors;
- (y) **Location of Business:** as at the Effective Date no Loan Party (i) carries on business in any jurisdiction other than in Manitoba, the Northwest Territories, Alberta, British Columbia, Saskatchewan, North Dakota, Montana, Colorado, Wyoming and Nevada; and (ii) has any Collateral (other than Collateral in transit or Collateral of nominal value) located in any jurisdiction other than Manitoba, the Northwest Territories, Alberta, British Columbia, Saskatchewan, North Dakota, Montana, Colorado, Wyoming and Nevada.
- (z) **Chief Executive Office:** as at the Effective Date the chief executive office of each Loan Party is located in Calgary, Alberta;
- (aa) **Operation of Properties:** to the best of the Borrower’s knowledge, information and belief, after due enquiry, all of the Site Facilities have been and will continue to be operated and maintained, as the case may be, in a good and workmanlike manner in accordance with sound industry practice and in accordance with all Applicable Laws, except to the extent that the failure to comply would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (bb) **Accuracy of Information:** all information, materials and documents, including financial modeling, forecasts, budgets and sensitivities and environmental reports and data prepared by or on behalf of any Loan Party and delivered to the Agent, was prepared in good faith based, where applicable, on assumptions believed by it to be reasonable in the context of which the same were provided and all such information, materials and documents (other than forward-looking operating and financial information) are true, complete and accurate as of their respective dates, except to the extent that any inaccuracies would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (cc) **Ranking:** except for obligations that are secured by Permitted Encumbrances, the obligations of the Borrower hereunder and of each other Loan Party under its Subsidiary Guarantee rank, for all purposes, at least *pari passu* in right of payment with the most senior unsubordinated Debt of the Borrower and such other Loan Party, as applicable; and
- (dd) **Foreign Assets Control Regulations, Etc.:**
 - (i) neither the Borrower nor any of its Affiliates is:
 - (A) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control, U.S. Department of Treasury (“**OFAC**”) (an “**OFAC Listed Person**”), or

- (B) a department, agency or instrumentality of, or is otherwise controlled by or acting on behalf of, directly or indirectly, (x) any OFAC Listed Person or (y) any Person, entity, organization, foreign country or regime that is subject to any OFAC Sanctions Program (each OFAC Listed Person and each other Person, entity, organization and government of a country described in clause (B), a **“Blocked Person”**).

None of the Borrower nor any of its Affiliates is engaged in any activity that could reasonably be expected to subject any holder to sanctions under CISADA or under any applicable state law that imposes sanctions on Persons that do business with Iran or any other country that is subject to an OFAC Sanctions Program;

- (ii) neither the Borrower nor any of its Affiliates (i) has violated, been found in violation of, or been charged or convicted under, any applicable U.S. Economic Sanctions Laws, or (ii) to the Borrower's knowledge, is under investigation by any Governmental Authority for possible violation of any U.S. Economic Sanctions Laws;
- (iii) no part of the Accommodations hereunder constitutes or will constitute funds obtained on behalf of any Blocked Person or will otherwise be used, directly by any Loan Party or indirectly through any of their Affiliates, in connection with any investment in, or any transactions or dealings with, any Blocked Person;
- (iv) neither the Borrower nor any of its Affiliates:
- (A) is under investigation by any Governmental Authority for, or has been charged with, or convicted of, money laundering, drug trafficking or terrorist-related activities under any Applicable Law (collectively, **“Anti-Money Laundering Laws”**),
- (B) has been assessed civil penalties under any Anti-Money Laundering Laws, or
- (C) has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws.

The Borrower has taken reasonable measures appropriate to the circumstances (in any event as required by Applicable Law) to ensure that the Borrower and each of its Affiliates is and will continue to be in compliance with all applicable current and future Anti-Money Laundering Laws;

- (v) no part of the Accommodations will be used, directly or indirectly, for any improper payments to any governmental official or employee, political party, official of a political party, candidate for political office, official of any public international organization or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage in violation of Applicable Law. The Borrower has

taken reasonable measures appropriate to the circumstances (in any event as required by Applicable Law) to ensure that the Borrower and each of its Affiliates is and will continue to be in compliance with all applicable current and future anti-corruption laws and regulations; and

- (vi) none of the Borrower nor any of its Affiliates is (i) a Person described or designated under the provisions of any Canadian Economic Sanctions (each a “**Canadian Sanctions Designated Person**”), (ii) engages in any dealings or transactions with any Canadian Sanctions Designated Person, (iii) is in possession or control of any property or entity that is owned or controlled by a Canadian Sanctions Designated Person, (iv) has violated, been found in violation of, or been charged or convicted under, any applicable Canadian Economic Sanctions, or (v) to the Borrower's knowledge, is under investigation by any Governmental Authority for possible violation of any Canadian Economic Sanctions.

2.2 Deemed Representation and Warranty

Each request by the Borrower for a Drawdown shall be deemed to be a representation and warranty by the Borrower to the Lenders and the Agent that the matters referred to in Section 2.1 are, as of the date of such request and will be, as of the applicable Drawdown Date (other than those made as of a specific date), true and correct as of each such date. Each request by the Borrower for a Conversion or Rollover shall be deemed to be a representation and warranty that as of the date of such request and as of each Conversion Date or Rollover Date, there exists no Default or Event of Default.

2.3 Survival of Representations and Warranties

The representations and warranties in this Agreement and in any certificates or documents delivered to the Agent and the Lenders hereunder shall not merge in or be prejudiced by and shall survive any Accommodations and shall continue in full force and effect so long as any amounts are owing by the Borrower to the Lenders, or available to the Borrower, under this Agreement.

ARTICLE 3 THE CREDIT FACILITIES

3.1 Establishment of the Facilities and Restatement of Existing Credit Agreement

- (a) **Availment Options:** From and after the Effective Date and relying on each of the representations and warranties set out in 2.1 and subject to the terms and conditions of this Agreement:
 - (i) each Syndicated Lender agrees to make Syndicated Accommodations available to the Borrower up to the amount of its Syndicated Facility Commitment, by way of an extendible revolving term credit facility for the purposes set forth in Section 3.4, commencing on the Effective Date and ending on each such Syndicated Lender's Maturity Date (collectively, the “**Syndicated Facility**”); and

- (ii) the Operating Lender agrees to make Operating Accommodations available to the Borrower up to the amount of the Operating Facility Commitment, by way of an extendible revolving operating term credit facility for the purposes set forth in Section 3.4, commencing on the Effective Date and ending on the Operating Lender's Maturity Date (the "**Operating Facility**").
- (b) **Maximum Amount:** At no time shall:
 - (i) the Equivalent Amount in Canadian Dollars of the Syndicated Borrowings exceed the Total Syndicated Facility Commitment; and
 - (ii) the Equivalent Amount in Canadian Dollars of the Operating Borrowings exceed the Operating Facility Commitment.
- (c) **Restatement of Existing Credit Agreement.** Relying on each of the representations and warranties set out in Article 2 and subject to the terms and conditions of this Agreement, the Lenders, the Agent, and the Borrower agree that, effective on the Effective Date, the Existing Credit Agreement shall be amended and restated in its entirety on the terms and conditions of this Agreement and all indebtedness and liability of the Borrower to the Agent and the Lenders under (and as defined in) the Existing Credit Agreement including, without limitation, "Syndicated Borrowings" and "Operating Borrowings" (each as defined under the Existing Credit Agreement) and accrued and unpaid fees and interest thereon and standby fees accrued thereunder, shall be construed as corresponding indebtedness and liability of the Borrower to the Lenders and the Agent under this Agreement.
- (d) **Existing Bankers' Acceptances.** The parties agree that as of the Effective Date, all Outstanding BAs shall continue as Banker's Acceptances under the Syndicated Facility. Notwithstanding any provision of the Existing Credit Agreement or this Agreement to the contrary, the lenders under the Existing Credit Agreement (collectively, the "**Existing Lenders**") acknowledge and agree that any obligation of the Borrower to pay or reimburse the Existing Lenders in respect of the Outstanding BAs is solely a risk and for the account of the Existing Lenders based upon their respective syndicated facility commitments under the Existing Credit Agreement, without regard to the provisions of this Agreement, and there shall be no adjustment or indemnity provided by the Syndicated Lenders to or in favour of the Existing Lenders in respect of such Outstanding BAs. If and to the extent any Outstanding BA is subject to a Rollover or Conversion on or after the Effective Date, all Syndicated Lenders shall fund their respective Applicable Percentage of such Rollover or Conversion.
- (e) **Letters of Credit:** The parties confirm that as of the Effective Date, the Transferred Letters of Credit are hereby transferred to ATB under the applicable Bilateral LC Facility Agreement. The Continuing Letters of Credit shall continue as Fronted Letters of Credit issued by the applicable Fronting Lender under the Syndicated Facility, and each Syndicated Lender shall have an undivided interest therein in accordance with its Syndicated Lender's Applicable Percentage, as provided in Section 3.11(c).

- (f) **Cash Management:** Each Cash Management Lender agrees to make available to the Borrower and any other Loan Party certain Cash Management Services as agreed to by the Cash Management Lender, provided that such Loan Party shall have first executed and delivered to such Cash Management Lender such ancillary documents and any other applications and indemnities as it requires for similar transactions.

3.2 Revolving Feature

- (a) Until the Maturity Date of each Syndicated Lender, the Syndicated Borrowings of each such Syndicated Lender may, within the limits herein provided, increase and decrease and the Borrower may borrow, repay and reborrow Cdn. Dollars and/or U.S. Dollars and obtain Syndicated Accommodations until such Syndicated Lender's Maturity Date. On the Maturity Date of each Syndicated Lender, the Syndicated Facility Commitment of such Syndicated Lender shall reduce to zero.
- (b) Until the Maturity Date of the Operating Lender, the Operating Borrowings may, within the limits herein provided, increase and decrease and the Borrower may borrow, repay and reborrow Cdn. Dollars and U.S. Dollars and obtain Operating Accommodations until the Maturity Date of the Operating Lender. On the Maturity Date of the Operating Lender, the Operating Facility Commitment shall reduce to zero.

3.3 Extension of Maturity Date

- (a) **Notice by Borrower.** The Borrower may, at its option, request (an "**Extension Request**") that the Maturity Date be extended from the then applicable Maturity Date (an "**Extension**") at any time after the date that annual audited consolidated financial statements of the Borrower are delivered under Section 9.4(a) until six months thereafter (the "**Request Period**"), provided that following the granting of such Extension, the term to maturity of the Facilities shall not exceed the later of (i) four years from the date of the Extension Notice in respect of the applicable Extension Request and (ii) such later date as all of the Lenders may agree to in the sole discretion of each individual Lender. No Extension Request shall request different Maturity Dates for the Lenders. The Agent will, promptly after receipt thereof, provide a copy of the Extension Request to each of the Lenders. If the Borrower fails to make an Extension Request during the Request Period, the Credit Facility will no longer be capable of being extended as herein provided until the next Request Period.
- (b) **Electing and Non-Electing Lenders.** Each Lender may, in its sole discretion, pursuant to an Extension Request, elect to extend the current Maturity Date with respect to its own Commitment amount, subject to such conditions and amendments respecting the Credit Facility, if any, as the Electing Lenders unanimously agree upon and are acceptable to the Borrower. Each Lender will make its election by notice to the Agent on or before 30 days from the date of the Extension Request (the "**Election Period**"). Each Lender which grants an Extension is referred to herein as an "**Electing Lender**", and each Lender which elects not to grant an Extension, or fails to make such election within the Election Period, is referred to herein as a "**Non-Electing Lender**".

- (c) **No Extension.** No Extension shall occur unless those Lenders who wish to grant an Extension pursuant to an Extension Request represent at least 66 2/3% of the aggregate Commitment of all Lenders who are not Non-Electing Lenders at the time of such Extension Request. If no Extension occurs, the then current Maturity Date of the Lenders who are not already Non-Electing Lenders will, subject to Section 3.3(h) and 3.3(i), continue for each such Lender and each such Lender's Commitment will remain available for Drawdown until its Maturity Date; provided that the Borrower may again make an Extension Request during the next Request Period.
- (d) **Extension Notice.** Promptly after the expiry of the Election Period, the Agent will notify the Borrower of the decision of the Lenders with respect to the Extension Request (the "**Extension Notice**"). The Extension Notice will identify the Electing Lenders and Non-Electing Lenders, the term of the Extension, if granted, and list the conditions or amendments, if any, respecting the Facilities as the Electing Lenders have unanimously agreed upon as a condition to the granting of the Extension. The Borrower shall, within 20 days of receipt of the Extension Notice from the Agent, notify the Agent as to its acceptance or rejection of the conditions or amendments, if any, stipulated by the Electing Lenders respecting the Facilities. If the Borrower accepts all such conditions or amendments requested by the Electing Lenders, the Maturity Date with respect to the Electing Lenders will be deemed to have been extended for that period of time set out in the Extension Notice and, subject to Section 3.3(h) and 3.3(i), the Maturity Date with respect to the Non-Electing Lenders shall not be extended. If the Borrower notifies the Agent that it does not accept such conditions or amendments or fails to notify the Agent within the time provided above for acceptance, the Maturity Date will not be extended as herein provided and will continue until the Maturity Date with each Lenders' Commitment remaining available for Drawdown until the Maturity Date; provided that the Borrower may again make an Extension Request during the next Request Period.
- (e) **Maturity Date.** The Borrower will not be entitled to request a Borrowing from a Lender which matures after the Maturity Date applicable to such Lender. If at any time there are Lenders with different Maturity Dates, all applicable Lenders will share in Accommodations on the basis of their Rateable shares except to the extent the particular Accommodation requested matures after the Maturity Date of a Lender, in which case the Borrower shall request a similar Accommodation to the extent permitted hereunder from such other Lenders with a maturity occurring on or before the Maturity Date of such other Lenders. Each such determination by the Agent shall be *prima facie* evidence of such Rateable share.
- (f) **Independent Decision:** The Borrower understands that consideration of any Extension Request constitutes an independent credit decision which each Lender retains the absolute and unfettered discretion to make, and that no commitment in this regard is given by any such Lender.
- (g) **Default or Event of Default:** Notwithstanding the foregoing, the Borrower shall not be entitled to accept any offer made by the Agent on behalf of the Electing Lenders to extend the Maturity Date if a Default or Event of Default has occurred and is continuing unless such Default or Event of Default is waived by all of the

Electing Lenders; provided any such waiver shall be effective only for the purposes of this Section 3.3 and shall not be applicable to Non-Electing Lenders.

- (h) **Request Refused:** If there are one or more Non-Electing Lenders, each of the Electing Lenders shall have the right (but not the obligation) to purchase the Commitment of a Non-Electing Lender for a purchase price in an amount equal to the aggregate principal amount owing to each such Non-Electing Lender, together with accrued and unpaid interest and fees thereon to the date of payment of such principal amount. Each of the Electing Lenders wishing to exercise its rights to purchase the Commitment of a Non-Electing Lender (each, a “**Purchasing Lender**”) shall forthwith so notify the Borrower, the Agent, the Non-Electing Lender and each of the other Lenders, if any, and each such Purchasing Lender shall thereupon be obligated to purchase, and the Non-Electing Lender shall be obligated to sell, within 20 days of such notice, that portion of such Commitment of each Non-Electing Lender which is in the ratio that its proportion of the Syndicated Facility Commitment of each Purchasing Lender bears to the aggregate of the Syndicated Facility Commitments of all Purchasing Lenders or as otherwise agreed to by the Borrower and the Purchasing Lenders, provided that only one Lender may purchase the Operating Facility Commitment if the Operating Lender is a Non-Electing Lender and any such decision shall be made by the Borrower. Notwithstanding the foregoing, and unless otherwise agreed at that time, the Non-Electing Lender shall not be obligated to sell to any Purchasing Lender unless:
- (i) provision satisfactory to the Non-Electing Lender (acting reasonably) has been made for payment of any costs, losses, premiums or expenses incurred by the Non-Electing Lender by reason of any liquidation or re-deployment of deposits or other funds in respect of Libor Loans outstanding;
 - (ii) provision satisfactory to the Non-Electing Lender (acting reasonably) has been made for payment at maturity of outstanding Bankers’ Acceptances accepted by it; and
 - (iii) if the Non-Electing Lender is a Fronting Lender, such purchase shall be subject to the replacement or collateralization satisfactory to the Fronting Lender, acting reasonably, of all outstanding Letters of Credit issued by the it under the Syndicated Facility.

The Non-Electing Lenders, the Purchasing Lenders, the Agent, the Borrower and each of the other Lenders, if any, shall forthwith duly execute and deliver any necessary documentation to give effect to any purchase under this Section 3.3(h). Notwithstanding any such purchase, the Non-Electing Lender shall be entitled to retain a *pari passu* sharing of the Security for any Permitted Swap then outstanding with it.

- (i) **Replacement or Repayment:** If a Non-Electing Lender’s Commitment is not purchased pursuant to Section 3.3(h), the Borrower may:
- (i) arrange for a replacement lender (a “**Replacement Lender**”) (which may be one of the Electing Lenders) to purchase the Non-Electing Lender’s

Commitment on the same basis and subject to the same requirements and indemnities as specified in Section 3.3(h). Any such Replacement Lender which is not an Electing Lender shall require the approval of the Agent and the Fronting Lender, such approvals not to be unreasonably withheld or delayed, and no later than three Business Days prior to the Maturity Date such Replacement Lender shall have purchased the Non-Electing Lender's Commitment by execution of all necessary documentation including execution and delivery of an Assignment and Assumption; or

- (ii) as long as there exists no Event of Default, repay all Borrowings and other amounts owing under the Loan Documents to, and terminate the Commitment of, the Non-Electing Lender on or prior to such Non-Electing Lender's Maturity Date and, upon such payment, each such Non-Electing Lender shall cease to be a Syndicated Lender hereunder and, if applicable, the Operating Lender, and such Non-Electing Lender's Syndicated Facility Commitment and, if applicable, its Operating Facility Commitment, shall be terminated and the Total Commitment reduced accordingly; provided that if any such repayment and termination occurs and the effect would be that the Lenders who are also Second Lien Lenders or Affiliates of Second Lien Lenders would hold, in aggregate, more than 33 1/3% of (i) the aggregate of the Total Commitment and the Total LC Facility Commitment or (ii) the aggregate of the Borrowings and LC Borrowings, going forward any Lender who is also a Second Lien Lender or an Affiliate of a Second Lien Lender will not be required for the determination of "Required Lenders", and, for certainty, the Commitment of and the Borrowings owing to such Lender shall be excluded from both the numerator and the denominator of the definition of "Required Lenders" for the purposes of calculating same.
- (j) **Adjustment of Fees:** If, on the Maturity Date of any Lender, any Borrowings are outstanding to such Lender by way of Letters of Credit or Bankers' Acceptances, then such Lender shall be entitled to receive Letter of Credit Fees and BA Acceptance Fees in respect of such outstanding Letters of Credit and Bankers' Acceptances calculated based upon Letter of Credit Fees and BA Acceptance Fees for the period from the Maturity Date to the expiry date of the Letter of Credit or the maturity date of the Bankers' Acceptance, as the case may be. After such Maturity Date, the Agent shall calculate the adjusted fees payable by the Borrower to such Lender in respect of such Borrowings and such fees shall be payable not later than 10 days after receipt by the Borrower of written notice from the Agent as to such amounts. The notice of the Agent setting forth the additional amounts payable shall be conclusive evidence thereof, absent manifest error.
- (k) **Differing Maturity Dates.** If, at any time, there are Lenders with different Maturity Dates, all Lenders will share in Accommodations made under the Credit Facility based on their Applicable Percentage except to the extent the particular Accommodation requested has a maturity date after the Maturity Date of a Lender, in which case, only those Lenders with a Maturity Date later than the maturity date of the requested Accommodation will be required to participate in providing such Accommodation and the Borrower may request a similar

Accommodation, to the extent otherwise permitted hereunder, from the other Lenders with a maturity date occurring on or before the Maturity Date of such Lenders.

3.4 Purpose

Borrowings under the Facilities shall be used for working capital, capital expenditures, Permitted Acquisitions and general corporate purposes of the Loan Parties.

3.5 [Reserved]

3.6 Borrowings – Syndicated Facility and Operating Facility

- (a) **Syndicated Facility:** Subject to the provisions of this Agreement, the Borrower may borrow, repay and reborrow by way of Syndicated Accommodations from each Syndicated Lender pursuant to the Syndicated Facility up to the amount of such Lender's Syndicated Facility Commitment by:
- (i) **Prime Loans:** borrowing Prime Loans from the Syndicated Lenders in minimum aggregate amounts of Cdn. \$1,000,000 and in integral multiples of Cdn. \$100,000 thereafter, upon at least one Business Day prior written notice;
 - (ii) **Bankers' Acceptances:** issuing Bankers' Acceptances to be accepted by the Syndicated Lenders in minimum aggregate amounts of Cdn. \$1,000,000 and in integral multiples of Cdn. \$100,000 thereafter, upon at least two Business Days prior written notice;
 - (iii) **U.S. Base Rate Loans:** borrowing U.S. Base Rate Loans from the Syndicated Lenders in minimum aggregate amounts of U.S. \$1,000,000 and in integral multiples of U.S. \$100,000 thereafter, upon at least one Business Day prior written notice;
 - (iv) **Libor Loans:** borrowing Libor Loans from the Syndicated Lenders in minimum aggregate amounts of U.S. \$2,000,000 and in integral multiples of U.S. \$100,000 thereafter, upon at least three Business Days prior written notice; and
 - (v) **Letters of Credit:** by way of Letters of Credit in Canadian Dollars, U.S. Dollars, Chinese Yuan (from The Bank of Nova Scotia only) and Indian Rupee (from The Bank of Nova Scotia only) issued by a Fronting Lender for and on behalf of the Lenders, upon at least five Business Days' prior notice, provided that the Equivalent Amount in Canadian Dollars of the aggregate undrawn amount of all Letters of Credit under the Syndicated Facility after giving effect to any issue thereof does not exceed Cdn. \$150,000,000.

each such notice to be given to the Agent at or prior to 10:00 a.m. (Calgary time) on the last day on which such notice can be given pursuant to this Section 3.6 and to be substantially in the form of Schedule "B". Any such notice may be given by telephone or email and if so, shall be followed by delivery of written

notice, substantially in the form of Schedule "B", by no later than 2:00 p.m. (Calgary time) on the same day.

- (b) **Operating Facility:** Subject to the provisions of this Agreement, the Borrower may borrow, repay and reborrow by way of Operating Accommodations from the Operating Lender pursuant to the Operating Facility up to the Operating Facility Amount as follows:
- (i) **Prime Loans:** by borrowing Prime Loans from the Operating Lender, by Overdraft, without notice; and
 - (ii) **U.S. Base Rate Loans:** by borrowing U.S. Base Rate Loans from the Operating Lender, without notice.

With respect to Operating Accommodations made concurrently under Sections 3.6(b)(i) and 3.6(b)(ii), the Borrower shall advise the Operating Lender of applicable allocations as between Accommodations in Canadian Dollars and those in U.S. Dollars. Such advice may be given by telephone or email by no later than 10:00 a.m. (Calgary time) on the same day.

3.7 Selection of Libor Interest Periods

If the Borrower elects to borrow by way of a Libor Loan pursuant to Section 3.6, elects to convert a Borrowing into a Libor Loan pursuant to Section 3.18 or elects to Rollover a Libor Loan pursuant to Section 3.19, the Borrower shall, prior to the beginning of the Libor Interest Period applicable to such Libor Loan, in accordance with the same period of notice required for the initial drawdown of a Libor Loan as set forth in Section 3.6, select and notify the Agent by delivery of a Borrowing Notice, Conversion Notice or Rollover Notice, as the case may be, of the Libor Interest Period (which shall begin and end on a Business Day) applicable to such Libor Loan. If the Borrower fails to give to the Agent a notice as aforesaid prior to the date of maturity of a Libor Loan in accordance with the same period of notice required for the original Borrowing, then the amount of such Libor Loan shall be converted on its maturity to a U.S. Base Rate Loan pursuant to Section 3.18.

3.8 Conditions Applicable to Bankers' Acceptances and BA Equivalent Advances

- (a) **Acceptance of Bankers' Acceptances:** Subject to the terms and conditions of this Agreement, each Applicable Lender hereby agrees to accept its Applicable Percentage of Bankers' Acceptances as requested by the Borrower pursuant to a Borrowing Notice, Conversion Notice or Rollover Notice delivered under Sections 3.6, 3.18 or 3.19. Each such Lender shall purchase such Bankers' Acceptances at the applicable Discount Rate and shall deliver the Discount Proceeds thereof (less any BA Acceptance Fees payable to such Lender in respect thereof) for the account of the Borrower through the Agents' Account For Payment. Notwithstanding the foregoing, no Applicable Lender shall be obligated to purchase a Bankers' Acceptance which is not for a Standard Term, unless each Applicable Lender has consented thereto.
- (b) **Payment to Borrower:** On the Drawdown Date, Conversion Date or Rollover Date relating to any issue of Bankers' Acceptances:

- (i) on any Drawdown Date, each Applicable Lender shall deliver the Discount Proceeds thereof (less any BA Acceptance Fees payable to such Lender in respect thereof), for the account of the Borrower through the Agent at the Agent's Account for Payments;
- (ii) on any Rollover Date relating to any Rollover of Bankers' Acceptances, the Borrower shall be liable to the Applicable Lenders for the principal amount of maturing Bankers' Acceptances. In order to satisfy the continuing liability of the Borrower to the Applicable Lenders for the principal amount of the maturing Bankers' Acceptances, each Applicable Lender shall receive and retain for its own account the Discount Proceeds from the purchase by such Applicable Lender of such new Bankers' Acceptances and the Borrower shall on the maturity date of the maturing Bankers' Acceptances pay to the Agent, for the benefit of such Applicable Lender an amount equal to the difference between the principal amount of the maturing Bankers' Acceptances and the Discount Proceeds from the purchase by such Applicable Lender of such new Bankers' Acceptances together with the BA Acceptance Fees to which such Applicable Lender is entitled pursuant to Section 5.4; and
- (iii) on any Conversion Date relating to Bankers' Acceptances:
 - (A) in the case of a Conversion from a Prime Loan, in order to satisfy the continuing liability of the Borrower to the Applicable Lenders for the amount of the converted Borrowing, each Applicable Lender shall receive for its own account the Discount Proceeds from the purchase by such Applicable Lender of such Bankers' Acceptances and the Borrower shall on the Conversion Date pay to the Agent for the benefit of such Applicable Lender the difference between the principal amount of the converted Borrowing and the Discount Proceeds from such Bankers' Acceptances together with the BA Acceptance Fees to which such Applicable Lender is entitled pursuant to Section 5.4; and
 - (B) in the case of a Conversion from a Bankers' Acceptance, in order to satisfy the continuing liability of the Borrower to the Applicable Lenders for an amount equal to the principal amount of such Bankers' Acceptance, the Agent shall record the obligation of the Borrower to each Applicable Lender as a Borrowing of the type into which the maturing Bankers' Acceptance has been converted.
- (c) **Waiver of Presentment and Other Conditions:** The Borrower waives presentment for payment and, except to the extent of the negligence or wilful misconduct of a Lender referred to in Section 3.8(g), any other defence to payment of any amounts due to a Lender in respect of a Bankers' Acceptance accepted and, if applicable, purchased by it pursuant to this Agreement which might exist solely by reason of such Bankers' Acceptance being held, at the maturity thereof, by such Lender in its own right and the Borrower agrees not to claim any days of grace if such Lender as holder sues the Borrower on the Bankers' Acceptance for payment of the amount payable by the Borrower thereunder. On the specified maturity date of a Bankers' Acceptance, or such

earlier date as may be required or permitted pursuant to the provisions of this Agreement, the Borrower shall, subject to Section 3.8(f), pay the Agent on behalf of the Syndicated Lender that has accepted such Bankers' Acceptance, the full face amount of such Bankers' Acceptance through payment to the Agent or conversion of such Bankers' Acceptance into a Prime Loan pursuant to Section 3.18.

(d) **Terms of Each Bankers' Acceptance:** Each Bankers' Acceptance shall:

- (i) have a maturity date which shall be on a Business Day;
- (ii) have a Standard Term (excluding days of grace) or, subject to availability and with the consent of each Applicable Lender, have a term which is not a Standard Term but which does not exceed six months (excluding days of grace);
- (iii) be denominated in whole multiples of \$100,000;
- (iv) have a term which does not extend beyond the Maturity Date of the Applicable Lender; and
- (v) be in the standard form of each Applicable Lender.

It is the intention of the parties that, pursuant to the *Depository Bills and Notes Act* ("**DBNA**"), all Bankers' Acceptances accepted by the BA Purchasing Lenders under this Agreement shall be issued in the form of a "depository bill" (as defined in the DBNA), deposited with, and made payable to a "clearing house" (as defined in the DBNA) including The Canadian Depository for Securities Limited or its nominee, CDS & Co. ("**CDS**"). The Agent and the BA Purchasing Lenders, as applicable, shall, *inter alia*, effect the following and, subject to the approval of the Borrower, establish and notify the Borrower and the Applicable Lenders of any additional procedures, consistent with the terms of this Agreement and the quarterly requirements of the DBNA, as are reasonably necessary to accomplish such intention including:

- (A) the instruments or drafts held by the Agent for the purposes of effecting Bankers' Acceptances will include a notation to the effect that they are issued pursuant to the DBNA;
- (B) any reference to authentication of the Bankers' Acceptance will be removed; and
- (C) any reference to "bearer" will be removed.

(e) **Power of Attorney - Bankers' Acceptances:** As a condition precedent to each BA Purchasing Lender's obligation to accept and purchase Bankers' Acceptances hereunder and, subject to the DBNA compliance requirements set forth in Section 3.8(d), the Borrower agrees to the Power of Attorney Terms - Bankers' Acceptances set out in Schedule "H" and hereby grants to each BA Purchasing Lender a power of attorney on the terms set out in Schedule "H", provided that if the Borrower revokes such power of attorney, a BA Purchasing

Lender shall not be obliged to accept and purchase Bankers' Acceptances unless the Borrower, the Agent and all of the BA Purchasing Lenders have agreed on amendments to this Agreement which the BA Purchasing Lenders may require to again accept and purchase Bankers' Acceptances.

- (f) **Failure to Give Notice of Repayment:** If the Borrower fails to give notice to the Agent of the method of repayment of a Bankers' Acceptance prior to the date of maturity of such Bankers' Acceptance in accordance with the same period of notice required for the original acceptance of such Bankers' Acceptance as set forth in Section 3.6, the face amount of such Bankers' Acceptance shall be converted on its maturity to a Prime Loan from the Applicable Lender pursuant to Section 3.18.
- (g) **Unlawful Issue or Use:** The Borrower shall pay on demand to the Agent on behalf of each BA Purchasing Lender the face amount of any bankers' acceptance form presented to such BA Purchasing Lender for payment and paid by such Lender that has been unlawfully issued or used or put into circulation fraudulently or without authority, and shall indemnify such BA Purchasing Lender against any loss, cost, damage, expense or claim regardless of by whomsoever made that such BA Purchasing Lender may suffer or incur by reason of any fraudulent, unauthorized or unlawful issue or use of any such bankers' acceptance form, other than as is caused by the negligence or wilful act or omission of such BA Purchasing Lender or any of its officers, employees, agents or representatives failing to use the same standard of care in the custody of such bankers' acceptance forms as it uses in the custody of its own property of a similar nature.
- (h) **BA Equivalent Advances:** Notwithstanding Section 3.6(a)(ii), the foregoing provisions of this Section 3.8, and any other provision hereof to the contrary, a Non-Acceptance Lender shall, in lieu of accepting Bankers' Acceptances, make a BA Equivalent Advance. The amount of each BA Equivalent Advance shall be equal to the Discount Proceeds which would be realized from a hypothetical sale of those Bankers' Acceptances which, but for this Section 3.8(h), such Lender would otherwise be required to accept and purchase as part of such a Borrowing by way of Bankers' Acceptances. To determine the amount of such Discount Proceeds, the hypothetical sale shall be deemed to take place at the Non-Acceptance Discount Rate. Any BA Equivalent Advance shall be made on the relevant Drawdown Date, Conversion Date or Rollover Date, as the case may be, and shall remain outstanding for the term of the Bankers' Acceptances issued concurrently therewith. Concurrently with the making of a BA Equivalent Advance, a Non-Acceptance Lender shall be entitled to deduct therefrom an amount equal to the BA Acceptance Fee which, but for this Section 3.8(h), such Lender would otherwise be entitled to receive as part of such issue of Bankers' Acceptances. The BA Equivalent Advance shall accrue interest at a rate per annum equal to the Non-Acceptance Discount Rate for such Bankers' Acceptance for the term of such BA Equivalent Advance. Upon the maturity date for such Bankers' Acceptances, the Borrower shall pay to each Non-Acceptance Lender, in satisfaction of the BA Equivalent Advance and interest accrued thereon, an amount equal to the face amount of the Bankers' Acceptance which, but for this Section 3.8(h), such Lender would otherwise have been required to

accept as part of such Borrowing by way of Bankers' Acceptance, failing which such amount shall be converted to a Prime Loan.

All BA Equivalent Advances made by a Non-Acceptance Lender shall, if requested by such Lender, be evidenced by promissory notes of the Borrower in form and substance satisfactory to such Lender, acting reasonably.

As a condition precedent to each Non-Acceptance Lender's obligation to make a BA Equivalent Advance hereunder, the Borrower agrees to the Power of Attorney Terms – BA Equivalent Advances set out in Schedule "I" and hereby grants to each Non-Acceptance Lender a power of attorney on the terms set out in Schedule "I", provided that if the Borrower revokes such power of attorney, it shall not be entitled to obtain BA Equivalent Advances unless the Borrower, the Agent and all of the Non-Acceptance Lenders have agreed on amendments to this Agreement which would again allow the Borrower to obtain BA Equivalent Advances.

3.9 Agent's Duties re Bankers' Acceptances

- (a) **Advice to the Lenders:** The Agent, promptly following receipt of a Borrowing Notice for an Accommodation by way of Bankers' Acceptances, of a Conversion Notice for Conversion of a Borrowing to a Bankers' Acceptance or of a Rollover Notice for a Rollover of a Bankers' Acceptance, shall:
- (i) advise the Borrower of the allocation of Bankers' Acceptances to each Applicable Lender such that the aggregate amount of Bankers' Acceptances required to be accepted by such Applicable Lender hereunder is in a whole multiple of Cdn. \$100,000; or
 - (ii) advise each BA Purchasing Lender of the face amount of each Bankers' Acceptance to be purchased by it and the term thereof, which term shall be identical for all BA Purchasing Lenders. Promptly on each Drawdown Date, Conversion Date or Rollover Date on which BA Purchasing Lenders are required to purchase Bankers' Acceptances hereunder, the Agent shall determine the applicable CDOR Rate in respect of such Bankers' Acceptances.
- (b) **Bankers' Acceptances Being Purchased:** Promptly on the Drawdown Date, Rollover Date or Conversion Date relating to all Bankers' Acceptances to be purchased by the BA Purchasing Lenders on such date, the Agent shall provide either written or telephone advice to the Borrower and each BA Purchasing Lender confirming the particulars with respect to such Bankers' Acceptances. Such advice shall be confirmed in writing by the Agent on or prior to 2:30 p.m. (Calgary time) on such Drawdown Date, Rollover Date or Conversion Date. Upon receipt of any such notice, each BA Purchasing Lender is thereupon authorized to complete and sign Bankers' Acceptances on behalf of the Borrower in accordance with the Power of Attorney Terms - Bankers' Acceptances and the particulars advised by the Agent.

3.10 Fronted Letters of Credit Under the Syndicated Facility

- (a) **Issuance:** If, pursuant to a Notice of Borrowing, the Borrower has requested a Fronted Letter of Credit from a Fronting Lender, such Fronting Lender shall, subject to the terms of this Agreement, issue such Fronted Letter of Credit for the account of the Borrower on any day on or after the Effective Date and before the Maturity Date. No Letter of Credit shall be issued by any Fronting Lender, whether on original issue, or by renewal or extension (automatic or otherwise) where a Lender has liability in respect thereof:
- (i) that expires after the Maturity Date of such Lender; or
 - (ii) if after giving effect thereto the amount of the LC Obligations under Fronted Letters of Credit issued by a Fronting Lender exceeds the Fronted LC Commitment of such Fronting Lender.

Each Fronted Letter of Credit shall be substantially in the form of the applicable Fronting Lender's standard form with modifications thereto consistent with the applicable provisions of this Agreement which such Fronting Lender shall determine in good faith and on a commercially reasonable basis does not materially increase the obligations, or diminish the rights, of any Syndicated Lender.

- (b) **Conditions Precedent:** No Fronting Lender shall be required to issue any Letter of Credit if on the Issue Date for such Letter of Credit the Agent determines that any of the following conditions has not been satisfied:
- (i) the Agent, on behalf of the Fronting Lender, shall have received a Notice of Borrowing requesting that a Letter of Credit be issued, such Notice of Borrowing to be accompanied by an originally executed LC Application satisfactory to the applicable Fronting Lender, specifying:
 - (A) the proposed Issue Date (which shall be a Business Day at least five Business Days following the date of such request);
 - (B) the purpose for which such Letter of Credit is to be used, and, if the Agent, acting reasonably, determines that the requested Letter of Credit will constitute a Financial LC, the Borrower has agreed with such characterization, failing which such Letter of Credit shall not be issued;
 - (C) the expiry date which shall not be more than one year from the Issue Date and which shall not extend beyond the latest Maturity Date of any Lender obligated in respect of such Letter of Credit;
 - (D) the name and address of the beneficiary;
 - (E) the face amount and currency of such Letter of Credit; and
 - (F) the terms and conditions of the requested Letter of Credit and other relevant details (provided that no Letter of Credit that

provides for the automatic extension thereof unless notice is given to the beneficiary thereof shall be issued which requires that notice of the non-extension of the expiry date thereof be given more than 60 days prior to the scheduled expiry thereof, unless otherwise agreed by the Fronting Lender); and

- (ii) the Fronting Lender, through the Agent, shall have received such other customary administrative documents as the Fronting Lender, through the Agent, shall have reasonably requested as a condition to the issuance of such Letter of Credit; provided that in the event of any conflict between the terms of such other documents and this Agreement, the terms of this Agreement shall prevail and further provided that the Borrower's obligations in respect of Letters of Credit shall be determined solely by reference to the provisions of this Agreement.
- (c) **Notice to Lenders:** Promptly upon its receipt of an LC Application for a Letter of Credit, the Agent shall notify each Lender and the applicable Fronting Lender thereof, which notice shall also specify each Lender's share of the amount of such Letter of Credit based upon such Applicable Percentage. If a Fronting Lender determines not to issue such Letter of Credit by reason of the failure to satisfy the conditions specified in Section 3.10(b), the Fronting Lender (if not the Agent) shall give prompt notice thereof to the Agent and in turn the Agent shall provide notice thereof to the Borrower and each Lender.
- (d) **Fronted Letters of Credit:** Each Fronting Lender will exercise and give the same care and attention to each Fronted Letter of Credit issued by it hereunder as it gives to its other letters of credit and similar obligations, and such Fronting Lender's sole liability to each Lender shall be to promptly return to the Agent for the account of the Lenders, each Lender's Applicable Percentage of any payments made to such Fronting Lender by the Borrower hereunder, excluding the Fronting Fee. Each Lender agrees that, in paying any drawing under a Fronted Letter of Credit, the applicable Fronting Lender shall not have any responsibility to obtain any document (other than as expressly required by such Fronted Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of any Person delivering any such document. Neither any Fronting Lender nor any of its representatives, officers, employees or agents shall be liable to any Lender for:
- (i) any action taken or omitted to be taken in connection herewith at the request or with the approval of the Lenders;
 - (ii) any action taken or omitted to be taken in connection with any Fronted Letter of Credit in the absence of gross negligence or wilful misconduct; or
 - (iii) the execution, effectiveness, genuineness, validity, or enforceability of any Fronted Letter of Credit or any other document contemplated thereby.

No Fronting Lender shall incur any liability by acting in reliance upon any notice, consent, certificate, statement or other writing (which may be a bank wire, telex

or similar writing) believed by it to be genuine or to be signed by or on behalf of the proper Person.

- (e) **Auto-Renewal of Letters of Credit:** A Fronted Letter of Credit may, if the Borrower so requests, contain an automatic extension of the expiry date thereof pursuant to which the expiration date is automatically extended or renewed for a period of up to one year unless the Fronting Lender notifies the beneficiary thereof that it shall not be extended or renewed within a certain period of time (not to exceed 60 days prior to the then current expiry date) (such lead date being herein called the “**Renewal Notification Date**”). For each such Letter of Credit the Borrower shall notify the Agent and the Fronting Lender, at least 10 Business Days prior to the Renewal Notification Date, if the Borrower wishes such Letter of Credit to expire in accordance with its current expiry date, and not automatically renew, in which event the Fronting Lender shall so notify the beneficiary. If the Borrower fails to provide such notification to the Agent and Fronting Lender, the Fronting Lender shall (subject to the next sentence) permit the Letter of Credit to automatically renew or extend in accordance with its terms. Nothing in this Section 3.10(e) shall permit the Borrower to have outstanding any Fronted Letter of Credit where any Lender has liability in respect thereof that expires after the Maturity Date of such Lender.
- (f) **Records:** The Agent and the applicable Fronting Lender shall maintain records showing the undrawn and unexpired amount of each Letter of Credit outstanding hereunder and each Lender’s share of such amount and showing for each Letter of Credit issued hereunder:
- (i) the Issue Date and expiration date thereof;
 - (ii) the amount thereof; and
 - (iii) the date and amount of all payments made thereunder.

With respect to any Letter of Credit issued hereunder, the Agent and the applicable Fronting Lender shall make copies of such records available to the Borrower or any Lender party to that Letter of Credit upon its request.

3.11 Fronted Letter of Credit Payments

- (a) **LC Drawdown:** The Borrower and each Lender hereby authorize each Fronting Lender to review on behalf of each Lender each draft and other document presented under each Fronted Letter of Credit. The determination of a Fronting Lender as to the conformity of any documents presented under a Fronted Letter of Credit to the requirements of such Fronted Letter of Credit shall, in the absence of such Fronting Lender’s gross negligence or wilful misconduct, be conclusive and binding on the Borrower and each Lender. Each Fronting Lender shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under any Fronted Letter of Credit. Such Fronting Lender shall promptly after such examination:
- (i) notify the Agent and the Borrower by telephone (confirmed in writing) of such demand for payment;

- (ii) deliver to the Agent a copy of each document purporting to represent a demand for payment under such Fronted Letter of Credit; and
 - (iii) notify the Agent and the Borrower whether said demand for payment was properly made under such Fronted Letter of Credit.
- (b) **LC Disbursement:** In the event that any LC Disbursement shall be made under any Fronted Letter of Credit (the date any such LC Disbursement is made being the "**Participation Date**"):
- (i) the applicable Fronting Lender shall promptly notify the Agent who shall promptly notify the Borrower of such payment and of the amount thereof;
 - (ii) each LC Disbursement shall constitute the making of a Prime Loan in the case of a Fronted Letter of Credit in Canadian Dollars or U.S. Base Rate Loan in the case of a Fronting Letter of Credit in U.S. Dollars, as applicable, to the Borrower by the applicable Fronting Lender on the Participation Date (without limiting each Lender's obligations hereunder to such Fronting Lender in respect of any such Loan and notwithstanding the otherwise pro-rata nature of Accommodations hereunder), even if any condition precedent to the making of such a Loan shall not have been satisfied;
 - (iii) the Agent shall notify each applicable Lender by facsimile or by telephone (confirmed by facsimile) of such disbursement and the amount payable by such Lender to the Agent for the account of such Fronting Lender based on the applicable Lender's Applicable Percentage; and
 - (iv) immediately upon receipt of such notice, each applicable Lender shall make its Applicable Percentage of such Loan in Cdn. Dollars or U.S. Dollars, as applicable, available to the Agent for the account of such Fronting Lender by wire transfer of immediately available funds to the Agent's Branch of Account for the account of such Fronting Lender.
- (c) **Lenders' Participation:** Each Fronting Lender irrevocably grants, and, in order to induce each Fronting Lender to issue its Fronted Letters of Credit hereunder, each Lender irrevocably accepts and hereby purchases from such Fronting Lender on the terms and conditions hereinafter stated, for its own account and risk, an undivided interest (equal to each Lender's Applicable Percentage) in such Fronting Lender's obligations and rights under each Fronted Letter of Credit issued by it and the amount of each draft paid by such Fronting Lender thereunder and the deemed Prime Loan or U.S. Base Rate Loan made hereunder to the Borrower on the Participation Date. Each Lender unconditionally and irrevocably agrees with such Fronting Lender that, on or before the close of business on each Participation Date, such Lender will pay to the Agent for the account of such Fronting Lender at the Agent's Branch of Account its Applicable Percentage of any Prime Loan or U.S. Base Rate Loan deemed to be made to the Borrower by such Fronting Lender on the Participation Date. If any Lender fails to make any such payment on the Participation Date, then interest shall accrue and be payable by such Lender on such Lender's

obligation to make such payment during the period from such Business Day to the day such Lender makes such payment at the Default Rate.

- (d) **Absolute Obligation:** Each Lender acknowledges that its obligations to each Fronting Lender in respect of any Fronted Letter of Credit issued by it, including the obligation to purchase and fund a participation in the obligations and rights of a Fronting Lender under each Fronted Letter of Credit and any drafts paid by it and the deemed Prime Loan or U.S. Base Rate Loan made hereunder by such Fronting Lender on the Participation Date, are absolute and unconditional and shall not be affected by any circumstance whatsoever, including:
- (i) the occurrence and continuance of any Default or Event of Default;
 - (ii) any failure or inability of any other Lender to purchase or fund such a participation hereunder; or
 - (iii) any other failure by any other Lender to fulfil its obligations hereunder.

Each payment by a Lender to a Fronting Lender shall be made, without any offset, compensation, abatement, withholding or reduction whatsoever.

3.12 Obligations Absolute re Letters of Credit

- (a) **Absolute Obligation:** The obligations of the Borrower under this Agreement in respect of Letters of Credit shall be absolute, unconditional and irrevocable under any and all circumstances and irrespective of any set-off, counterclaim or defense to payment which any Person may have or have had against the Agent, any Lender, any Fronting Lender or any beneficiary of a Letter of Credit.
- (b) **No Defences:** The obligations of the Borrower in respect of Letters of Credit shall not be affected by:
- (i) any lack of validity or enforceability of any Letter of Credit;
 - (ii) any draft, demand, certificate or any other document presented under any Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;
 - (iii) a Default or an Event of Default that has occurred and is continuing;
 - (iv) any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred;
 - (v) any claims, compensation, set-off, defence or other right whatsoever of the Borrower against any beneficiary of such Letter of Credit or any such transferee;
 - (vi) payment under a Letter of Credit against presentation of a draft or other document that does not comply strictly with the terms of such Letter of Credit;

- (vii) the non-perfection of any Security Interest granted to, or in favour of, the Agent, any of the Lenders or Fronting Lenders as security for any of the reimbursement obligations referred to in Section 3.11;
- (viii) the existence of any Insolvency Event with respect to the Borrower; or
- (ix) any other event or circumstance whatsoever that might, but for the provisions of this Section 3.12(b), constitute a legal or equitable discharge of the obligations of the Borrower hereunder or in respect of any Letter of Credit;

save and except only for payment under a Letter of Credit other than in compliance with the terms thereof in all material respects or other than as a result of the Agent's or, if applicable, the applicable Fronting Lender's gross negligence or wilful misconduct.

- (c) **Notice Delays:** None of the Agent or any Fronting Lender shall be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Letter of Credit, except, as to any such Person, for errors or omissions caused by such Person's gross negligence or wilful misconduct.
- (d) **Uniform Customs:** The Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce (the "**Uniform Customs**") shall in all respects apply to each Letter of Credit unless expressly provided to the contrary therein and shall be deemed for such purpose to be a part of this Agreement as if fully incorporated herein. In the event of any conflict or inconsistency between the Uniform Customs and the governing law of this Agreement, the Uniform Customs shall, to the extent permitted by applicable law, prevail to the extent necessary to remove the conflict or inconsistency.
- (e) **Action Binding:** Any action taken or omitted by the Agent or any Fronting Lender under or in connection with any Letter of Credit or the related drafts or documents, if done in the absence of gross negligence or wilful misconduct and in accordance with the standards of care specified in the Uniform Customs, shall be binding on the Borrower and shall not result in any liability of the Agent or any Fronting Lender to the Borrower.
- (f) **General:** Without limiting the generality of the foregoing:
 - (i) a Fronting Lender may accept documents that appear on their face to be in compliance with the terms of a Letter of Credit in all material respects without responsibility for further investigation, regardless of any notice or information to the contrary, and may make payment upon presentation of documents that appear on their face to be in compliance with the terms of such Letter of Credit in all material respects;
 - (ii) a Fronting Lender shall have the right, in its discretion acting reasonably, to decline to accept such documents and to make such payment if such documents are not in strict compliance with the terms of such Letter of Credit;

- (iii) this sentence, together with Section 3.11, shall establish the standard of care to be exercised by each Fronting Lender when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof (and the parties hereto hereby waive, to the extent permitted by Applicable Law, any standard of care inconsistent with the foregoing); and
 - (iv) in the event of any conflict or inconsistency between the provision of any LC Application and this Agreement, the provisions of this Agreement shall prevail.
- (g) **Consequential Damages:** Notwithstanding anything to the contrary contained herein, none of the Agent or any Fronting Lender shall be liable to the Borrower for any consequential, indirect, punitive or exemplary damages with respect to action taken or omitted to be taken by it under any Letter of Credit.

3.13 Expenses re Letters of Credit

- (a) **LC Expenses:** The Borrower shall pay and reimburse the Agent, each Fronting Lender and each Lender for all Taxes (other than Taxes imposed on or measured by reference to or in respect of overall net income, gains or capital of the applicable party) and reasonable and customary fees, charges and other costs and expenses (other than Letter of Credit Fees and Fronting Fees) incurred by the Agent, such Lender or such Fronting Lender in connection with any LC Disbursement ("**LC Expenses**"), as notified by the Agent (on its own behalf and on behalf of the Lenders) or a Fronting Lender to the Borrower through the Agent. Each payment in respect of LC Expenses shall be due and payable within 10 Business Days after the date on which the Agent notifies the Borrower of the amount of such LC Expenses and shall accrue interest if not paid on such date at the Default Rate.
- (b) **Other Costs:** The Borrower shall pay to the Agent, each Fronting Lender and each Lender its:
 - (i) set-up fees, customary cable charges and other customary miscellaneous charges in respect of the issue of Letters of Credit and upon the amendment or transfer of each Letter of Credit and each drawing made thereunder; and
 - (ii) customary documentary and administrative charges for amending, transferring or drawing under, as the case may be, Letters of Credit of a similar amount, term and risks.

3.14 Indemnification; Nature of Lender's Duties

- (a) **Indemnity:** In addition to amounts payable as elsewhere provided for in this Section 3.14, the Borrower hereby agrees to protect, indemnify, pay and save each Lender harmless from and against any and all claims or losses (including reasonable legal fees and expenses) which such Lender may incur or be subject to as a consequence, direct or indirect, of:

- (i) the application for or issuance of or drawing under any Letter of Credit, other than as a result of the gross negligence or wilful misconduct of such Lender as determined by a court of competent jurisdiction, provided that such Lender acts in good faith; or
 - (ii) the failure of such Lender to honour a drawing under any Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future Governmental Action prohibiting the payment of such drawing.
- (b) **Misuse:** As between the Borrower and each Lender, the Borrower assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, the beneficiary of such Letter of Credit. Except to ensure compliance with the applicable Letter of Credit, the Lenders shall not have any responsibility for:
- (i) the form, validity, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for, issuance of or drawing under any Letter of Credit (even if it should in fact prove to be in any or all respects invalid, inaccurate, fraudulent or forged);
 - (ii) the validity or sufficiency of any instrument transferring or assigning (or purporting to transfer or assign) any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason;
 - (iii) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph or otherwise (whether or not they are in cipher);
 - (iv) errors in interpretation of technical terms;
 - (v) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any Letter of Credit or of the proceeds thereof;
 - (vi) the misapplication by the beneficiary of any Letter of Credit or of the proceeds of any drawing under such Letter of Credit; and
 - (vii) any consequences arising from causes beyond the control of the Lenders, including any Government Acts.

None of the above shall affect, impair, or prevent the vesting of any of the Lenders' powers hereunder. Any action taken or omitted by any Lender under or in connection with any Letter of Credit issued by it or the related certificates if taken or omitted in good faith, shall not put such Lender under any resulting liability to the Borrower provided that such Lender acts without gross negligence and has not engaged in wilful misconduct.

- (c) **No Liability:** The Borrower shall have no obligation to indemnify a Lender in respect of any liability incurred by such Lender arising out of the gross negligence or wilful misconduct of such Lender as determined by a court of

competent jurisdiction, or out of the wrongful dishonour by such Lender of a proper demand for payment made under any Letter of Credit issued by it.

3.15 Repayments re Letters of Credit

If:

- (a) the Agent delivers an Acceleration Notice or an Insolvency Event occurs;
- (b) the Borrower shall be required to repay Borrowings to a Lender pursuant to Article 4; or
- (c) any Letter of Credit is the subject matter of any order, judgement, injunction or other such determination (a "**Judicial Order**") restricting payment under and in accordance with such Letter of Credit or extending the Fronting Lender's liability, as the case may be, beyond the expiration date stated in such Letter of Credit;

then the Borrower shall pay to the Agent an amount, in the currency in which the Letter of Credit is denominated, equal to the maximum amount available to be drawn under any unexpired Letter of Credit in respect of all of the Lenders in the case of paragraphs (a) and (c) and in respect of each Lender whose Borrowings are required to be repaid in accordance with Article 4 in the case of paragraph (b). Any such amounts paid by the Borrower to the Agent shall be held by the Agent in a Cash Collateral Account as continuing collateral security for the obligations of the Borrower to reimburse the Lenders for LC Disbursements made in respect of any such Letter of Credit. Such Cash Collateral Accounts shall be assigned to the Agent as security for the obligations of the Borrower in relation to such Letters of Credit and the Security Interest of the Agent thereby created in such cash collateral shall rank in priority to all other Security Interests and adverse claims against such cash collateral. Such cash collateral shall be applied to satisfy the obligations of the Borrower for such Letters of Credit as LC Disbursements are made thereunder. Amounts held in such Cash Collateral Accounts may not be withdrawn by the Borrower; however, interest on such deposited amounts (at the rates and in accordance with the then prevailing practices of the Agent for accounts of such type) shall be for the account of the Borrower and may be withdrawn by the Borrower from time to time so long as no Event of Default is then continuing.

The Agent shall release to the Borrower any amount remaining in the Cash Collateral Accounts after applying the amounts necessary to discharge all LC Obligations of the Borrower relating to such Letters of Credit, upon the later of:

- (i) the date on which any final and non-appealable Judicial Order has been rendered or issued either terminating any applicable Judicial Order or permanently enjoining the Fronting Lender from paying under such Letter of Credit;
- (ii) the earlier of:
 - (A) the date on which either the original counterpart of such Letter of Credit is returned to the Fronting Lender for cancellation or the Fronting Lender is released by the beneficiary thereof from any other obligation in respect of such Letter of Credit; and

- (B) the expiry of such Letter of Credit; and
- (iii) if an Event of Default has occurred, the payment and satisfaction of all indebtedness and liabilities of the Borrower hereunder and cancellation or termination of the Credit Facility.

3.16 Notice of Repayment

The Borrower shall give the Agent or the Operating Lender, as applicable, prior written notice substantially in the form of Schedule "C" of each repayment of Borrowings in accordance with the same period of notice required pursuant to Section 3.6 for the initial drawdown of the basis of Borrowing being repaid. Notwithstanding the foregoing, a Bankers' Acceptance may only be prepaid prior to its maturity date, and a Libor Loan may only be prepaid prior to the last day of the Libor Interest Period applicable to such Libor Loan, upon payment by the Borrower of the amounts payable in respect thereof pursuant to Section 4.4. A Letter of Credit may only be prepaid by delivering the original thereof to the Agent for cancellation, or upon payment by the Borrower of the amounts payable in respect thereof pursuant to Section 4.4.

3.17 Pro-Rata Treatment of Borrowings

- (a) **Pro-Rata Borrowings:** Subject to Section 3.17(c), each Borrowing under a Facility and each basis of Borrowing shall be made available by each Applicable Lender under such Facility and all repayments and reductions in respect thereof shall be made and applied in a manner so that the Borrowings and each basis of Borrowing outstanding hereunder to each Applicable Lender will, to the extent possible, thereafter be in the same proportion as the Applicable Percentage of such Lender. The Agent is authorized by the Borrower and each Syndicated Lender to determine, in its sole and unfettered discretion, the amount of Syndicated Borrowings and each basis of Syndicated Borrowing to be made available by each Syndicated Lender and the application of repayments and reductions of Syndicated Borrowings to give effect to the provisions of this Section 3.17(a) and Section 7.2; provided that, subject to Section 3.17(b), no Syndicated Lender shall, as a result of any such determination, have Syndicated Borrowings outstanding in an amount which is in excess of the amount of its Syndicated Facility Commitment.
- (b) **Agent's Discretion on Allocation:** If it is not practicable to allocate Bankers' Acceptances to each Syndicated Lender such that the aggregate amount of Bankers' Acceptances required to be purchased by such Syndicated Lender hereunder is in a whole multiple of Cdn. \$100,000, the Agent is authorized by the Borrower and each Syndicated Lender to make such allocation as the Agent determines in its sole and unfettered discretion may be equitable in the circumstances. In no event shall the outstanding Syndicated Borrowings of a Syndicated Lender exceed its Applicable Percentage by more than Cdn. \$100,000 as a result of such exercise of discretion by the Agent. In the event it is not practicable to allocate each basis of Syndicated Borrowing in accordance with Section 3.17(a) by reason of the occurrence of circumstances described in Sections 11.1, 11.4 or 11.5, the Agent is authorized by the Borrower and each Lender to make such allocation as the Agent determines in its sole and unfettered discretion may be equitable in the circumstances, but no Syndicated Lender shall, as a result of any such allocation, have any Syndicated Borrowings

outstanding in an amount which is in excess of the amount of its Syndicated Facility Commitment.

- (c) **Further Assurances by Borrower:** To the extent reasonably possible, the Borrower and each Lender agrees to be bound by and to do all things necessary or appropriate to give effect to the provisions of this Section 3.17.

3.18 Conversion Option

The Borrower may, during the term of this Agreement, upon giving the Agent at the Agent's Branch of Account a Conversion Notice in accordance with the period of prior notice and other requirements set out in Section 3.6 (other than delivery of a Borrowing Notice) in respect of the basis of Accommodation to which any Accommodation is being converted, convert any Accommodation to another basis of Accommodation. Notwithstanding the foregoing, a Bankers' Acceptance may only be converted on its maturity date and a Libor Loan may only be converted on the last day of the Libor Interest Period applicable to such Libor Loan or on any other day if the Borrower pays all amounts payable in respect thereof pursuant to Section 4.6. A Letter of Credit may not be converted. If the requested conversion is either from or into Libor Loans or Bankers' Acceptances, then:

- (a) if a Default has occurred and is continuing, the Borrower, without limiting its rights to convert any Borrowing into a Prime Loan or a U.S. Base Rate Loan, as applicable, shall only be entitled to request a conversion into a Libor Loan with a Libor Interest Period of one month or into a Bankers' Acceptance with a term to maturity of one month or less as provided for herein; and
- (b) if an Event of Default has occurred and is continuing, such conversion shall not be permitted and all Libor Loans in respect of which any such conversion has been requested shall be converted to a U.S. Base Rate Loan on the last day of the Libor Interest Period applicable thereto and all Bankers' Acceptances in respect of which any such conversion has been requested shall be converted to a Prime Loan on the maturity of such Bankers' Acceptances.

On each Conversion Date, the Borrower shall be required to repay to the Agent the basis of Accommodation which is being converted and, subject to the provisions of this Agreement, the Lenders shall be required to make available to the Borrower the Accommodations into which such basis of Accommodation is being converted.

3.19 Rollovers

The Borrower may, during the term of this Agreement, rollover all or any portion of a Bankers' Acceptance on its maturity date or all or any portion of a Libor Loan for an additional Libor Interest Period subsequent to the initial or any subsequent Libor Interest Period or extend the expiry date of a Fronted Letter of Credit, upon giving the Agent at the Agent's Branch of Account a Rollover Notice in accordance with the period of notice and other requirements set out in Section 3.6 and 3.10(e) applicable to Bankers' Acceptances or Libor Loans or Letters of Credit (other than delivery of a Borrowing Notice), unless immediately prior to the issuance of any Bankers' Acceptances or Letter of Credit or the commencement of any subsequent Libor Interest Period, a Default or an Event of Default shall have occurred and be continuing, in which event the Borrower shall not be entitled to Rollover such Letter of Credit and, in the case of a Default, shall only be entitled to request a Bankers' Acceptance with a term to maturity of one

month or less as provided for herein or a Libor Interest Period of one month and, in the case of an Event of Default, (i) shall be deemed to have converted any Bankers' Acceptance to a Prime Loan and any such Libor Loan to U.S. Base Rate Loan, in each case pursuant to Section 3.18 on the maturity date of the Bankers' Acceptance or the last day of the Libor Interest Period applicable thereto, and (ii) shall be deemed to have notified the Agent and the Fronting Lender to cancel any automatic renewal of a Fronted Letter of Credit under Section 3.10(e). In the event a Rollover Notice in respect of an existing Bankers' Acceptance or Libor Loan is not given pursuant to this Section 3.19 or a Conversion Notice in respect of such existing Bankers' Acceptance or Libor Loan is not given pursuant to Section 3.18, any such Bankers' Acceptance shall be converted to a Prime Loan on the maturity date of such Bankers' Acceptance and any such Libor Loan shall be converted to a U.S. Base Rate Loan on the last day of the Libor Interest Period applicable to such existing Libor Loan and the provisions of the last sentence of Section 3.18 shall apply to any such conversion.

3.20 Notices Irrevocable

All notices delivered or deemed to be delivered by the Borrower pursuant to this Article 3 shall be irrevocable and shall oblige the Borrower to take the action contemplated on the date specified therein.

3.21 Takeover Notification

In the event the Borrower wishes to utilize Borrowings to, or to provide funds to any Subsidiary of the Borrower to, offer to acquire (which shall include an offer to purchase securities, solicitation of an offer to sell securities, an acceptance of an offer to sell securities, whether or not the offer to sell was solicited, or any combination of the foregoing) outstanding securities of any Person, (other than a private company as defined under the *Securities Act* (Alberta) or a corporation whose shares are directly or indirectly held by one person) (the "**Target**") where, as of the date of the offer to acquire, the securities that are subject to the offer to acquire, together with the securities of such person that are beneficially owned, or over which control or direction is exercised, by the Borrower and its Subsidiaries and any person acting jointly or in concert with any thereof on the date that the offer to acquire is made, constitute in the aggregate 10% or more of all of the outstanding securities of that class of securities of the person (a "**Takeover**"), then either:

- (a) **Agreement of the Target Entity:** the Borrower shall provide to the Agent evidence satisfactory to the Agent of the agreement of the board of directors or like body of the Target approving the Takeover and approving the financing thereof by the Lenders; or
- (b) **No Conflict by Lenders:** the following steps shall be followed:
 - (i) at least five Business Days prior to the delivery of any notice to the Agent pursuant to Section 3.6 requesting Accommodations intended to be utilized for such Takeover, the President or Chief Financial Officer of the Borrower shall advise the Agent who shall promptly advise a Vice President of each Lender (or such other senior officer of such Lender as may be designated by such Lender from time to time) of the particulars of such Takeover in sufficient detail to enable such Lender to determine whether it has a conflict of interest if Accommodations from such Lender are utilized by the Borrower for such Takeover;

- (ii) within three Business Days of being so advised, each Lender shall notify the Agent of such Lender's determination, acting reasonably, as to whether such a conflict of interest exists (such determination to be made by such Lender in the exercise of its sole discretion having regard to such considerations as it deems appropriate), provided that in the event such Lender does not so notify the Agent within such three Business Day period, such Lender shall be deemed to have notified the Agent that it has a conflict of interest; and
- (iii) the Agent shall promptly notify the President or Chief Financial Officer of the Borrower of such Lender's determination;

and in the event that any Lender has (or is deemed to have) such a conflict of interest, then upon the Agent so notifying the Borrower, such Lender shall have no obligation to provide Accommodations for such Takeover notwithstanding any other provision of this Agreement to the contrary; provided that each other Lender (a "**Takeover Lender**") shall have an obligation, up to the amount of its Commitment, to provide Accommodations for such Takeover, and Accommodations for such Takeover shall be provided by each Takeover Lender in accordance with the ratio that its Applicable Percentage bears to the aggregate of the Applicable Percentages of all the Takeover Lenders.

- (c) **Takeover Loans:** If Accommodations are utilized for the purposes of a Takeover (a "**Takeover Loan**") and there are Lenders other than Takeover Lenders (the "**Non-Takeover Lenders**"), the Applicable Percentage of each Non-Takeover Lender shall be temporarily adjusted in accordance with Section 3.21(b) and, as applicable, subsequent Borrowings shall be funded firstly by Non-Takeover Lenders and subsequent repayments shall be applied firstly to Takeover Lenders, in each case, until such time as the Applicable Percentage of each Takeover Lender and Non-Takeover Lender is equal to such Applicable Percentage in effect immediately prior to the advance of the Takeover Loan.

3.22 Lender Swaps

- (a) **Swaps:** Subject to the terms and conditions hereof (and specifically Section 9.3(i)), each of the Lenders (or an Affiliate of such Lender) may from time to time enter into Swaps with any Loan Party during the term of this Agreement. Prior to engaging in any Lender Swaps, the applicable Loan Party shall enter into an ISDA Master Agreement with the applicable Swap Lender, or a confirmation that incorporates by reference the terms of an ISDA Master Agreement.
- (b) **Secured Obligations:** The parties agree that all Permitted Swap Indebtedness (other than Excluded Swap Indebtedness) shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with the Borrowings, the Creditcard Obligations, the LC Facility Obligations and the obligations of the Loan Parties with respect to Cash Management Services. All Swap Indebtedness of a Loan Party to any Swap Lender, other than Permitted Swap Indebtedness, shall, as to the Security, rank junior and be subordinate in every respect to the Borrowings, the Permitted Swap Indebtedness, the Creditcard Obligations, the LC Facility Obligations and the obligations of the Loan Parties with respect to Cash Management Services.

- (c) **Determination of Permitted Swaps:** The Lender Swaps which constitute Permitted Swaps at any time shall be determined starting with the earliest Lender Swap entered into which is still outstanding on the date such determination is made, and so on chronologically with each subsequent Lender Swap, until the applicable limitations under Section 9.3(i) are exceeded, provided that a Lender Swap shall be deemed to be a Permitted Swap (and the indebtedness thereunder Permitted Swap Indebtedness) if it is entered into by a Swap Lender without actual notice or knowledge that such Lender Swap is not a Permitted Swap.

3.23 Overdrafts

Each advance by the Operating Lender under the Operating Facility by way of Overdraft in Canadian Dollars shall automatically result in a Prime Loan. The Borrower agrees not to effect any Overdraft hereunder which would cause the Operating Borrowings to exceed the Operating Facility Amount from time to time, and acknowledges that the Operating Lender reserves the right to refuse to honour any Overdraft hereunder which, in the opinion of the Operating Lender, would have the effect of causing the Operating Facility Amount to be so exceeded.

3.24 Creditcard Facilities

Any Creditcard Lender may provide Creditcard Facilities to the Borrower or any other Loan Party from time to time. The parties agree that all Creditcard Obligations shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with the Borrowings, Permitted Swap Indebtedness, the obligations of the Loan Parties with respect to the Cash Management Services and the LC Facility Obligations, notwithstanding that they do not form part of the Syndicated Borrowings and Operating Borrowings. The Borrower agrees that it will not, and will not permit any other Loan Party to, incur Creditcard Obligations in excess of \$5,000,000 in aggregate for all Creditcard Lenders, provided that breach by the Borrower of this limitation shall not have the result of any Creditcard Obligations becoming unsecured.

3.25 Cash Management Facilities

Any Cash Management Lender may provide Cash Management Services to any Loan Party from time to time. The parties agree that all obligations of a Loan Party with respect to Cash Management Services shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with the Borrowings, Permitted Swap Indebtedness, LC Facility Obligations and Creditcard Obligations, notwithstanding that they do not form part of the Borrowings.

3.26 Increase in Commitment Amount

The Borrower may at any time and from time to time add additional financial institutions hereunder as Lenders or, with the consent of the applicable Lender in its sole discretion, increase the Commitment of a Syndicated Lender and, in each case, thereby increase the Total Commitment, provided that at the time of any such addition:

- (a) no Default or Event of Default has occurred and is continuing or would occur as a result of such increase in the Total Commitment;

- (b) the Total Commitment (as increased) does not at any time exceed Cdn. \$700,000,000;
- (c) the Agent and each Fronting Lender have consented to such financial institution becoming a Syndicated Lender or, in the case of an existing Syndicated Lender, increasing its Commitment, such consent not to be unreasonably withheld or delayed;
- (d) the Commitment of a new financial institution being added as a Lender pursuant to this Section 3.26 is not less than \$20,000,000;
- (e) concurrently with the addition of a financial institution as an additional Syndicated Lender or the increase of a Syndicated Lender's Commitment, such financial institution or Syndicated Lender, as the case may be, shall have purchased from each Syndicated Lender, such portion of the Borrowings owed to each Lender as is necessary to ensure that the Borrowings owed to all Syndicated Lenders and including therein such additional financial institution and the increased Commitment of any Syndicated Lender, are in accordance with the Applicable Percentage of all such Lenders (including the new financial institution and the increased Commitment of any Syndicated Lender) and such financial institution shall have executed such documentation as is required by the Agent, acting reasonably, to novate such financial institution as a Syndicated Lender hereunder; provided that with respect to any portion of such Borrowings that are outstanding by way of Bankers' Acceptances or Libor Loan, the new financial institution or such Syndicated Lender shall have provided an indemnity to the other Syndicated Lenders in order to ensure such Bankers' Acceptances or Libor Loans are outstanding in accordance with the new Applicable Percentages;
- (f) the Borrower shall have provided to the Agent a certified copy of a directors' resolution of the Borrower authorizing any such increase in the Total Commitment (which may be the original directors' resolutions authorizing the Facilities hereunder) together with a legal opinion with respect thereto, in form and substance satisfactory to the Agent, acting reasonably; and
- (g) if, after giving effect to such increase in the Total Commitment, the aggregate amount of the Total Commitment and all commitments under the Bilateral LC Facility Agreements would exceed the "First Lien Cap Amount", as that term used and defined in each of the Second Lien Term Credit Agreement and the Intercreditor Agreement, the Borrower shall have obtained the consent of the Second Lien Lenders in accordance with the terms of the Second Lien Term Credit Agreement.

3.27 LC Facility Obligations

The LC Facility Lenders may enter into the LC Facility Agreements with the Borrower from time to time. The parties agree that all LC Facility Obligations shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with the Borrowings, Creditcard Obligations, Permitted Swap Indebtedness and obligations of the Loan Parties with respect to Cash Management Services,, notwithstanding that they do not form part of the Borrowings. The Borrower agrees that it will not, and will not permit any other Loan Party to incur LC Borrowings in excess of \$75,000,000 in aggregate for all LC Facility Lenders, provided that breach by the

Borrower of this limitation shall not have the result of any LC Facility Obligations becoming unsecured. The parties agree that the individual limits for LC Borrowings set forth in (a) above may be amended from time to time by the Borrower and the LC Lenders and without consent of the Required Lenders provided that the Agent receives written notice of same and that the aggregate limit in (b) above is at all not exceeded.

ARTICLE 4 REPAYMENT AND PREPAYMENT

4.1 Reduction of Commitment

On the Maturity Date of each Lender, the Borrower shall repay all Borrowings, all Creditcard Obligations and all accrued and unpaid interest and fees then outstanding to such Lender and its Affiliates, and the Commitment of such Lender shall be reduced to zero. The Borrower shall ensure that Libor Loans, Bankers' Acceptances and Letters of Credit made by, accepted by or issued on behalf of or for the account of such Lender mature on or prior to its Maturity Date.

4.2 Repayment of Borrowings In Excess of Commitments

If, due to exchange rate fluctuations, Borrowings (determined in Cdn. Dollars with all Borrowings denominated in U.S. Dollars being converted to the Equivalent Amount of Cdn. Dollars) to any Lender are in excess of its Applicable Percentage of the Total Syndicated Facility Commitment, in the case of a Syndicated Lender, or the Operating Facility Amount, in the case of the Operating Lender:

- (a) by more than 3% on a day other than a Drawdown Date, Conversion Date or Rollover Date, the Borrower shall within five Business Days repay, or with respect to unmatured Bankers' Acceptances or undrawn Letters of Credit, deposit cash in a Cash Collateral Account in the same manner provided for in Section 10.4, or otherwise reduce a portion of such Borrowings, to the extent of the amount of such excess; or
- (b) by any amount on a Drawdown Date, Conversion Date or Rollover Date, the Borrower shall, as part of such Drawdown, Conversion or Rollover reduce or eliminate such excess on such date.

4.3 Excess Cash

If there is Excess Cash, the Borrower shall within five Business Days repay, or with respect to unmatured Bankers' Acceptances or undrawn Letters of Credit, deposit cash in a Cash Collateral Account in the same manner provided for in Section 10.4, or otherwise reduce a portion of the Borrowings, to the full extent of the amount of Excess Cash; provided that to the extent Letters of Credit have been cash collateralized pursuant to this Section 4.3, the Borrower may require the Agent to return such cash collateral to the extent that, on the date such cash is returned, the aggregate amount of cash, cash equivalents and investment grade securities held by the Borrower on a consolidated basis is less than the amount required for it to be Excess Cash.

4.4 Prepayment in Respect of Bankers' Acceptances, Libor Loans or Letters of Credit

If, on any day on which voluntary prepayments are made pursuant to Section 3.16, or prepayments are required to be made under Section 4.2 or 4.3, the Borrowings then outstanding include Libor Loans or Bankers' Acceptances in an amount such that the prepayment would require the Borrower to be liable under the funding indemnity contained in Section 11.6 or to pay a Bankers' Acceptance or a Letter of Credit prior to its maturity or expiry date, that portion of the prepayment which would otherwise be applied against any such Libor Loan, Bankers' Acceptance or LC Obligations may, at the option of the Borrower, be paid to the Agent for deposit into a Cash Collateral Account in accordance with Section 10.4 and be applied against such Libor Loan on the expiration of the Libor Interest Period applicable thereto, or to such Bankers' Acceptance on its maturity date, or to such LC Obligations upon any drawing under such Letter of Credit. Interest earned on such amounts while on deposit in a Cash Collateral Account shall be paid to the Borrower if no Default or Event of Default has occurred and is continuing after the payment of the amounts required pursuant to Section 4.2 or 4.3, if any.

4.5 Cancellation of Commitment and Prepayment

The Borrower may, without penalty or premium, at any time during the term of this Agreement, upon at least five Business Days' prior written notice to the Agent and the Operating Lender, as applicable, cancel all of the Total Commitment or any portion thereof in a minimum amount of Cdn. \$1,000,000 and whole multiples of Cdn. \$1,000,000 thereafter; provided that on or prior to the last day of such notice period the Borrower has:

- (a) **Application to Facility:** identified in writing the amount of reduction to be applicable to the Syndicated Facility Commitment and the Operating Facility Commitment;
- (b) **Prepaid Borrowings:** prepaid or otherwise reduced Borrowings outstanding to each Lender in an amount equal to the amount by which Borrowings outstanding to such Lender would otherwise be in excess of its Applicable Percentage of the Total Syndicated Facility Commitment or the Operating Facility Commitment, as applicable, immediately after the reduction of the Commitments provided for in such notice; and
- (c) **Paid Interest:** paid all accrued interest and other charges and fees in respect of the Borrowings being repaid or reduced as aforesaid.

Any such notice of cancellation is irrevocable and the amount of the Commitment of each Lender so cancelled and reduced may not be reinstated hereunder. For certainty, any partial cancellation under the Syndicated Facility shall be applied *pro rata* amongst the Syndicated Facility Commitments of the Syndicated Lenders.

4.6 Early Repayment of Libor Loans, Letters of Credit and Bankers' Acceptances

The Borrower shall not cancel all or any portion of the Commitment of any Lender pursuant to Section 4.5 if the Borrowings required to be repaid to such Lender as a result thereof include Letters of Credit with an expiry date falling subsequent to the date of such cancellation, Libor Loans with a Libor Interest Period falling subsequent to the date of such cancellation or Bankers' Acceptances accepted by such Lender with a maturity date falling

subsequent to the date of such cancellation unless, on the date of such cancellation, the Borrower has paid to the Agent at the Agent's Account for Payments, for the account of such Lender (a) in respect of Libor Loans, the amount required to be paid pursuant to Section 11.6, (b) in respect of Letters of Credit, the undrawn amount thereof, and (c) in respect of Bankers' Acceptances, the face amount thereof, in each case to be held in a Cash Collateral Account.

4.7 Evidence of Indebtedness

Each of the Agent and the Operating Lender, as applicable, shall open and maintain accounts and records on the books of the Agent at the Agent's Branch of Account and on the books of the Operating Lender at the Operating Lender's Branch of Account evidencing the Syndicated Borrowings and Operating Borrowings, respectively, and other amounts owing by the Borrower to the Lenders under this Agreement. The Agent and the Operating Lender, as applicable, shall debit therefrom the amount of such Syndicated Borrowings and Operating Borrowings, respectively, and shall enter therein each payment of principal of and interest on the applicable Borrowings and fees and other amounts payable pursuant to this Agreement and shall record the Bankers' Acceptances purchased by the Lenders and the Letters of Credit issued by the Operating Lender and all other amounts becoming due to the Agent and each Lender under this Agreement. The accounts and records of the Agent and the Operating Lender, as applicable, so kept shall constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Agent, the Operating Lender and each other Lender pursuant to this Agreement, the date each such Lender made each Borrowing available to the Borrower and the amounts the Borrower has paid from time to time on account of the principal and interest on the Borrowings, fees payable pursuant to this Agreement and other amounts owing hereunder.

ARTICLE 5 PAYMENT OF INTEREST AND FEES

5.1 Interest on Prime Loans

The Borrower shall pay interest in Canadian Dollars on each Prime Loan made by each Lender at the Agent's Account for Payments, in the case of the Syndicated Facility, and at the Operating Lender's Account for Payments, in the case of the Operating Facility, in each case at a rate per 365 days equal to the Prime Rate plus the Applicable Margin applicable to such Prime Loan. A change in the Prime Rate or the Applicable Margin will simultaneously cause a corresponding change in the interest payable on each Prime Loan. Such interest shall accrue daily based on the Prime Rate and Applicable Margin in effect on each day and is payable monthly in arrears on each Interest Date for the period commencing on and including the immediately prior Interest Date up to but not including the Interest Date on which such interest is to be paid and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in a year of 365 days. The annual rates of interest to which the rates determined in accordance with the foregoing provisions of this Section 5.1 are equivalent, are the rates so determined multiplied by the actual number of days in the relevant calendar year and divided by 365.

5.2 Interest on U.S. Base Rate Loans

The Borrower shall pay interest in U.S. Dollars on each U.S. Base Rate Loan made by each Lender at the Agent's Account for Payments, in the case of the Syndicated Facility, and at the Operating Lender's Account for Payments, in the case of the Operating Facility, at a rate per

365 day period equal to the U.S. Base Rate plus the Applicable Margin applicable to such U.S. Base Rate Loan. A change in the U.S. Base Rate or the Applicable Margin will simultaneously cause a corresponding change in the interest payable on each U.S. Base Rate Loan. Such interest shall accrue daily based on the U.S. Base Rate and Applicable Margin in effect on each day and is payable monthly in arrears on each Interest Date for the period commencing on and including the immediately prior Interest Date up to but not including the Interest Date on which such interest is to be paid and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in a year of 365 days. The annual rates of interest to which the rates determined in accordance with the foregoing provisions of this Section 5.2 are equivalent, are the rates so determined multiplied by the actual number of days in the relevant calendar year and divided by 365.

5.3 Interest on Libor Loans

The Borrower shall pay interest in U.S. Dollars on each Libor Loan made by each Lender at the Agent's Account for Payments, in the case of the Syndicated Facility for the period commencing on and including the first day of the Libor Interest Period applicable to such Libor Loan up to but not including the last day of such Libor Interest Period at a rate equal to the sum of Libor plus the Applicable Margin applicable to such Libor Loan and which is in effect on the first day of the Libor Interest Period applicable to such Libor Loan. A change in the Applicable Margin will simultaneously cause a corresponding change in the interest payable on each Libor Loan. Such interest shall accrue daily based on Libor and the Applicable Margin in effect on each day and is payable on each Libor Interest Date applicable to such Libor Interest Period and shall be calculated on a daily basis and on the basis of the actual number of days elapsed in the period for which such interest is payable (including the first day of such period but excluding the date on which such interest is payable) divided by 360. The annual rates of interest to which the rates determined in accordance with the foregoing provisions of this Section 5.3 are equivalent, are the rates so determined multiplied by the actual number of days in the relevant calendar year and divided by 360.

5.4 Bankers' Acceptance Fees

The Borrower shall pay acceptance fees in Canadian Dollars at the Agent's Account for Payments forthwith upon the acceptance by each Lender of each Bankers' Acceptance issued by the Borrower at a rate per 365 day period equal to the BA Acceptance Fee applicable to and in effect on the date of acceptance of such Bankers' Acceptance calculated on the face amount of such Bankers' Acceptance and on the basis of the number of days in the term of such Bankers' Acceptance divided by 365. Acceptance fees payable to the Agent, pursuant to this Section 5.4 shall be paid in the manner specified in Section 3.8. All fees payable pursuant to this Section 5.4 on any date in respect of any issuance of Bankers' Acceptances shall be calculated by the Agent and be payable by the Borrower based on the BA Acceptance Fee in effect on such date (and taking into account such issuance), provided that if during the term of any such Bankers' Acceptance a change in the BA Acceptance Fee occurs, the fees paid by the Borrower in respect of such Bankers' Acceptance shall be adjusted, effective upon the change in the BA Acceptance Fee occurring, to reflect the BA Acceptance Fee for the remaining term (if any) of the Bankers' Acceptance, and the Borrower, in the case of an increase in the BA Acceptance Fee, shall no later than three Business Days after receipt of a notice from the Agent, make such payments to the Agent at the Agent's Account for Payments for the account of each Applicable Lender as are necessary to reflect such change, and each Applicable Lender, in the case of a decrease in the BA Acceptance Fee, shall credit any amount which

would otherwise be refundable to the Borrower against amounts in respect of interest or fees accruing hereunder in relation to the Borrower.

5.5 Letter of Credit Fees

- (a) **Fronted Letters of Credit:** In consideration of each Lender's commitment to be liable for its Applicable Percentage of Fronted Letters of Credit under this Agreement, the Borrower shall pay to the Agent, for the rateable account of each Lender (in proportion to such Lender's share of the undrawn and unexpired amounts of all outstanding Letters of Credit), a fee equal to the Letter of Credit Fee then in effect on the date of payment of such fee. Such Letter of Credit Fees shall be payable quarterly in arrears on the third Business Day of each calendar quarter commencing in the calendar quarter in which the applicable Letter of Credit was issued (and, as to each Lender, on the Maturity Date applicable to such Lender, as applicable) and shall be calculated based on the number of days during which any such Letter of Credit was outstanding during any such calendar quarter (the "**LC Payment Period**") divided by 365 and shall be paid in the currency in which such Letter of Credit is denominated. Letter of Credit Fees shall be calculated on the basis of the daily maximum undrawn amount of such Letter of Credit outstanding during each LC Payment Period.
- (b) **Fronting Fees:** In consideration of a Fronting Lender agreeing to issue Fronted Letters of Credit under this Agreement, the Borrower shall pay a fronting fee (the "**Fronting Fee**") in Canadian Dollars or U.S. Dollars, as applicable, directly to the Fronting Lender quarterly in arrears on the third Business Day of each calendar quarter, pursuant to the written agreements between each Fronting Lender and the Borrower, at a rate per 365 day period equal to the Fronting Fee Rate applicable thereto calculated on the face amount of such Fronted Letter of Credit and on the basis of the number of days in the term of such Fronted Letter of Credit divided by 365. Such Fronting Fee shall also be payable in respect of any renewal (including auto-renewal) or extension of a Fronted Letter of Credit. If Fronting Fees are overpaid due to a Fronted Letter of Credit being returned to the Fronting Lender undrawn prior to its original expiry date, or due to a Fronted Letter of Credit being drawn upon prior to its original expiry date, the Fronting Lender shall refund such overpayment to the Borrower (or if an Event of Default then exists, the Fronting Lender (if not the Agent) shall pay such amount to the Agent for credit to outstanding Obligations.

5.6 Creditcard and Cash Management Fees

The Borrower shall pay fees to the Creditcard Lenders in respect of Creditcard Facilities, and to the Cash Management Lenders in respect of Cash Management Services, as provided in the agreements entered into by a Loan Party in connection therewith.

5.7 Interest on Overdue Amounts

Notwithstanding any other provision hereof, in the event that any amount due hereunder (including any interest payment) is not paid when due (whether by acceleration or otherwise), the Borrower shall and hereby agrees to pay to the Applicable Lenders interest on such unpaid amount (including interest on interest), if and to the fullest extent permitted by Applicable Law, from the date that such amount is due until the date that such amount is paid in

full (but excluding the date of such payment if the payment is made before 11:00 a.m. Calgary time), and such interest shall accrue daily, be calculated and compounded on the last Business Day of each calendar month and be payable in the currency of the relevant Borrowing on demand, as well after as before maturity, default and judgment, at a rate per annum that is equal to:

- (a) if such amount is payable in Canadian Dollars, the interest rate applicable to Prime Loans outstanding from time to time hereunder whether or not any Prime Loans are then outstanding plus the Applicable Margin plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION] % per annum; and
- (b) if such amount is payable in U.S. Dollars, the interest applicable to U.S. Base Rate Loans outstanding from time to time hereunder whether or not any U.S. Base Rate Loans are then outstanding plus the Applicable Margin plus [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION] per annum.

The Borrower hereby waives, to the fullest extent it may do so under Applicable Law, any provisions of Applicable Law, including specifically the *Interest Act* (Canada) or the *Judgment Interest Act* (Alberta), which may be inconsistent with this Agreement.

5.8 Agent's Fees

The Borrower shall pay an agency fee to the Agent (for the Agent's sole account) at the Agent's Account for Payments, in an amount as agreed from time to time between the Agent and the Borrower, on the Effective Date and on each annual anniversary of the Effective Date and such fees shall, for purposes of this Agreement, be deemed to be Obligations payable pursuant to this Agreement.

5.9 Arrangement and Syndication Fees

Concurrently with the execution and delivery of this Agreement, the Borrower shall pay to the Agent the arrangement and syndication fees as previously agreed between the Borrower and ATB.

5.10 Maximum Rate Permitted by Law

No interest or fee to be paid hereunder shall be paid at a rate exceeding the maximum rate permitted by Applicable Law. In the event any such interest or fee exceeds such maximum rate, such interest or fee shall be reduced or refunded, as the case may be, so as to be payable at the highest rate recoverable under Applicable Law.

5.11 Interest Generally

The theory of deemed reinvestment shall not apply to the calculation of interest or payment of fees or other amounts hereunder, notwithstanding anything contained in this Agreement or in any other Loan Document now or hereafter granted to or taken by the Agent or any Lender and all interest and fees payable by the Borrower to a Lender shall accrue from day to day and be computed as described herein in accordance with the "nominal rate" method of interest calculation.

5.12 Standby Fees

Until the Maturity Date of each Lender, the Borrower shall pay standby fees to the Agent on behalf of each Syndicated Lender and to the Operating Lender calculated quarterly in arrears to and including the last day of each calendar quarter commencing on and including the Effective Date, and payable on the third Business Day following each such calendar quarter and on the Maturity Date of each such Lender. Each payment of standby fees shall be calculated for the period commencing on and including the Effective Date or the last date on which such standby fees were payable hereunder, as the case may be, up to and including the last day of the calendar quarter for which such standby fees are to be paid or the Maturity Date applicable to such Lender (whichever is earlier) and shall be in an amount equal to the Standby Fee Rate in effect on each day during such period of calculation multiplied by the difference, if positive, obtained by subtracting the Syndicated Borrowings or the Operating Borrowings, as applicable, outstanding from such Lender for each day in the period of the calculation, from the amount of such Lender's Commitment, in effect on each such day. Such standby fees shall be calculated on a daily basis and on the basis of a 365 day year. For purposes of calculating standby fees payable pursuant to this Section 5.12, the amount of Borrowings outstanding from time to time in U.S. Dollars on each day during the period for which such standby fees are payable shall for the purposes of determining an Equivalent Amount on such day be notionally converted to the Equivalent Amount in Canadian Dollars using the Bank of Canada spot rate for converting U.S. Dollars to Canadian Dollars at the end of the business day on the first Business Day of each calendar month for any calculation with respect to each month in the calculation period.

5.13 Interest and Fee Adjustment

In the event of a change in the Applicable Margin and Standby Fee Rate as a result of a change in the Consolidated Senior Debt to EBITDA Ratio, such change shall become effective on the day on which the Borrower delivers a Compliance Certificate in accordance with the requirements hereof evidencing such change in the Consolidated Senior Debt to EBITDA Ratio, or, if the Borrower has not delivered a Compliance Certificate as required by the terms hereof within the time permitted by Section 9.4(c), then such change in the Applicable Margin and Standby Fee Rate shall become effective on the latest date permitted hereunder for delivery of such Compliance Certificate and the Applicable Margin and Standby Fee Rate shall be based on the highest rate in the table in the definition of Applicable Margin for the period from the latest date permitted hereunder for delivery of such Compliance Certificate until the date of delivery thereof.

ARTICLE 6 SECURITY

6.1 Security

To secure the payment and performance of all Obligations of the Borrower under the Loan Documents, the Borrower shall execute and deliver, or shall cause to be executed and delivered (as applicable), the following documents each in form and substance satisfactory to the Agent, acting reasonably (collectively called, together with all other security documents, agreements and assurances required to be delivered by any Loan Party to the Agent or the Collateral Agent pursuant to this Article 6, the "**Security**"):

- (a) a \$1,000,000,000 floating charge debenture and negative pledge from the Borrower in favour of the Collateral Agent creating a Security Interest over all of

its present and after acquired personal property and a floating charge on all of its present and after acquired real property;

- (b) a deposit agreement by the Borrower in favour of the Collateral Agent with respect to the debenture referred to in paragraph 6.1(a) above;
- (c) an unlimited liability Subsidiary Guarantee of each Material Subsidiary;
- (d) in respect of each Material Subsidiary that carries on business or owns assets in Canada, a \$1,000,000,000 floating charge debenture and negative pledge in favour of the Collateral Agent creating a Security Interest over all of its present and after acquired personal property and a floating charge on all of its present and after acquired real property;
- (e) a deposit agreement from each Material Subsidiary in favour of the Collateral Agent in respect of its Debenture in Section 6.1(d);
- (f) in respect of each Loan Party that carries on business or owns Assets in a jurisdiction outside of Canada in which security of the nature described above is ineffective to create valid Security Interests in such Assets, such Loan Party shall deliver security over its Assets equivalent, as nearly as possible (but subject to Section 6.4 below) to the security described in paragraph (a) above; and
- (g) if any Material Subsidiary intends to transact Lender Swaps, obtain Creditcard Facilities or request Cash Management Services, an unlimited liability Guarantee from the Borrower in favour of the Agent with respect to the obligations of each such Material Subsidiary under or in respect of Lender Swaps, Creditcard Facilities or Cash Management Services.

The Security Interests created by the Security shall rank as first priority Security Interests over all Assets of each such Loan Party other than the Second Lien Swap Termination Proceeds and as second priority Security Interests over the Second Lien Swap Termination Proceeds (being second only to the Security Interests created by the First Lien Security), subject to Permitted Encumbrances.

6.2 Form of Security

Without limiting the foregoing, the Security shall be in such form or forms as required by the Agent, acting reasonably. Should the Agent determine at any time and from time to time that the form and nature of the then existing Security is deficient in any way or does not fully provide the Agent, the Collateral Agent, the Lenders, the Swap Lenders, the Cash Management Lenders, the LC Facility Lenders and the Creditcard Lenders with the Security Interests and priority to which each is entitled hereunder, the Borrower will forthwith execute and deliver or cause to be executed and delivered to the Collateral Agent, at the Borrower's expense, such amendments to the Security or provide such new security as the Agent may reasonably request.

6.3 Subsidiary Guarantees and Subsidiary Security

Forthwith upon a Subsidiary becoming a Material Subsidiary (and in any event within 20 Business Days thereof), and to secure the payment and performance of all obligations of such

Material Subsidiary under the Loan Documents to which it is a party, the Borrower shall cause it to execute and deliver the following Security (to the extent not already provided):

- (a) an unlimited liability Subsidiary Guarantee of such Material Subsidiary with respect to the Obligations,
- (b) in respect of each Material Subsidiary that carries on business or owns assets in Canada, a \$1,000,000,000 floating charge debenture and negative pledge in favour of the Collateral Agent creating a Security Interest over all of its present and after acquired personal property and a floating charge on all of its present and after acquired real property;
- (c) a deposit agreement of such Material Subsidiary in favour of the Collateral Agent in respect of the Debenture in Section 6.3(b);
- (d) in respect of each Material Subsidiary that carries on business or owns Assets in a jurisdiction outside of Canada in which security of the nature described above is ineffective to create valid Security Interests in such Assets, such Material Subsidiary shall deliver security over its Assets equivalent, as nearly as possible (but subject to Section 6.4 below) to the security described in paragraph (b) above; and
- (e) if such Material Subsidiary intends to transact Lender Swaps, obtain Creditcard Facilities or request Cash Management Services, an unlimited liability guarantee from the Borrower with respect to the obligations of such Material Subsidiary to the Agent, the Lenders, the Swap Lenders and the Creditcard Lenders (as applicable) thereunder;

together with certified copies of constating documents and resolutions, a certificate of incumbency, a legal opinion of outside counsel with respect to the Material Subsidiary and the Security provided by it and such other documents as the Agent may reasonably require, with such changes as may be approved by the Agent, acting reasonably.

The Security Interests created by the aforesaid Security shall rank as first priority Security Interests over all Assets of each such Loan Party, subject to Permitted Encumbrances.

6.4 Real Property Exceptions; Registrations and United States Registration Exceptions

- (a) **Fixed Charges; Registrations and Registration Exceptions:** The Borrower shall, and shall cause each other Loan Party, at the Borrower's sole cost and expense, to do all such commercially reasonable acts, execute all such instruments and provide such further assurances as the Agent may reasonably request from time to time to ensure that the priority of the Security Interests created by all of the Security is duly protected and perfected by registration, filing or recordation of such Security or a caution, caveat, security notice or other appropriate instrument at all offices where necessary or of advantage to the protection or perfection thereof and to cooperate with the Agent and the Agent's counsel in renewing or refileing any registration, filing or recordation required hereby in order to preserve, protect and maintain the priority of such Security

Interests, from time to time, provided, however, that if all three of the following conditions are true:

- (i) no Default or Event of Default exists,
- (ii) there exists no event, circumstance or condition which has had, or would reasonably be expected to have, a Material Adverse Effect; and
- (iii) the Second Lien Lenders have not taken, and are not then requiring the Borrower or any Material Subsidiary to provide, any fixed charges on any of the Borrower's or any Material Subsidiary's real property;

then:

- (A) the Agent will not require any Loan Party to provide any fixed charges on any of their real property, nor file any registrations of the Security Interests created by the Security against any specific land titles to any such real property; and
- (B) the Agent will not file any serial number registrations against any motor vehicles or other personal property forming part of the Collateral in respect of which serial number registrations are contemplated by the Applicable Law of the jurisdiction in which such Collateral is located, and will not require the Loan Parties to deliver any original certificates of title in respect of such Collateral, or have the charges reflected therein;

and provided further, that with respect to personal property of the Loan Parties situated in any jurisdiction outside of Canada, and notwithstanding the foregoing, the Security need not be registered as a charge against such personal property in any such jurisdiction unless and until (I) the Agent is directed to do so by the Required Lenders (which direction may be given by the Required Lenders at any time in their sole discretion), or (II) the Second Lien Lenders have registered, or are requiring the Borrower or any Material Subsidiary to register, the Security against such personal property in any such jurisdiction(s); such registrations to be made by the Agent at the Borrower's sole cost and expense.

(b) **Specific Land Security and Registrations:** At any time when:

- (i) a Default or an Event of Default exists,
- (ii) an event, circumstance or condition exists which has had, or would reasonably be expected to have, a Material Adverse Effect, or
- (iii) the Second Lien Lenders have taken, or are requiring any Loan Party to provide, fixed charges on any of the Loan Parties' real property;

the Agent may (and in the case of clause (iii), the Agent shall), at the Borrower's sole cost and expense, require any or all Loan Parties to provide fixed charges on any or all of their real property as the Agent may designate, and to effect any or all such registrations, filings and recordings, including the filing of specific

fixed charge registrations at any applicable land registry office or other applicable Governmental Authority and the filing of serial number registrations, as the Agent may determine to be necessary or of advantage to the protection or perfection of the Security Interests created by the Security; and the Borrower shall, and shall cause each other Loan Party to, at the Borrower's sole cost and expense, provide such fixed charges, effect such registrations and do all such other commercially reasonable acts, provide such information, execute all such instruments (including supplemental instruments creating specific fixed charges over any Collateral designated by the Agent) and provide such further assurances as the Agent may require to promptly effect all such registrations, filings and recordings.

- (c) **Property Listing:** Within five Business Days of a request by the Agent made at any time when one or more of the conditions in Sections 6.4(b)(i), 6.4(b)(ii) or 6.4(b)(iii) exist, the Borrower shall deliver to the Agent a Real Property Listing and a listing of serial number goods, supplemented, to the extent required by the Agent, with any further information required in order to permit the Agent to effect the registrations, filings and recordings contemplated by Sections 6.4(b).
- (d) **Agent May Effect Registrations:** The Agent may, at the Borrower's sole cost and expense, effect any or all such registrations, filings and recordings should any Loan Party fail to do so forthwith upon the Agent's request as aforesaid.
- (e) **Illegality:** If any Lender determines, acting reasonably, that any applicable law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to hold or benefit from a Security Interest over real property pursuant to any law of the United States or any State thereof, such Lender may notify the Agent of that determination and disclaim any benefit of such Security Interest to the extent of such illegality; provided that such determination or disclaimer shall not invalidate or render unenforceable such Security Interest for the benefit of any other Lender.

6.5 Security Effective Notwithstanding Date of Advance

The Security Interests constituted by the Security shall be effective against the Loan Parties, and the Security Interests in any Security shall be continuing, whether any of the Accommodations hereunder are utilized before or after or at the same time as the creation of any such Security Interests or before or after or upon the date of execution of this Agreement, and shall not be affected by the Lender Outstandings hereunder fluctuating from time to time or the accounts established by the Lenders ceasing to be in debit balance.

6.6 Extensions, Etc.

The Lenders may directly, or through the Agent or other duly authorized representatives, grant extensions, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with any Loan Party or any other Persons, sureties or securities as the Lenders, in their sole discretion, may see fit, all without prejudice to the liability of any Loan Party under the Loan Documents or the rights of the Lenders under the Loan Documents.

6.7 Notice of Name Change

The Borrower shall notify the Agent of any details, as soon as available, of any proposal to change the name of any Loan Party or the location of its chief executive office, and in any event not less than ten Business Days prior to any such change.

6.8 No Merger

The taking of any Security Interest as provided under any Loan Document shall not operate by way of merger of any of the obligations of the Loan Parties under this Agreement or any other Loan Document, or of any Security Interest, guarantee, indemnity, contract, promissory note, bill of exchange or security in any other form, whether or not similar to the foregoing, and no judgment recovered by the Agent or a Lender shall operate by way of merger or in any way affect the Security Interest provided for in the Loan Documents, which shall be in addition to and not in substitution for any other Security Interest now or hereafter held by the Agent or a Lender or the Collateral Agent whether for Obligations hereunder or under any Loan Document. For greater certainty, no judgment recovered by the Agent or a Lender shall operate by way of merger or in any way affect the obligation of the Borrower to pay interest, fees and other amounts at the rates, times and manner as provided in this Agreement.

6.9 Further Assurances – Security

The Borrower shall, forthwith and from time to time on the reasonable request of the Agent, grant and shall cause each other Loan Party to grant to the Agent or the Collateral Agent on behalf of the Lenders, the Swap Lenders, the LC Facility Lenders and Creditcard Lenders all such further rights and Security Interests necessary or of advantage to the Agent to permit it to operate or realize upon the Site Facilities in a liquidation of assets or as a going concern following the occurrence of an Event of Default. In addition, the Borrower shall, and shall cause each other Loan Party to forthwith and from time to time on the reasonable request of the Agent, execute and do or cause to be executed and done all assurances and things which in the opinion of the Agent may be necessary or of advantage to give the Agent, the Collateral Agent, the Lenders, the Swap Lenders and the Creditcard Lenders the Security Interests and the priority intended to be created by the Security.

6.10 Release of Security on Termination of Facilities

The Lenders, the Creditcard Lenders, the LC Facility Lenders, the Cash Management Lenders and the Swap Lenders hereby authorize the Collateral Agent, and the Collateral Agent hereby agrees, to discharge the Security at the Borrower's sole cost and expense, forthwith after all of the Obligations have been unconditionally and irrevocably paid or performed in full and the Facilities and all Lender Swaps have been terminated or collateralized to the satisfaction of the Agent and the Lenders.

6.11 Permitted Encumbrances and Permitted Debt

Notwithstanding that a Loan Party is permitted to create or suffer to exist any Permitted Encumbrance or Permitted Debt, except to the extent a subordination or postponement is provided by the Agent pursuant to Section 12.10 or except as provided in the last paragraph of Section 6.1 and Section 6.3, nothing herein contained shall in any manner, nor in any cause or proceeding, directly or indirectly, be taken to constitute a subordination of any Security Interest created pursuant to the Loan Documents to any Permitted Encumbrance or to any other

Security Interest or other obligation whatsoever, or that the Obligations are in any way subordinate or junior in right of payment to any Permitted Debt.

6.12 US Real Property Security

The Collateral Agent shall not accept any fixed charge mortgage or other fixed charge Security Interest from a Borrower or a Subsidiary Guarantor over an interest in any U.S. Real Property unless and until each Lender has confirmed its satisfactory completion of flood insurance due diligence and compliance with respect to such U.S. Real Property. Each affected Lender shall have completed its normal course flood hazard compliance review with respect to such U.S. Real Property (or as otherwise reasonably required by each affected Lender under applicable law in relation to such U.S. Real Property), including completion of the diligence and receipt of the documentation described in Section 9.2(p) hereof and the receipt of such supporting and ancillary documentation as is normal and customary for transactions of this nature prior to the execution of any fixed charge mortgage, deed of trust or other fixed charge encumbrance instrument.

ARTICLE 7 PAYMENT AND TAXES

7.1 Time, Place and Currency of Payment

Payments of principal, interest, fees and all other amounts payable by the Borrower pursuant to this Agreement shall be paid in the currency in which it is due for value at or before 11:00 a.m. (Calgary time) on the day such payment is due. If any such day is not a Business Day, such amount shall be deemed for all purposes of this Agreement to be due on the Business Day next following such day and any such extension of time shall be included in the computation of the payment of any interest or fees payable under this Agreement. All payments in respect of the Syndicated Facility shall be made at the Agent's Account for Payments and all payments made in respect of the Operating Facility shall be made at the Operating Lender's Account for Payments.

7.2 Application of Payments

Except as otherwise agreed to by all of the Lenders in their sole discretion, all payments made by or on behalf of the Borrower pursuant to this Agreement, so long as no Default or Event of Default has occurred and is continuing, shall be applied by the Agent rateably among the Lenders and the Agent in accordance with amounts owed to the Lenders and the Agent in respect of each category of amounts set forth below, each such application to be made in the following order with the balance remaining after application in respect of each category to be applied to the next succeeding category:

- (a) **Agent's Fees:** firstly, in payment of any amounts due and payable as Agent's fees referred to in Section 5.8;
- (b) **Expenses:** secondly, in payment of any amounts due and payable as and by way of recoverable expenses hereunder or under any Loan Document if the Borrower has failed to pay such expenses when required hereunder or thereunder;

- (c) **Standby Fees:** thirdly, in payment of any amounts due and payable as and by way of the standby fees referred to in Section 5.12;
- (d) **Interest and Fees:** fourthly, in payment of any amounts due and payable as and by way of interest pursuant to Sections 5.1, 5.2 and 5.3, fees pursuant to Sections 5.4, 5.5 and 5.6, and interest on overdue amounts pursuant to Section 5.7; and
- (e) **Other Amounts (other than Borrowings):** fifthly, in payment of any amounts (other than Borrowings and Creditcard Obligations) then due and payable by the Borrower hereunder or under any Loan Document other than amounts hereinbefore referred to in this Section 7.2;

with the balance to be applied to repay or otherwise reduce Borrowings and Creditcard Obligations then due and payable so that the Borrowings outstanding hereunder to each Lender will to the extent possible, be in the same proportion as its Applicable Percentage.

7.3 Account Debit Authorization

The Borrower authorizes and directs the Agent and the Operating Lender, as applicable, in its discretion, to automatically debit, by mechanical, electronic or manual means, the bank accounts of the Borrower maintained with ATB (for so long as ATB is Agent and Operating Lender hereunder) for all amounts payable under the Loan Documents including in respect of principal, interest and fees payable under this Agreement and recoverable expenses due and payable hereunder or under any Loan Document.

ARTICLE 8 CONDITIONS PRECEDENT TO DISBURSEMENT OF THE ACCOMMODATIONS

8.1 Effectiveness and Conditions Precedent

This Agreement shall become effective at such time as the following conditions precedent have been satisfied:

- (a) **No Default:** as of the Effective Date, there shall exist no Default or Event of Default and the Agent shall have received a certificate from the Borrower certifying the same;
- (b) **Representations and Warranties True:** the representations and warranties contained in Section 2.1 shall be true and correct as of the Effective Date and the Agent shall have received a certificate from the Borrower certifying the same;
- (c) **Receipt of Documentation:** the Agent shall have received the following, in form and substance satisfactory to the Agent:
 - (i) an executed copy of this Agreement;
 - (ii) an executed copy of a Confirmation and Amendment of the Subsidiary Guarantees and Security Documents (the "**Confirmation**");

- (iii) an executed copy of the Intercreditor Agreement in form and substance acceptable to the Lenders and their counsel, acting reasonably;
 - (iv) an executed copy of an amending agreement to the Second Lien Credit Agreement in a form acceptable to the Lenders and their counsel, acting reasonably, providing for, among other things an amendment to the definition of "First Lien Cap Amount";
 - (v) a certificate of status or comparable document in respect of each Loan Party issued under the laws of its jurisdiction of incorporation, amalgamation or formation;
 - (vi) a certified copy of the resolutions of the board of directors or equivalent of each Loan Party authorizing the execution and delivery of this Agreement, the Confirmation and the Intercreditor Agreement and the performance of this Agreement, the Amended Credit Agreement, the Confirmation, the Intercreditor Agreement, the Subsidiary Guarantees, the floating charge demand debentures and negative pledges contemplated by Section 6.3(b) and (c) of the Credit Agreement (in each case as amended by the Confirmation) and authority and incumbency certificates for each such Loan Party which confirm no change to the relevant constating documents or by-laws since the date originally delivered;
 - (vii) a favourable opinion of the Borrower's Alberta counsel addressed to the Agent and the Lenders and relating to the Loan Parties, the execution and delivery of this Agreement, the Confirmation and the Intercreditor Agreement and the enforceability of this Agreement, the Amended Credit Agreement, the Confirmation, the Intercreditor Agreement, the Subsidiary Guarantees, the floating charge demand debentures and negative pledges contemplated by Section 6.3(b) and (c) of the Credit Agreement (in each case as amended by the Confirmation), the existence of all requisite approvals, non-conflict with laws and constating documents with respect to the Loan Parties, and such other matters as may be reasonably requested by the Agent or its counsel;
 - (viii) a favourable opinion of the Lenders' counsel addressed to the Agent and the Lenders and relating to the enforceability this Agreement, the Amended Credit Agreement, the Confirmation, the Intercreditor Agreement, the Intercreditor Agreement, the Subsidiary Guarantees, the floating charge demand debentures and negative pledges contemplated by Section 6.3(b) and (c) of the Credit Agreement (in each case as amended by the Confirmation) and such other matters as may be reasonably requested by the Agent; and
 - (ix) such other documents, consents, acknowledgements and agreements as may be reasonably requested by the Agent or its counsel;
- (d) **Fees:** the Agent shall have received payment of all agency and arrangement fees of the Agent and fees of the Agent's legal counsel in connection with the transactions contemplated by this Agreement as advised by such counsel to the

Agent at least one Business Day prior to the Effective Date. In addition, the Agent shall have received from the Borrower, on the account of each Lender on a *pro rata* basis: (i) a fee of [REDACTED CONFIDENTIAL COMMERCIAL INFORMATION] on the amount, immediately prior to the effectiveness of this Agreement, of the respective Commitments of each Lender, and (ii) a fee equal to [REDACTED CONFIDENTIAL COMMERCIAL INFORMATION] per annum (payable in full on the Effective Date) on the amount of the increase in the respective Commitments of each Lender upon the effectiveness of this Agreement.

- (e) **Know-Your-Client Confirmations:** the Agent shall have received from each Lender confirmation that it has obtained from the Borrower all such information and evidence as such Lender requested of the Borrower prior to the Effective Date pursuant to Section 14.11; and
- (f) **Material Adverse Effect:** as of such time, no circumstance or event shall have occurred which would reasonably be expected to have a Material Adverse Effect (nor have the Lenders become aware of any fact or facts not previously known, which, in the opinion of the Lenders, are reasonably likely to have a Material Adverse Effect), and no material adverse change shall have occurred in the operations or financial condition of the Loan Parties or of their assets, taken as a whole, since the date of the most recent audited financial statements provided to the Agent, and the Agent shall have received a certificate from the Borrower to both such effects.

8.2 Continuing Conditions Precedent

The obligation of the Lenders to make available any Accommodations pursuant to Section 3.6 or to make any Conversion pursuant to Section 3.18 or to make a Rollover pursuant to Section 3.19 (except in the case of Conversions or Rollovers where this Agreement deems such Conversion or Rollover to have occurred), is subject to and conditional upon:

- (a) receipt of the appropriate Borrowing Notice, Conversion Notice or Rollover Notice;
- (b) on each Drawdown Date, Conversion Date or Rollover Date, as applicable, there exists no Default or Event of Default;
- (c) on each Drawdown Date, the representations and warranties in Section 2.1, other than those stated to be made as at a specific date, are true and correct in all material respects with the same effect as if made as of such date; and
- (d) the Lenders, acting reasonably, shall be satisfied that the advance will not result in there being Excess Cash.

8.3 Waiver of a Condition Precedent

The terms and conditions of Sections 8.1 and 8.2 are inserted for the sole benefit of the Agent and the Lenders and may be waived by all Lenders in respect of an Advance under the Syndicated Facility, or the Operating Lender in respect of an Advance under the Operating Facility, in whole or in part with or without terms or conditions, in respect of all or any portion of a Borrowing, without affecting the right of the Agent or the Lenders to assert such terms and conditions in whole or in part in respect of any other Borrowing.

ARTICLE 9 COVENANTS OF THE BORROWER

9.1 Financial Covenants

The Borrower covenants with each of the Lenders and the Agent that, as at the end of each Fiscal Quarter of the Borrower:

- (a) the Consolidated Total Debt to EBITDA Ratio will not exceed 5.00 to 1.00;
- (b) the Consolidated Senior Debt to EBITDA Ratio will not exceed 3.50 to 1.00;
- (c) the Consolidated Interest Coverage Ratio will not be less than 2.50 to 1.00;
- (d) (i) the aggregate principal amount of Debt under all Unsecured Notes will not exceed, at any time, \$500,000,000, and (ii) the aggregate of the principal outstanding amount of Unsecured Notes, the principal amount outstanding under the Facilities and the principal amount outstanding under the Second Lien Term Facility will not exceed, at any time, \$1,000,000,000; and
- (e) the Loan Parties (i) directly own, in aggregate, not less than 85% of Consolidated Tangible Assets as at the end of such Fiscal Quarter, and (ii) directly account for, in aggregate, not less than 85% of Consolidated EBITDA for the 12 month period ending at the end of such Fiscal Quarter.

9.2 Positive Covenants of the Borrower

The Borrower covenants with each of the Lenders and the Agent that:

- (a) **Payment and Performance:** the Borrower shall, and shall cause each other Loan Party to, pay duly and punctually all Lender Outstandings as and when due by it under the Loan Documents and shall pay and perform all other Obligations on its part to be performed under the terms of the Loan Documents at the times and places and in the manner provided for therein;
- (b) **Existence:** except as otherwise permitted herein, the Borrower shall, and shall cause each other Loan Party to, maintain its corporate or partnership existence, as applicable, in good standing under the laws of its jurisdiction of incorporation, amalgamation, creation or formation, as the case may be, and duly register and qualify and remain duly registered and qualified as an extra provincial corporation or partnership, as applicable, under the laws of each jurisdiction in which the nature of any business transacted by it or the character of any Assets owned or leased by it requires such registration and qualification, except to the extent that failure to maintain such registration or qualification would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (c) **Inspection and Audit:** the Borrower shall, and shall cause each other Loan Party to, at reasonable times and on reasonable notice and subject to observance of applicable safety rules and procedures, allow or enable the Agent or its representatives to visit and inspect the Assets of the Loan Parties during

normal business hours; provided that such Person or Persons representing the Agent shall hold all information obtained as a result of such visit or visits in confidence for the use of the Agent and the Lenders in the conduct of their business related to the transactions contemplated by this Agreement and that prior to a Default or Event of Default, any such visit and inspection shall be at the Agent's expense;

- (d) **Payment of Taxes:** the Borrower shall, and shall cause each other Loan Party to, file all income tax returns which are required to be filed, pay or make provision for payment (in accordance with GAAP) of all Taxes which are due and payable, and provide adequate reserves (in accordance with GAAP) for the payment of any Tax, the payment of which is being contested, and shall provide the Agent upon request with evidence, in form and substance satisfactory to the Agent, of such payment or reserve;
- (e) **Insurance:** the Borrower shall, and shall cause each other Loan Party to, maintain in full force and effect such policies of insurance issued by insurers of recognized standing insuring such properties and operations of the Loan Parties as would be maintained by a prudent Person engaged in the same or similar Business of similar size, including the Collateral Agent as an additional insured and as first loss payee, and shall, if required, furnish the Agent with certificates or other evidence satisfactory to the Agent of compliance with the foregoing provisions;
- (f) **Defend Title to Assets:** the Borrower shall, and shall cause each other Loan Party to, maintain, protect and defend title to the Assets and take all such acts and steps as are necessary or advisable at any time and from time to time to retain its ownership and that of any other Loan Party in the Assets in good standing (other than Permitted Title Defects and Permitted Encumbrances);
- (g) **Books and Records:** the Borrower shall, and shall cause each other Loan Party to, keep proper and adequate records and books of account (including lists of accounts receivable showing amounts owing on each account) in which true and complete entries will be made in a manner sufficient to enable the preparation of financial statements in accordance with GAAP as consistently applied to such Loan Party and, upon request of the Agent, make the same available for confidential inspection by the Agent and the Lenders and their respective employees at all reasonable times;
- (h) **Notice of Certain Events:** the Borrower shall provide the Agent with prompt written notice of the following when a senior officer of the Borrower has (or would reasonably be expected to have) knowledge of the same:
 - (i) any Default or Event of Default;
 - (ii) any actions, suits, litigation or other proceedings which are commenced against or adversely affect any Loan Party or any Assets and which individually or in the aggregate assert claims that exceed 5% of Consolidated Tangible Assets;

- (iii) any Person has given any notice or taken any action with respect to a claimed default of the type referred to in Section 10.1(e);
 - (iv) any Subsidiary becoming a Material Subsidiary; and
 - (v) any other matter, circumstance or event that has had or would reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (i) **Maintenance and Operation of Assets:** the Borrower shall, and shall cause each other Loan Party to, maintain and operate all Assets in accordance with good industry practice and shall pay or cause to be paid all rents, royalties and other obligations to pay money validly imposed upon it, or upon the Assets or any part thereof as required to maintain such Assets other than such Assets that have become obsolete or that are non-essential to the normal course of business operations of the Borrower or any other Loan Party;
 - (j) **Ownership:** the Borrower shall ensure that each Material Subsidiary is at all times a direct or indirect wholly owned Subsidiary of the Borrower;
 - (k) **Material Subsidiary Guarantees:** the Borrower shall ensure that each Material Subsidiary is at all times a party to a Subsidiary Guarantee of the Obligations, and has provided the Security required by Article 6;
 - (l) **Ranking:** except for obligations that are secured by Permitted Encumbrances, the obligations of the Borrower hereunder and of each other Loan Party under its Subsidiary Guarantee rank, for all purposes, at least *pari passu* in right of payment with the most senior unsubordinated Debt of the Borrower and such other Loan Party, as applicable;
 - (m) **Compliance with Law:** the Borrower shall, and shall cause each of its Subsidiaries to, comply with all laws, ordinances or governmental rules or regulations to which each of them is subject and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
 - (n) **Intercreditor Agreement:** the Borrower shall, and shall cause each of its Subsidiaries to, comply with the Intercreditor Agreement;
 - (o) **Deposit Accounts:** the Borrower shall, and shall cause each of its Subsidiaries to, maintain its deposit, operating and lock box accounts, and any other accounts in which it holds any investments in cash, cash equivalents or other readily marketable, short term debt obligation investments, with the Agent, provided that the foregoing shall not apply to:

- (i) accounts in U.S. dollars maintained in the ordinary course of business with Wells Fargo;
 - (ii) margin trading accounts in the ordinary course of business held with R.J. O'Brien or similar trading entities in Canada, as advised to the Agent reasonably contemporaneously with opening any such account;
 - (iii) accounts maintained with National Bank of Canada in connection with the Borrower's crude oil marketing and derivatives;
 - (iv) accounts maintained for the purposes of paying salaries and other employee compensation; and
 - (v) accounts maintained for the purpose of paying tax obligations;
- (p) **Flood Hazard Diligence and Deliverables:** If a fixed charge mortgage, deed of trust or other fixed charge encumbrance on any U.S. Real Property is requested or required pursuant to the terms of this Agreement or any other Loan Document, the Borrower shall, and shall cause each of the applicable Subsidiary Guarantors to, deliver to the Agent (i) all relevant address information, including but not limited to a full and complete legal description of such U.S. Real Property, so each affected Lender may procure a flood determination certificate issued by the appropriate governmental body or authority or authorized third party indicating whether such property is designated as a "flood hazard area" and (ii) if such U.S. Real Property is designated to be in a "flood hazard area", evidence of flood insurance on such property obtained by the applicable Borrower or Subsidiary Guarantor, as the case may be, in such total amount as required under applicable law and satisfactory to the Lenders and otherwise in compliance with the National Flood Insurance Program as set forth in the *Flood Disaster Protection Act of 1973* (United States), as the same may be amended, re-enacted or replaced. All diligence in this Section 9.2(p) must be completed and approved prior to the execution of any fixed charge mortgage, deed of trust or other fixed charge encumbrance instrument with respect to such U.S. Real Property.
- (q) **Additional Information:** the Borrower shall, and shall cause each other Loan Party to, furnish to the Agent on a confidential basis any additional information regarding the Collateral, business, affairs, operations and financial condition of each Loan Party as the Agent shall reasonably request; and
- (r) **Further Assurances:** the Borrower shall do and cause each other Loan Party to do all such further acts and things and execute and deliver all such further documents as shall be reasonably required by the Agent in order to ensure the terms and provisions of the Loan Documents are fully performed and carried out.

9.3 Negative Covenants of the Borrower

The Borrower covenants with each of the Lenders and the Agent that it shall not, and shall ensure that each other Loan Party shall not:

- (a) **Conduct of Business:** engage in any material business or make any material investments or enter into any material ventures other than the Business;
- (b) **Mergers, Etc.:** enter into any transaction whereby all or substantially all of the undertaking and Assets of the Borrower or any other Loan Party would become the property of any other Person (a “**successor entity**”) whether by way of reconstruction, reorganization, recapitalization, consolidation, amalgamation, merger, transfer, sale or otherwise (other than any such transaction solely among the Loan Parties where only the provisions of paragraph (i) and (ii) of this Section 9.3(b) must be complied with) unless:
 - (i) prior to or contemporaneously with the consummation of such transaction, such Loan Party, and the successor entity, as applicable, shall have executed such instruments and done such things as in the opinion of the Agent are necessary or advisable to establish that upon the consummation of such transaction:
 - (A) the successor entity shall have assumed all the covenants and obligations of such Loan Party under the Loan Documents to which it is a party;
 - (B) the Loan Documents, as applicable, shall be a valid and binding obligation of the successor entity entitling the Agent and the Lenders, as against the successor entity, to exercise all their rights thereunder;
 - (C) the rights and benefits afforded or intended to be afforded the Agent and the Lenders under the Loan Documents to which such Loan Party is a party are not adversely affected in any material respect;
 - (D) legal opinions satisfactory to the Agent confirming the matters set forth in Sections 9.3(b)(i)(A) and (B) above are provided by counsel to the Borrower;
 - (ii) no Default or Event of Default is subsisting or would occur after giving effect to such transaction; and
 - (iii) all of the Lenders, in their sole discretion, are satisfied with the creditworthiness of the successor entity.
- (c) **Debt:** issue, create, incur or assume any Debt other than Permitted Debt;
- (d) **Negative Pledge:** create, incur, assume or suffer to exist any Security Interest upon or with respect to any of its Assets other than Permitted Encumbrances;
- (e) **Dispositions:** directly or indirectly make any sale, lease, transfer or other disposition of any of its Assets to any Person other than Permitted Dispositions;
- (f) **Acquisitions:** make, or enter into any binding agreement to make, any Acquisitions other than Permitted Acquisitions;

- (g) **Financial Assistance:** provide any Financial Assistance to any Person other than Permitted Financial Assistance;
- (h) **Distributions:** declare, make or give effect to any Distribution if a Default or Event of Default has occurred and is continuing or would result from the declaration or payment thereof, other than Distributions to the Borrower or another Loan Party;
- (i) **Swaps:** enter into any Swap other than Permitted Swaps and the Second Lien Rate Swap;
- (j) **Capital Expenditures:** make capital expenditures in any Fiscal Year in an amount materially in excess of Permitted Capital Expenditures for such year;
- (k) **Transactions with Affiliates:** engage in, or permit any other Loan Party to engage in, any material transaction with any Affiliate of the Borrower (other than the Borrower or another Loan Party, as applicable) on terms which are materially less favourable to such Loan Party than would be obtainable at the time in comparable transactions with any other Person;
- (l) **Sanctions Laws:** directly or indirectly use the proceeds of the Accommodations, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities or business of or with any Person that, at the time of such funding, is the subject of Canadian Economic Sanctions or U.S. Economic Sanctions, or (ii) in any other manner that would result in a violation of Canadian Economic Sanctions or U.S. Economic Sanctions by any Person (including any Person participating in the Loans, whether as underwriter, advisor, investor, or otherwise);
- (m) **Unsecured Notes:** (i) repay, prepay or purchase any principal amount of the Unsecured Notes prior to the scheduled maturity thereof, or (ii) amend or otherwise modify the terms and conditions relating to the Unsecured Notes;
- (n) **Excess Cash:** request Accommodations which would result in there being Excess Cash;
- (o) **Bilateral LC Facility Agreement:** amend, supplement or otherwise modify any provision of a Bilateral LC Facility that incorporates the terms of this Agreement by reference;
- (p) **Second Lien Loan Documents:** amend, restate, supplement or otherwise modify any of the Second Lien Loan Documents in contravention of Section 8.2 of the Intercreditor Agreement; and
- (q) **Second Lien Repayments and Prepayments:** other than with the proceeds of the issuance by the Borrower of Convertible Debentures, Unsecured Notes, or its equity securities, prepay or repay any obligations (including for clarity, any prepayment as a consequence of a Change of Control) under the Second Lien Term Credit Agreement prior to, on or after the scheduled dates for payment of such obligations as provided in the Second Lien Term Credit Agreement as in effect on the Closing Date (or as amended thereafter with the consent of all of

the Lenders), provided, however, that at the time of such repayment or prepayment, no Default or Event of Default shall have occurred and be continuing, or would reasonably be expected to occur after giving effect to such repayment or prepayment, and further provided that the provisions of this Section 9.3(p) shall not prohibit the repayment or prepayment of such obligations from the proceeds of any Borrowing so long as, at the time of such repayment or prepayment:

- (i) the Consolidated Senior Debt to EBITDA Ratio, on a *pro forma* basis after giving effect to such repayment or prepayment and any Borrowing to be utilized in accordance with this Section 9.3, must be ≤ 2.50 to 1.00;
- (ii) on a *pro forma* basis after giving effect to such repayment or prepayment and any Borrowing to be utilized in accordance with this Section 9.3 (p), the unused portion of the Total Commitment (excluding any portion of the Total Commitment added pursuant to Section 3.26 concurrently or substantially concurrently with such repayment or prepayment) must be an amount equal to or greater than Cdn. \$125,000,000; and
- (iii) no Default or Event of Default shall have occurred and be continuing, or would reasonably be expected to occur after giving effect to such prepayment.

9.4 Financial and Environmental Reporting

The Borrower covenants and agrees with the Agent and each of the Lenders as follows:

- (a) **Annual Financial Statements:** the Borrower shall furnish to the Agent as soon as available and in any event within 90 days after the end of each Fiscal Year, the annual audited consolidated financial statements of the Borrower including consolidated statements of comprehensive income, statement of financial position, statement of changes in shareholders' equity and statement of cash flows setting forth in comparative form the corresponding figures of the preceding Fiscal Year together with an auditor's report confirming that its examinations of such consolidated financial statements were made in accordance with generally accepted auditing standards and accordingly included such tests and other procedures as it considered necessary in the circumstances and that such consolidated financial statements present fairly in all material respects the consolidated financial position of the Borrower as of the close of such Fiscal Year and the results of its operations and the changes in its financial position for the Fiscal Year then ended, in accordance with GAAP;
- (b) **Quarterly Financial Statements:** the Borrower shall furnish to the Agent as soon as available and in any event within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, quarterly unaudited consolidated financial statements of the Borrower including unaudited consolidated statements of comprehensive income, statement of financial position, statement of changes in shareholders' equity and statement of cash flows prepared in accordance with GAAP consistently applied, provided that the Borrower shall be entitled, but shall not be obligated, to prepare condensed financial statements for such Fiscal Quarters as permitted by GAAP;

- (c) **Compliance Certificate:** the Borrower shall furnish to the Agent, concurrently with the provision of the financial statements pursuant to Sections 9.4(a) and 9.4(b), and effective as of the last day of such Fiscal Quarter or Fiscal Year (as the case may be), a duly executed and completed Compliance Certificate, together with (i) a management discussion and analysis report for such Fiscal Year or Fiscal Quarter, and such back-up information as the Agent may reasonably request, and (ii) with respect to the annual financial statements delivered pursuant to Section 9.4(a), a Real Property Listing;
- (d) **Financial Forecasts:** the Borrower shall furnish to the Agent as soon as available and in any event no later than 90 days after the commencement of each Fiscal Year a financial forecast for the current Fiscal Year and the four following Fiscal Years, which forecast includes for each such year a statement of financial position, statement of comprehensive income, statement of changes in shareholders' equity and statement of cash flows, forecasted compliance with the Financial Covenants, and forecast capital expenditures for each such year, detailed on a quarterly basis;
- (e) **Hedging Reports:** unless detailed in the financial statements furnished pursuant to Sections 9.4(a) and 9.4(b), the Borrower shall furnish to the Agent concurrently with delivering such financial statements, a report on the status of all outstanding Swaps, such report to be in a form and containing such information as may be required by the Agent, acting reasonably, which shall in any event: (i) detail all hedging activity occurring during such Fiscal Quarter (or, if delivered with the financial statements pursuant to Section 9.4(a), the Borrower's fourth Fiscal Quarter); (ii) detail the position and market value of all Swaps in effect as at the end of such Fiscal Quarter (or, if delivered with the financial statements pursuant to Section 9.4(a), the Borrower's fourth Fiscal Quarter); and (iii) demonstrate compliance with Section 9.3(i);
- (f) **Environmental Certificate:** concurrent with the provision of the annual financial statements in Section 9.4(a) and effective as of the last day of such Fiscal Year, the Borrower shall provide an Environmental Certificate to the Agent signed by a responsible officer of the Borrower;
- (g) **Hedging Policy:** promptly upon any material changes being made to the Borrower's grant of authority in respect to hedging, the Borrower shall provide a copy thereof to the Agent, specifying the changes that have been made and the rationale therefor;
- (h) **Real Property Listing:** the Borrower shall furnish to the Agent, concurrently with the provision of the financial statements pursuant to Section 9.4(a) and effective as of the last day of such Fiscal Year, a Real Property Listing; and
- (i) **Provision of Information:** the Borrower shall provide to the Agent copies of all financial statements, proxy statements, information circulars, notices and reports as it generally provides to all of its shareholders together with copies of all final prospectuses or other similar offering documents such as private placement memorandums, registration statements, material change reports and annual information forms filed by it with any securities regulatory authorities together

with such other information relating to the business, affairs, operations and financial condition of any Loan Party as the Agent may reasonably request;

provided that the Borrower may satisfy the foregoing by posting such information on www.SEDAR.com or on another website as notified to and agreed to by the Agent provided that the Agent is aware of the address of and any relevant password specifications for such website. The Borrower shall forthwith advise the Agent that such information has been posted to such website and will advise the Agent promptly upon becoming aware that such website cannot be accessed, if the password specifications change or any existing information posted onto such website is amended. If the Agent cannot access such information on the relevant website, the information will instead be provided to the Agent in paper form.

9.5 Material Subsidiaries

- (a) **Designation of Material Subsidiaries:** The Borrower shall, from time to time as is necessary to ensure compliance with Section 9.1(e), designate such Subsidiaries as it shall determine as Material Subsidiaries and shall notify the Agent that such Subsidiary has become a Material Subsidiary and shall furnish the Agent with the name, date and jurisdiction of incorporation of amalgamation, as applicable, description of business and principal place of business address of such Material Subsidiary, and shall cause such Material Subsidiary to provide to the Agent for the benefit of the Lenders, within 20 Business Days of it becoming a Material Subsidiary, a Subsidiary Guarantee and the other Security contemplated by Section 6.3 together with a favourable opinion of counsel satisfactory to the Agent, acting reasonably, as to the legality, validity and enforceability of such Security and as to such other matters as the Agent may reasonably require, and with such other documents, such as certified resolutions and constating documents of such Material Subsidiary, as the Agent may reasonably require.
- (b) **Release of Material Subsidiary Security:** The Borrower shall be entitled to request that a Material Subsidiary which is, or has been designated, a Material Subsidiary no longer be a Material Subsidiary if the absence of such Material Subsidiary would not cause non-compliance with this Agreement, including Section 9.1(e). Upon providing an officer's certificate of the Borrower confirming the foregoing and that no Default or Event of Default has occurred and is continuing and no Default or Event of Default would result from giving effect to such request and the Agent determining that no Default or Event of Default would result from giving effect to such request, the Agent shall confirm in writing the redesignation of such Material Subsidiary as a Non-Material Subsidiary and shall discharge the Security granted by such Non-Material Subsidiary.

9.6 Environmental Indemnity

- (a) The Borrower shall, and shall cause each other Loan Party to, forthwith on demand fully indemnify, defend and save each Lender, the Agent and the Collateral Agent and each of their respective directors, officers, employees and agents, and any of them (in this Section 9.6 any one or more or all of such Persons is referred to as the "**Indemnified Party**") harmless from and against any and all liabilities, losses, claims, damages and expenses (including all reasonable fees of counsel on a solicitor and his own client basis and accountant

fees and reasonable expenses, court costs and all other reasonable out-of-pocket expenses) sustained, paid, incurred or suffered by the Indemnified Party arising in any manner whatsoever out of or as a result of any environmental claims, liabilities or obligations of any and every nature whatsoever relating to or affecting any Loan Party or the Collateral, or the property of others where any Loan Party would be reasonably likely to have any liability in respect thereof under Applicable Law (all or any item or part of the foregoing liabilities, losses, claims, damages and expenses are referred to in this Section 9.6 as a “**Loss**”). Notwithstanding the generality of the foregoing, the Loan Parties shall not be obliged to indemnify the Indemnified Party to the extent any Loss has been incurred by reason of the gross negligence or wilful misconduct of such Indemnified Party. The Borrower acknowledges on behalf of itself and each Loan Party that each Lender is entering into the provisions of this Section 9.6 on its own behalf and as agent and trustee for its directors, officers, employees and agents.

- (b) If any claim (in this Section 9.6 referred to as a “**Claim**”) shall be asserted by any Person against the Indemnified Party which may give rise to a Loss, the Indemnified Party shall promptly notify the Borrower of all particulars of such Claim upon learning of same. The failure to give any such notice, however, shall not affect any Loan Party's liability to indemnify the Indemnified Party unless such failure adversely and materially affects the Borrower's ability to defend, object to, oppose or contest that Claim.
- (c) Each Loan Party shall at all times have the right, if no Default or Event of Default has occurred and is continuing, but shall not be required, at its sole expense, to resist, defend and compromise any Claim in the name of the Indemnified Party, by legal counsel reasonably acceptable to the Indemnified Party who will cooperate in such defence on a reasonable basis; provided that the Indemnified Party shall have the right to participate in the defence or compromise of any Claim by other legal counsel of its choosing if the Indemnified Party, acting reasonably, determines it should so participate; provided that subject to the penultimate sentence of Section 9.6(a) the fees and disbursements of such other counsel shall be paid by the Borrower. The Indemnified Party shall not effect any settlement or compromise of any Claim without the prior written consent of the Borrower. Notwithstanding anything herein to the contrary, the Borrower on its own behalf must defend or must cause the applicable Loan Party to defend such claim, diligently and reasonably throughout the period while such Claim exists. If any Loan Party exercises its rights under this Section 9.6, the Borrower shall cause such Loan Party not to compromise or otherwise settle a Claim without the consent of the Indemnified Party suffering such Claim, which consent shall not be unreasonably withheld or delayed. The inability of the Loan Parties to pay such Claim in full shall constitute a sufficient reason to withhold such consent.
- (d) The Loan Parties shall not, in connection with any Loss in the same jurisdiction, be liable for the fees and expenses of more than one separate legal firm for the Indemnified Parties unless such representation by the same legal counsel would be inappropriate due to actual or potential differing interests or the employment thereof has been specifically authorized by the Borrower in writing and such firm or firms shall be designated in writing by the Agent on behalf of each Indemnified Party.

9.7 Environmental Audit

Upon the occurrence of any circumstance or event or series of circumstances or events which, in the opinion of the Required Lenders, acting reasonably, may result in any material Environmental Liability to the Borrower or any Material Subsidiary, the Agent may, upon the request of the Required Lenders (and after consultation with and written notice to the Borrower), arrange for an environmental audit of the Borrower and any Material Subsidiary to be conducted by an independent environmental engineer or other environmental consultant, at the expense of the Borrower. The Borrower shall, and shall cause each such Material Subsidiary to, upon reasonable notice and so long as any such engineer or consultant agrees to comply with the health and safety standards then generally applicable to the Assets to be audited, provide access to its Assets to any such environmental engineer or consultant in order for such engineer or consultant to conduct such environmental and other inspections as it may deem advisable and in that connection to examine the records, books, Assets, affairs and business operations of the Borrower and such Material Subsidiaries and to make inquiries of government offices concerning compliance by the Borrower and such Material Subsidiaries with Environmental Laws.

ARTICLE 10 EVENTS OF DEFAULT

10.1 Events of Default

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

- (a) **Failure to Pay Principal:** the failure of the Borrower to make any payment of any Borrowings when due hereunder;
- (b) **Failure to Pay Interest or Fees:** the failure of any Loan Party to make any payment of any interest, fees or any other amount due under any Loan Document (other than a Swap Credit Document) when due hereunder or thereunder, as applicable, and such default shall remain unremedied for a period of two Business Days after written notice from the Agent to the Borrower that such amount is overdue;
- (c) **Covenants:** if there is a breach or failure of due performance or observance by any Loan Party of any covenant or provision of this Agreement or any of the Loan Documents (other than those otherwise dealt with in this Section 10.1), unless such breach or failure is cured to the satisfaction of the Required Lenders, acting reasonably, within 30 days after written notice thereof by the Agent to the Borrower;
- (d) **Misrepresentations:** if any representation or warranty made or deemed to be made by the Borrower or any other Loan Party in any Loan Document, certificate or document shall prove to have been incorrect in any material respect when made or deemed to be made or repeated hereunder or thereunder; provided that if the matter, defect or deficiency which is the subject matter of the misrepresentation is capable of correction or remedy (and not merely by changing the representation made), then if it is not corrected or remedied to the

satisfaction of the Required Lenders, acting reasonably, within 30 days after written notice thereof by the Agent to the Borrower;

- (e) **Cross Default:** if any Loan Party is in default under any term or provision of any agreement evidencing or securing Debt of such Loan Party (other than this Agreement) and the holder of such Debt shall have accelerated or shall have the right to accelerate the repayment of any such Debt, or if, as a result of default or the occurrence of any other event or circumstance under any such agreement evidencing any such Debt, any amount becomes payable thereunder by such Loan Party and such Debt shall not be paid within the time required by law, and such breach or default is in respect of an amount which (taken together with any other such breaches or defaults in respect of Debt and taken together with any accelerated amounts in respect of Debt) is in the aggregate in excess of 5% of Consolidated Tangible Assets;
- (f) **Cease to Carry on Business:** if any Loan Party ceases or threatens to cease to carry on business other than in accordance with the provisions hereof;
- (g) **Voluntary Insolvency:** if any Loan Party shall:
 - (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or of all or any part of its assets or undertaking having a value (for all Loan Parties subject to such an appointment at the same time) in the aggregate in excess of 5% of Consolidated Tangible Assets;
 - (ii) make or threaten to make a general assignment for the benefit of creditors or make or threaten to make a bulk sale of its assets; or be unable, or admit in writing its inability or failure, to pay its debts generally as they become due;
 - (iii) commence any case, proceeding or other action under any Debtor Relief Laws seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts or an arrangement with creditors or taking advantage of any insolvency law or proceeding for the relief of debtors, or file an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding;
 - (iv) take corporate or partnership action for the purpose of effecting any of the foregoing; or
 - (v) commit or threaten to commit an act which, if committed by a corporation, would constitute bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) or any statute passed in substitution therefor, as amended from time to time;
- (h) **Involuntary Insolvency:** if any case, proceeding or other action shall be instituted in any court of competent jurisdiction against any Loan Party seeking in respect of it an adjudication in bankruptcy, reorganization, dissolution, winding-

up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or the like of such Loan Party or of all or any part of its assets having a value (for all Loan Parties subject to such an appointment at the same time) in the aggregate in excess of 5% of Consolidated Tangible Assets, or any other like relief in respect of such Loan Party under any Debtor Relief Laws and, if such case, proceeding or other action is being contested by the Borrower in good faith, the same shall continue undismissed or unstayed and in effect for any period of 30 consecutive days (or such longer period, not exceeding 60 days, as is required to dismiss or stay or render ineffective such case, proceeding or other action); provided that if an order, decree or judgment is granted (whether or not entered or subject to appeal) against a Loan Party thereunder or a trustee, receiver or liquidator is appointed in the interim and such order, decree, judgment or appointment is not stayed or discharged within five days of it being granted, such grace period shall cease to apply;

- (i) **Change in Ownership:** if a Change of Control occurs;
- (j) **Judgments:** if a final judgment or judgments for the payment of money shall be rendered against any Loan Party in an amount in excess of 5% of Consolidated Tangible Assets and such judgment or judgments shall remain undischarged for a period of 30 days during which such judgment or judgments shall not be on appeal or execution thereof shall not be effectively stayed;
- (k) **Writs:** if writs, executions, attachments or similar processes are issued or levied against any of the property of any Loan Party, in an aggregate amount which is in excess of the lesser of 5% of Consolidated Tangible Assets and such writ, execution, attachment or similar process remains undischarged or unreleased for a period of 30 days;
- (l) **Encumbrancers:** if encumbrancers or lienors lawfully take possession of any property of any Loan Party having a value in an aggregate amount which is in excess of 5% of Consolidated Tangible Assets and such possession continues for a period of 30 days;
- (m) **Invalid Loan Documents:** if any material provision of any Loan Document is invalid or unenforceable in whole or in a material part, or any of the Security Interests in any material Collateral fails to attach thereto or to have the priority intended thereby, and, in either case, the same is not cured to the satisfaction of the Required Lenders, acting reasonably, within 30 days after notice thereof by the Agent to the Borrower;
- (n) **Lender Swaps:** if any Loan Party breaches or is in default under any Lender Swap and such breach or default is not remedied within any applicable cure or permitted collateralization period in the relevant agreement with respect thereto; or
- (o) **Second Lien Loan Documents:** any "Event of Default" has occurred and is continuing under (and as defined in) the Second Lien Term Credit Agreement.

10.2 Acceleration

Upon the occurrence of any Event of Default which has not been remedied or waived, the Agent on behalf of the Lenders, and with the approval of the Required Lenders shall be entitled to, without limiting or restricting other remedies or rights under contract, at law or in equity, as the Agent and the Required Lenders may in their sole and unfettered discretion determine:

- (a) **Terminate Commitment:** cease to make or continue any Borrowings hereunder, notwithstanding any prior receipt by the Agent of a Borrowing Notice, Conversion Notice or a Rollover Notice or any other event and the Agent may, by written notice to the Borrower, declare the Total Commitment and the right of the Borrower to apply for further Accommodations to be terminated; and
- (b) **Acceleration Notice:** by written notice to the Borrower (an “**Acceleration Notice**”), declare all Borrowings (including the face amount of all Bankers’ Acceptances and the undrawn amount of all outstanding Letters of Credit) and all other Obligations to be immediately due and payable (or to be due and payable at such later time as may be stated in such notice) without further demand, presentation, protest or other notice of any kind, all of which are expressly waived by the Borrower;

provided that upon the occurrence of an Event of Default specified in Section 10.1(g) or 10.1(h) the Commitment shall automatically terminate and all Borrowings (including the face amount of all Bankers’ Acceptances and the undrawn amount of all outstanding Letters of Credit) and all other Obligations (other than any Swap Indebtedness) shall automatically become due and payable, in each case without any requirement that notice be given to the Borrower. Immediately upon the occurrence of an Event of Default specified in Section 10.1(g) or 10.1(h) or at the time stated in an Acceleration Notice, the Borrower shall pay to the Agent on behalf of the Lenders and the Creditcard Lenders all amounts owing or payable in respect of all Borrowings (including the face amount of all Bankers’ Acceptances and the undrawn amount of all outstanding Letters of Credit) and other Obligations, failing which all rights and remedies of the Agent and the Lenders under the Loan Documents shall thereupon become enforceable.

10.3 Demands for Repayment

- (a) **Lender Demands:** If the Agent, on behalf of the Required Lenders, delivers an Acceleration Notice, each Swap Lender may, within three Business Days, deliver (to the extent applicable to it) a Swap Demand for Repayment.
- (b) **Termination Event:** If a Termination Event has occurred and all the Lender Outstandings are not thereafter due and payable, each Lender (other than a Swap Lender) shall, within three Business Days, deliver such Demands for Repayment as may be necessary to ensure that all Lender Outstandings (other than Permitted Swap Indebtedness) are thereafter due and payable.
- (c) **Swap Demand:** If a Termination Event has occurred and any Swap Lender proposes to deliver a Swap Demand for Repayment, such Lender shall notify the Agent of its determination, and the Agent, within a further five Business Days after receipt of the aforesaid notice, shall notify all Swap Lenders whether the Agent, on behalf of the Required Lenders, proposes to deliver an Acceleration

Notice hereunder. If the Agent does not so advise the Swap Lenders within such five Business Day period it shall be deemed to have advised that the Required Lenders do not propose to deliver an Acceleration Notice. If the Agent does notify the Swap Lenders that the Required Lenders propose to deliver an Acceleration Notice, all Demands for Repayment shall be delivered concurrently by the Agent and the Swap Lenders. If the Agent does notify the Swap Lenders that the Required Lenders do not propose, or the Agent is deemed to have advised that the Required Lenders do not propose, to deliver an Acceleration Notice, the Swap Lender which delivered the notice to the Agent may at any time within 30 Business Days thereafter deliver the Swap Demand for Repayment. If the Swap Lender delivering any such Demand for Repayment does not receive the amount so demanded on or prior to the time stated in such Swap Demand for Repayment, such Swap Lender shall so notify the Agent and the Agent and each other Lender and Swap Lender shall forthwith concurrently deliver such Demands for Repayment as may be necessary to ensure that all Lender Outstandings are thereafter due and payable.

- (d) **No Sharing:** Any amounts which are lawfully received by any Swap Lender under a Swap prior to the earlier of the delivery by the Agent of a Demand for Repayment or the occurrence of a Termination Event hereunder are not required to be shared pursuant to the provisions of Section 10.7.
- (e) **Lender Affiliates:** If a Lender Swap is entered into with an Affiliate of a Lender, that Lender shall cause such Affiliate to deliver all Swap Demands for Repayment as required by this Section 10.3 and such obligations shall survive such Lender (at any time after any such Lender Swap was entered into) ceasing to be a Lender hereunder.

10.4 Cash Collateral Accounts

Upon the occurrence of:

- (a) a Termination Event or delivery of an Acceleration Notice; or
- (b) an event under Section 4.2 or Section 4.3 where the Borrower elects in accordance with Section 4.4 to make payment to a Cash Collateral Account of the required amount;

the Borrower shall forthwith pay to the Agent, for deposit into a Cash Collateral Account, an amount equal to the Lender's maximum potential liability under then outstanding Bankers' Acceptances, Letters of Credit and (unless the Borrower makes payment of the amount required pursuant to Section 11.6) Libor Loans (collectively, the "**Escrow Funds**"). The Escrow Funds shall, in the case of (a) above, be held by the Agent for set-off against future indebtedness owing by the Borrower to the Lenders in respect of such Bankers' Acceptances, Letters of Credit and (unless the Borrower makes payment of the amount required pursuant to Section 11.6) Libor Loans, or, in the case of (b) above, be applied as required by Section 4.2 or 4.3.

10.5 Remedies on Default

After an Event of Default:

- (a) **Required Lenders Instructions:** if the Required Lenders provide directions or instructions to the Agent, the Agent, on behalf of all Lenders and Swap Lenders, shall take such actions and commence such proceedings as the Required Lenders in their sole discretion may determine and may enforce or otherwise realize upon any Security, all without any obligation to marshal any Security Interests and without additional notice, presentation, demand or protest, all of which the Borrower hereby expressly waives (to the extent such rights may be waived under Applicable Law). The rights and remedies of the Agent and the Lenders under the Loan Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by law. If, from time to time, there are no LC Facility Lenders and there are no Lenders other than Swap Lenders, the Required Lenders for the purposes of this Agreement shall be calculated by revising paragraph 0 of the definition of Required Lenders to change the references to “Borrowings” to “Lender Outstandings (excluding Creditcard Obligations and LC Facility Obligations)” and deleting the words “under the Syndicated Facility, Operating Facility”; and
- (b) **General Remedies:** the rights and remedies of the Agent and each Lender and Swap Lender under the Loan Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by law. The Agent may, on behalf of all Lenders and Swap Lenders, and shall, if so required by 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 but not limited to:
- (i) **Specific Performance:** the specific performance of any covenant or agreement contained in the Loan Documents;
 - (ii) **Injunction:** enjoining a violation of any of the terms of the Loan Documents;
 - (iii) **Assistance:** aiding in the exercise of any power granted by the Loan Documents or by law; or
 - (iv) **Judgment:** obtaining and recovering judgment for any and all amounts due in respect of the Borrowings or amounts otherwise due hereunder or under the Loan Documents.

10.6 Right of Set-Off

If an Event of Default shall have occurred and be continuing, each Lender and each of its respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by such Lender or any such Affiliate, to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or its respective Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided

that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 14.2 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 (y) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the Lender Outstandings owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section 10.6 are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Borrower and the Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application. Notwithstanding the foregoing or the provisions of any Swap, the Lenders and Swap Lenders shall not effect or purport to effect any set-off of Swap Indebtedness that is not Permitted Swap Indebtedness against or on account of any Lender Outstandings owed to it.

10.7 Application and Sharing of Payments Following Acceleration

Except as otherwise agreed to by all the Lenders in their sole discretion, all monies and property received by the Lenders (in their capacity as Lenders and, if applicable, Swap Lenders, LC Facility Lenders or Creditcard Lenders) for application in respect of the Lender Outstandings or any other Swap Indebtedness subsequent to the delivery of an Acceleration Notice or the occurrence of an Event of Default specified in Sections 10.1(g) or 10.1(h) (including all monies received as a result of a realization upon the Security or the exercise of a right of set-off), shall be applied and distributed to the Lenders (in their capacity as Lenders and, if applicable, Swap Lenders, LC Facility Lenders and Creditcard Lenders) in the manner set forth below, each such application to be made in the following order with any balance remaining after application in respect of each category to be applied to the next succeeding category:

- (a) firstly, in or towards payment of any fees or expenses then due and payable to the Agent hereunder or under any other Loan Document;
- (b) secondly, *pro rata* among the Syndicated Lenders and the Operating Lender in respect of amounts due and payable to such Lenders as and by way of recoverable expenses hereunder or under any of the Security;
- (c) thirdly, *pro rata* among the Syndicated Lenders and the Operating Lender in respect of amounts due and payable to such Lenders by way of interest pursuant to Sections 5.1, 5.2 and 5.3, acceptance fees pursuant to Section 5.4, Letter of Credit Fees pursuant to Section 5.5, Creditcard Facility or Cash Management Services fees pursuant to Section 5.6, interest on overdue amounts pursuant to Section 5.7 and standby fees pursuant to Section 5.12 and all fees under the Bilateral LC Facility Agreements;
- (d) fourthly, *pro rata* among the Syndicated Lenders, the Operating Lender and the LC Facility Lenders in respect of any other amount (other than Lender Outstandings) not hereinbefore referred to in this Section 10.7 which are then due and payable to any of them by the Borrower hereunder or under any other Loan Document;

- (e) fifthly, *pro rata* among the Syndicated Lenders, the Operating Lender, the Creditcard Lenders, the LC Facility Lenders and the Swap Lenders in or towards repayment of the Lender Outstandings; and
- (f) sixthly, *pro rata* in or towards repayment to the Swap Lenders of all Swap Indebtedness in excess of the Permitted Swap Indebtedness.

To the extent that a Lender Swap is entered into by an Affiliate of a Lender, that Lender shall cause such Affiliate to comply with the provisions of this Section 10.7 and such obligation shall survive such Lender (at any time after any such Lender Swap was entered into) ceasing to be a Lender hereunder.

10.8 Adjustments

In the event that:

- (a) **Contingent Liabilities:** at the Adjustment Time, a portion of the Borrowings is outstanding as Letters of Credit and it is subsequently determined that the Operating Lender is not required to make payment under any one or more such instruments; or
- (b) **Notice Periods:** any of the Lenders are required by Applicable Law to continue to make advances or other amounts available to the Borrower subsequent to the Adjustment Time by reason of a requirement in Applicable Law to give the Borrower a reasonable period of notice prior to terminating such Lender's obligation to make such advances or other amounts available;

then, whenever and so often as that occurs:

- (c) **Sharing Adjustment:** the terms "Rateable" and "Rateably" shall, *ipso facto*, as at the Adjustment Time be redetermined by excluding from the determination of the amount of Lender Outstandings any payments not required to be made as a result of the occurrence of an event described in Section 10.8(a) and by including in the determination of the amount of Lender Outstandings any amount required to be made available pursuant to Section 10.8(b); and
- (d) **Lender Outstandings:** Lender Outstandings shall be redetermined by excluding from the determination of the amount of Lender Outstandings any payments not required to be made as a result of the occurrence of an event described in Section 10.8(a) and by including in the determination of Lender Outstandings any amount required to be made available pursuant to Section 10.8(b);

and the Lenders shall thereupon make all such payments and adjustments as may be necessary to ensure amounts outstanding to the Lenders are thereafter outstanding in accordance with the provisions of Section 12.18.

10.9 Calculations as at the Adjustment Time

For the purposes of this Agreement, if:

- (a) **Swap Demand:** a Termination Event has occurred and a Swap Demand for Repayment has been delivered; or
- (b) **Termination Event:** a Termination Event has occurred under any Swap Credit Document;

then, for the purposes of calculations to be made at the Adjustment Time, any Termination Amount which is payable by any Loan Party under such Swap in settlement of obligations arising thereunder as a result of the early termination of the Swap shall be deemed to have become payable at the time of delivery of such Swap Demand for Repayment or the time of occurrence of such Termination Event as the case may be, notwithstanding that the amount payable by any Loan Party is to be subsequently calculated and notice thereof given to such Loan Party in accordance with such Swap. For the purposes of the foregoing, the Agent shall make all determinations of the applicable Termination Amounts in accordance with its usual practices, acting reasonably, and for such purposes each Lender shall provide details to the Agent of its own calculations of the applicable Termination Amounts.

10.10 Agent May Perform Covenants

If any Loan Party shall fail to perform any of its obligations under any covenant contained in any of the Loan Documents within the time permitted for the performance of any such covenant or for the cure of any default thereof, the Agent may, on behalf of the Lenders and with the approval of the Required Lenders and with prior notification to the Borrower, perform any such covenant capable of being performed by it and, if any such covenant requires the payment or expenditure of money, it may make such payment or expenditure with its own funds on behalf of the Lenders. If the Agent elects to effect such observance or performance, neither the Agent nor any Lender shall be liable for any failure or deficiency in effecting such observance or performance, nor for the payment of any bills, invoices or accounts incurred or rendered in connection therewith, except to the extent the Agent or such Lender is grossly negligent or acts with wilful misconduct. All amounts so paid by any Lender or the Agent hereunder shall be repaid by the Borrower on demand therefor, and shall bear interest at the rate set forth in Section 5.7 from and including the date paid by the Agent hereunder to but excluding the date such amounts are repaid in full by the Borrower and shall be secured by the Security.

10.11 Waiver of Default

Any single or partial exercise by any Lender or Swap Lender, the Agent or by the Agent on behalf of any Lender or Swap Lender of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in the Loan Documents shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy to which the Agent or such Lender or Swap Lender may be lawfully entitled for the same default or breach, and any waiver by any Lender or Swap Lender, the Agent or by the Agent on behalf of any Lender or Swap Lender of the strict observance, performance or compliance with any term, covenant, condition or agreement contained in the Loan Documents, and any indulgence granted thereby, shall be deemed not to be a waiver of any subsequent default. To the extent permitted by Applicable Law, the Borrower hereby waives any rights now or hereafter conferred by statute or otherwise which are inconsistent with the Agent's or a Lender's or Swap Lender's rights or remedies under the Loan Documents.

10.12 Sharing Repayments

Each Lender agrees that, subsequent to the Adjustment Time, it will at any time and from time to time upon the request of the Agent purchase portions of the Lender Outstandings and make any other adjustments which may be necessary or appropriate in order that amounts which remain outstanding under the Loan Documents to each Lender or thereafter outstanding, as adjusted pursuant to this Section 10.12, are in accordance with the provisions of Section 10.7. The Borrower agrees to do all things reasonably necessary or appropriate to give effect to any and all purchases and other adjustments by and between the Lenders pursuant to this Section 10.12.

ARTICLE 11 EXPENSES AND INDEMNITIES

11.1 Increased Cost

- (a) **Increased Costs Generally.** If any Change in Law shall:
- (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge, capital adequacy or additional capital requirement, or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;
 - (ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement, or any Accommodation made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 11.2 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender); or
 - (iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or any Accommodation made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Accommodation or of maintaining its obligation to make any such Accommodation, or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Borrower will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender, as the case may be, for such additional costs incurred or reduction suffered.

- (b) **Capital Requirements.** If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital requirements, has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Accommodations made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrower

will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

- (c) **Certificates for Reimbursement.** A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower (and accompanied by a photocopy of the relevant law, rule, guideline, regulation, treaty or official directive), shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.
- (d) **Delay in Requests.** Failure or delay on the part of any Lender to demand compensation pursuant to this Section 11.1 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section 11.1 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

11.2 Taxes.

- (a) **Payments Free of Taxes.** Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document (excluding Swap Credit Documents) shall be made free and clear of and without reduction or withholding for any Indemnified Taxes, provided that if the Borrower shall be required by Applicable Law thereof to deduct any Indemnified Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 11.2(a)) the Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.
- (b) **Payment of Other Taxes by the Borrower.** Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.
- (c) **Indemnification by the Borrower.** The Borrower shall indemnify the Agent and each Lender, within 10 days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by the Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

- (d) **Evidence of Payments.** As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.
- (e) **Status of Lenders.** Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to the Agent), at the time or times prescribed by Applicable Law or reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by the Borrower or the Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.
- (f) **FATCA.** If a payment made by the Borrower to a Lender under any Loan Document would be subject to US federal withholding Tax imposed under FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of Code, as applicable), such Lender shall deliver to the Borrower and the Agent at the time or times prescribed by law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable law and such additional documentation reasonably requested by the Borrower and the Agent as may be necessary for the Borrower or the Agent to comply with their obligations under FATCA and to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (f), “**FATCA**” shall include any amendments made to FATCA after the date of this Agreement. 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 Borrower and the Agent of its legal inability to do so.
- (g) **Treatment of Certain Refunds.** If the Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 11.2, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 11.2 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender in the event the Agent or such Lender is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require the Agent or any Lender or to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

11.3 Mitigation Obligations, Replacement of Lenders.

- (a) **Designation of a Different Lending Office.** If any Lender requests compensation under Section 11.1 or requires the Borrower to pay additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 11.2, or if any Lender's obligations are suspended pursuant to Section 11.3, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking Borrowings hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 11.1 or 11.2, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.
- (b) **Replacement of Lenders.** If any Lender requests compensation under Section 11.1 or if the Borrower is required to pay additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 11.2 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 11.3(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 13.1), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:
- (i) the Borrower shall have paid to the Agent the assignment fee (if any) specified in Section 13.1(b)(iv) on behalf of such Lender;
 - (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Accommodations, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any breakage costs and amounts required to be paid under this Agreement as a result of prepayment to a Lender) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
 - (iii) in the case of any such assignment resulting from a claim for compensation under Section 11.1 or payments required to be made pursuant to Section 11.2, such assignment will result in a reduction in such compensation or payments thereafter;
 - (iv) such assignment does not conflict with Applicable Law; and
 - (v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

11.4 Illegality

If the introduction of or any change in Applicable Law, regulation, treaty, official directive or regulatory requirement now or hereafter in effect (whether or not having the force of law) or any change in the interpretation or application thereof by any court or by any judicial or governmental authority charged with the interpretation or administration thereof, makes it unlawful or prohibited for a Lender (in its sole opinion acting reasonably and in good faith) to make, fund or maintain the Borrowings or a portion of the Borrowings or to perform its obligations under this Agreement, such Lender may by written notice to the Borrower through the Agent terminate its obligations under this Agreement to make such Borrowings or perform such obligations and the Borrower shall either (a) prepay such Borrowings within 15 Business Days together with all accrued but unpaid interest and fees as may be applicable to the date of payment, or (b) convert by notice to the Agent or the Operating Lender, as applicable, such Borrowings forthwith into another basis of Borrowing available under this Agreement.

11.5 Substitute Basis of Borrowing

(a) **Libor Loans:** Notwithstanding anything to the contrary herein contained, if at any time subsequent to the giving of a Borrowing Notice, a Conversion Notice or a Rollover Notice to the Agent by the Borrower with regard to any requested Libor Loan:

- (i) the Agent (acting reasonably) determines that by reason of circumstances affecting the London interbank market, adequate and fair means do not exist for ascertaining the rate of interest with respect to, or deposits are not available in sufficient amounts in the ordinary course of business at the rate determined hereunder to fund, a requested Libor Loan during the ensuing Libor Interest Period selected;
- (ii) the Agent (acting reasonably) determines that the making or continuing of the requested Libor Loan by the Syndicated Lenders has been made impracticable by the occurrence of an event which materially adversely affects the London interbank market generally; or
- (iii) the Agent is advised by Lenders, acting reasonably, holding at least 25% of the Total Syndicated Facility Commitment by written notice (each, a “**Lender Libor Suspension Notice**”), such notice to be received by the Agent no later than 12:00 noon (Calgary time) on the third Business Day prior to the date of the requested Drawdown, Rollover or Conversion, as the case may be, that such Lenders have determined (acting reasonably) that Libor will not or does not represent the effective cost to such Lenders of U.S. Dollar deposits in the London interbank market for the relevant Libor Interest Period,

then the Agent shall give notice thereof to the Lenders and the Borrower as soon as possible after such determination or receipt of such Lender Libor Suspension Notice, as the case may be, and the Borrower shall, within one Business Day after receipt of such notice and in replacement of the Borrowing Notice, Conversion Notice or Rollover Notice, as the case may be, previously given by the Borrower, give the Agent a

Borrowing Notice or a Conversion Notice, as the case may be, which specifies the Drawdown of any other Accommodation or the Conversion of the relevant Libor Loan on the last day of the applicable Libor Interest Period into any other Accommodation which would not be affected by the notice from the Agent pursuant to this Section 11.5.

In the event the Borrower fails to give, if applicable, a valid replacement Conversion Notice or Rollover Notice with respect to the maturing Libor Loans which were the subject of a Conversion Notice or Rollover Notice, such maturing Libor Loans shall be converted on the last day of the applicable Libor Interest Period into U.S. Base Rate Loans as if a valid replacement Conversion Notice had been given to the Agent by the Borrower pursuant to the provisions hereof. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to a Drawdown originally requested by way of a Libor Loan, then the Borrower shall be deemed to have requested a Drawdown by way of a U.S. Base Rate Loan in the amount specified in the original Borrowing Notice and, on the originally requested Drawdown Date, the Lenders (subject to the other provisions hereof) shall make available the requested amount by way of a U.S. Base Rate Loan.

If at any time the Agent determines (which determination shall be conclusive, absent manifest error) that:

- (iv) the circumstances described in Section 11.5((a)(i) have arisen and such circumstances are unlikely to be temporary;
- (v) the circumstances described in Section 11.5(a)(i) have not arisen, but either (i) the applicable supervisor or administrator of Libor or (ii) a governmental authority having jurisdiction over the Agent, has made a public statement identifying a specific date after which Libor shall no longer be used for determining interest rates for loans (either such date, a "**Libor Discontinuation Date**"); or
- (vi) a rate other than Libor has become a widely recognized benchmark rate for newly originated United States Dollar loans made in Canada,

then the Agent and the Borrower shall negotiate in good faith to select a replacement index for Libor and make adjustments to the Applicable Margin and other related amendments to this Agreement that shall give due consideration to the prevailing market practice for: (A) determining a rate of interest applicable to newly originated United States Dollar loans made in Canada at such time, and (B) transitioning existing loans from Libor based interest rates to loans bearing interest calculated with reference to the new reference rate; provided that, to the extent reasonably practicable, the all-in interest rate paid by the Borrower under this Agreement based on such replacement index will be substantially equivalent to the all-in interest rate applicable to Libor Loans made hereunder prior to Libor's replacement.

Upon an agreement being reached between the Agent and the Borrower pursuant to the immediately preceding paragraph, the Agent and the Borrower shall enter into an amendment to this Agreement that gives effect to the replacement reference rate of interest, adjustments to the Applicable Margin and such other related amendments as may be appropriate in the discretion of the

Agent for the implementation and administration of United States Dollar loans bearing interest calculated with reference to the replacement index. Notwithstanding anything to the contrary in this Agreement or any other Document such amendment shall become effective at 5:00 p.m. (Calgary time) on the fifth Banking Day after a copy of the amendment is provided to the Lenders and without any further action or consent of any other party to this Agreement, unless the Agent receives, on or before such date and time, a written notice from the Required Lenders stating that such Lenders object to such amendment.

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

- (a) any requested Drawdown by way of, Conversion into, or Rollover of, Libor Loans shall be deemed to be a request for a U.S. Base Rate Loan in the same principal amount; and
- (b) in respect of a maturing Libor Loan, in the event the Borrower fails to give, if applicable, a Conversion Notice with respect thereto specifying the Conversion of such Libor Loan on the last day of the applicable Libor Interest Period into a Loan other than a Libor Loan (and provided a valid notice of repayment has not been delivered to the Agent in respect thereof), such maturing Libor Loan shall be converted on the last day of the applicable Libor Interest Period into a U.S. Base Rate Loan as if a valid Conversion Notice had been given to the Agent by the Borrower pursuant to the provisions hereof.

For certainty, (a) if the replacement reference rate of interest agreed upon to replace Libor would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement and (b) upon the occurrence of a Libor Discontinuation Date, the U.S. Base Rate shall be determined without regard to paragraph (c) of the definition thereof.

(b) **Bankers' Acceptances:** If:

- (i) the Agent (acting reasonably) makes a determination, which determination shall be conclusive and binding upon the Borrower, and notifies the Borrower, that there no longer exists an active market for bankers' acceptances accepted by the Syndicated Lenders; or
- (ii) the Agent is advised by Lenders holding at least 25% of the Total Syndicated Facility Commitment by written notice (each, a "**Lender BA Suspension Notice**") that such Lenders have determined (acting reasonably) that the Discount Rate will not or does not accurately reflect the cost of funds of

such Lenders or the discount rate which would be applicable to a sale of Bankers' Acceptances accepted by such Lenders in the market;

then:

- (iii) the right of the Borrower to request Bankers' Acceptances or BA Equivalent Advances from any Lender shall be suspended until the Agent determines that the circumstances causing such suspension no longer exist, and so notifies the Borrower and the Lenders;
- (iv) any outstanding Borrowing Notice requesting an Accommodation by way of Bankers' Acceptances or BA Equivalent Advances shall be deemed to be a Borrowing Notice requesting a Prime Loan in the amount specified in the original Borrowing Notice;
- (v) any outstanding Conversion Notice requesting a Conversion of a U.S. Base Rate Loan or Libor Loan into a Bankers' Acceptance or BA Equivalent Advance shall be deemed to be a Conversion Notice requesting a Conversion of such Loan into a Prime Loan; and
- (vi) any outstanding Rollover Notice requesting a Rollover of a Bankers' Acceptance or BA Equivalent Advance shall be deemed to be a Conversion Notice requesting a Conversion of such Bankers' Acceptances into a Prime Loan.

The Agent shall promptly notify the Borrower and the Lenders of any suspension of the Borrower's right to request Bankers' Acceptances or BA Equivalent Advances and of any termination of any such suspension. A Lender BA Suspension Notice shall be effective upon receipt of the same by the Agent if received prior to 12:00 noon (Calgary time) on a Business Day and if not, then on the next following Business Day, except in connection with a Borrowing Notice, Conversion Notice or Rollover Notice previously received by the Agent, in which case the applicable Lender BA Suspension Notice shall only be effective with respect to such previously received Borrowing Notice, Conversion Notice or Rollover Notice if received by the Agent prior to 12:00 p.m. (Calgary time) two Business Days prior to the proposed Drawdown Date, Conversion Date or Rollover Date (as applicable) applicable to such previously received Borrowing Notice, Conversion Notice or Rollover Notice, as applicable.

11.6 Funding Indemnity

If, for any reason whatsoever and whether or not required or permitted pursuant to the provisions of this Agreement, the Borrower repays, prepays, converts or cancels a Libor Loan other than on the last day of a Libor Interest Period applicable to such Libor Loan, or fails for any reason to borrow, convert, rollover or otherwise act in accordance with a notice given hereunder pursuant to Schedule "B" or Schedule "C", the Borrower shall indemnify the Applicable Lender for any loss or expense incurred by such Lender as a direct result thereof including any loss of profit or expenses such Lender incurs by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to maintain the Libor Loan or other Borrowing or any increased interest or other charges payable to lenders of funds borrowed in order to maintain such Libor Loan or other Borrowing together with any other out-of-pocket charges, costs or expenses incurred by such Lender relative thereto. A certificate of such Lender (acting reasonably and prepared in good faith) submitted by such Lender setting

out the basis for the determination of the amount necessary to indemnify such Lender shall be *prima facie* evidence thereof.

ARTICLE 12 THE AGENT AND THE LENDERS

12.1 Appointment and Authority

Each of the Lenders and the Swap Lenders hereby irrevocably appoints ATB to act on its behalf as the Agent hereunder and under the other Loan 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.

Each of the LC Facility Lenders hereby irrevocably appoints ATB to act on its behalf as the Agent hereunder and under the Subsidiary Guarantees, the Security and the Intercreditor Agreement 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 thereof, together with such actions and powers as are reasonably incidental thereto.

The provisions of this Article are solely for the benefit of the Agent, the Lenders and the Swap Lenders, and the Borrower shall not have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other similar term) with reference to the Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

12.2 Rights as a Lender

The Person serving as 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 the Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

12.3 Exculpatory Provisions

- (a) The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Agent:
- (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;
 - (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly

contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

- (iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.
- (b) The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Agent in writing by the Borrower or a Lender.
- (c) 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 Loan 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, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article 8 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

12.4 Reliance by Agent

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, Internet or intranet website 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 Accommodation 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 Accommodation. The Agent may consult with legal counsel (who may be counsel for the Borrower), 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.

12.5 Delegation of Duties

The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-Agents appointed by the Agent. The Agent and any such sub-Agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-Agent and to the Related Parties of the Agent and any such sub-Agent, and shall apply to their respective activities in connection with the syndication of the Facilities as well as activities as Agent.

12.6 Resignation of Agent

- (a) 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 bank with an office in Calgary, Alberta or Toronto, Ontario, or an Affiliate of any such bank with an office in Calgary, Alberta or Toronto, Ontario. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “**Resignation Effective Date**”), then the retiring Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.
- (b) If the Person serving as Agent is a Defaulting Lender pursuant to clause (c) of the definition thereof, the Required Lenders may, to the extent permitted by Applicable Law, by notice in writing to the Borrower and such Person remove such Person as Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “**Removal Effective Date**”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.
- (c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (2) 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, if any, as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of 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 retiring or removed Agent, and the retiring or removed Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. 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 retiring or removed Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 14.2 shall continue in effect

for the benefit of such retiring or removed Agent, its sub-Agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Agent was acting as Agent.

12.7 Non-Reliance on Agent and Other Lenders

Each Lender and Swap Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or Swap Lender or any of their Related Parties 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 and Swap Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or Swap Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

12.8 No Other Duties, etc.

Anything herein to the contrary notwithstanding, none of the Bookrunners or Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents except in its capacity, as applicable, as the Agent, a Lender or a Swap Lender hereunder.

12.9 Agent May File Proofs of Claim

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Accommodation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letters of Credit and all other Lender Outstandings that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Agent and their respective counsel and all other amounts due to the Lenders and the Agent under Article 5 and Section 14.2 allowed in such judicial proceeding; and
- (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Swap Lender to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders and the Swap Lenders, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its Agents and counsel, and any other amounts due the Agent under Article 5 and Section 14.2.

12.10 Collateral and Guarantee Matters

- (a) In addition to the authority granted to the Agent in Section 6.10, the Lenders and the Swap Lenders irrevocably authorize the Agent, at its option and in its discretion,
- (i) to release any Security Interest on any property granted to or held by the Agent under the Loan Documents if unanimously approved, authorized or ratified in writing by the Lenders;
 - (ii) to release any Subsidiary of the Borrower that has provided a Subsidiary Guarantee from its obligations under such Subsidiary Guarantee if such Person ceases to be a Material Subsidiary;
 - (iii) to provide postponements of the Security with respect to any Security Interests created by a Loan Party to the extent such Security Interests are permitted by clause (l) of the definition of Permitted Encumbrances; and
 - (iv) to release the Security with respect to any Assets that are disposed of by a Loan Party to the extent such disposition is permitted by Section 9.3(e).

Upon request by the Agent at any time, the Lenders will confirm in writing the Agent's authority to release its interest in particular types or items of property, or to release any Subsidiary Guarantor from its obligations under its Subsidiary Guarantee pursuant to this Section 12.10.

- (b) The Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Agent's Security Interest over such Collateral, or any certificate prepared by any Loan Party in connection therewith, nor shall the Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

12.11 Rights and Obligations of Each Lender and Swap Lender

The rights and obligations of each Lender and Swap Lender under this Agreement are several, and no Lender shall be obligated to make Borrowings available to the Borrower in excess of the amount of such Lender's Commitment. The failure of a Lender or Swap Lender to perform its obligations under this Agreement shall neither:

- (a) result in any other Lender or Swap Lender incurring any liability whatsoever, provided that a Lender shall remain liable at all times for the performance of the obligations of its Affiliate that is a Swap Lender; nor
- (b) relieve any Loan Party or any other Lender or Swap Lender from its respective obligations under any Loan Document.

Nothing contained herein or in any other Loan Document nor any action taken pursuant hereto or thereto shall be deemed to constitute the Lenders or Swap Lenders a partnership, joint venture or any other similar entity.

Each of the Lenders and Swap Lenders hereby acknowledge that, to the extent permitted by Applicable Law, the remedies provided hereunder to the Lenders and Swap Lenders are for their benefit collectively and acting together and not severally, and further acknowledge that its rights hereunder are to be exercised not severally but collectively by the Agent upon the decision of the Required Lenders regardless of whether an Acceleration Notice has been delivered or an Event of Default under Sections 10.1(g) or 10.1(h) has occurred. Notwithstanding any of the provisions contained herein each of the Lenders and Swap Lenders hereby covenants and agrees that it shall not be entitled to individually take any action with respect to the Loan Documents including taking (including in respect of its Commitment or any indebtedness or liability owed to it) any action contemplated in Sections 10.2 and 10.5, but that any such action shall be taken only by the Agent with the prior written agreement or instructions of the Required Lenders; provided that notwithstanding the foregoing, if the Agent, having been adequately indemnified against costs and expenses of doing so by the Lenders, shall fail to carry out any such instructions of the Required Lenders, any Lender may do so on behalf of all Lenders and Swap Lenders and shall, in so doing, be entitled to the benefit of all protection give the Agent hereunder or elsewhere.

12.12 Notice to Lenders and Swap Lenders

Unless otherwise specifically dealt with in this Agreement, in the event the Agent delivers a written notice to a Lender or a Swap Lender requesting advice from such Lender or Swap Lender as to whether it consents or objects to any matter in connection with the Loan Documents, then, except as otherwise expressly provided herein, if such Lender or Swap Lender does not deliver to the Agent its written consent or objection to such matter:

- (a) where a time period is specified hereunder for the Agent or the Required Lenders to provide any response, notice or other communication prior to the end of such period; or
- (b) where no such time period is specified hereunder, then within 15 Business Days of the delivery of such written notice by the Agent to such Lender or Swap Lender;

such Lender or Swap Lender shall be deemed not to have consented thereto.

12.13 Notices between the Lenders or Swap Lenders, the Agent and the Borrower

All notices by the Lenders or Swap Lenders to the Agent shall be through the Agent's Branch of Account and all notices by the Agent to a Lender or Swap Lender shall be through such Lender's or Swap Lender's Branch of Account. All notices or communications between the Borrower and the Lenders or Swap Lenders which are required or contemplated pursuant to the Loan Documents shall be given or made through the Agent at the Agent's Branch of Account.

12.14 Agent's Duty to Deliver Documents Obtained from the Borrower

The Agent shall promptly, and in any event within five Business Days, deliver to each Lender, at its Branch of Account in hard copy or electronic form, such documents, papers, materials and other information as are furnished by the Borrower to the Agent on behalf of such Lender pursuant to this Agreement, and the Borrower shall provide the Agent with sufficient copies of all such information for such purpose.

12.15 Arrangements for Borrowings

The Agent shall promptly give written notice to each Syndicated Lender at its Branch of Account upon receipt by the Agent of any notice given pursuant to Article 3 or Section 4.4. The Agent shall advise each Syndicated Lender of the amount, date and details of each Syndicated Borrowing and of such Syndicated Lender's share in each Syndicated Borrowing. At or before 11:00 a.m. (Calgary time) on each Drawdown Date, Conversion Date or Rollover Date:

- (a) **Loans:** each Syndicated Lender will make available to the Borrower its share of Syndicated Borrowings by way of Loans by forwarding to the Agent the amount of Loans required to be made available by such Lender; and
- (b) **Bankers' Acceptances:** each Syndicated Lender will make available to the Borrower its share of Syndicated Borrowings by way of Bankers' Acceptances by forwarding to the Agent the amount of the Discount Proceeds in respect of such Bankers' Acceptances (less the amount of applicable BA Acceptance Fees payable by the Borrower to such Lender pursuant to Section 5.4).

12.16 Arrangements for Repayment of Borrowings

- (a) **Prior to Demand or Acceleration:** Prior to the delivery of an Acceleration Notice or the occurrence of an Event of Default specified in Section 10.1(g) or 10.1(h), upon receipt by the Agent of payments from the Borrower on account of principal, interest, fees or any other payment made to the Agent on behalf of the Syndicated Lenders, the Agent shall pay over to each Syndicated Lender at its Branch of Account the amount to which it is entitled under this Agreement and shall use its best efforts to make such payment to such Syndicated Lender on the same Business Day on which such payment is received by the Agent. If the Agent does not remit any such payment to a Lender on the same Business Day as such payment is received by the Agent, the Agent shall pay interest thereon to such Lender until the date of payment at a rate determined by the Agent (such rate to be conclusive and binding on such Lender) in accordance with the Agent's usual banking practice in respect of deposits of amounts comparable to the amount of such payment which are received by the Agent at a time similar to the time at which such payment is received by the Agent.
- (b) **Subsequent to Acceleration:** Following delivery of an Acceleration Notice or the occurrence of an Event of Default specified in Section 10.1(g) or 10.1(h), the Lenders and Swap Lenders shall share any payments subsequently received in accordance with Section 10.7.

12.17 Repayments by Lenders to Agent

- (a) **Payments by Borrower; Presumptions by Agent:** Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Syndicated Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Syndicated 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 the rate determined by the Agent (such rate to be conclusive and binding on such Lender) in accordance with banking industry rules on interbank compensation.

- (b) **Funding by Lenders; Presumption by Agent:** Unless the Agent shall have received notice from a Syndicated Lender prior to a Drawdown Date, Conversion Date or Rollover Date that such Lender will not make available to the Agent the amount required to be made available to such Lender pursuant to this Agreement on such Drawdown Date, Conversion Date or Rollover Date, 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 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Syndicated Lender has not in fact made its share of the applicable advance available to the Agent, then the applicable Lender and the Borrower severally agree to 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 the Borrower to but excluding the date of payment to the Agent, at (i) in the case of a payment to be made by such Lender, at the rate determined by the Agent (such rate to be conclusive and binding on such Lender) in accordance with banking industry rules on interbank compensation, and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to the applicable Accommodation. If the Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable advance to the Agent, then the amount so paid shall constitute such Lender's Accommodation included in such advance. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Syndicated Lender that shall have failed to make such payment to the Agent.

12.18 Adjustments Among Lenders

- (a) **Adjustments to Outstanding Borrowings.** If any Syndicated Lender shall, subsequent to the Adjustment Time, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Syndicated Borrowings resulting in such Lender receiving payment of a proportion of the aggregate amount of the Syndicated Borrowings and accrued interest thereon greater than its Applicable Percentage thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) portions of the Syndicated Borrowings of the other Syndicated Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Syndicated Lenders rateably in accordance with the aggregate amount of principal of and accrued interest on their respective Syndicated Borrowings, provided that:
- (i) 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; and
 - (ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower 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 Borrowings to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

- (b) **Application of Payments:** The Lenders and Swap Lenders agree that, after the Adjustment Time, the amount of any repayment made by the Borrower under, and the amount of any proceeds from the exercise of any rights or remedies of the Agent, the Lenders and Swap Lenders under the Loan Documents will, subject to Section 10.7, be applied in a manner so that to the extent possible the amount of Lender Outstandings of each Lender and Swap Lender which remain outstanding after giving effect to such application will be in the same proportion as its Applicable Percentage of the aggregate Lender Outstandings of all Lenders and Swap Lenders and, after repayment of all Syndicated Borrowings, Operating Borrowings, and Permitted Swap Indebtedness, will be applied on account of any remaining Swap Indebtedness.
- (c) **Receipt of Payments other than Borrowings:** Notwithstanding anything contained in this Section 12.18, there shall not be taken into account for the purposes of computing any amount payable to a Lender or Swap Lender pursuant to this Section 12.18, any amount which such Lender or Swap Lender receives as a result of any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of any monies owing by a Loan Party to such Lender or Swap Lender other than on account of Syndicated Borrowings, Operating Borrowings or Swap Indebtedness; provided that, if at any time a Lender or Swap Lender receives any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of monies owing or payable to it by a Loan Party in respect of liabilities of a Loan Party under Syndicated Borrowings, Operating Borrowings or Swap Indebtedness, such payments will be applied in accordance with Section 10.7; provided further that the provisions of this Section 12.18(c) shall not apply to:
- (i) a Swap Lender which sets off amounts owing by a Loan Party to such Swap Lender under a Permitted Swap against amounts owing by such Swap Lender (including, for clarity, its Affiliates) to a Loan Party under any Permitted Swap entered into between such parties; or
- (ii) a Swap Lender which sets off amounts owing by a Loan Party to such Swap Lender under a Lender Swap (other than a Permitted Swap) against amounts owing by such Swap Lender (including, for clarity, its Affiliates) to a Loan Party under any Lender Swap (other than a Permitted Swap) entered into between such parties.

To the extent that a Lender Swap is entered into by an Affiliate of a Lender, that Lender shall cause such Affiliate to comply with the provisions of this Section 12.18, and such obligation shall survive such Lender (at any time after any such Lender Swap was entered into) ceasing to be a Lender hereunder.

- (d) **Borrower Consent:** The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender or Swap Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender or Swap Lender were a direct creditor of the Borrower in the amount of

such participation. The Borrower agrees, at the request of the Lender, to do all things necessary or appropriate to give effect to any and all purchases and other adjustments made by and between the Lenders and Swap Lenders pursuant to this Section 12.18 but shall incur no increased indebtedness, in aggregate, by reason thereof.

12.19 Lenders' Consents to Waivers, Amendments, etc.

- (a) **Unanimous Consent of Lenders:** Any waiver of or any amendment to a provision of the Loan Documents which relates to:
- (i) a change in the types of Accommodations or interest periods relating thereto;
 - (ii) a decrease in interest rates, standby fees, the Applicable Margin or the Standby Fee Rate;
 - (iii) a change in notice periods or the amount of any payments payable by the Borrower to any Lender under this Agreement, including any waiver of the time of payment thereof, or a change to the required allocation of payments under Section 10.7;
 - (iv) an increase in the Commitment of any Lender, or in the Total Commitment, other than pursuant to Section 3.26;
 - (v) a change in the definition of "CDOR Rate", "Discount Rate" or "Required Lenders";
 - (vi) the postponement of the Maturity Date of a Lender, other than as provided for herein;
 - (vii) Section 9.3(l);
 - (viii) an Event of Default under Section 10.1(a) or 10.1(b);
 - (ix) this Section 12.19;
 - (x) any release, postponement, subordination or modification of the Security except as provided in Sections 6.10 and 12.10 and except for modifications which are mechanical and administrative in nature; or
 - (xi) any matter which, pursuant to the Loan Documents, specifically requires the consent or agreement of all of the Lenders, rather than the consent or agreement of "the Lenders" or the "Required Lenders" or "the Agent";

shall bind the Syndicated Lenders, the Cash Management Lenders, the Creditcard Lenders, the LC Facility Lenders and the Swap Lenders only if such waiver or amendment is agreed to in writing by all of the Syndicated Lenders, provided that any waiver or amendment to a provision of the Loan Documents which relates to the definition of "Required Lenders" or any matter referred to in subsections 12.19 (ix), (x) and (xi) shall also require agreement in writing of the LC Facility Lenders;

- (b) **Majority Consent:** Subject to Section 12.19(a) and except as otherwise provided in the Loan Documents, any waiver, consent to or any amendment to any provision of the Loan Documents and any action, consent or other determination in connection with the Loan Documents shall bind all of the Syndicated Lenders, the Cash Management Lenders, the Creditcard Lenders, the LC Facility Lenders, Swap Lenders, and the Operating Lender if such waiver, amendment, action, consent or other determination is agreed to in writing by the Required Lenders. It is the intent of the parties to this Agreement that the Lenders which are also Second Lien Lenders (or Affiliates of Second Lien Lenders) shall never constitute, in the aggregate, Lenders holding voting rights effective for any Commitments exceeding 33 1/3% of the aggregate of the Total Commitment and the Total LC Facility Commitment, nor, if an Event of Default occurs, shall they be allocated more than 33 1/3% of lender voting rights even if there is then or at any time thereafter outstanding to such Lenders more than 33 1/3% of the aggregate of the Borrowings and the LC Borrowings.
- (c) **Agent's Consent:** Any waiver, consent to or any amendment to any provision of the Loan Documents which relates to the rights or obligations of the Agent shall require the agreement of the Agent thereto.
- (d) **Operating Lender's Consent:** Any waiver, consent to or any amendment to any provision of the Loan Documents which relates to the rights or obligations of the Operating Lender shall only require the agreement of the Operating Lender thereto.
- (e) **Fronting Lender's Consent:** Any waiver, consent to or any amendment to any provision of the Loan Documents which relates to the rights or obligations of a Fronting Lender shall require the agreement of such Fronting Lender thereto.

12.20 Reimbursement of Agent's Expenses or Lender's Costs

Each Lender agrees that it will indemnify the Agent for its Applicable Percentage of the Total Syndicated Facility Commitment of any and all costs, expenses and disbursements (including those costs and expenses referred to in Section 14.2) which may be incurred or made by the Agent in good faith in connection with the Loan Documents, and agrees that it will, on written demand detailing such costs, expenses and disbursements, reimburse the Agent for any such costs, expenses or disbursements for which the Agent is not promptly reimbursed at any time by the Borrower. The Agent may refrain from exercising any right, power or discretion or taking any action to protect or enforce the rights of any Lender under the Loan Documents until it has been so reimbursed.

Each Swap Lender that is not a Lender agrees that it will indemnify the Agent for any and all costs, expenses and disbursements which may be incurred or made by the Agent in good faith in connection with the enforcement of the Loan Documents or Security on behalf of such Swap Lender and agrees that it will, on written demand detailing such costs, expenses and disbursements, reimburse the Agent for any such costs, expenses or disbursements for which the Agent is not properly reimbursed at any time by the Borrower. The Agent may refrain from exercising any right, power or discretion or taking any action to protect or enforce the rights of any such Swap Lender under the Loan Documents or Security until it has been so reimbursed.

12.21 Indemnity of Agent

Each Lender hereby agrees to indemnify the Agent (to the extent not reimbursed by the Borrower) as to its Applicable Percentage of the Total Syndicated Facility Commitment from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of the Loan Documents or any action taken or omitted by the Agent under or in respect of the Loan Documents; provided that the Lenders shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Agent promptly upon demand for its Applicable Percentage of the Total Syndicated Facility Commitment of any out-of-pocket expenses (including counsel fees) incurred by the Agent in connection with the preservation of any rights of the Agent or the Lenders under, or the enforcement of, or legal advice in respect of rights or responsibilities under, the Loan Documents, but only to the extent that the Agent is not reimbursed for such expenses by the Borrower.

12.22 Sharing of Information

Subject to Section 13.4, the Borrower authorizes the Agent and each Lender and Swap Lender to share among each other, with any of their Affiliates, and with any successor, assignee, or any potential assignee, any information possessed by it regarding a Loan Party or the Loan Documents.

12.23 Amendment to this Article 12

Save and except for the provisions of Sections 12.6 and 12.21, the provisions of this Article 12 may be amended or added to, from time to time, without the agreement of the Borrower provided such amendment or addition does not adversely affect the rights of the Borrower hereunder or increase, in the aggregate, the liabilities of the Borrower hereunder. A copy of the instrument evidencing such amendment or addition shall be forwarded by the Agent to the Borrower as soon as practicable following the execution thereof; provided that after an Event of Default a failure to do so by the Agent shall not render it liable in damages to the Borrower.

12.24 The Agent, Fronting Lender and Defaulting Lenders

- (a) Each Defaulting Lender shall, to the extent permitted by law, be required to provide to the Agent cash in an amount, as shall be determined from time to time by the Agent or any Fronting Lender, as the case may be, in its discretion, equal to all obligations of such Defaulting Lender to the Agent or such Fronting Lender that are owing or may become owing pursuant to this Agreement, including such Defaulting Lender's obligation to pay its Applicable Percentage of any indemnification, reimbursement or expense reimbursement amounts not paid by the Borrower. Such cash shall be held by the Agent in one or more cash collateral accounts, which accounts shall be in the name of the Agent and shall not be required to be interest bearing. The Agent shall be entitled to apply the foregoing cash in accordance with Section 12.21, in the case of amounts owing to the Agent, or to pay the amounts owing to such Fronting Lender from the Defaulting Lender, in the case of amounts owing to such Fronting Lender pursuant hereto (including pursuant to Section 3.11).

- (b) In addition to the indemnity and reimbursement obligations noted in Section 12.21, the Lenders agree to indemnify the Agent (to the extent not reimbursed by the Borrower and without limiting the obligations of the Borrower hereunder) rateably according to their respective Applicable Percentages (and in calculating the Applicable Percentage of a Lender, ignoring the Commitments of Defaulting Lenders) any amount that a Defaulting Lender fails to pay the Agent and which is due and owing to the Agent pursuant to Section 12.21. Each Defaulting Lender agrees to indemnify each other Lender for any amounts paid by such Lender and which would otherwise be payable by the Defaulting Lender.
- (c) The Agent shall be entitled to set off any Defaulting Lender's Applicable Percentage of all payments received from the Borrower against such Defaulting Lender's obligations to make payments and fund Accommodations required to be made by it and to purchase participations required to be purchased by it in each case under this Agreement and the other Loan Documents. To the extent permitted by 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 all amounts (whether principal, interest, fees or otherwise) received by the Agent and due to a Defaulting Lender pursuant to this Agreement, for so long as such Lender is a Defaulting Lender, which amounts shall be used by the Agent:
- (i) first, to reimburse the Agent for any amounts owing to it, in its capacity as Agent, by such Defaulting Lender pursuant to any Loan Document;
 - (ii) second, to the payment of any amounts owing by such Defaulting Lender to the Fronting Lenders pursuant to any Loan Document;
 - (iii) third, to repay on a *pro rata* basis the incremental portion of any Accommodations made by a Lender pursuant to Section 14.2 in order to fund a shortfall created by a Defaulting Lender and, upon receipt of such repayment, each such Lender shall be deemed to have assigned to the Defaulting Lender such incremental portion of such Accommodations;
 - (iv) fourth, to cash collateralize all other obligations of such Defaulting Lender to the Agent or the Fronting Lenders owing pursuant to this Agreement in such amount as shall be determined from time to time by the Agent in its discretion, including such Defaulting Lender's obligation to pay its Applicable Percentage of any indemnification, reimbursement or expense reimbursement amounts not paid by the Borrower; and
 - (v) fifth, to fund from time to time the Defaulting Applicable Percentage of Lender Outstandings.
- (d) For greater certainty and in addition to the foregoing, neither the Agent nor any of its Affiliates nor any of their respective shareholders, officers, directors, employees, agents or 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 the Borrower to a Defaulting Lender and received and deposited by the Agent in a cash collateral account and applied in accordance with the provisions of this Agreement, save and except for the gross negligence or wilful misconduct of the Agent as determined by a final non-appealable judgement of a court of competent jurisdiction.

- (e) Notwithstanding any other provision hereof to the contrary, so long as any Lender is a Defaulting Lender, no Fronting Lender shall be obligated to issue any Fronted Letter of Credit unless and until the applicable Fronting Lender (or the Agent on its behalf) has been provided with cash collateral to fully collateralize the applicable Fronting Lender's exposure to each such Defaulting Lender on terms and conditions satisfactory to the Fronting Lender in its discretion, acting reasonably.

12.25 Intercreditor Agreement

Each Lender hereby authorizes the Agent or the Collateral Agent to execute and deliver the Intercreditor Agreement on its behalf, and thereby bind it to the terms thereof.

12.26 Purchase or Assignment of Commitments under the Second Lien Agreement

Each Lender agrees that if any Lender (other than ATB, Canadian Western Bank or National Bank of Canada) purchases or is assigned all or a portion of any Commitment (as defined under the Second Lien Credit Agreement) of any Second Lien Lender under the Second Lien Credit Agreement, and the effect would be that the Lenders who are Second Lien Lenders or are Affiliates of Second Lien Lenders would hold, in aggregate, more than 33 1/3% of (i) the aggregate of the Total Commitment and the Total LC Facility Commitment or (ii) the aggregate of the Borrowings and the LC Borrowings, such Lender will not be required for the determination of "Required Lenders", and, for certainty, the Commitment of and Borrowings owing to such Lender shall be excluded from the numerator for the purposes of calculating "Required Lenders" under this Agreement.

ARTICLE 13 SUCCESSORS AND ASSIGNS AND JUDGMENT CURRENCY

13.1 Successors and Assigns

- (a) **Successors and Assigns Generally.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with Section 13.1(b), (ii) by way of participation in accordance with Section 13.1(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 13.1(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 13.1(d) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.
- (b) **Assignments by Lenders.** Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment and the Borrowings at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

- (i) **Minimum Amounts.**
- (A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and/or the Borrowings at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds that equal at least the amount specified in paragraph (b)(i)(B) of this Section 13.1 in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and
- (B) in any case not described in paragraph (b)(i)(A) of this Section 13.1, the aggregate amount of the Commitment (which for this purpose includes Borrowings outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Borrowings of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than Cdn. \$5,000,000, in the case of any assignment in respect of the Syndicated Facility, or in the case of any assignment in respect of the Operating Facility Commitment, all of such Commitment, unless each of the Agent and, so long as no Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).
- (ii) **Proportionate Amounts.** 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 Borrowings or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-*pro rata* basis.
- (iii) **Required Consents.** No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section 13.1 and, in addition:
- (A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) a Default has occurred and is continuing at the time of such assignment, or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any assignment that requires the Borrower's consent unless it shall object thereto by written notice to the Agent within five Business Days after having received notice thereof and provided, further, that the Borrower's consent shall not be required during the primary syndication of the Syndicated Facility;
- (B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Facility if such assignment is to a Person that is not a Lender with a Commitment in respect of such Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

- (C) the consent of each Fronting Lender (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of the Syndicated Facility if such assignment is to a Person that is not a Lender with a Commitment in respect of such Facility, an Affiliate of such Lender or an Approved Fund with respect to such Lender.

If any assignment to any Person who is a Second Lien Lender or an Affiliate of a Second Lien Lender would result in the Lenders who are also Second Lien Lenders or Affiliates of Second Lien Lenders holding over 33 1/3% of (i) the aggregate of the Total Commitment and the Total LC Facility Commitment or (ii) the aggregate of the Borrowings and the LC Borrowings, the incremental increase in the Commitment (in the case of a transfer to an existing Lender (or the Borrowings owing to such Lender pursuant to such incremental increase) or the entire Commitment (in the case of a transfer to a new Lender (or the Borrowings owing to such new Lender), as applicable, will be excluded from the numerator in the calculation of "Required Lenders" under this Agreement.

- (iv) **Assignment and Assumption.** The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee of [REDACTED: CONFIDENTIAL COMMERCIAL INFORMATION]; provided that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Agent an Administrative Questionnaire.
- (v) **No Assignment to Certain Persons.** No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).
- (vi) **No Assignment to Natural Persons.** No such assignment shall be made to a natural Person.
- (vii) **Certain Additional Payments.** 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 Borrower and the Agent, the applicable *pro rata* share of Borrowings 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 and each Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full *pro rata* share of all Borrowings in accordance with its Applicable Percentage. 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 paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption 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 Article 11 and Section 14.2 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. 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(d).

- (c) **Register.** The Agent, acting solely for this purpose as an Agent of the Borrower, shall maintain at one of its offices in Calgary, Alberta a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Borrowings owing 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 the Borrower, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.
- (d) **Participations.** Any Lender may at any time, without the consent of, or notice to, the Borrower or the Agent, sell participations to any Person (other than a natural Person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Borrowings owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Agent and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 12.21 with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver

described in Section 12.19(a) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 11.1, 11.2 and 11.3 (subject to paragraph (e) of this Section 13.1) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.1(b); provided that such Participant agrees to be subject to the provisions of Section 11.3 as if it were an assignee under Section 13.1(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.6 as though it were a Lender; provided that such Participant agrees to be subject to Section 12.18 as though it were a Lender.

- (e) **Limitations upon Participant Rights.** A Participant shall not be entitled to receive any greater payment under Sections 11.1 and 11.2 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 11.2 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 11.2(e) as though it were a Lender.
- (f) **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, including any pledge or assignment to secure obligations to a Federal Reserve Bank or equivalent institution; provided that 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.

13.2 Judgment Currency

If for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement it becomes necessary to convert into the currency of such jurisdiction (herein called the "**Judgment Currency**") any amount due hereunder in any currency other than the Judgment Currency, then such conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For such purpose, "**rate of exchange**" means the spot rate at which the Agent or the Operating Lender, as applicable, on the relevant date at or about 10:00 o'clock a.m. (Calgary time), would be prepared to sell a similar amount of such currency in Calgary, Alberta against the Judgment Currency. In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which the judgment is given and the date of payment of the amount due, the Borrower shall, on the date of payment, pay such additional amounts (if any) as may be necessary to ensure that the amount paid on such date is the amount in the Judgment Currency which when converted at the rate of exchange prevailing on the date of payment is the amount then due under this Agreement in such other currency. Any additional amount due from the Borrower under this Section 13.2 shall be due as a separate debt and shall not be affected by judgment being obtained for any other sums due under or in respect of this Agreement.

13.3 Swap Lender

If any Swap Lender (or its Affiliate, if such Swap Lender is not a Lender) for any reason ceases to be a Lender, such Swap Lender shall continue to be bound by and entitled to the benefit of the terms and conditions hereof in such capacity and entitled to the benefit of the Security until such time as it is no longer a party to the Swaps existing with any Loan Party at the time it (or such Affiliate, if applicable) ceases to be a Lender, with the exception of any

indemnities of, or in favour of, such Swap Lender hereunder existing at that time and which shall survive such termination.

13.4 Certain Information; Confidentiality

Each of the Agent, the Lenders and the Swap Lenders agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed:

- (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made shall have a need to know such information and be informed of the confidential nature of such Information and instructed to keep such Information confidential, or the Borrower shall clearly mark such information as confidential);
- (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including the Office of the Superintendent of Financial Institutions or similar body and any self-regulatory authority, such as the National Association of Insurance Commissioners);
- (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process;
- (d) to any other party hereto;
- (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder;
- (f) subject to an agreement containing provisions substantially the same as those of this Section 13.4, to (i) any Eligible Assignee or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder;
- (g) on a confidential basis to any rating agency in connection with rating the Borrower or its Subsidiaries or the Facilities;
- (h) with the consent of the Borrower; or
- (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Agent, any Lender or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower, provided that the Lender is not aware of any confidentiality obligations between such source and the Borrower or the other Loan Parties.

For purposes of this Section, “**Information**” means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Agent or any Lender on a non-confidential basis prior to disclosure by the Borrower or any of its Subsidiaries; provided that, in the case of information received from the Borrower or any of its Subsidiaries

after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

13.5 Dissenting Lenders

If a Lender (in this Section 13.5 called a “**Dissenting Lender**”):

- (a) withholds its consent or its approval following a request of the Borrower as provided in this Agreement and, as a result, the consent of the Required Lenders or all of the Lenders, as the case may be, cannot be obtained in connection with such request, or
- (b) makes a claim for Additional Compensation under Section 11.1; or
- (c) determines that it is unable to make, fund or maintain Accommodations pursuant to Section 11.4;

(and in the case of clauses (b) or (c), no other Lender has concurrently made such claim or determination), the Borrower may, so long as there exists no Default or Event of Default which is continuing, by giving notice to each Dissenting Lender and to the Agent within 10 Business Days of being notified by the Agent of whether the Lenders have consented to such request (in the case of clause (a) above) or have made such claim or determination (in the case of clause (b) or (c) above) :

- (d) designate an alternate lender or lenders (which need not be an existing Lender) to purchase an assignment in accordance with Section 13.1 of a Dissenting Lender’s Commitment and the related Lender Outstandings (which alternate lender shall purchase such assignment prior to the expiry of such 10 Business Day period), provided that no Lender shall be obligated to make any such assignment as a result of a demand by the Borrower pursuant to this Section 13.5 unless said assignment is done on a without warranty basis; and/or
- (e) repay all Lender Outstandings of a Dissenting Lender prior to the expiry of such 10 Business Day period; provided that if (in the case of clause (a) above) such Dissenting Lender(s) arises from the failure to obtain Required Lenders’ consent (as opposed to all Lenders’ consent), the Borrower requires the prior consent of all Lenders that are not Dissenting Lenders in order to exercise this repayment right;

and in each case unless and until such Dissenting Lender shall have received one or more payments from either the Borrower or one or more assignees in an aggregate amount at least equal to the Lender Outstandings owing to such Dissenting Lender, together with accrued interest thereon to the date of payment of such Lender Outstandings and all other amounts payable to such Dissenting Lender under the Loan Documents (including all losses, costs and expenses suffered or incurred by the Dissenting Lender as a result of complying with this Section 13.5 and all amounts owing under Section 12.20). Any such alternate lender (other than an existing Lender) is subject to the Agent’s prior consent, such consent not to be unreasonably withheld. For clarity, if the Borrower exercises its rights under this Section 13.5

and there is more than one Dissenting Lender, the Borrower must deal with all Dissenting Lenders in the same manner.

ARTICLE 14 MISCELLANEOUS

14.1 Severability

Any provision of this Agreement which is or becomes prohibited or unenforceable in any jurisdiction does not invalidate, affect or impair the remaining provisions hereof in such jurisdiction and any such prohibition or unenforceability in any jurisdiction does not invalidate or render unenforceable such provision in any other jurisdiction.

14.2 Defaulting Lenders

- (a) **Termination of Defaulting Lender:** The Borrower may terminate the unused amount of the Commitment of any Syndicated Lender that is a Defaulting Lender upon not less than 10 Business Days' prior notice to the Agent (which shall promptly notify the Lenders of such notice), and in such event the provisions of Section 14.2(b)(ii) will apply to all amounts thereafter paid by the Borrower for the account of such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts); provided that (i) no Event of Default shall have occurred and be continuing, and (ii) such termination shall not be deemed to be a waiver or release of any claim the Borrower, the Agent or any Lender may have against such Defaulting Lender. If any such termination occurs and the effect would be that the Lenders who are also Second Lien Lenders (or Affiliates of Second Lien Lenders) would hold, in aggregate, more than 33 1/3% of (i) the aggregate of the Total Commitment and the Total LC Facility Commitment or (ii) the aggregate of the Borrowings and the LC Borrowings, going forward any Lender who is also a Second Lien Lender (or any Affiliate of any Second Lien Lender) will not be required for the determination of "Required Lenders", and, for certainty, the Commitment of and Borrowings owing to such Lender shall be excluded from both the numerator and the denominator for the purposes of calculating same.
- (b) **Defaulting Lender Adjustments.** Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:
- (i) **Waivers and Amendments.** A Defaulting Lender shall not be included in determining whether all Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 12.19), provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that (A) materially and adversely affects such Defaulting Lender differently than other affected Lenders, (B) increases the Commitment or extends the Maturity Date of such Defaulting Lender, or (C) relates to the matters set forth in Sections 12.19(a)(i), 12.19(a)(ii), 12.19(a)(iii), 12.19(a)(iv) (only in so far as it relates to the Commitment of such Defaulting Lender), 12.19(a)(v), 12.19(a)(vi) and 12.19(a)(x), shall require the consent of such Defaulting Lender. For the avoidance of doubt, the Borrower shall retain and reserve its other rights and remedies respecting each Defaulting Lender.

(ii) **Defaulting Lender Waterfall.** Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 10 or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 10.6 shall be applied at such time or times as may be determined by the Agent as follows:

- (A) first, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder;
- (B) second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Borrowing in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent;
- (C) third, if so determined by the Agent and the Borrower, to be held in a deposit account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Borrowings under this Agreement;
- (D) fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement;
- (E) fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower or the other Loan Parties as a result of any judgment of a court of competent jurisdiction obtained by the Borrower or the other Loan Parties against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and
- (F) sixth, 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 Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Borrowings were made at a time when the conditions set forth in Section 8.2 were satisfied or waived, such payment shall be applied solely to pay the Borrowings of all Non- Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Borrowings of such Defaulting Lender until such time as all Borrowings are funded. 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 pursuant to this Section 14.2(b)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) **Certain Fees.** The standby fees payable pursuant to Section 5.12 shall cease to accrue on the unused portion of the Commitment of such Defaulting Lender.

- (c) **Defaulting Lender Cure.** If the Borrower and the Agent agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender will, to the extent applicable, purchase at par that portion of outstanding Borrowings of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Borrowings to be held *pro rata* by the Lenders in accordance with the Commitments under the applicable Facility, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.
- (d) **Exclusion.** For greater certainty and in addition to the foregoing, neither the Agent nor any of its Affiliates nor any of their respective shareholders, officers, directors, employees, agents or 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 the Borrower to a Defaulting Lender and received and deposited by the Agent in a cash collateral account and applied in accordance with the provisions of this Agreement, save and except for the gross negligence or wilful misconduct of the Agent as determined by a final non-appealable judgment of a court of competent jurisdiction.
- (e) **Funding of Defaulting Lender's Share.** If the Agent has actual knowledge that a Lender is a Defaulting Lender at the time that the Agent receives (i) a Borrowing Notice or (ii) a Conversion Notice that will result in a currency conversion, then each other Lender shall fund its Applicable Percentage of such affected Accommodation (and, in calculating such Applicable Percentage, the Agent shall ignore the Commitments of each such Defaulting Lender); provided that, for certainty, no Lender shall be obligated by this Section 14.2(e) to make or provide Accommodations in excess of its Commitment. If the Agent acquires actual knowledge that a Lender is a Defaulting Lender at any time after the Agent received (i) a Borrowing Notice or (ii) a Conversion Notice that will result in a currency conversion, then the Agent shall promptly notify the Borrower that such Lender is a Defaulting Lender (and such Lender shall be deemed to have consented to such disclosure). Each Defaulting Lender agrees to indemnify each other Lender for any amounts funded or paid by such Lender under this Section 14.2(e) and which would otherwise have been funded or paid by the Defaulting Lender if its Commitment had been included in determining the Applicable Percentage of such affected Accommodations.

14.3 Expenses, Indemnity, Damage Waiver

- (a) **Borrower Deliverables.** All statements, reports (including environmental reports), certificates, opinions and other documents or information required to be furnished to the Agent or the Lenders or by any other Loan Party under this Agreement shall be supplied by the Borrower without cost to the Agent or any Lender.
- (b) **Reimbursement.** The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Agent and its Affiliates (including the reasonable fees, charges and disbursements of legal counsel for the Agent for a solicitor and his own client basis

and engineering and other expert or professional costs and fees incurred in relation to the Facilities), in connection with the syndication of the Facilities, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents (excluding any Swap Credit 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), (ii) all reasonable out-of-pocket expenses incurred by the Operating Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, and (iii) all out-of-pocket expenses incurred by the Agent or any Lender (including the fees, charges and disbursements of any counsel for the Agent or any Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents (excluding the Swap Credit Documents), including its rights under this Section 14.3, or (B) in connection with the Accommodations hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Accommodations.

- (c) **General Indemnity.** The Borrower shall indemnify the Agent (and any sub-agent thereof) and each Lender, and each Related Party (excluding any Swap Lender) 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 fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties (excluding any Swap Lender) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document (excluding any Swap Credit Documents) or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Accommodation or the use or proposed use of the proceeds therefrom (including any refusal by the Operating Lender to honour a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (iii) 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 the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document (excluding any Swap Credit Documents), if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.
- (d) **Reimbursement by Lenders.** To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section 14.3 to be paid by it to the Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's *pro rata* share (determined as of the time that the applicable unreimbursed expense or indemnity

payment is sought based on each Lender's Applicable Percentage of the Total Commitment at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); 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 against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent), in connection with such capacity. The obligations of the Lenders under this paragraph (d) are subject to Section 12.11.

- (e) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by Applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document (excluding any Swap Credit Documents) or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Accommodation, or the use of the proceeds thereof. No Indemnitee referred to in paragraph (b) above 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 Loan Documents or the transactions contemplated hereby or thereby.
- (f) **Payments.** All amounts due under this Section 14.3 shall be payable promptly, and in any event within five Business Days, after demand therefor.
- (g) **Survival.** Each party's obligations under this Section 14.3 shall survive the termination of the Loan Documents and payment of the obligations hereunder.

14.4 Failure to Act

No failure, omission or delay on the part of the Agent, any Lender or any Swap Lender in exercising any right, power or privilege hereunder shall impair such right, power or privilege or operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

14.5 Waivers

No breach of any of the provisions of any of the Loan Documents (excluding any Swap Credit Documents) may be waived or discharged verbally; any such waiver or discharge may only be made by way of an instrument in writing signed by either the Agent on behalf of the Lenders or the Required Lenders, as applicable, and, if required by the Agent, the Loan Parties, and such waiver or discharge will then be effective only in the specific instance, for the specific purpose and for the specific length of time for which it is given. Any such waiver or discharge which affects the rights of the Agent may only be made by way of an instrument in writing signed by the Agent.

14.6 Amendments

No provision of the Loan Documents (excluding any Swap Credit Documents) may be amended verbally and any such amendment may only be made by way of an instrument in

writing signed (subject to Section 12.23) by the Borrower, the Agent and the Lenders required by Section 12.19.

14.7 Notice

(a) **Notices Generally.** Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile to the address set out opposite the intended recipient's name on its signature page hereto (in the case of the Borrower and the Agent) and on Schedule "A" (in the case of the Lenders). Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) **Electronic Communications.** Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including email and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender if such Lender has notified the Agent that it is incapable of receiving notices by electronic communication. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Agent otherwise prescribes, (i) notices and other communications sent to an email address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement), and notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient as its email address as described in the foregoing clause (a) of notification that such notice or communication is available and identifying the website address therefor, provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent within normal business hours of the recipient, such notice or other communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) **Change of Address, etc.** Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) **Platform.**

(i) The Borrower agrees that the Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Lenders by posting the Communications on Debt Domain, Intralink, Syndtrak or a substantially similar electronic transmission system (the "**Platform**").

- (ii) The Platform is provided “as is” and “as available.” The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Agent or any of its Related Parties (collectively, the “**Agent Parties**”) have any liability to the Borrower or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's, any Loan Party's or the Agent's transmission of communications through the Platform. “**Communications**” means, collectively, any notice, demand, communication, information, document or other material that the Borrower or any Loan Party provides to the Agent pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Agent or any Lender by means of electronic communications pursuant to this Section, including through the Platform.

14.8 Governing Law

The parties agree that this Agreement is conclusively deemed to be made under, and for all purposes to be governed by and construed in accordance with, the laws of the Province of Alberta and of Canada applicable therein. There shall be no application of any conflict of law or other rules which would result in any laws other than internal laws in force in the Province of Alberta applying to this Agreement. The parties hereto do hereby irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta for all matters arising out of or relating to this Agreement or any other Loan Document (other than the Swap Credit Documents), or any of the transactions contemplated hereby or by any thereof, without prejudice to the rights of the Agent or any Lender to take proceedings in other jurisdictions.

14.9 Term of Agreement and Survival

This Agreement and all covenants, undertakings, agreements, representations and warranties shall continue and survive until the termination of all Loan Documents (excluding the Swap Credit Documents) or, in the case of the Swap Credit Documents, the expiry or termination of such documents, such that thereafter there is not nor can there be any Borrowings, Lender Outstandings or Swap Indebtedness arising under any Loan Document. Notwithstanding the foregoing, the indemnities in Sections 9.6 and 14.3(c) shall survive any such termination.

14.10 Time of Essence

Time shall be of the essence of this Agreement.

14.11 Anti-Money Laundering Legislation

- (a) The Borrower acknowledges that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” Applicable Laws, whether within Canada or elsewhere (collectively, including any

guidelines or orders thereunder, “**AML Legislation**”), the Lenders and the Agent may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly:

- (i) provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Agent, or any prospective assignee of a Lender or the Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence; and (ii) notify the recipient of any such information of any changes thereto.
- (b) If, upon the written request of any Lender, the Agent has ascertained the identity of the Borrower or any other Loan Party or any authorized signatories of the Borrower or any other Loan Party for the purposes of applicable AML Legislation on such Lender's behalf, then the Agent;
- (i) shall be deemed to have done so as an agent for such Lender, and this Agreement shall constitute a “written agreement” in such regard between such Lender and the Agent within the meaning of applicable AML Legislation; and
 - (ii) shall provide to such Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence, each of the Lenders agrees that the Agent has no obligation to ascertain the identity of the Borrower or any other Loan Party or any authorized signatories of the Borrower or any other Loan Party, on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any other Loan Party or any such authorized signatory in doing so.

14.12 Conflict with Other Documents

In the event there is a conflict or inconsistency as to any matter between the provisions hereof and the provisions of any other Loan Document (excluding any Swap Credit Documents), the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency; provided that for the purposes of this Section 14.12 there shall not be considered to be a conflict or inconsistency between any provision hereof and any provision of any other Loan Document (excluding any Swap Credit Documents) merely because such Loan Document (excluding any Swap Credit Documents) does, and this Agreement does not, deal with the particular matter.

14.13 Saskatchewan Legislation

The Land Contracts (Actions) Act of the Province of Saskatchewan shall have no application to any action, as defined in *The Land Contracts (Actions) Act*, with respect to this Agreement or the other Loan Documents and *The Limitation of Civil Rights Act* of the Province of Saskatchewan shall have no application to this Agreement or the other Loan Documents. The Borrower agrees that the provisions of both *The Land Contracts (Actions) Act* (Saskatchewan) and *The Limitation of Civil Rights Act* (Saskatchewan) are hereby waived.

14.14 Counterparts; Integration, Effectiveness; Electronic Execution

- (a) **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 Loan Documents 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.
- (b) Except as provided in Section 8.1, this Agreement shall become effective when it shall have(c) been executed by the Agent and when the Agent shall have 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 facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.
- (d) **Electronic Execution of Assignments.** The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption 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.

14.15 Further Assurances

The Borrower, the Agent and each of the Lenders shall do all such further acts and things and execute and deliver all such further documents as shall be reasonably required in order to ensure the terms and provisions of the Loan Documents are fully performed and carried out.

14.16 Waiver of Jury Trial

EACH PARTY HERETO HEREBY 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, ANY OTHER LOAN 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 PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY 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 BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

14.17 USA Patriot Act

Each Lender that is subject to the requirements of the *USA Patriot Act* (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) the (Patriot Act) hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the names and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

14.18 Acknowledgement and Consent to Bail-In of EEA Financial Institutions

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

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

14.19 Most Favored Lender

If at any time the Second Lien Term Agreement includes: (a) any one or more financial covenants, negative covenants or events of default that are not provided for in the Loan Documents or (b) any one or more financial covenants, negative covenants or events of default that are more restrictive, taken as a whole, than the same or similar covenants or events of default provided in this Agreement or the other Loan Documents, then: (i) such additional or more restrictive covenants or events of default shall upon notice from the Agent be incorporated by reference in this Agreement as if set forth fully herein, mutatis mutandis, and no such provision may thereafter be waived, amended or modified under this Agreement except pursuant to the provisions of this Agreement, and (ii) the Loan Parties shall promptly, and in any event within ten (10) days after entering into any such additional or more restrictive covenants or events of default so advise the Agent in writing. Thereafter, upon the request of the Required Lenders, the Required Lenders shall enter into an amendment to this Agreement evidencing the

incorporation of such additional or more restrictive covenants or events of default, it being agreed that any failure to make such request or to enter into any such amendment shall in no way qualify or limit the incorporation by reference described in clause (i) of the immediately preceding sentence.

[Remainder of Page intentionally left blank]

Agreed and acknowledged as of the date first above written.

3600, 205 - 5th Avenue S.W.
Calgary, Alberta
T2P 2V7

SECURE ENERGY SERVICES INC., as
Borrower

Attention: Chief Financial Officer
Telefax: (403) 984-6101

By: (signed) "Chad Magus"
Name: Chad Magus
Title: Executive Vice President & Chief
Financial Officer

Agreed and acknowledged as of the date first above written.

Suite 600, 585-8th Avenue S.W.
Calgary, Alberta T2P 1G1

ATB FINANCIAL, as Agent

Attention: Managing Director, Loan
Syndications
Facsimile: [REDACTED
CONFIDENTIAL PERSONAL
INFORMATION]

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

ATB FINANCIAL, as Lender, Fronting
Lender and Swap Lender

By: (signed)_____

By: (signed)_____

Agreed and acknowledged as of the date first above written.

NATIONAL BANK OF CANADA, as Lender,
Fronting Lender and Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

**CANADIAN IMPERIAL BANK OF
COMMERCE**, as Lender and Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

THE BANK OF NOVA SCOTIA, as Lender
and Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

THE TORONTO-DOMINION BANK, as
Lender and Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

BANK OF MONTREAL, as Lender and Swap
Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

HSBC BANK CANADA, as Lender and
Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

**WELLS FARGO BANK, N.A. CANADIAN
BRANCH**, as Lender and Swap Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

EXPORT DEVELOPMENT CANADA, as
Lender

By: (signed) _____

By: (signed) _____

Agreed and acknowledged as of the date first above written.

CANADIAN WESTERN BANK, as Lender

By: (signed) _____

By: (signed) _____

Schedule "A" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

COMMITMENTS AND ADDRESSES

Lender	Syndicated Facility Commitment	Operating Facility Commitment
ATB Financial		
Suite 600, 585-8 th Avenue S.W. Calgary, Alberta T2P 1G1		
as Operating Lender Attention: Director, Energy Group Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]	N/A	REDACTED
as Syndicated Lender and Fronting Lender Attention: Managing Director, Loan Syndications Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]	Syndicated Facility Commitment Cdn. REDACTED Fronted LC Commitment Cdn. REDACTED	N/A
National Bank of Canada, as Syndicated Lender and Fronting Lender 18 th Floor, 311 - 6 th Avenue S.W. Calgary, Alberta T2P 3H2 Attention: Director, Credit Capital Markets Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]	Syndicated Facility Commitment Cdn. REDACTED Fronted LC Commitment Cdn. REDACTED	N/A
The Bank of Nova Scotia, as Syndicated Lender and Fronting Lender 3950, 700 - 2 Street S.W. Calgary, Alberta T2P 2W2 Attention: Director, National Accounts Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]	Syndicated Facility Commitment Cdn. REDACTED Fronted LC Commitment Cdn. REDACTED	N/A
Canadian Imperial Bank of Commerce, as Syndicated Lender 9th floor, Bankers Hall East 855 – 2nd St S.W. Calgary, Alberta T2P 4J7 Attention: Andrew Roberts, Director, Commercial Banking Fax No.: [REDACTED]	Syndicated Facility Commitment Cdn. REDACTED	N/A

Lender	Syndicated Facility Commitment	Operating Facility Commitment
<p>The Toronto-Dominion Bank, as Syndicated Lender</p> <p>Suite 1100, 421 – 7th Avenue S.W. Calgary, Alberta T2P 4K9</p> <p>Attention: Director, National Accounts Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A
<p>Bank of Montreal, as Syndicated Lender</p> <p>9th Floor, 350 - 7 Avenue S.W. Calgary, Alberta T2P 3N9</p> <p>Attention: Director Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A
<p>HSBC Bank Canada, as Syndicated Lender</p> <p>407 - 8 Avenue S.W. Calgary, Alberta T2P 1E5</p> <p>Attention: AVP, Energy Financing Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A
<p>Wells Fargo, N.A. Canadian Branch, as Syndicated Lender</p> <p>Suite 2711, #308-4th Avenue S.W. Calgary, Alberta T2P OH7</p> <p>Attention: Director, Energy Group Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A
<p>Export Development Canada, as Syndicated Lender</p> <p>Jamieson Place, Suite 2403 308 - 4th Avenue S.W. Calgary, Alberta T2P 0H7</p> <p>Attention: Chris Wilson Fax No.: N/A</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A
<p>Canadian Western Bank, as Syndicated Lender</p> <p>100, 12203 Jasper Avenue Edmonton, Alberta T5N 3K3</p> <p>Attention: Stan Seto Fax No.: [REDACTED CONFIDENTIAL PERSONAL INFORMATION]</p>	<p>Syndicated Facility Commitment REDACTED</p>	N/A

Schedule "B" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF BORROWING NOTICE

TO: ATB Financial ("ATB"), as Agent

RE: Amended and Restated First Lien Credit Agreement (the "Credit Agreement") dated as of April 29, 2019 among Secure Energy Services Inc. (the "Borrower"), ATB and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and ATB, as administrative agent for the Lenders (the "Agent")

DATE: _____, 20__

1. The Drawdown Date is _____, 20__.
2. Pursuant to Section 3.6 of the Credit Agreement, the undersigned hereby irrevocably requests that the following Accommodations be made available under the applicable Facility:

Syndicated Facility:

<u>TYPE OF ADVANCE</u>	<u>PRINCIPAL AMOUNT AND CURRENCY</u>	<u>TERM</u>
Prime Loan	_____	N/A
U.S. Base Rate Loan	_____	N/A
Bankers' Acceptances	_____	_____
Libor Loan	_____	_____
Letter of Credit, to be issued by [ATB] [<] as Fronting Lender	_____	_____

Operating Facility:

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

If a Letter of Credit is requested, such Letter of Credit is a **[Financial LC/Non-Financial LC]**.

3. As of the date of this Borrowing Notice, no Default or Event of Default has occurred and is continuing and each of the representations and warranties of the Borrower deemed to be made by the Borrower pursuant to Section 2.2 of the Credit Agreement (other than those made as of a specific date) are, as of the date of such request, and will be, as of the applicable Drawdown Date, true and correct in all material respects.
4. The Accommodation requested hereby will not result in there being Excess Cash.
5. This Notice is irrevocable.
6. Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

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

SECURE ENERGY SERVICES INC.

By: _____

Name

:

Title:

Schedule "C" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

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

TO: ATB Financial ("**ATB**"), as Agent and Operating Lender

RE: First Lien Credit Agreement (the "**Credit Agreement**") dated as of April 29, 2019 among **Secure Energy Services Inc.** (the "**Borrower**"), ATB and those other financial institutions which are or hereafter become lenders thereunder (the "**Lenders**"), and ATB, as administrative agent for the Lenders (the "**Agent**")

DATE: _____, 20__

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

1. Pursuant to Section 3.16 (Repayment), 3.18 (Conversion) and 3.19 (Rollover) of the Credit Agreement, the undersigned hereby irrevocably notifies the Agent/Operating Lender that it will be:

(a) rolling over part or all of the Accommodation described as:

Facility: [Operating/Syndicated] _____

Type of Accommodation: _____

*Principal Amount: _____

Date of Maturity: _____

into the same Accommodation described as:

Date of Maturity: _____

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

or;

(b) converting part or all of the Accommodation described as:

Facility: [Operating/Syndicated] _____

Type of Accommodation: _____

*Principal Amount if applicable: _____

Date of Maturity: _____

into an Accommodation described as:

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

Type of Accommodation: _____

*Principal Amount: _____

Date of Maturity: _____

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

Facility: [Operating/Syndicated] _____

Type of Accommodation: _____

*Principal Amount: _____

Date of Maturity or Repayment: _____

*if only part of maturing Advance is being repaid, please indicate the applicable amount being repaid including the details provided above in respect thereof and whether the balance will be rolled over or converted.

2. This Notice is irrevocable.

3. No Default or Event of Default has occurred and is continuing.

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

SECURE ENERGY SERVICES INC.

By: _____

Name

:

Title:

Schedule "D" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019, between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF COMPLIANCE CERTIFICATE

I, _____, of the City of Calgary, in the Province of Alberta, hereby certify as follows:

1. I am the **[insert title of officer]** of Secure Energy Services Inc.
2. This Certificate applies to the **[Fiscal Year/Fiscal Quarter]** ending_____.
3. I am familiar with and have examined the provisions of the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between Secure Energy Services Inc., as borrower (the "**Borrower**") and a consortium of lenders with ATB Financial, as Agent (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), and have made such reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower and its agents as I have deemed necessary for purposes of this Certificate.
4. Except where the context otherwise requires, all capitalized terms used herein have the same meaning as in the Credit Agreement.
5. No Default or Event of Default exists.
6. As of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**, the Consolidated Total Debt to EBITDA Ratio was _____, and included in Exhibit "A" attached hereto are the detailed particulars of the manner in which the Consolidated Total Debt to EBITDA Ratio was calculated.
7. As of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**, the Consolidated Senior Debt to EBITDA Ratio was _____, and included in Exhibit "A" attached hereto are the detailed particulars of the manner in which the Consolidated Senior Debt to EBITDA Ratio was calculated.
8. As of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**, the Consolidated Interest Coverage Ratio was _____, and included in Exhibit "A" attached hereto are the detailed particulars of the manner in which the Consolidated Interest Coverage Ratio was calculated.
9. As of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**, the Borrower and the Material Subsidiaries (i) directly owned, in aggregate, not less than 85% of Consolidated Tangible Assets as at the end of such **[Fiscal Quarter/Fiscal Year]**, and (ii) directly accounted for, in aggregate, not less than 85% of Consolidated EBITDA for the 12 month period ending at the end of such **[Fiscal Quarter/Fiscal Year]**; and included in Exhibit "A" attached hereto are the detailed particulars of the manner in which the foregoing determinations were calculated.

10. The Loan Parties are the Borrower and **[identify all Material Subsidiaries]**, each of which has provided Security to the Agent and/or the Collateral Agent as required by Article 6 of the Credit Agreement. The Borrower's only other Subsidiaries are [] and [], none of which are Material Subsidiaries.
11. A Real Property Listing is attached hereto as Exhibit "B" [Fiscal Year only].
12. As of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**, approximately % of Consolidated Tangible Assets were located in Canada, and approximately % of Consolidated Tangible Assets were located in the United States.
13. Each of the representations and warranties made in the Credit Agreement (except those stated to be made as of a specific date) were true and correct as of the last day of the above referenced **[Fiscal Quarter/Fiscal Year]**.
14. Since the date of the last Compliance Certificate delivered to the Agent, the Borrower has not, except as disclosed to the Agent in writing, received notice of:
 - (a) the discovery of any Hazardous Substance or of any release of a Hazardous Substance into the environment from or upon the land or property of the Borrower or any other Loan Party that would reasonably be expected to give rise to a Material Adverse Effect;
 - (b) any order, judgment or claim (if such claim is determined adversely) that has been made by any Person against the Borrower, any other Loan Party or any of their Assets that would reasonably be expected to give rise to a Material Adverse Effect;
 - (c) any Governmental Action that has been issued or made by any Governmental Authority to the effect that the Borrower or any other Loan Party has failed to comply in any material respect with any Environmental Laws or requiring any remediation, stop work, cleanup otherwise that has not previously been disclosed in writing to the Agent; or
 - (d) any claim that has been made by any Person against the Borrower, any other Loan Party or the Assets that, if determined adversely, would reasonably be expected to give rise to a Material Adverse Effect.
15. This Certificate is given by the undersigned officer in his or her capacity as an officer of the Borrower without any personal liability.

DATED this day of , 20 .

SECURE ENERGY SERVICES INC.

By: Name:
 Title:

Exhibit "A" to Compliance Certificate

[Calculation Details in respect of the Certifications in paragraphs 6, 7, 8 and 9]

Exhibit "B" to Compliance Certificate

Real Property Listing [Fiscal Year only]

Schedule "E" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF REQUEST FOR EXTENSION

Date: _____

ATB Financial, as Agent
Suite 600, 585 – 8th Avenue S.W.
Calgary, Alberta T2P 1G1

ATB Financial, as Operating Lender
Suite 600, 585 – 8th Avenue S.W.
Calgary, Alberta T2P 1G1

Facsimile: [REDACTED CONFIDENTIAL
PERSONAL INFORMATION]

Facsimile: [REDACTED
CONFIDENTIAL INFORMATION]

Attention: Managing Director, Loan
Syndications

Attention: Director, Energy Group

Dear Sirs:

Re: Secure Energy Services Inc.

We refer to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between Secure Energy Services Inc., as borrower, and a consortium of lenders with ATB Financial, as Agent (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"). Capitalized terms used herein have the same meaning as in the Credit Agreement.

In accordance with Section 3.3 of the Credit Agreement, we hereby request that the Lenders extend the Maturity Date from [] to [].

We hereby certify that:

1. the representations and warranties contained in Section 2.1 of the Credit Agreement (except for those stated to be made as of a specific date) are and will be true and correct on the date hereof and on the date of extension, as applicable, with the same effect as if such representations and warranties were made on the date hereof; and
2. there exists no Default or Event of Default.

Yours very truly,

SECURE ENERGY SERVICES INC.

By: Name:
Title:

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "**Assignment and Assumption**") is dated as of the Effective Date set forth below and is entered into by and between [the] [each]¹ Assignor identified in item 1 below ([the] [each, an] "**Assignor**") and [the] [each]² Assignee identified in item 2 below ([the] [each, an] "**Assignee**"). [It is understood and agreed that the rights and obligations of [the Assignors] [the Assignees]³ hereunder are several and not joint.]⁴ Capitalized terms used but not defined herein shall have the meanings given to them in the First Lien Credit Agreement identified below (as amended, the "**Credit Agreement**"), receipt of a copy of which is hereby acknowledged by [the] [each] Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, [the] [each] Assignor hereby irrevocably sells and assigns to [the Assignee] [the respective Assignees], and [the] [each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Agent as contemplated below (i) all of [the Assignor's] [the respective Assignors'] rights and obligations in [its capacity as a Lender][their respective capacities as Lenders] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor] [the respective Assignors] under the respective facilities identified below (including any letters of credit and guarantees included in such facilities), and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Lender)] [the respective Assignors (in their respective capacities as Lenders)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the] [any] Assignor to [the] [any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the] [an] "Assigned Interest"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by [the] [any] Assignor.

Assignor[s]: _____

¹ For bracketed language here and elsewhere in this form relating to the Assignor(s), if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

² For bracketed language here and elsewhere in this form relating to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

³ Select as appropriate.

⁴ Include bracketed language if there are either multiple Assignors or multiple Assignees.

[Assignor [is] [is not] a Defaulting Lender]

Schedule "B" Assignee[s]: _____

[for each Assignee, indicate [Affiliate] [Approved Fund] of [identify Lender]

Schedule "C" Borrower(s): _____

Schedule "D" Agent: _____ as the administrative agent under the
Credit Agreement

Schedule "E" Credit Agreement: The Amended and Restated First Lien Credit Agreement dated as of April [x], 2019 among Secure Energy Services Inc., the Lenders parties thereto, ATB Financial, as Agent, and the other parties thereto

Schedule "F" Assigned Interest[s]:

Assignor[s] ⁵	Assignee[s] ⁶	Facility Assigned ⁷	Aggregate Amount of Commitment/Loans for all Lenders ⁸	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans ⁹
			\$	\$	\$
			\$	\$	\$
			\$	\$	\$

Schedule "G" [Trade Date: _____]¹⁰

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

⁵ List each Assignor, as appropriate.

⁶ List each Assignee, as appropriate.

⁷ Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g., "Syndicated Facility Commitment," "Operating Facility Commitment," etc.)

⁸ Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

⁹ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

¹⁰ To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR[S]¹¹

[NAME OF ASSIGNOR]

By: Title:

[NAME OF ASSIGNOR]

By: Title:

ASSIGNEE[S]¹²

[NAME OF ASSIGNEE]

By: Title:

[NAME OF ASSIGNEE]

By: Title:

[Consented to and]¹³ Accepted:

ATB FINANCIAL, as Agent

By: Title:

[Consented to:]¹⁴

[NAME OF RELEVANT PARTY]

By: Title:

¹¹ Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

¹² Add additional signature blocks as needed. Include both Fund/Pension Plan and manager making the trade (if applicable).

¹³ To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

¹⁴ To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit Agreement, i.e., a Fronting Lender or all of the Lenders if the assignment is to a Lender who is also a Second Lien Lender.

ANNEX 1

[]¹⁵

**STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION**

1. REPRESENTATIONS AND WARRANTIES.

1.1 Assignor[s]. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the] [the relevant] Assigned Interest, (ii) [the] [such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document¹⁶, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee[s]. [The][Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 13.1(b)(iii), (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under Section 13.1(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of [the] [the relevant] Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Sections 9.4(a) and 9.4(b) thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the] [such] Assigned Interest, (vi) it has, independently and without reliance upon the Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase [the][such] Assigned Interest, and (vii) if it is a Foreign Lender¹⁷, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by [the][such] Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, [the] [any] Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own

¹⁵ Describe Credit Agreement at option of Administrative Agent.

¹⁶ The term "Loan Document" should be conformed to that used in the Credit Agreement.

¹⁷ The concept of "Foreign Lender" should be conformed to the section in the Credit Agreement governing withholding taxes and gross-up.

credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. PAYMENTS.

From and after the Effective Date, the Agent shall make all payments in respect of [the] [each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the] [the relevant] Assignor for amounts which have accrued to but excluding the Effective Date and to [the] [the relevant] Assignee for amounts which have accrued from and after the Effective Date¹⁸. Notwithstanding the foregoing, the Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Effective Date to [the] [the relevant] Assignee.

3. GENERAL PROVISIONS.

This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the Province of Alberta and of Canada applicable therein.

¹⁸ The Administrative Agent should consider whether this method conforms to its systems. In some circumstances, the following alternative language may be appropriate:

"From and after the Effective Date, the Administrative Agent shall make all payments in respect of [the][each] Assigned Interest (including payments of principal, interest, fees and other amounts) to [the][the relevant] Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor[s] and the Assignee[s] shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves."

Schedule "G" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF MATERIAL SUBSIDIARY GUARANTEE

[NOTE: IF MATERIAL SUBSIDIARY IS A PARTNERSHIP, OR IF TWO OR MORE MATERIAL SUBSIDIARIES ARE BECOMING GUARANTORS AT ANY PARTICULAR TIME, A REVISED FORM OF THIS GUARANTEE, OR A FORM OF MULTI-PARTY GUARANTEE, MAY BE PROVIDED BY THE AGENT]

This Guarantee is made as of **[date of designation of new Material Subsidiary]**.

TO: ATB Financial, in its capacity as Agent (as hereinafter defined)

For valuable consideration, receipt whereof is hereby acknowledged, **[name of Material Subsidiary]** (the "**Guarantor**") hereby irrevocably, absolutely and unconditionally:

- (a) guarantees to the Agent for and on behalf of itself, the Collateral Agent and the Lenders (as hereinafter defined) the full, prompt and punctual payment and performance of the Obligations (as hereinafter defined) on demand; and
- (b) indemnifies and saves harmless the Agent, the Collateral Agent and the Lenders (as hereinafter defined) from and against any and all losses, damages, costs, expenses or liabilities suffered or incurred by the Agent or any Lender (as hereinafter defined) resulting or arising from or relating to any failure of any Other Loan Party to pay in full or fully perform the Obligations as and when due, provided that the amount of such indemnification shall not exceed the amount of such Obligations together with any and all other amounts due and owing hereunder from time to time.

And the Guarantor agrees with the Agent and the Lenders as follows:

1. Definitions. In this Guarantee, including any preamble and recitals and the guarantee provision set forth above, unless there is something in the subject matter or context inconsistent therewith, the following terms and expressions (including the singular and plural form and derivatives thereof) shall have the following meanings:
 - (a) "**Agent**" means ATB Financial, in its capacity as agent for the Lenders, and any successor thereof appointed pursuant to the Credit Agreement;
 - (b) "**Borrower**" means Secure Energy Services Inc., its successor and assigns;
 - (c) "**Credit Agreement**" means the amended and restated first lien credit agreement dated April 29, 2019 between the Borrower and the financial institutions which are or may become party thereto as lenders from time to time, and ATB Financial, as agent for such lenders, as amended, restated, supplemented or otherwise modified from time to time;

- (d) **“Guarantee”** means this Material Subsidiary Guarantee, as the same may be amended, restated, supplemented or otherwise modified from time to time;
- (e) **“Lenders”** has the meaning assigned to that term under the Credit Agreement and for the purposes of this Guarantee, includes the Swap Lenders, the Creditcard Lenders, the Fronting Lenders, the Cash Management Lenders and the Collateral Agent, and **“Lender”** means any of them;
- (f) **“Loan Documents”** shall have the meaning given to it from time to time in the Credit Agreement, in each case as the same may be amended, restated, supplemented or otherwise modified from time to time;
- (g) **“Obligations”** means all obligations, indebtedness, liabilities, covenants, agreements and undertakings of the Other Loan Parties, or any of them, to the Agent and the Lenders, or any of them, arising out of or contemplated by the Credit Agreement, any other Loan Document or any Lender Swap (other than Excluded Swap Indebtedness), and whether present or future, direct or indirect, absolute or contingent, matured or not, extended or renewed, wheresoever and howsoever incurred, and any ultimate unpaid balance thereof, including all future advances and re-advances, and whether the same is from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and whether such Other Loan Parties or any of them be bound alone or with others and whether as principal or surety; and
- (h) **“Other Loan Parties”** means collectively, the Borrower and each Material Subsidiary from time to time other than the Guarantor and **“Other Loan Party”** means any of them.

Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them under the Credit Agreement.

2. Acknowledgment of Agent Capacity. This Guarantee is granted to the Agent in its capacity as agent for the Lenders. All of the covenants, representations, warranties, rights, benefits and protections made or given in favour of the Agent hereunder are acknowledged to be for the joint and several benefit of the Agent and each of the Lenders from time to time.
3. Evidence of Accounts. Any account settled or stated between the Agent or any Lender, on the one hand, and any Other Loan Party, on the other hand, shall be accepted by the Guarantor as *prima facie* evidence that the amount thereby appearing due by such Other Loan Party is so due.
4. Waiver of Defences. The liability of the Guarantor under this Guarantee shall be irrevocable, unconditional and absolute, and, without limiting the generality of the foregoing, the obligations of the Guarantor shall not be released, discharged, limited or otherwise affected by, and the Guarantor hereby waives as against the Agent for and on behalf of the Lenders to the fullest extent permitted by Applicable Law, any defence relating to:
 - (a) any extension, other indulgence, renewal, settlement, discharge, compromise, waiver, subordination or release in respect of any Obligation or otherwise unless such extension, other indulgence, renewal, settlement, discharge, compromise,

waiver, subordination or release shall specifically release the Guarantor from its indebtedness, obligations or liabilities hereunder or any part thereof or is a payment of all the Obligations in full;

- (b) any modification or amendment of or supplement to the Obligations, including any increase or decrease in the principal, the rates of interest or other amounts payable in respect thereof;
- (c) whether the Lender Swaps shall be in respect of commodity risk, interest rate risk, currency risk or otherwise and whether on a financial or physical basis, and whether speculative or not;
- (d) any defence based upon any incapacity, disability or lack or limitation of status or power of any Other Loan Party, the Guarantor or any other Person or of the directors, officers, employees, partners or agents thereof, or that any Other Loan Party, the Guarantor or any other Person may not be a legal entity, or any irregularity, defect or informality in the borrowing or obtaining of moneys or credits in respect of the Obligations;
- (e) any change in the existence, structure, constitution, name, control or ownership of any Other Loan Party, the Guarantor or any other Person;
- (f) any insolvency, bankruptcy, amalgamation, merger, reorganization, arrangement or other similar proceeding affecting any Other Loan Party, the Guarantor or any other Person or the assets of any Other Loan Party, the Guarantor or any other Person;
- (g) any change in the shareholdings or membership of the Guarantor through the retirement of one or more partners or the introduction of one or more partners or otherwise;
- (h) the existence of any claim, set-off or other rights which the Guarantor may have at any time against any Other Loan Party, any of the Lenders, the Agent or any other Person, whether in connection with the Obligations or any unrelated transactions;
- (i) any release or non-perfection or any invalidity, illegality or unenforceability relating to or against any Other Loan Party, the Guarantor or any other Person, whether relating to any instrument evidencing the Obligations or any other agreement or instrument relating thereto or any part thereof or any provision of Applicable Law purporting to prohibit the payment by any Other Loan Party, the Guarantor or any other Person of any of the Obligations;
- (j) any limitation, postponement, prohibition, subordination or other restriction on the rights of the Agent or any Lender to payment of the Obligations or to take any steps in respect thereof, including without limitation any stay of proceedings against any Other Loan Party or any direct or indirect guarantor of the Obligations;
- (k) any release, substitution or addition of any co-signer, endorser, other guarantor or any other Person in respect of the Obligations;

- (l) any defence arising by reason of any failure of the Agent or any Lender to make any presentment, demand for performance, notice of non-performance, protest, and any other notice, including notice of;
 - (i) acceptance of this Guarantee;
 - (ii) partial payment or non-payment of all or any part of the Obligations; and
 - (iii) the existence, creation, or incurring of new or additional Obligations;
- (m) any defence arising by reason of any failure of the Agent or any Lender to proceed against any Other Loan Party or any other Person, to proceed against, apply or exhaust any security held from any Other Loan Party, the Guarantor or any other Person for the Obligations, or to proceed against or to pursue any other remedy in the power of the Agent or any Lender whatsoever;
- (n) the benefit of any law which provides that the obligation of a guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal obligation or which reduces a guarantor's obligation in proportion to the principal obligations;
- (o) any defence arising by reason of any incapacity, lack of authority, or other defence of any Other Loan Party, the Guarantor or any other Person, or by reason of the cessation from any cause whatsoever of the liability of any Other Loan Party, the Guarantor or any other Person with respect to all or any part of the Obligations, or by reason of any act or omission of the Agent, any Lender or others which directly or indirectly results in the discharge or release of any Other Loan Party, the Guarantor or all or any part of the Obligations or any security, or guarantee therefor, whether by operation of law or otherwise;
- (p) any defence arising by reason of any failure by the Agent or any Lender to obtain, perfect or maintain a perfected (or any) Security Interest upon any property of any Other Loan Party, the Guarantor or any other Person or by reason of any interest of the Agent or any Lender in any property, whether as owner thereof or the holder of a Security Interest therein or lien or encumbrance thereon, being invalidated, voided, declared fraudulent or preferential or otherwise set aside, or by reason of any impairment by the Agent or any Lender of any right to recourse or collateral;
- (q) any defence arising by reason of the failure of the Agent or any Lender to marshal any assets;
- (r) any defence based upon any failure of the Agent to give to any Other Loan Party, the Guarantor or any other Person notice of any sale or other disposition of any property securing any or all of the Obligations or any guarantee thereof, or any defect in any notice that may be given in connection with any sale or other disposition of any such property, or any failure of the Agent or any Lender to comply with any provision of Applicable Law in enforcing any Security Interest upon any such property, including any failure by the Agent or any Lender to dispose of any such property in a commercially reasonable manner;

- (s) any dealing whatsoever with any Other Loan Party, the Guarantor or other Person or any security, whether negligently or not, or any failure to do so;
- (t) any extinguishment of all or any of the Obligations for any reason whatsoever (other than the actual satisfaction thereof); or
- (u) any other law, event or circumstance which might otherwise constitute a defence available to, or a discharge of the Guarantor, any other act or omission to act or delay of any kind by any Other Loan Party, the Agent, any Lender, the Guarantor or any other Person or any other circumstance whatsoever, whether similar or dissimilar to the foregoing, which might, but for the provisions of this Section 4, constitute a legal or equitable discharge, limitation or reduction of the obligations of the Guarantor hereunder (other than the payment or satisfaction in full of all of the Obligations).

The foregoing provisions apply (and the foregoing waivers shall be effective) even if the effect is to destroy or diminish the Guarantor's subrogation rights, the Guarantor's right to proceed against any Other Loan Party for reimbursement, the Guarantor's right to recover contribution from any other guarantor or any other right or remedy.

5. Indemnity. The Guarantor shall be liable for and shall indemnify and save the Agent and the Lenders harmless from and against any losses which may arise by virtue of any of the Obligations or any agreement related thereto being or becoming for any reason whatsoever in whole or in part (a) void, voidable, *ultra vires*, illegal, invalid, ineffective or otherwise unenforceable in accordance with its terms, or (b) released or discharged by operation of law other than by reason of a release by the Agent and the Lenders (collectively an "**Indemnifiable Circumstance**"). For greater certainty, these losses shall include, without limitation, the amount of all obligations which would have been payable by the Other Loan Party but for the existence of an Indemnifiable Circumstance. The Guarantor shall also be liable for and shall indemnify and save the Agent and the Lenders harmless from and against any and all liabilities, costs and expenses (including reasonably legal fees and expenses on a solicitor and his own client full indemnity basis) (x) incurred by the Agent or any Lender in the preparation, registration, administration or enforcement of this Guarantee, (y) with respect to or resulting from any failure or delay by the Guarantor in performing or observing any of its obligations under this Guarantee, and (z) incurred by the Agent or any Lender in performing or observing any of the other covenants of the Guarantor under this Guarantee.
6. No Waiver. No delay on the part of the Agent or any Lender in exercising any of its options, powers or rights, or partial or single exercise thereof, shall constitute a waiver thereof. No amendment to this Guarantee or waiver of any of the rights of the Agent or any Lender hereunder shall be deemed to be made by the Agent or any Lender unless the same shall be in writing, duly signed on behalf of the Agent and each such waiver, if any, shall apply only with respect to the specific instance involved and for the specific purpose for which given, and shall in no way impair the rights or liabilities of the Agent or the Guarantor hereunder in any other respect at any other time.
7. Deemed Existence. If at any time, all or any part of any payment previously applied by the Agent or any Lender to any Obligation is or must be rescinded or returned by the Agent or any Lender for any reason whatsoever (including, without limitation, the insolvency, bankruptcy, or reorganization of the Guarantor or any Other Loan Party) such Obligation shall, for the purpose of this Guarantee, to the extent that such payment

is rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Agent or any Lender, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Obligation, all as though such application by the Agent or any Lender had not been made.

8. Assignment and Postponement. Following the occurrence and during the continuance of an Event of Default, all present and future indebtedness and liability of the Other Loan Parties to the Guarantor is hereby assigned by the Guarantor to the Agent and postponed to the Obligations and all moneys received by the Guarantor in respect thereof will be received in trust for and will be paid over to the Agent upon demand by the Agent. If the Agent or the Lenders receive from the Guarantor a payment or payments in full or on account of the liability of the Guarantor hereunder, the Guarantor will not be entitled to claim repayment against any Other Loan Party until the Agent and the Lender's claims against all Other Loan Parties have been irrevocably and unconditionally paid in full. In case of liquidation, winding-up or bankruptcy of any Other Loan Party (whether voluntary or involuntary) or any composition with creditors or scheme of arrangement, the Agent and the Lenders will have the right to rank for their full claims and receive all dividends or other payments in respect thereof in priority to the Guarantor until the claims of the Agent and the Lenders have been irrevocably and unconditionally paid in full and the Guarantor will continue to be liable hereunder for any balance which may be owing to the Agent or the Lenders by the Other Loan Parties. In the event of the valuation by the Agent of any of its security and/or the retention thereof by the Agent, such valuation and/or retention will not, as between the Agent and the Lenders and the Guarantor, be considered as a purchase of such security, or as payment or satisfaction of the Obligations or any part thereof. The foregoing provisions of this Section 8 will not in any way limit or lessen the liability of the Guarantor under any other section of this Guarantee.
9. Other Securities. This Guarantee is in addition to and not in substitution for any other guarantee or any other securities by whomsoever given at any time held by the Agent or any Lender for any present or future Obligations and the Agent or any Lender shall at all times have the right to proceed against or realize upon all or any portion of any other guarantees or securities or any other money or assets to which it may become entitled or have a claim in such order and in such manner as it in its sole and unfettered discretion may deem fit.
10. Continuing Guarantee. This Guarantee is a continuing guarantee and: (a) shall remain in full force and effect in accordance with its terms until payment in full of all amounts payable under this Guarantee and termination of the Lenders' commitments and obligations under and pursuant to the Loan Documents; and (b) shall enure to the benefit of the Agent, each Lender and their respective successors and assigns, and shall be binding upon the Guarantor, its successors and permitted assigns.
11. Enforcement of Guarantee. The obligations of the Guarantor under this Guarantee shall be enforceable by the Agent upon demand by the Agent for payment of the Obligations in accordance with the terms hereof without the necessity of any action or recourse whatsoever against any Other Loan Party, any security or any other guarantor. The remedies provided in this Guarantee are cumulative and not exclusive of any remedies provided by Applicable Law, the Loan Documents or otherwise.
12. Subrogation. This Guarantee shall not be considered as wholly or partially satisfied by the payment or liquidation at any time or times of any sum or sums of money for the time

being due or remaining unpaid to the Agent or any Lender, and all dividends, compensations, proceeds of security valued and payments received by the Agent or any Lender from any Other Loan Party, the Guarantor or from others or from any estate shall be regarded for all purposes as payments in gross without right on the part of any Guarantor to claim in reduction of the liability under this Guarantee the benefit of any such dividends, compositions, proceeds or payments or any securities held by the Agent or any Lender or proceeds thereof, and the Guarantor shall have no right to be subrogated in any rights of the Agent until the Agent shall have received full, final and indefeasible payment and performance of the Obligations and the Lenders have no further obligation to extend credit or advance monies to or for the benefit of any Other Loan Party.

13. Foreign Currency Obligations. The Guarantor will make payment relative to each Obligation in the currency (the "**Original Currency**") in which the Other Loan Party is required to pay such Obligation. If the Guarantor makes payment relative to any Obligation to the Agent or a Lender in a currency other than the Original Currency (whether voluntarily or pursuant to an order or judgment of a court or tribunal of any jurisdiction), such payment will constitute a discharge of the liability of the Guarantor hereunder in respect of such Obligation only to the extent of the amount of the Original Currency which the Agent or such Lender is able to purchase at Calgary, Alberta with the amount it receives on the date of receipt. If the amount of the Original Currency which the Agent or such Lender is able to purchase is less than the amount of such currency originally due to it in respect of the relevant Obligation, the Guarantor will indemnify and save the Agent and the Lenders harmless from and against any loss or damage arising as a result of such deficiency. This indemnity will constitute an obligation separate and independent from the other obligations contained in this Guarantee, will give rise to a separate and independent cause of action, will apply irrespective of any indulgence granted by the Agent or any Lender and will continue in full force and effect notwithstanding any judgment or order in respect of any amount due hereunder or under any judgment or order.
14. Guarantee of Payment and Performance. This Guarantee is a guarantee of payment and performance and not of collection and is in addition and without prejudice to any securities of any kind now or hereafter held by the Agent or any Lender.
15. Costs. The Guarantor shall pay to the Agent all out-of-pocket costs and expenses, including all reasonable legal fees (on a solicitor and his own client basis) and other expenses incurred by the Agent and any of the Lenders from time to time in the enforcement, realization and collection of or in respect of this Guarantee, and the term "Obligations" herein shall include all such costs and expenses. All of these amounts shall be payable by the Guarantor on demand, shall bear interest at a rate per annum equal to the Prime Rate per annum, calculated from the date incurred by the Agent to the date paid by the Guarantor, compounded monthly on the last day of each month, both before and after default, maturity and judgment.
16. Payment. All payments hereunder with respect to any Obligations shall be made to the Agent on behalf of the Lenders at the Agent's branch in Calgary, Alberta at Suite 600, 585 – 8th Avenue S.W., Calgary, Alberta T2P 1G1 or at such other branch or agency of the Agent as the Agent shall designate from time to time by notice in writing to the Guarantor.

17. Payment on Stay. If: (a) any Other Loan Party is prevented from making payment of any of the Obligations when it would otherwise be required to do so; or (b) the Agent is prevented from demanding payment of the Obligations because of a stay or other judicial proceeding or any other legal impediment, all Obligations or other amounts otherwise subject to demand, acceleration or payment shall be payable by the Guarantor as provided for hereunder.
18. Waiver of Notice. The Guarantor waives all notices which may be required by any statute, rule of law, contract or otherwise to preserve any rights to the Agent or any Lender against the Guarantor.
19. Taxes. Any and all payments by the Guarantor hereunder shall be made free and clear of and without deduction for any and all present and future taxes, liens, imposts, stamp taxes, deductions, charges or withholdings, and all liabilities with respect thereto and any interest, additions to tax and penalties imposed with respect thereto, but excluding, with respect to the Agent or any Lender, taxes imposed on its income or capital and franchise taxes imposed on it by any taxation authority (hereinafter referred to as "**Taxes**"). If the Guarantor shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder to the Agent or any Lender:
- (a) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 19) the Agent or such Lender receives an amount equal to the sum it would have received had no such deductions been made; and
 - (b) the Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with Applicable Law.
20. Covenants. The Guarantor acknowledges receipt of a copy of the Credit Agreement and the other Loan Documents and understands the Obligations of the Loan Parties thereunder. The Guarantor consents and agrees to be bound by any provision in the Credit Agreement which relates to the Guarantor. In addition, the Guarantor covenants and agrees that it shall perform each and every term, covenant, condition and agreement which the Borrower has covenanted in the Credit Agreement to cause the Guarantor to perform, and the Guarantor will comply with each and every term, covenant, condition and agreement which the Borrower has covenanted under the Credit Agreement to cause the Guarantor to comply with, when and as provided for by the terms of the Credit Agreement and the Guarantor will not do anything which would result in a breach of the Credit Agreement.
- The Guarantor confirms and makes and repeats on its own behalf in favour of the Agent and the Lenders each of the representations and warranties set forth in the Credit Agreement to the extent such representations and warranties relate to the Guarantor or any matter in respect thereof, and shall be deemed to make, repeat and re-affirm each such representation and warranty on each date on which such representations and warranties are made or deemed to be made or re-made by the Borrower under the Credit Agreement, all to the same extent as if the Guarantor was a party to the Credit Agreement, and all as though such representations and warranties were set out at length herein.
21. Governing Law. This Guarantee shall be governed by the laws of the Province of Alberta and the laws of Canada applicable therein.

22. Severability. If any provision or paragraph of this Guarantee shall be invalid, illegal or unenforceable in any respect or in any jurisdiction, it shall not affect the validity, legality or enforceability of such provision or paragraph in any other jurisdiction or the validity, legality or enforceability of any other provision of this Guarantee.
23. Notices. Any demand, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery or by transmittal by telex, telecopy, rapifax or other electronic means of communication addressed to the respective parties as follows:

the Guarantor at:

[]

Attention: _____ []

Facsimile: []

the Agent at:

Suite 600, 585 – 8th Avenue S.W.
Calgary, Alberta T2P 1G1

Attention: Managing Director, Loan Syndications

Facsimile: [REDACTED CONFIDENTIAL PERSONAL
INFORMATION]

or to such other address or telex number, telecopy number or rapifax number as any party may from time to time notify the others in accordance with this Section 23. Any demand, notice or communication made or given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof, or, if made or given by telex or other electronic means of communication, on the first Business Day following the transmittal thereof.

24. Acknowledgment. The Guarantor confirms that its obligations under this Guarantee are not subject to any promise or condition affecting or limiting its liability, and no statement, representation, collateral agreement or promise by the Agent or any Lender or by any officer, employee or agent of it, forms any part of this Guarantee or has induced the making thereof, or shall be deemed in any way to affect the Guarantor's liability hereunder.
25. Appropriation. The Agent shall be at liberty, without in any way prejudicing or affecting its rights hereunder, to appropriate any payment made or monies received to any part of the Obligations, whether then due or to become due, and from time to time to revoke or alter any such appropriation, as the Agent sees fit.

IN WITNESS WHEREOF the Guarantor has caused this Guarantee to be signed by the proper officer duly authorized in that behalf as of the date and year first above written.

[NAME OF MATERIAL SUBSIDIARY]

G-10

By: . Name:
Title:

By: . Name:
Title:

Schedule "H" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

POWER OF ATTORNEY TERMS – BANKERS' ACCEPTANCES

In order to facilitate the acceptance of Bankers' Acceptances pursuant to the terms of the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between Secure Energy Services Inc., as borrower (the "**Borrower**"), ATB Financial, as Agent, and the Lenders named therein (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), the Borrower hereby appoints each Lender (hereinafter individually called the "**Bank**"), acting by an authorized signing officer (the "**Attorney**") for the time being of the Bank's Branch of Account, the attorney of the Borrower:

- (a) to sign for and on behalf and in the name of the Borrower as drawer, drafts in the Bank's standard form which are "depository bills" under and as defined in the *Depository Bills and Notes Act* (Canada) (the "**DBNA**") ("**Drafts**") drawn on the Bank payable to a "clearing house" under the DBNA or its nominee for deposit by the Bank with the "clearing house" after acceptance thereof by the Bank; and
- (b) to fill in the amount, date and maturity date of such Drafts;

provided that such acts in each case are to be undertaken by the Bank in accordance with instructions given to the Bank by the Borrower as provided in this power of attorney.

Instructions to the Bank relating to the execution, completion, endorsement, discount, purchase and/or delivery by the Bank on behalf of the Borrower of Drafts which the Borrower wishes to submit to the Bank for acceptance by the Bank shall be communicated by the Agent in writing to the Attorney at the Bank's Branch of Account concurrently with delivery by the Borrower, pursuant to the provisions of: (i) Section 3.6 or 3.8 of the Credit Agreement, a Borrowing Notice by way of Bankers' Acceptances in the form of Schedule "B" to the Credit Agreement; or (ii) Section 3.18 and 3.19 of the Credit Agreement, a Conversion Notice or Rollover Notice in the form of Schedule "C" to the Credit Agreement. The instructions to the Bank shall specify the following information:

- (a) a Canadian Dollar amount, which shall be the aggregate face amount of the Drafts to be accepted by the Bank in respect of a particular Borrowing, Conversion or Rollover; and
- (b) a specified period of time, as provided in the Credit Agreement, which shall be the number of months after the date of such Drafts that such Drafts are to be payable, and the dates of issue and maturity of such Drafts.

The communication in writing to the Bank of the instructions referred to above shall constitute (a) the authorization and instruction of the Borrower to the Bank to complete and endorse Drafts in accordance with such information as set out above and (b) the request of the Borrower to the Bank to accept such Drafts and deposit the same with the "clearing house" against payment as set out in the instructions. The Borrower acknowledges that the Bank shall not be obligated to accept any such Drafts except in accordance with the provisions of the Credit Agreement.

The Bank shall be and it is hereby authorized to act on behalf of the Borrower upon and in compliance with instructions communicated to the Bank as provided herein if the Bank reasonably believes them to be genuine.

The Borrower hereby agrees to indemnify the Bank and its directors, officers, employees, affiliates and agents and to hold it and them harmless from and against any loss, liability, expense or claim of any kind or nature whatsoever incurred by any of them as a result of any action or inaction in any way relating to or arising out of this power of attorney or the acts contemplated hereby including the deposit of any Draft with the "clearing house"; provided that this indemnity shall not apply to any such loss, liability, expense or claim which results from the negligence or wilful misconduct of the Bank or any of its directors, officers, employees, affiliates or agents.

This power of attorney may be revoked at any time upon not less than 15 Business Days' written notice served in accordance with Section 14.7 of the Credit Agreement upon the Bank at its Branch of Account, provided that: (i) it may be replaced with another power of attorney forthwith on terms satisfactory to the Bank; and (ii) no such revocation shall reduce, limit or otherwise affect the obligations of the Borrower in respect of any Draft executed, completed, endorsed, discounted and/or delivered in accordance herewith prior to the time at which such revocation becomes effective. This power of attorney may be terminated by the Bank at any time upon not less than 15 Business Days written notice to the Borrower in accordance with Section 14.7 of the Credit Agreement. Any revocation or termination of this power of attorney shall not affect the rights of the Bank and the obligations of the Borrower with respect to the indemnities of the Borrower above stated with respect to all matters arising prior in time to any such revocation or termination.

This power of attorney is in addition to and not in substitution for any agreement to which the Bank and the Borrower are parties.

This power of attorney shall be governed in all respects by the laws of the Province of Alberta and the laws of Canada applicable therein and each of the Borrower and the Bank hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of such jurisdiction in respect of all matters arising out of this power of attorney.

In the event of a conflict between the provisions of this power of attorney and the Credit Agreement, the Credit Agreement shall prevail. Capitalized terms used and not defined herein shall have the meanings given to them in the Credit Agreement.

Schedule "I" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

POWER OF ATTORNEY TERMS – BA EQUIVALENT ADVANCES

In order to facilitate the making of BA Equivalent Advances pursuant to the terms of the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between Secure Energy Services Inc., as borrower (the "**Borrower**"), ATB Financial, as Agent, and the Lenders named therein (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), the Borrower hereby appoints each Lender (hereinafter individually called the "**Bank**"), acting by an authorized signing officer (the "**Attorney**") for the time being of the Bank's Branch of Account, the attorney of the Borrower:

- (a) to sign for and on behalf and in the name of the Borrower as drawer, promissory notes in the Bank's standard form for advances in the nature of BA Equivalent Advances ("**Notes**") payable to the Bank or its order evidencing BA Equivalent Advances made by the Bank to the Borrower pursuant to the Credit Agreement; and
- (b) to fill in the amount, date and maturity date of such Notes;

provided that such acts in each case are to be undertaken by the Bank in accordance with instructions given to the Bank by the Borrower as provided in this power of attorney.

Instructions to the Bank relating to the execution, completion, endorsement, discount, purchase and/or delivery by the Bank on behalf of the Borrower of Notes which the Borrower wishes to issue to the Bank shall be communicated by the Agent in writing to the Attorney at the Bank's Branch of Account concurrently with delivery by the Borrower, pursuant to the provisions of: (i) Section 3.6 or 3.8 of the Credit Agreement, a Borrowing Notice by way of Bankers' Acceptances in the form of Schedule "B" to the Credit Agreement; or (ii) Section 3.18 and 3.19 of the Credit Agreement, a Conversion Notice or Rollover Notice in the form of Schedule "C" to the Credit Agreement. The instructions to the Bank shall specify the following information:

- (a) a Canadian Dollar amount, which shall be the aggregate face amount of the Notes in respect of a particular Borrowing, Conversion or Rollover; and
- (b) a specified period of time, as provided in the Credit Agreement, which shall be the number of months after the date of such Notes that such Notes are to be payable, and the dates of issue and maturity of such Notes.

The communication in writing to the Bank of the instructions referred to above shall constitute the authorization and instruction of the Borrower to the Bank to complete and, if applicable, endorse Notes in accordance with such information as set out above. The Borrower acknowledges that the Bank shall not be obligated to make any BA Equivalent Advance and thereafter complete and execute, and if applicable, endorse any such Notes except in accordance with the provisions of the Credit Agreement.

The Bank shall be and it is hereby authorized to act on behalf of the Borrower upon and in compliance with instructions communicated to the Bank as provided herein if the Bank reasonably believes them to be genuine.

The Borrower agrees to indemnify the Bank and its directors, officers, employees, affiliates and agents and to hold it and them harmless from and against any loss, liability, expense or claim of any kind or nature whatsoever incurred by any of them as a result of any action or inaction in any way relating to or arising out of this power of attorney or the acts contemplated hereby; provided that this indemnity shall not apply to any such loss, liability, expense or claim which results from the negligence or wilful misconduct of the Bank or any of its directors, officers, employees, affiliates or agents.

This power of attorney may be revoked at any time upon not less than 15 Business Days' written notice served in accordance with Section 14.7 of the Credit Agreement upon the Bank at its Branch of Account, provided that: (i) it may be replaced with another power of attorney forthwith on terms satisfactory to the Bank; and (ii) no such revocation shall reduce, limit or otherwise affect the obligations of the Borrower in respect of any Notes executed, completed, endorsed, discounted and/or delivered in accordance herewith prior to the time at which such revocation becomes effective. This power of attorney may be terminated by the Bank at any time upon not less than 15 Business Days written notice to the Borrower in accordance with Section 14.7 of the Credit Agreement. Any revocation or termination of this power of attorney shall not affect the rights of the Bank and the obligations of the Borrower with respect to the indemnities of the Borrower above stated with respect to all matters arising prior in time to any such revocation or termination.

This power of attorney is in addition to and not in substitution for any agreement to which the Bank and the Borrower are parties.

This power of attorney shall be governed in all respects by the laws of the Province of Alberta and the laws of Canada applicable therein and each of the Borrower and the Bank hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of such jurisdiction in respect of all matters arising out of this power of attorney.

In the event of a conflict between the provisions of this power of attorney and the Credit Agreement, the Credit Agreement shall prevail. Capitalized terms used and not defined herein shall have the meanings given to them in the Credit Agreement.

Schedule "J" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF ENVIRONMENTAL CERTIFICATE

TO: ATB FINANCIAL, as Agent

RE: Amended and Restated First Lien Credit Agreement dated April 29, 2019 between Secure Energy Services Inc., as borrower (the "**Borrower**"), ATB Financial, as agent (the "**Agent**"), and the persons party thereto as lenders from time to time (collectively, the "**Lenders**") (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**").

This Environmental Certificate is given pursuant to Section 9.4(f) of the Credit Agreement. Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

I am the duly appointed [] of the Borrower and hereby make the following certifications in such capacity for and on behalf of the Borrower and not in my personal capacity and without assuming any personal liability whatsoever:

1. The following certifications are made to the best of my knowledge after due enquiry. My due enquiry has been limited to discussions and correspondence with responsible officers and staff of the Borrower and the Material Subsidiaries to confirm that the internal environmental reporting and response procedures of the Borrower and the Material Subsidiaries have been followed in all material respects as they relate to the certifications made herein and that the matters herein set forth are true and correct and that matters reported on by such officers and staff are true and correct.
2. The certifications in paragraphs 3 through 8 are qualified as to any breach of or failure to comply with any Environmental Laws, provided that the breach or failure to comply has not had, or would not reasonably be expected to have (whether on an individual or cumulative basis), a Material Adverse Effect.
3. The Assets of the Loan Parties (including the Site Facilities) are owned, leased, managed, controlled or operated, in compliance with Environmental Laws.
4. There are no existing, pending or threatened (by written notice):
 - (a) claims, complaints, notices or requests for information received from a Governmental Authority by any of the Loan Parties, or of which any of the Loan Parties are otherwise aware, with respect to any alleged violation of or alleged liability under any Environmental Laws by any of the Loan Parties; or
 - (b) stop, cleanup or preventative orders, direction or action requests, notice of which has been received from a Governmental Authority by any of the Loan Parties or of which any of the Loan Parties are otherwise aware, relating to the environment

which as a result thereof, requires any work, repair, remediation, cleanup, construction or capital expenditure with respect to any Assets owned, leased, managed, controlled or operated by any of the Loan Parties.

5. Except in compliance with Environmental Laws, no Hazardous Substances have been received, handled, used, stored, treated or shipped at or from, and there has been no Release of Hazardous Substance at, on, in, from or under any of the Assets owned, leased, managed, controlled or operated by any of the Loan Parties.
6. Except in compliance with Environmental Laws, none of the Assets owned, leased, managed, controlled or operated by any of the Loan Parties have been used as a land fill site or as a waste disposal site.
7. No condition exists at, on, in, from or under any of the Assets owned, leased, managed, controlled or operated by any of the Loan Parties, which with the passage of time, or the giving of notice or both, has given rise to or would reasonably be expected to give rise to a violation or liability under any Environmental Laws.
8. The Loan Parties have obtained all Authorizations which are required under Environmental Laws and are in compliance with all terms and conditions of all Authorizations, and the Borrower hereby certifies that each of the Authorizations is in full force and effect and unrevoked as of the date of this certificate.

DATED this _____ day of _____, 20_.

SECURE ENERGY SERVICES INC.

By: _____
Name:
Title:

Schedule "K" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

FORM OF FRONTING LENDER ACKNOWLEDGEMENT

This Fronting Lender Acknowledgement dated as of _____, 20____ is made:

AMONG:

ATB FINANCIAL, in its capacity as administrative agent (the "**Agent**")

- and -

[] (the "**Fronting Lender**")

- and -

SECURE ENERGY SERVICES INC. (the "**Borrower**")

WHEREAS:

The Agent, the Fronting Lender and the Borrower, among others, are parties to a certain Amended and Restated First Lien Credit Agreement dated as of April 29, 2019 (the "**Credit Agreement**").

The Borrower has, pursuant to the terms of the Credit Agreement, requested the issuance of a Letter of Credit to [] in the amount of [] (the "**Fronted Letter of Credit**"), the details of which are described in Exhibit 1 attached hereto.

The parties wish to acknowledge and confirm the appointment of the Fronting Lender in respect of the Fronted Letter of Credit.

NOW THEREFORE, the parties agree and acknowledge as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, unless otherwise defined herein, capitalized words and phrases shall have the meanings given to them in the Credit Agreement.

**ARTICLE 2
CONFIRMATION OF FRONTING LENDER**

2.1 Fronting Lender

Pursuant to the request of the Borrower and the terms of the Credit Agreement, the Borrower has requested the Fronting Lender to act, and the Fronting Lender hereby agrees to act, as Fronting Lender (as defined in the Credit Agreement) in respect of the Fronted Letter of Credit and shall issue the Fronted Letter of Credit on behalf of the Syndicated Lenders.

2.2 Acknowledgement

The Agent acknowledges that it has been advised that the Fronting Lender shall act as Fronting Lender (as defined in the Credit Agreement) in respect of the Fronted Letter of Credit and shall issue the Fronted Letter of Credit on behalf of the Syndicated Lenders.

**ARTICLE 3
PROCEDURES AND LIMITATIONS**

3.1 Procedures and Limitations

The parties agree and acknowledge that:

- (a) any further requests to reissue, modify, alter or extend the Fronted Letter of Credit shall be given to the Agent and the Fronting Lender;
- (b) the term of the Fronted Letter of Credit shall have a maximum term of not more than one year and shall otherwise be in a form satisfactory to the Fronting Lender;
- (c) the Fronted Letter of Credit shall not expire in any event later than the Maturity Date of the Lenders at the time of issuance or renewal;
- (d) the Fronting Lender shall have no obligation to issue the Fronted Letter of Credit until the Borrower has executed and delivered to the Fronting Lender (with a copy to the Agent) such ancillary documents (including applications and indemnities) as the Fronting Lender normally requires for similar transactions;
- (e) the Borrower may not effect a Conversion of the Fronted Letter of Credit except to a Prime Loan or U.S. Base Rate Loan, as applicable, following a call or demand on the Fronted Letter of Credit, subject to and in accordance with the Credit Agreement; and
- (f) the provisions of this Agreement are in addition to and not in substitution for the terms of the Credit Agreement which apply to Fronted Letters of Credit.

**ARTICLE 4
MISCELLANEOUS**

4.1 Paramountcy

The parties agree and acknowledge that this Agreement merely confirms and acknowledges certain terms of the Credit Agreement and shall not have the effect of limiting or amending the terms thereof. To the extent that this Agreement is contrary to or inconsistent

with the provisions of the Credit Agreement, the terms of the Credit Agreement shall be paramount and prevail.

4.2 Counterpart Execution

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

Agreed and acknowledged as of the date first above written.

ATB FINANCIAL as Agent

By: _____

By: _____

[] as Fronting Lender

By: _____

By: _____

SECURE ENERGY SERVICES INC.

By: _____

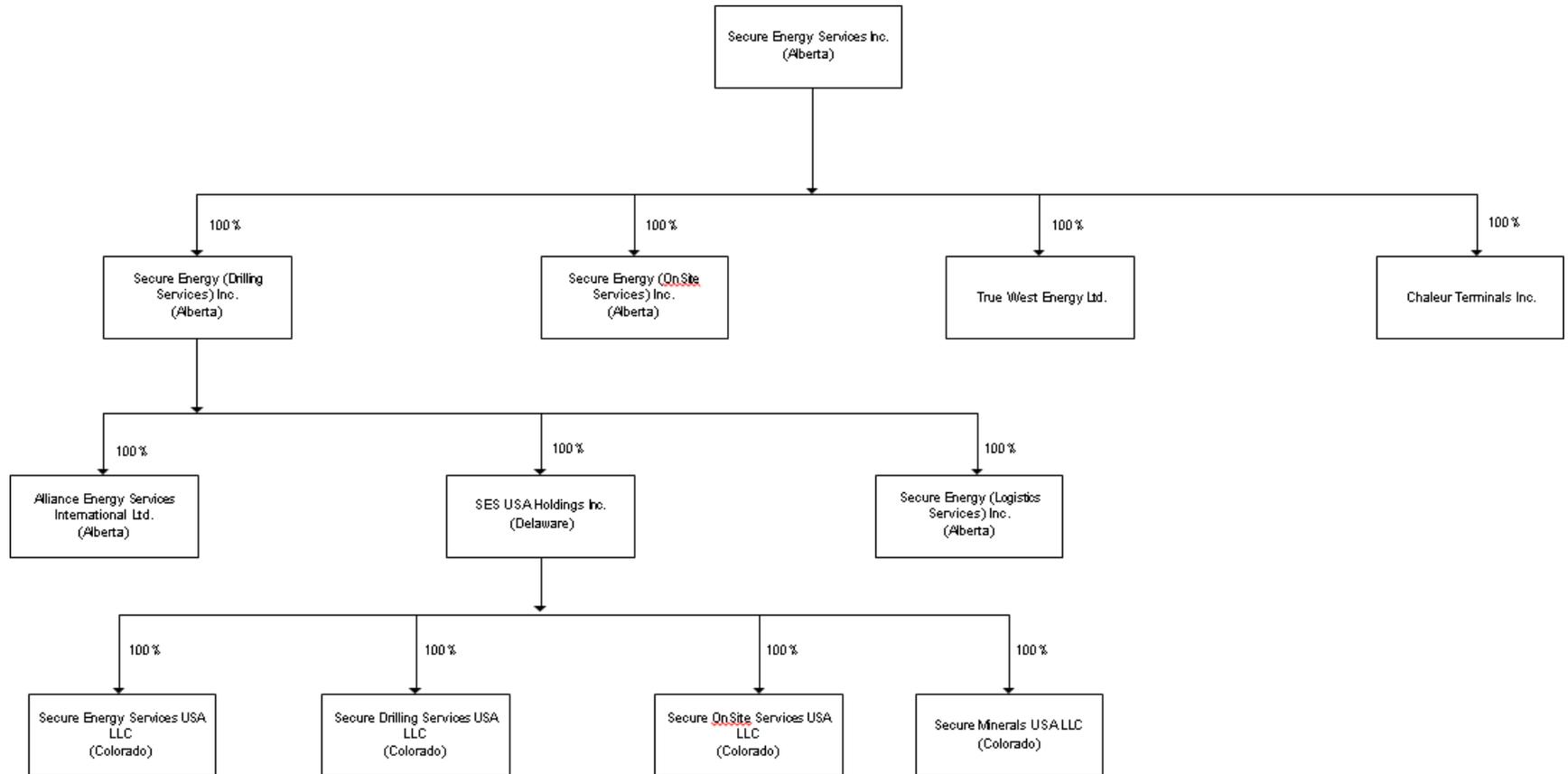
By: _____

Exhibit 1

Particulars of Letter of Credit

Schedule "L" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

ORGANIZATIONAL CHART OF THE BORROWER



Schedule "M" to the Amended and Restated First Lien Credit Agreement dated April 29, 2019 between SECURE ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

EXISTING LENDER SWAPS, CONTINUING LETTERS OF CREDIT AND OUTSTANDING BAS

Existing Lender Swaps:

Nil.

Outstanding BAs:

BA Face Amount (CAD global)	Draw Date	Maturity Date
[REDACTED]	[REDACTED]	[REDACTED]

Continuing Letters of Credit:

[REDACTED: CONFIDENTIAL FINANCIAL INFORMATION]

ENERGY SERVICES INC., as Borrower, and a consortium of Lenders with ATB FINANCIAL, as Agent

**TRANSFERRED LETTERS OF CREDIT
[REDACTED: CONFIDENTIAL
FINANCIAL INFORMATION]**