



CREDIT AGREEMENT

DATED AS OF AUGUST 9, 2018

BETWEEN

COVALON TECHNOLOGIES LTD., as Borrower

THE GUARANTORS FROM TIME TO TIME PARTY HERETO,

**HSBC BANK CANADA and
THE OTHER LENDERS FROM TIME TO TIME PARTY HERETO,**

AND

HSBC BANK CANADA,

AS ADMINISTRATIVE AGENT

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CREDIT AGREEMENT

This Credit Agreement is entered into as of August 9, 2018, between Covalon Technologies Ltd., as Borrower, the other Obligor from time to time party to this Agreement, as Guarantors, HSBC Bank Canada and the other financial institutions from time to time party to this Agreement, as Lenders, and HSBC Bank Canada, as Administrative Agent as provided herein.

PRELIMINARY STATEMENTS

WHEREAS the Borrower has requested, and the Lenders have agreed to extend, certain credit facilities on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1. DEFINITIONS; INTERPRETATION.

Section 1.1 **Definitions.** The following terms when used herein shall have the following meanings:

"Acceleration Date" means the earlier of: (i) the occurrence of an Event of Default under Section 9.1(j) or Section 9.1(k) of this Agreement which has not been waived in writing by the Administrative Agent; (ii) the delivery by the Administrative Agent to the Borrower of a written notice that the Obligations are immediately due and payable, following the occurrence and during the continuation of an Event of Default which has not been waived in writing by the Administrative Agent other than an event referred to under (i) of this definition; and (iii) demand by the Administrative Agent.

"Acceptance Fee" is defined in Section 3.1(d) hereof.

"Acquisition" means any acquisition (whether by purchase, merger, consolidation or otherwise) or series of related acquisitions by any Obligor of (a) all or substantially all or any significant portion of the assets of a Person or division or line of business or a business unit of a Person, or (b) all or substantially all of the equity interests of a Person.

"Acquisition Credit Commitment" means, as to any Lender, the obligation of such Lender to make Acquisition Loans in an aggregate principal amount at any time not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof. The Borrower and the Lenders acknowledge and agree that the Acquisition Credit Commitments of the Lenders aggregate the Acquisition Credit Limit on the date hereof.

"Acquisition Credit Facility" means the credit facility for the Acquisition Loans described in Section 2.2 hereof.

"Acquisition Credit Limit" means \$9,000,000.

"Acquisition Loan" is defined in Section 2.2 hereof and, as so defined, includes a Prime Rate Loan, a Base Rate Loan, a Bankers' Acceptance, a BA Equivalent Loan and a LIBOR Loan which is a "type" of Acquisition Loan hereunder.

"Acquisition Loan Percentage" means, for each Lender, the percentage of the Acquisition Credit Commitments represented by such Lender's Acquisition Credit Commitment or, if the Acquisition Credit Commitments have been terminated or have expired, the percentage held by such Lender of the aggregate principal amount of all Acquisition Loans then outstanding.

"Administrative Agent" means HSBC Bank Canada, and any successor pursuant to Section 10.23 of this Agreement.

"Administrative Questionnaire" means an administrative questionnaire in a form supplied by the Administrative Agent.

"Affected Lender" is defined in Section 2.17 hereof.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Agreement" means this Credit Agreement, as the same may be amended, modified, restated or supplemented from time to time pursuant to the terms hereof.

"Applicable Law" means, with respect to any Person, property, transaction or event, all applicable federal, provincial, state, municipal, local or other laws (including the common law and civil law), statutes, rules, regulations, codes, treaties, ordinances, guidelines, policies, by-laws, rules, directives, standards, conventions, judgments, orders, awards or determinations of courts, arbitrators or mediators, and decrees in any applicable jurisdiction in each case having the force of law which apply to such Person, property, transaction or event.

"Application" is defined in Section 2.6(b) hereof.

"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.

"Assigned Cash" means unrestricted cash, credit balances and deposit instruments (i) in which the Administrative Agent (on behalf of the Lenders) has been granted a security interest by the Borrower, and (ii) which is held in a bank account at HSBC and is subject to an account hold.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee and accepted by the Administrative Agent, in substantially the form of Exhibit F or any other form approved by the Administrative Agent.

"Availment Option" means a method of borrowing which is available to the Borrower as provided herein.

"BA Equivalent Loan" means an advance in Canadian Dollars made by a Non-BA Lender to the Borrower in respect of which the Borrower has issued a BA Equivalent Note.

"BA Equivalent Note" means a promissory note payable by the Borrower to a Non-BA Lender in the form of Exhibit E attached hereto.

"BA Lender" means each Lender unless such Lender is identified in Schedule 1 attached hereto as a Lender which will not accept Bankers' Acceptances hereunder.

"Bankers' Acceptance" means a bill of exchange or a blank non-interest bearing depository bill as defined in the *Depository Bills and Notes Act* (Canada) drawn by the Borrower and accepted by a BA Lender in Canadian Dollars and in respect of which the Borrower becomes obligated to pay the face amount thereof to the holder (which may be a third party or such BA Lender) upon maturity.

"Base Rate" means for any day the greater of the following: (i) the rate of interest announced or otherwise established by the Administrative Agent from time to time as its reference rate, then in effect for determining rates of interest for U.S. Dollar loans to borrowers located in Canada with any change in the

Base Rate resulting from a change in said rate to be effective as of the date of the relevant change in said rate (it being acknowledged and agreed that such rate may not be the Administrative Agent's best or lowest rate and (ii) the Federal Funds Rate plus one percent (1%)).

"Base Rate Loan" means a Loan denominated in U.S. Dollars bearing interest at a rate specified in Section 2.7(b) hereof.

"Basel III" means (a) the agreements on capital requirements, a leverage ratio 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, supplemented or restated; and (b) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

"BIA" means the *Bankruptcy and Insolvency Act* (Canada).

"Borrower" means Covalon Technologies Ltd., a corporation incorporated pursuant to the laws of the Province of Ontario.

"Borrowing" means the total of Loans of a single type advanced, continued for an additional Interest Period, or converted from a different type into such type by the Lenders under a Credit Facility on a single date and, in the case of LIBOR Loans, Bankers' Acceptances and BA Equivalent Loans, for a single Interest Period. Borrowings of Loans are made and maintained rateably from each of the Lenders under a Credit Facility according to their Percentages of such Credit Facility. A Borrowing is "advanced" on the day Lenders advance funds comprising such Borrowing to the Borrower, is "continued" on the date a new Interest Period for the same type of Loans commences for such Borrowing, and is "converted" when such Borrowing is changed from one type of Loan to the other, all as determined pursuant to Section 2.9 hereof. Borrowings of Swing Loans are made by the Swing Line Lender in accordance with the procedures set forth in Section 2.18 hereof. Borrowings of Export Loans are made by the Export Line Lender in accordance with the procedures set forth in Section 2.19 hereof.

"Borrowing Base" means, at any time, the amount determined at such time as follows:

- (a) seventy-five percent (75%) of Eligible CAD/USD Accounts Receivable; plus
- (b) ninety percent (90%) of Eligible Insured Accounts Receivable; plus
- (c) fifty percent (50%) of Eligible Inventory up to the maximum aggregate amount of \$2,000,000; plus
- (d) one hundred percent (100%) of Assigned Cash; less
- (e) one hundred percent (100%) of deferred revenue of the Borrower on a Consolidated basis; less
- (f) the Potential Statutory Priority Amount at such time.

"Borrowing Base Certificate" means a certificate delivered by the Borrower to the Administrative Agent in the form of Exhibit G.

"Business Day" means any day other than a Saturday, Sunday or other day on which banks are required or permitted to close in Toronto, Ontario provided, however, that (i) when used in connection with a Loan denominated in U.S. Dollars, the term **"Business Day"** shall also exclude any day on which banks are not open for dealings in U.S. Dollar deposits in New York, New York; and (ii) when used in

connection with a LIBOR Loan, the term "**Business Day**" shall also exclude any day on which banks are not open for dealings in U.S. Dollar deposits on the London Interbank Market.

"**Canadian Dollars**" or "**Dollars**" or "**\$**" or "**CAD\$**" means the lawful money of Canada.

"**Capital Expenditures**" means, with respect to any Person for any period, the aggregate amount of all expenditures made directly or indirectly which are considered to be in respect of the acquisition or leasing of capital assets in accordance with IFRS, including the acquisition or improvement of Premises (and all buildings, improvements and fixtures situated thereon), plant, machinery or equipment, whether fixed or removable.

"**Capital Lease**" means any lease of Property which, in accordance with IFRS, is required to be capitalized on the balance sheet of the lessee.

"**Capitalized Lease Obligation**" means, for any Person, the amount of the liability shown on the balance sheet of such Person in respect of a Capital Lease determined in accordance with IFRS.

"**Cash Interest Expense**" in respect of any fiscal period means Interest Expense of the Borrower on a Consolidated basis in such fiscal period as set out on the Borrower's income statement for such fiscal period, grossed up for any capitalized Interest Expense but excluding any Interest Expense not payable in cash (such as non-cash amortization and write-off of discount and debt issuance costs).

"**Cash Taxes**" in respect of any fiscal period means amounts actually paid by the Borrower on a Consolidated basis in such fiscal period in respect of Taxes (whether relating to such fiscal period or any other fiscal period).

"**CDOR Rate**" means on any day, and for any period, the annual rate of interest which is the rate determined as being the arithmetic mean of the quotations of all institutions listed in respect of the rate for Canadian Dollar denominated bankers' acceptances for the relevant period displayed and identified as such on the "**Reuters Screen CDOR Page**" (as defined in the International Swaps and Derivatives Association, Inc. definitions, as modified and amended from time to time) as of 10:00 A.M. Toronto, Ontario local time on such day and, if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by the Administrative Agent after 10:00 A.M. Toronto, Ontario local time to reflect any error in a posted rate of interest or in the posted average annual rate of interest with notice of such adjustment in reasonable detail evidencing the basis for such determination being concurrently provided to the Borrower). If such rates are not available on the Reuters Screen CDOR Page on any particular day, then the CDOR Rate on that day shall be calculated as the arithmetic mean of the rates applicable to Canadian Dollar denominated bankers' acceptances for the relevant period publicly quoted for customers in Canada by those Lenders which are banks listed in Schedule I of the Bank Act (Canada) as of 10:00 A.M. Toronto, Ontario local time on such day; or if such day is not a Business Day, then on the immediately preceding Business Day.

"**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, (b) any change in any Applicable Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any Applicable Law by any Governmental Authority.

"**Change of Control**" means if (i) there occurs, directly or indirectly, a change in the legal or beneficial ownership of the Borrower from that existing at the Closing Date such that a Person or group of Persons acting in concert, directly or indirectly, (x) owns 50% or more of the Voting Stock of the Borrower, or (y) controls 50% or more of the votes that may be cast to elect a majority of the board of directors of the Borrower, or (ii) the Borrower ceases to Control any Guarantor.

"Closing Date" means the date of this Agreement or such later Business Day upon which each condition described in Section 7.1 hereof shall be satisfied or waived in a manner acceptable to the Required Lenders in their sole discretion.

"Collateral" means all property, assets and undertaking of each of the Obligor.

"Collateral Account" is defined in Section 9.4 hereof.

"Collateral Documents" means all security agreements, debentures, hypothecs, mortgages, deeds of trust, pledge agreements, assignments, deposit account control agreements, and other documents as shall from time to time secure or relate to the Obligations or any part thereof.

"Commitments" means the Revolving Credit Commitment, the Acquisition Credit Commitment, the Guarantee Credit Commitment, the MasterCard Commitment and the Risk Management Commitment.

"Compliance Certificate" is defined in Section 8.3(b) hereof.

"Consolidated" means, in respect of any Person, as applied to any financial or accounting term, such term calculated and determined on a consolidated basis in accordance with IFRS for such Person and its Subsidiaries, provided that, in respect of any Non-Wholly Owned Subsidiary, that percentage of each Non-Wholly Owned Subsidiary that is not owned by such Person shall be excluded from the applicable calculation.

"Contingent Obligations" means contingent indemnification obligations or liability under other provisions relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to Loans and Letters of Credit.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **"Controlling"** and **"Controlled"** have corresponding meanings.

"Credit Event" means the advancing, continuing or converting of any Loan, or the issuance of, or extension of the expiration date or increase in the amount of, any Letter of Credit.

"Credit Exposure" means any period of time during which any Commitment is outstanding or any Obligation remains unpaid or any Letter of Credit remains outstanding (unless, in the case of any Letter of Credit, such Letter of Credit has been cash collateralized as provided in Section 9.4 or other credit support reasonably acceptable to the Administrative Agent and L/C Issuer has been provided); *provided, however*, that no Credit Exposure shall be deemed to exist solely due to the existence of Contingent Obligations, absent the assertion of a claim with respect thereto.

"Credit Facilities" means the Revolving Credit Facility, the Acquisition Credit Facility, the Guarantee Credit Facility, the MasterCard Credit Facility and the Risk Management Credit Facility and **"Credit Facility"** means any one of them.

"Current Ratio" means, in respect of any Fiscal Quarter, on a Consolidated basis in respect of the Borrower, the ratio of (a) total current assets at the end of such Fiscal Quarter, to (b) total current liabilities at the end of such Fiscal Quarter; provided that (x) any amounts due from Related Parties shall be excluded from clause (a) above and (y) the portion of the Borrower's Consolidated indebtedness which is scheduled to be repaid at least one year plus one day from the last day of such Fiscal Quarter shall be excluded from clause (b) above.

"Deemed Risk" means, in respect of an FEFC at any time, the net unwinding costs thereof determined at such time in accordance with the provisions of the contract relating thereto as if on such date an event had arisen entitling a Hedging Lender to terminate such contract.

"Default" means any event or condition that constitutes an Event of Default or that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

"Default Rate" is defined in Section 2.13 hereof.

"Defaulting Lender" shall mean, subject to Section 2.20(b), any Lender that, as determined by the Administrative Agent,

- (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or Swing Loans or Export Loans, or participations in respect of Letters of Credit within three (3) Business Days of the date required to be funded by it hereunder;
- (b) has notified the Borrower, or the Administrative Agent that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements in which it commits to extend credit; or
- (c) has failed, within three (3) Business Days after request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent that it will comply with its funding obligations.

"Defined Benefit Pension Plan" means a Pension Plan with a "defined benefit provision" as such term is defined in the *Income Tax Act* (Canada).

"Disposition" means the sale, transfer, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under Section 8.2(d) hereof.

"Distribution" means (a) any amount paid to or on behalf of a shareholder, partner or unitholder of any Obligor or to any Related Party thereto, by way of distributions, dividends, redemption of shares, share buyback, return of capital, repayment of shareholder or related party loans, payments on account of equity ownership (whether capital stock or other equity interests) or other similar payments and whether payments are made to such Person in its capacity as a shareholder, partner, unitholder, owner or creditor of any Obligor or Related Party, (b) any amount paid, directly or indirectly, to purchase, redeem, or otherwise acquire or retire any of its capital stock or other equity interests or any warrants, options, or similar instruments to acquire the same, (c) any amount paid, directly or indirectly, in respect of management fees or shareholder bonuses or (d) any other amount paid or repaid (including shareholder loans) to any holder of capital stock or other equity interest of the Borrower or any Affiliate of such holder.

"EBITDA" means, with reference to any rolling four Fiscal Quarters, an amount equal to Consolidated net income of the Borrower for such period plus (x) without duplication and to the extent deducted in determining Consolidated net income for such period, the sum of (i) Cash Interest Expense for such period, (ii) tax expense for such period (including, without limitation, any federal, provincial, local and foreign income, capital and franchise taxes and similar taxes), (iii) all amounts attributable to depreciation and amortization expense for such period, (iv) unrealized losses resulting from mark-to-market accounting for hedging activities for such period, (v) transaction costs paid or payable by the Borrower in connection with the Target Acquisition and the Loan Documents up to the maximum aggregate amount of \$750,000 in respect of such transaction costs incurred on or prior to the date three months following the date of this Agreement, (vi) any non-cash expenses (including stock-based compensation) and other non-recurring expenses that are non-cash in nature for such period which are satisfactory to and approved by the Administrative Agent, acting reasonably, and (vii) extraordinary and

non-recurring expenses that are approved by the Administrative Agent, acting reasonably, minus (y) without duplication and to the extent included in Consolidated net income for such period, (i) any unrealized gains resulting from mark-to-market accounting for hedging activities for such period; and (ii) any non-cash, non-recurring items increasing such net income (other than any such non-cash items to the extent that it would reasonably be expected to result in the receipt of cash payments in any future period) for such period;

provided that:

- (a) in respect of each Person which has become an Obligor in such period or all or a material portion of the assets of any Person acquired during such period by any Obligor, the determination of EBITDA shall be determined in accordance with the above as if such Person had been a Subsidiary of the Borrower or such assets had been owned during such period (notwithstanding that such Person or such assets may not have been an Obligor or owned by an Obligor, as applicable, for the entirety of such period); and
- (b) in respect of each Person which has ceased to be an Obligor or all or substantially all of the assets of an Obligor which have been disposed of by such Obligor in such period, EBITDA shall be determined as if such Person had not been an Obligor or such assets had not been owned by such Obligor, as applicable, in each case during such period.

"Eligible Accounts Receivable" means accounts receivable of the Borrower and the other Obligors (in this definition, each such account receivable is individually called an **"account"**) which satisfy the following eligibility criteria:

- (a) the account arises from a *bona fide* transaction consisting of the sale of goods or the provision of services (or both) by such Obligor to an account debtor;
- (b) the account is genuine and enforceable in accordance with its terms against the account debtor;
- (c) the account is subject to a first ranking security interest held by the Administrative Agent pursuant to the Security and is not subject to any other Lien except for Statutory Liens and Permitted Liens which are not at the time overdue;
- (d) the account debtor is not a Related Party of any of the Obligors;
- (e) the account is not in dispute or subject to any holdback, defence, counterclaim or claim by the account debtor for credit, set-off, allowance or adjustment (other than a prompt payment discount not in excess of five percent (5%)); provided that if the Administrative Agent receives evidence satisfactory to it in its reasonable discretion that a portion of such account is not in dispute or subject to any holdback, defence, counterclaim, claim, set-off, allowance or adjustment and will be paid by the account debtor when due, then such portion shall constitute an Eligible Account Receivable (assuming all other eligibility criteria relating thereto are satisfied);
- (f) the subject Obligor does not have an obligation to hold any portion of the account in trust or as agent for any other Person (except pursuant to a Statutory Lien not at the time overdue);
- (g) an invoice relating to the account has been issued by the subject Obligor and sent to the account debtor;
- (h) the account debtor is not insolvent or subject to any proceeding under Insolvency Legislation;

- (i) the account is not subject to a Usance Bill under Documentary Credit financed under the Export Line and
- (j) the account is not subject to undue credit risk in the opinion of the Required Lenders, acting reasonably.

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person) approved by (i) the Administrative Agent, (ii) in the case of any assignment of a Revolving Credit Commitment, the Swing Line Lender, the Export Line Lender, the L/C Issuer, and (iii) unless a Default or an Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that, notwithstanding the foregoing, "Eligible Assignee" shall not include the Borrower or any Guarantor or any of the Borrower's or such Guarantor's Affiliates or Subsidiaries.

"Eligible CAD/USD Accounts Receivable" means Eligible Accounts Receivable (other than Eligible Insured Accounts Receivable) which satisfy the following eligibility criteria:

- (a) the account receivable is payable by an account debtor located in either Canada or the United States to an Obligor;
- (b) the account is not outstanding for more than ninety (90) days from the date of the invoice relating thereto (regardless of the due date specified in such invoice for payment) except as are accepted by the Administrative Agent, acting reasonably; and
- (c) only when required by the Administrative Agent in its discretion, acting reasonably, the aggregate of the principal amounts of all accounts payable by the same account debtor which are outstanding for more than ninety (90) days from the dates of the respective invoices relating thereto (regardless of the due dates specified in such invoices for payment) does not exceed ten percent (10%) of the aggregate of the principal amounts due by such account debtor under all outstanding invoices.

"Eligible Insured Accounts Receivable" means Eligible Accounts Receivable, the repayment of which is insured by an accounts receivable insurance policy issued to an Obligor by Export Development Canada or another insurer acceptable to the Administrative Agent, in each case, in form and scope satisfactory to the Administrative Agent and the amounts payable under such insurance policy are payable in first priority to the Administrative Agent on behalf of the Lenders;

"Eligible Inventory" means, at any time, the inventory of raw materials and finished goods manufactured, fabricated or purchased for resale, lease or use by the Borrower and the other Obligors in the ordinary course of its business for which an identifiable market is discernible, in each case valued at a lower of cost and net realizable value determined at such time, which the Administrative Agent, in its discretion acting reasonably, deems to be eligible for borrowing base purposes; provided that in no event shall inventory be deemed Eligible Inventory unless all representations and warranties set forth in the Loan Documents with respect thereto are true and correct and such inventory:

- (a) is subject to a first ranking security interest held by the Administrative Agent pursuant to the Security and is not subject to any other Lien except for Statutory Liens and Permitted Liens which are not at the time overdue;
- (b) is not on consignment and is located at the Premises of an Obligor in Canada or the United States and, in the case of Premises not owned by an Obligor or in the case of inventory stored with a bailee or warehouseman or is in a manufacturer's facility, which are at all times subject to a landlord agreement, warehouseman agreement or bailee agreement, as applicable, in each case, in form and substance satisfactory to the Administrative Agent, acting reasonably; however, failing such landlord agreements,

warehouseman agreements or bailee agreements, as applicable, being delivered to the Administrative Agent, the inventory shall not be ineligible but the Borrowing Base shall at all times be reduced by an amount equal to three (3) months' gross rent payable by the applicable Obligor in respect of each such Premises until a landlord agreement, warehouseman agreement or bailee agreement, as applicable, in form and substance satisfactory to the Administrative Agent, acting reasonably, is obtained with respect to such Premises; and

- (c) is not obsolete and is of good and merchantable quality free from any defects which would reasonably be expected to adversely affect the market value thereof.

"Eligible Line of Business" means any business engaged in as of the date of this Agreement by the Borrower or any of its Subsidiaries, and any business reasonably related thereto.

"Environmental Claim" means any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, Lien, proceeding or claim (whether administrative, judicial or private in nature) arising (a) pursuant to, or in connection with an actual or alleged violation of, any Environmental Law, (b) in connection with any Hazardous Material, (c) from any abatement, removal, remedial, corrective or response action in connection with a Hazardous Material, Environmental Law or order of a Governmental Authority or (d) from any actual or alleged damage, injury, threat or harm to occupational health or safety, natural resources or the environment.

"Environmental Law" means any current or future Applicable Law pertaining to (a) the protection of occupational health or safety and the indoor or outdoor environment, (b) the conservation, management or use of natural resources and wildlife, (c) the protection or use of surface water or groundwater, (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation or handling of, or exposure to, any Hazardous Material or (e) pollution (including any Release to air, land, surface water or groundwater), and any amendment, rule, regulation, order or directive issued thereunder.

"Equivalent Amount" means, on any day, in relation to an amount in one currency, the amount in another currency that could be purchased by the amount in the first currency determined by reference to the applicable Exchange Rate on such day.

"Event of Default" means any event or condition identified as such in Section 9.1 hereof.

"Event of Loss" means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property or (b) any condemnation, seizure, or taking, by exercise of the power of eminent domain, expropriation or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property (or any deed in lieu thereof).

"Excess Interest" is defined in Section 12.17 hereof.

"Exchange Rate" means, in connection with the amount of any currency which is to be converted into another currency pursuant to this Agreement for any reason, the applicable rate of exchange for such conversion established by the Bank of Canada at close of business (Toronto time) on the Business Day preceding such conversion (or on such other Business Day as may be specified herein); provided however that if a rate of exchange in respect of any currency is not published by the Bank of Canada, the rate of exchange for that currency shall be determined by the Administrative Agent acting reasonably in accordance with its usual practice.

"Excluded Taxes" shall mean, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Obligor hereunder, (i) (a) taxes imposed on, or measured by its net income or capital (or franchise taxes imposed in lieu of net income taxes) by Canada (or any province or territory thereof) or the jurisdiction 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 or any other jurisdiction as a result of such recipient engaging in a trade or business in such jurisdiction for tax purposes or as a result of any other present or former connection between such Administrative Agent, Lender or recipient and such jurisdiction (excluding any connection arising solely as a result of the Administrative Agent or Lender entering into this Agreement, receiving any payments hereunder or enforcing any rights hereunder) and (b) any branch profits tax or any similar tax that is imposed by any jurisdiction described in clause (a) above, (ii) any Taxes imposed as a result of a failure by a Lender to comply with Section 11.2(e) hereof, and (iii) any Taxes imposed as a result of a Lender or other recipient (a) not dealing at arm's length (within the meaning of the *Income Tax Act* (Canada)) with any Obligor (other than where such non-arm's length relationship arises from such person entering into this Agreement, receiving any payments hereunder or enforcing any rights hereunder), or (b) being a "specified shareholder" (as defined in subsection 18(5) of the *Income Tax Act* (Canada)) of any Obligor or not dealing at arm's length (for the purposes of the *Income Tax Act* (Canada)) with a "specified shareholder" (as defined in subsection 18(5) of the *Income Tax Act* (Canada)) of any Obligor.

"Export Line" means the credit facility for making one or more Export Loans described in Section 2.19 hereof.

"Export Line Lender" means, as applicable, HSBC and its successors and permitted assigns pursuant to Section 12.20.

"Export Line Sublimit" means \$5,000,000.

"Export Loan" and **"Export Loans"** each is defined in Section 2.19 hereof.

"Federal Funds Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100th of one percent) of the per annum interest rates based on a 360 day year on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers as published in respect of such day on the next succeeding Business Day by the Federal Reserve Bank of New York or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100th of one percent) of the quotations for such day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"FEFC" means a foreign exchange forward contract or foreign currency option agreement entered into by any Hedging Lenders or any its Affiliates and the Borrower in connection with the management of currency risk.

"FEFC Sublimit" means, as to the Hedging Lenders, their respective obligations to extend credit to the Borrower under the Risk Management Credit Facility by way of FEFCs in an aggregate notional amount at any time not to exceed the amount set forth opposite its name on Schedule 1 attached hereto and made a part hereof. The Borrower and the Lenders acknowledge and agree that the FEFC Sublimit of the Hedging Lenders aggregate U.S.\$480,000 on the date hereof (for greater certainty, this sublimit is in respect of the notional amount of FEFC's; the equivalent face amount of FEFC's is U.S.\$3,000,000 as of today's date).

"Financial Covenants" means each of the covenants set out in Section 8.4 hereof.

"Fiscal Quarter" means each of the fiscal quarters of the Borrower, being the three month periods ending March 31, June 30, September 30 and December 31 of each year.

"Fiscal Year" means each of the fiscal years of the Borrower, being the twelve month periods ending September 30 of each year.

"Fixed Charge Coverage Ratio" means, in respect of any Fiscal Quarter, on a Consolidated basis in respect of the Borrower, the ratio of (a) EBITDA in the fiscal period comprised of such Fiscal Quarter and the immediately preceding three (3) Fiscal Quarters, less Cash Taxes, less Unfunded Capital Expenditures and less cash Distributions, in each case, for such period, to (b) the sum of all scheduled principal payments on Indebtedness including Capital Leases plus Cash Interest Expense, in each case, in respect of the fiscal period comprised of such Fiscal Quarter and the immediately preceding three (3) Fiscal Quarters; provided that (x) principal and interest payments on the VTB Loan shall only be included in clause (b) above when paid and (y) for the first year after the date of this Agreement, scheduled principal payments and Cash Interest Expense in respect of the Obligations will be annualized.

"Foreign Lender" means any Lender that is not organized under the laws of the jurisdiction in which the Borrower is resident for tax purposes and that is not otherwise considered or deemed in respect of any amount payable to it hereunder or under any Loan Document to be resident for income tax or withholding tax purposes in the jurisdiction in which the Borrower is resident for tax purposes by application of the laws of that jurisdiction.

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

"Funds Transfer and Deposit Account Liability" means the liability of the Borrower or the other Obligors owing to any of the Lenders, or any Affiliates of such Lenders, arising out of (a) the execution or processing of electronic transfers of funds by automatic clearing house transfer, wire transfer or otherwise to or from deposit accounts of the Borrower and/or any of the other Obligors now or hereafter maintained with any of the Lenders or their Affiliates, (b) the acceptance for deposit or the honouring for payment of any cheque, draft or other item with respect to any such deposit accounts, and (c) any other deposit, disbursement, credit and/or debit card and cash management services afforded to the Borrower or any of the other Obligors by any of such Lenders or their Affiliates.

"Governmental Authority" means the government of Canada, the United States of America or any other nation, or of any political subdivision thereof, whether state, provincial 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, Superintendent of Financial Institutions or other comparable authority or agency.

"Guarantee" means any agreement by which any Person assumes, guarantees, endorses, contingently agrees to purchase or provide funds for the payment of, or otherwise becomes liable upon, the obligation of any other Person, or agrees to maintain the net worth or working capital or other financial condition of any other Person or otherwise assures any creditor of such Person against loss, and shall include any contingent liability under any letter of credit or similar document or instrument, but shall exclude liability arising as a result of the endorsement of cheques in the ordinary course of business.

"Guarantee Credit Commitment" means, as to any Lender, the obligation of such Lender to make Guarantee Loans in an aggregate principal amount at any time not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof. The Borrower and the Lenders acknowledge and agree that the Guarantee Credit Commitments of the Lenders aggregate the Guarantee Credit Limit on the date hereof.

"Guarantee Credit Facility" means the credit facility for the Guarantee Loans described in Section 2.3 and Section 2.7 hereof.

"Guarantee Credit Limit" means U.S.\$2,000,000.

"Guarantee Loan" is defined in Section 2.3(a) hereof and, as so defined, includes an extension of credit in the form of a Letter of Credit, which is a "type" of Guarantee Loan hereunder.

"Guarantee Loan Percentage" means, for each Lender, the percentage of the Guarantee Credit Commitments represented by such Lender's Guarantee Credit Commitment or, if the Guarantee Credit Commitments have been terminated or have expired in accordance herewith, the percentage held by such Lender of the aggregate principal amount of all Guarantee Loans then outstanding.

"Guarantor" means each of Covalon Technologies Inc., Covalon Healthcare Inc., Covalon Technologies Holdings (USA), Ltd., Covalon Technologies (USA), Ltd., Covalon Technologies AG, Ltd. and Covalon Technologies (Europe) Ltd. and each other direct or indirect Subsidiary that executes or has executed a Guarantee in favour of the Administrative Agent pursuant to Section 5.2 hereof, but, for greater certainty, shall not include any Subsidiary formed outside of Canada, the United States or the United Kingdom.

"Hazardous Material" means any substance, element, chemical, compound, product, solid, gas, liquid, waste, by-product, pollutant, contaminant or material which is hazardous or toxic, and includes, without limitation, (a) asbestos, polychlorinated biphenyls and petroleum (including crude oil or any fraction thereof) and (b) any material classified or regulated as "hazardous" or "toxic" or words of like import pursuant to an Environmental Law.

"Hazardous Material Activity" means any activity, event or occurrence involving a Hazardous Material, including, without limitation, the manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, Release, threatened Release, abatement, removal, remediation, handling of or corrective or response action to any Hazardous Material.

"Hedging Agreement" means any agreement entered into between the Borrower and a Hedging Lender with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions (other than options or other rights to acquire capital stock of the Borrower) including FEFCs.

"Hedging Lenders" has the meaning given to such term in Section 2.4(i).

"Hedging Liability" means the liability of the Borrower or any other Obligor to any of the Lenders, or any Affiliates of such Lenders, in respect of any Hedging Agreement.

"HSBC" means HSBC Bank Canada.

"IFRS" means International Financial Reporting Standards and its interpretations adopted by the International Accounting Standards Board (or any successor thereto or agency with similar function), as adopted by the Chartered Professional Accountants of Canada Accounting Standards Board, as it may be amended from time to time.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person which are considered debt in accordance with IFRS, including the Obligations, any other indebtedness of such Person for borrowed money or with respect to deposits or advances of any kind, long-term debt, Capitalized Lease Obligations, Letters of Credit, indebtedness to Affiliates, interest-bearing liabilities, obligations secured by purchase-money security interests, and other financial indebtedness, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person (including any premiums and capitalized interest) relating to property acquired by such Person including under conditional sale or other title retention agreements, (e) all obligations of such Person in respect of the deferred purchase price of property or services including vendor take back (VTB) debt

(excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees or other financial assistance (by means of a loan or otherwise) by such Person of Indebtedness of others, (h) all obligations, contingent or otherwise, of such Person in respect of (A) as an account party in respect of letters of credit and letters of guarantee, (B) Bankers' Acceptances and BA Equivalent Notes, (C) sale of promissory notes, sale of accounts, factoring, securitization or discounting arrangement to the extent recourse to such person or any Affiliate of it exists to recover such amounts payable, (D) standby credit, bank guarantee or performance bond issued to secure obligations that do not constitute trade obligations incurred in the ordinary course of conducting day-to-day business, (E) any liability under any sale and leaseback transaction which does not create a liability on the Consolidated balance sheet of such Person prepared in accordance with IFRS, (F) any liability under any financing lease or so-called "synthetic" lease transaction, (G) any liability under any operating lease to pay any guaranteed residual value of equipment leased or (H) any obligations arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the Consolidated balance sheet of such Person, prepared in accordance with IFRS, (i) the amount which is or (as the case may be) would be payable to a counterparty pursuant to any hedging or derivative entered into by such Person and in effect at that time if such hedges or derivatives have been or (as the case may be) were to be terminated at such time as the result of the default or termination event of such Person, (j) the redemption price of any securities issued by the Person having attributes substantially similar to debt (such as securities which are redeemable at the option of the holder), and (k) any other Off-Balance Sheet Liability. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership or joint venture in which such Person is a general partner or has an interest) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Taxes" means Taxes other than Excluded Taxes, and for greater certainty, **"Indemnified Taxes"** includes any withholding tax that is required by Applicable Law to be withheld or paid in respect of any amount payable hereunder or under any Loan Document to any Lender.

"Indemnitee" is defined in Section 12.8(a) hereof.

"Information" is defined in Section 12.21 hereof.

"Initial Advance" means the Loans made on the Closing Date.

"Insolvency Legislation" means legislation in any applicable jurisdiction relating to reorganization, arrangement, compromise or re-adjustment of debt, dissolution or winding-up, or any similar legislation, and specifically includes for greater certainty the BIA, the *Companies' Creditors Arrangement Act* (Canada) and the *Winding-Up and Restructuring Act* (Canada) and any applicable governing corporate statute providing for arrangements.

"Intellectual Property" means patents, licenses, franchises, trade-marks, trade names, business names, trade styles, logos and other business identifiers, copyrights, technology, inventions, industrial designs, know-how, trade secrets and any other industrial or intellectual property.

"Interest Expense" means, with respect to any Person for any period, the sum of (without duplication) (a) interest expense of such Person for such period on a Consolidated basis, including (i) Acceptance Fees in respect of Bankers' Acceptances or BA Equivalent Notes, the difference between the proceeds received by the issuance of Bankers' Acceptances or BA Equivalent Notes, and the amounts payable upon the maturity thereof, (ii) the amortization of debt discounts, (iii) the amortization of all fees (including fees with respect to swap agreements and letters of credit) payable in connection with the incurrence of debt to the extent included in interest expense, (iv) undrawn commitment fees in respect

of debt, and (v) the portion of any payments or accruals with respect to Capitalized Lease Obligations allocable to interest expense; and (b) capitalized interest of such person.

"Interest Period" means the period commencing on the date a Borrowing of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans is advanced, continued or created by conversion and ending 30, 60, 90 or 180 days thereafter in respect of Bankers' Acceptances and BA Equivalent Loans, and 1, 2, 3 or 6 months thereafter in respect of LIBOR Loans, *provided, however*, that:

- (a) no Interest Period with respect to any portion of a Revolving Loan or Acquisition Loan consisting of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans shall extend beyond a date on which the Borrower is required to make a scheduled payment of principal on the Revolving Credit Facility or Acquisition Credit Facility, as applicable, unless the sum of the aggregate principal amount of such Revolving Loans or Acquisition Loans, as applicable, that are Prime Rate Loans and Base Rate Loans equals or exceeds the principal amount to be paid on such Revolving Loans or Acquisition Loans, as applicable, on such payment date;
- (b) whenever the last day of any Interest Period would otherwise be a day that is not a Business Day, the last day of such Interest Period shall be extended to the next succeeding Business Day, provided that if such extension would cause the last day of an Interest Period for a Borrowing of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans to occur in the following calendar month, the last day of such Interest Period shall be the immediately preceding Business Day; and
- (c) for purposes of determining an Interest Period for a Borrowing of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans a month means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month; provided, however, that if there is no numerically corresponding day in the month in which such an Interest Period is to end or if such an Interest Period begins on the last Business Day of a calendar month, then such Interest Period shall end on the last Business Day of the calendar month in which such Interest Period is to end.

"Investments" means financial assistance, acquisitions, mergers, consolidations, investments, loans and advances.

"L/C Issuer" means HSBC or any other Lender requested by the Borrower and consenting, in its sole discretion, to act as L/C Issuer and approved by the Administrative Agent in its reasonable discretion with respect to any Letter of Credit.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all unreimbursed amounts, including all Letter of Credit Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.4 hereof. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"Lenders" means and includes HSBC and the other financial institutions from time to time party to this Agreement, including each assignee Lender pursuant to Section 12.20 of this Agreement.

"Letter of Credit" is defined in Section 2.6 hereof.

"LIBOR" means for an Interest Period for a Borrowing of LIBOR Loans denominated in U.S. Dollars, the rate determined by the Administrative Agent, based on a 360-day year for U.S. Dollars, as the

rate of interest published by ICE Benchmark Administration Limited (or any successor to, or substitute for, such service, providing rate quotations comparable to those currently provided by ICE Benchmark Administration Limited or the rate of interest as otherwise determined or published by the Bank of England, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to U.S. Dollar deposits in the London interbank market) for a period equal to the number of days in the applicable Interest Period, for deposits in U.S. Dollars of amounts comparable to the principal amount of such LIBOR Loan to be outstanding during such Interest Period, at or about 11:00 a.m. (New York time) two (2) Business Days prior to the commencement of such Interest Period; *provided that* in the event that no such rate is available to the Administrative Agent, "**LIBOR**" shall mean, with respect to any Interest Period applicable to a LIBOR Loan denominated in U.S. Dollars, the rate determined by the Administrative Agent, based on a 360-day year for U.S. Dollars, rounded upwards, if necessary, to the nearest whole multiple of one-sixteenth of one percent (1/16th%), at which the Administrative Agent, in accordance with its normal practice, would be prepared to offer to leading banks in the London interbank market for delivery by the Administrative Agent on the first day of the applicable Interest Period for a period equal to the number of days in such Interest Period, deposits in U.S. Dollars of amounts comparable to the principal amount of such LIBOR Loan to be outstanding during such Interest Period, at or about 11:00 a.m. (London, England time) two (2) Business Days prior to the commencement of such Interest Period; and provided further that in no event shall LIBOR for any Interest Period be less than 0% per annum.

"**LIBOR Loan**" means a Loan denominated in U.S. Dollars bearing interest at the rate specified in Section 2.7(c) hereof, as applicable, bearing interest by reference to LIBOR in the case of a LIBOR Loan made to the Borrower.

"**Lien**" means any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

"**Loan**" means any Revolving Loan or Acquisition Loan, whether outstanding as a LIBOR Loan, Bankers' Acceptance, BA Equivalent Loan, Prime Rate Loan or Base Rate Loan, the issuance of a Letter of Credit under the Guarantee Credit Facility or an extension of credit under the MasterCard Credit Facility or the Risk Management Credit Facility, each of which is a "type" of Loan hereunder.

"**Loan Documents**" means this Agreement, the Applications, the Collateral Documents, the Guarantees executed by the Guarantors and each other instrument or document to be delivered hereunder or thereunder or otherwise in connection therewith.

"**MasterCard Agreement**" is defined in Section 2.5.

"**MasterCard Commitment**" means the obligation of HSBC to extend credit to the Borrower in respect of the MasterCard Credit Facility up to the MasterCard Credit Limit.

"**MasterCard Credit Facility**" is defined in Section 2.5.

"**MasterCard Credit Limit**" means One Hundred Thousand Dollars (\$100,000).

"**Material Adverse Effect**" means any event, circumstance, change, development, condition, occurrence or effect that, individually or in the aggregate with all other events, circumstances, changes, developments, conditions, occurrences or effects is, or would reasonably be expected to be, materially adverse to (a) the business, assets, properties, liabilities (actual or contingent), condition (financial or otherwise) or results of operations of the Obligor, taken as a whole, (b) the ability of the Borrower and the Obligor to perform their obligations under this Agreement and the other Loan Documents, (c) the enforceability of the Loan Documents against the party(ies) thereto, or (d) the ability of the Administrative Agent and the Lenders to enforce their rights and remedies under this Agreement and the other Loan Documents.

"Material Contracts" means the contracts which are listed in Schedule 6.8 and all other contracts held by any Obligor from time to time, the absence or termination of any of which would reasonably be expected to result in a Material Adverse Effect.

"Material Subsidiary" means, at any time, any Subsidiary of the Borrower (i) the value of whose Net Tangible Assets account for 5% or more of the consolidated Net Tangible Assets of the Borrower and its Subsidiaries, or (ii) the revenue of which is 5% or more of the consolidated revenue of the Borrower and its Subsidiaries, in each case, as reflected in the Borrower's consolidated financial statements.

"Maximum Rate" is defined in Section 12.17 hereof.

"Moody's" means Moody's Investors Service, Inc.

"Net Cash Proceeds" means, as applicable, (a) with respect to any Disposition by a Person, cash and cash equivalent proceeds received by or for such Person's account, net of (i) reasonable direct costs relating to such Disposition, (ii) sale, use or other transactional taxes (including any income taxes arising therefrom) paid or payable by such Person as a direct result of such Disposition, (iii) any debt secured by the assets subject to such Disposition which is repaid in connection with such Disposition, and (iv) reserves for contingent obligations such as purchase price adjustments and indemnification obligations required by the terms of the related purchase agreement; (b) with respect to any Event of Loss of a Person, cash and cash equivalent proceeds received by or for such Person's account (whether as a result of payments made under any applicable insurance policy therefor or in connection with condemnation proceedings or otherwise), net of reasonable direct costs incurred in connection with the collection of such proceeds, awards or other payments; and (c) with respect to any offering of equity securities of a Person, cash and cash equivalent proceeds received by or for such Person's account, net of reasonable legal, underwriting and other fees and expenses incurred as a direct result thereof.

"Net Tangible Assets" means on any day, with respect to any Person, all assets of such Person less the aggregate amount of the following items reflected on the balance sheet of such Person: (i) all goodwill, deferred assets, Intellectual Property and other similar intangible assets; (ii) investments in entities or non-wholly-owned Subsidiaries involved in joint ventures; and (iii) assets held for sale, disposition or to be discontinued and classified in such manner; all as determined in accordance with IFRS.

"Non-BA Lender" means any Lender which is not a BA Lender.

"Non-Wholly Owned Subsidiary" means a Subsidiary of the Borrower that is not one hundred percent (100%) owned, directly or indirectly, by the Borrower.

"Notice of Borrowing" is defined in Section 2.9 hereof.

"Obligations" means all obligations of the Borrower to pay principal and interest on the Loans, all Reimbursement Obligations owing in respect of Letters of Credit, all Hedging Liabilities (including all obligations of the Borrower to the Hedging Lenders under the Risk Management Credit Facility), all obligations owing by the Borrower to HSBC under the MasterCard Credit Facility, all cash and treasury management obligations of any Obligor to the Lenders, the Funds Transfer and Deposit Account Liability, all fees and charges payable hereunder, all other payment obligations of the Borrower or any other Obligor arising under or in relation to any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

"Obligors" means the Borrower and the Guarantors hereunder from time to time; and **"Obligor"** means any one of them as the context requires.

"Off-Balance Sheet Liability" of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called "synthetic lease" transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such Person (other than operating leases).

"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 hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document (except for any such taxes arising as a result of an assignment (other than an assignment pursuant to Section 11.3(a)) where such taxes are imposed as a result of a present or former connection between the applicable Lender or assignee and the jurisdiction imposing such tax (other than connections arising from entering into this Agreement or any Loan Document, receiving any payments hereunder or enforcing any rights hereunder or under any Loan Document)).

"Outstanding Advances" means, at any time, the aggregate of all obligations of the Borrower to the Lenders in respect of all Borrowings made under the Credit Facilities (or if the context requires, under any Credit Facility) which have not been repaid or satisfied at such time, determined as follows: (i) in the case of Prime Rate Loans, Swing Loans and Export Loans in Canadian Dollars, the principal amount thereof; (ii) in the case of Bankers' Acceptances, BA Equivalent Loans and Letters of Credit, the face amount thereof; (iii) in the case of Base Rate Loans, Swing Loans and Export Loans in U.S. Dollars and LIBOR Loans, the Equivalent Amount of the principal amount thereof expressed in Canadian Dollars; (iv) in the case of Hedging Agreements (including under the Risk Management Credit Facility), the Deemed Risk thereof and, to the extent such amount is not owing in Canadian Dollars, the Equivalent Amount thereof expressed in Canadian Dollars; and (v) in the case of the MasterCard Credit Facility, the amount owing by the Borrower thereunder at such time and, to the extent such amount is not owing in Canadian Dollars, the Equivalent Amount thereof expressed in Canadian Dollars.

"Participating Interest" is defined in Section 2.6(e) hereof.

"Participating Lender" is defined in Section 2.6(e) hereof.

"Pension Plan" means any registered pension plan that is subject to the *Pension Benefits Act* (Ontario) or other applicable pension benefits standards legislation in any Canadian federal or provincial jurisdiction, as amended from time to time (or any successor statute) which (i) is administered or maintained by the Borrower or any Obligor, or (ii) the Borrower or any Obligor makes, has made or is required to make contributions in respect of its employees.

"Percentage" means, for any Lender, its Revolver Percentage, Acquisition Loan Percentage or Guarantee Loan Percentage, as applicable; and where the term "Percentage" is applied on an aggregate basis, means the percentage of the Commitments represented by such Lender's Commitment or, if the Commitments have been terminated or have expired, the percentage held by such Lender of the aggregate principal amount of all Loans then outstanding.

"Permitted Acquisition" means (a) the Target Acquisition; or (b) any other Acquisition with the prior written consent of the Required Lenders, such consent not to be unreasonably withheld.

"Permitted Indebtedness" means Indebtedness permitted by Section 8.2(a) hereof.

"Permitted Liens" means Liens permitted by Section 8.2(b) hereof.

"Permitted Transactions with Affiliates" is defined in Section 8.2(i) hereof.

"Person" means any natural person, corporation, limited or unlimited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

"Potential Statutory Priority Amount" in respect of any Obligor at any time means the amount in respect of all construction liens, employee source deductions, goods and services tax and/or harmonized sales tax, as applicable, deemed trusts arising from unpaid taxes, government remittances, prior ranking payables, vacation pay subject to the *Wage Earner Protection Program Act* (Canada), Pension Plan contributions which have not been paid by such Obligor when due and result in a Statutory Lien which would rank ahead of the Liens in favour of the Administrative Agent, except the portion thereof being contested in good faith by such Obligor and in respect of which reserves have been established in accordance with IFRS.

"Premises" means the real (immovable) property owned or leased by the Borrower or any other Obligor.

"Prime Rate" means for any day the greater of the following: (i) the rate of interest announced from time to time by HSBC as its reference rate then in effect for determining rates of interest on Canadian Dollar loans to its commercial customers in Canada and designated as its prime rate and (ii) the thirty (30) day CDOR Rate plus one percent (1.00%) per annum.

"Prime Rate Loan" means a loan made by a Lender to the Borrower in Canadian Dollars, in respect of which interest is determined by reference to the Prime Rate.

"Property" means, as to any Person, all types of real (immovable), personal (movable), tangible (corporeal), intangible (incorporeal) or mixed property owned by such Person whether or not included in the most recent balance sheet of such Person and its Subsidiaries under IFRS.

"Register" is defined in Section 12.20 of this Agreement.

"Reimbursement Obligation" is defined in Section 2.6(c) hereof.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the directors, officers and employees of such Person and of such Person's Affiliates, and **"Related Party"** means any one of them.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migration, dumping, exhausting, spraying or disposing into the indoor or outdoor environment, including, without limitation, the abandonment or discarding of barrels, drums, containers, tanks or other receptacles containing or previously containing any Hazardous Material.

"Required Lenders" means, (i) at any time prior to the occurrence of an Event of Default which is continuing, any two or more Lenders which have issued Commitments hereunder representing two-thirds (2/3) or more of the aggregate amount of all Lenders' Commitments; and (ii) at any time after the occurrence of an Event of Default which is continuing, any two or more Lenders which have Outstanding Advances representing two-thirds (2/3) or more of the total amount of the Outstanding Advances under the Credit Facilities; provided that if at any time there are only two (2) Lenders under this Agreement, "Required Lenders" shall mean both such Lenders, and if at any time there is only one (1) Lender under this Agreement, "Required Lenders" shall mean such Lender; provided further that the Commitments of or the Outstanding Advances owing to, as applicable, a Defaulting Lender shall be excluded for purposes hereof in making a determination of Required Lenders.

"Revolver Percentage" means, for each Lender, the percentage of the Revolving Credit Commitments represented by such Lender's Revolving Credit Commitment or, if the Revolving Credit Commitments have been terminated, the percentage held by such Lender (including through participation

interests in Reimbursement Obligations) of the aggregate principal amount of all Revolving Loans and L/C Obligations then outstanding.

"Revolving Credit Commitment" means, as to any Lender, the obligation of such Lender to make Revolving Loans and to participate in Swing Loans, Export Loans and Letters of Credit issued for the account of the Borrower hereunder in an aggregate principal or face amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 1 attached hereto and made a part hereof, as the same may be reduced, increased or modified at any time or from time to time pursuant to the terms hereof. The Borrower and the Lenders acknowledge and agree that the Revolving Credit Commitments of the Lenders aggregate the Revolving Credit Maximum Amount on the date hereof.

"Revolving Credit Facility" means the credit facility for making Revolving Loans, Swing Loans and Export Loans described in Section 2.1, Section 2.18 and Section 2.19 hereof.

"Revolving Credit Limit" means, at any time, the lesser of: (x) the Revolving Credit Maximum Amount; and (y) the Borrowing Base.

"Revolving Credit Maximum Amount" means \$5,000,000.

"Revolving Loan" is defined in Section 2.1 hereof and, as so defined, includes (a) Swing Loans, (b) Export Loans and (c) a Prime Rate Loan, a Base Rate Loan, a LIBOR Loan, a Bankers' Acceptance or a BA Equivalent Loan, each of which is a "type" of Revolving Loan hereunder.

"Risk Management Commitment" means, as to the Hedging Lenders, their respective obligations to extend credit to the Borrower under the Risk Management Credit Facility by way of FEFCs in an aggregate notional amount at any time not to exceed the amount set forth opposite its name on Schedule 1 attached hereto and made a part hereof. The Borrower and the Lenders acknowledge and agree that the Risk Management Commitments aggregate the Risk Management Credit Limit on the date hereof.

"Risk Management Credit Facility" is defined in Section 2.4.

"Risk Management Credit Limit" means the FEFC Sublimit.

"S&P" means Standard & Poor's Ratings Services Group, a division of The McGraw Hill Companies, Inc.

"Security" has the meaning ascribed thereto in Section 5.1 hereof.

"Senior Funded Debt" means, at any time same is to be determined, on a Consolidated basis in respect of the Borrower, all Indebtedness of the Borrower plus Capitalized Lease Obligations plus the current portion of the VTB Loan less unsecured Indebtedness and Subordinated Debt.

"Senior Funded Debt to EBITDA Ratio" means, in respect of any Fiscal Quarter, on a Consolidated basis in respect of the Borrower, the ratio of (a) Senior Funded Debt at the end of such Fiscal Quarter, to (b) EBITDA in the fiscal period comprised of such Fiscal Quarter and the immediately preceding three (3) Fiscal Quarters.

"Statutory Lien" means a Lien in respect of any property or assets of an Obligor created by or arising pursuant to any applicable legislation in favour of any Person (such as but not limited to a Governmental Authority), including, without limitation, a construction lien or a Lien for the purpose of securing such Obligor's obligation to deduct and remit employee source deductions and goods and services tax pursuant to the *Income Tax Act* (Canada), the *Excise Tax Act* (Canada), the Canada

Pension Plan (Canada), the *Employment Insurance Act* (Canada) and any legislation in any jurisdiction similar to or enacted in replacement of the foregoing from time to time.

"Statutory Plan" means a statutory pension plan which the Borrower or any Obligor is required to participate in or comply with, including the Canada Pension Plan and Quebec Pension Plan.

"Subordinated Debt" means Indebtedness of any Obligor to any Person which the Required Lenders in their sole discretion have consented to in writing (such consent not to be unreasonably withheld), in respect of which the holder thereof has entered into a subordination and postponement agreement in favour of the Administrative Agent in form and substance satisfactory to the Administrative Agent and registered in all places where necessary or desirable to protect the priority of the Security, which shall provide (among other things) as required by the Administrative Agent that: (i) the maturity date of such Indebtedness is later than the maturity dates of each of the Credit Facilities except as agreed by the Administrative Agent; (ii) the holder of such Indebtedness may not receive any payments on account of principal or interest thereon (except to the extent, if any, expressly permitted therein); (iii) any security held in respect of such Indebtedness is subordinated to the Security; (iv) the holder of such Indebtedness may not take any enforcement action in respect of any such security (except to the extent, if any, otherwise expressly provided therein) without the prior written consent of the Administrative Agent; and (v) any enforcement action taken by the holder of such Indebtedness will not interfere with the enforcement action (if any) being taken by the Administrative Agent in respect of the Security.

"Subsidiary" means, as to any particular parent corporation or organization, any other corporation or organization more than 50% of the outstanding Voting Stock of which is at the time directly or indirectly owned by such parent corporation or organization or by any one or more other entities that are themselves subsidiaries of such parent corporation or organization. Unless otherwise expressly noted herein, the term **"Subsidiary"** means a Subsidiary of the Borrower.

"Swing Line" means the credit facility for making one or more Swing Loans described in Section 2.18 hereof.

"Swing Line Lender" means, as applicable, HSBC and its successors and permitted assigns pursuant to Section 12.20.

"Swing Line Sublimit" means \$0.

"Swing Loan" and **"Swing Loans"** each is defined in Section 2.18 hereof.

"Target Acquisition" means the acquisition by the Borrower of certain of the assets of the Vendor pursuant to the Target Purchase Agreement.

"Target Purchase Agreement" means that certain asset purchase agreement to be entered into between the Borrower and the Vendor, as such agreement may be amended, restated or replaced from time to time.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Termination Date" means the earlier of (i) demand by the Administrative Agent, and (ii) date on which the Commitments are terminated in whole pursuant to Section 2.16, 9.2 or 9.3 hereof.

"Unfunded Capital Expenditures" means Capital Expenditure that are not financed by Capital Leases or other Indebtedness (other than pursuant to the Revolving Credit Facility).

"Unused Acquisition Credit Commitments" means, at any time, the difference between the Acquisition Credit Commitments then in effect and the aggregate outstanding principal amount of the Acquisition Loans.

"Unused Revolving Credit Commitments" means, at any time, the difference between the Revolving Credit Commitments then in effect and the aggregate outstanding principal amount of Revolving Loans.

"Usance Bills under Documentary Credit" means documents presented by the Borrower under a documentary credit that is available for payment, acceptance and/or negotiation to the Export Line Lender.

"U.S. Dollars" and **"U.S.\$"** each means the lawful currency of the United States of America.

"Vendor" means Cenorin, LLC.

"Voting Stock" of any Person means capital stock or other equity interests of any class or classes (however designated) having ordinary power for the election of directors or other similar governing body of such Person, other than stock or other equity interests having such power only by reason of the happening of a contingency.

"VTB Loan" means the promissory note or other debt instrument issued by the Borrower to the Vendor, in form and substance satisfactory to the Administrative Agent.

"VTB Loan Subordination Agreement" means the subordination and postponement agreement by the Vendor in favour of the Administrative Agent, in form and substance satisfactory to the Administrative Agent.

Section 1.2 Interpretation. ☐The foregoing definitions are equally applicable to both the singular and plural forms of the terms defined. The words "hereof", "herein", and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "include", "includes", and "including" shall be deemed to be followed by the phrase "without limitation". All references to time of day herein are references to Toronto, Ontario time unless otherwise specifically provided. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, it shall be done in accordance with IFRS except where such principles are inconsistent with the specific provisions of this Agreement.

Section 1.3 Change in Accounting Principles. ☐If, after the date of this Agreement, there shall occur any change in IFRS (including without limitation, any change by reason of any change in the rules, regulations, pronouncements, opinions or other requirements of the Canadian Institute of Chartered Accountants (or any successor thereto or agency with similar function)) from those used in the preparation of the financial statements referred to in Section 6.5 hereof and such change shall result in a change in the method of calculation of any Financial Covenant, standard or term found in this Agreement, either the Borrower or the Required Lenders may by notice to the Administrative Agent and the Borrower, respectively, require that the Administrative Agent and the Borrower negotiate in good faith to amend such covenants, standards, and terms so as equitably to reflect such change in accounting principles, with the desired result being that the criteria for evaluating the financial condition of the Borrower and its Subsidiaries shall be the same as if such change had not been made. No delay by the Borrower or the Administrative Agent in requiring such negotiation shall limit their right to so require such a negotiation at any time after such a change in accounting principles. Until any such covenant, standard, or term is amended in accordance with this Section 1.3, Financial Covenants shall be computed and determined in accordance with IFRS in effect prior to such change in accounting principles.

Section 1.4 **Letter of Credit Amounts.** Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; *provided, however*, that with respect to any Letter of Credit that, by its terms or the terms of any document related to the issuance thereof, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

ARTICLE 2. THE CREDIT FACILITIES.

Section 2.1 **Revolving Credit Commitments.**

(a) *Establishment of Revolving Credit Facility.* Subject to the terms and conditions hereof, each Lender, by its acceptance hereof, severally agrees to make loans and extensions of credit (individually, a "**Revolving Loan**" and collectively, the "**Revolving Loans**") in Canadian Dollars or U.S. Dollars to the Borrower from time to time on a revolving basis up to the amount of such Lender's Revolving Credit Commitment, subject to any increases or reductions thereof pursuant to the terms hereof, before the Termination Date. The sum of the aggregate principal amount of Revolving Loans, Swing Loans and Export Loans at any time outstanding shall not exceed the Revolving Credit Limit in effect at such time. Each Borrowing of Revolving Loans shall be made rateably by the Lenders in proportion to their respective Revolver Percentages. As provided in Section 2.9 hereof, the Borrower may elect that each Borrowing of Revolving Loans be either LIBOR Loans, Bankers' Acceptances, BA Equivalent Loans, Prime Rate Loans or Base Rate Loans. Revolving Loans may be repaid and the principal amount thereof reborrowed before the Termination Date, subject to the terms and conditions hereof.

(b) *Purpose.* Advances under the Revolving Credit Facility may be used by the Borrower for general corporate purposes and working capital requirements.

(c) *Revolving Nature.* The Revolving Credit Facility shall be a demand revolving facility. For greater certainty, the Borrower shall be entitled to repay all or any portion of the Outstanding Advances under the Revolving Credit Facility from time to time and obtain further Revolving Loans under the Revolving Credit Facility from time to time; provided that, the aggregate principal amount of the Outstanding Advances at any time under the Revolving Credit Facility shall not exceed the Revolving Credit Limit in effect at such time.

(d) *Repayment.* The Obligations under the Revolving Credit Facility shall become due and payable on the Termination Date. Without limiting the right of the Administrative Agent to demand repayment pursuant to Article 9, on the Termination Date, the Borrower shall repay in full all Obligations which are then outstanding under the Revolving Credit Facility and under the Hedging Agreements to which it is a party.

(e) *Borrowing under the Revolving Credit Facility.* Subject to the restrictions contained in this Agreement (and in particular, Section 2.7, Section 2.8 and Section 2.9), the following Availment Options are available under the Revolving Credit Facility:

- (i) Prime Rate Loans;
- (ii) Base Rate Loans;
- (iii) Bankers' Acceptances from BA Lenders with a maturity of thirty (30) to one hundred and eighty (180) days (inclusive), subject to availability;

- (iv) BA Equivalent Loans from the Non-BA Lenders with a maturity of thirty (30) to one hundred and eighty (180) days (inclusive), subject to availability; or
- (v) LIBOR Loans with an Interest Period of one (1), two (2), three (3) or six (6) months, subject to availability;
- (vi) Swing Loans, subject to Section 2.18; and
- (vii) Export Loans, subject to Section 2.19;

provided that Bankers' Acceptances, BA Equivalent Loans and LIBOR Loans will not be issued with a maturity date which in the opinion of the Administrative Agent acting reasonably could result in the Revolving Credit Limit being exceeded at any time.

The Borrower may convert Outstanding Advances under the Revolving Credit Facility in the form of any of the above Availment Options into another form of Availment Option (other than Swing Loans and Export Loans), subject to and in accordance with the terms and conditions of this Agreement (but for greater certainty, Bankers' Acceptances, BA Equivalent Loans and LIBOR Loans may not be converted into another Availment Option prior to the maturity thereof unless applicable breakage costs are paid by the Borrower to the Administrative Agent). The availability of Swing Loans to the Borrower is described in Section 2.18 below. The availability of Export Loans to the Borrower is described in Section 2.19 below.

(f) *Revolving Credit Limit.*

- (i) The Revolving Credit Limit shall be adjusted as at the date of each receipt by the Administrative Agent of a Borrowing Base Certificate and shall remain in effect until receipt by the Administrative Agent of a subsequent Borrowing Base Certificate; provided that if the Administrative Agent does not receive a Borrowing Base Certificate on or before the date required pursuant to Section 8.3(e), the Revolving Credit Limit shall be reduced to the lowest Revolving Credit Limit in the preceding twelve (12) months or such lower amount estimated by the Administrative Agent to be the Revolving Credit Limit determined in accordance with the Borrowing Base formula, until such time as a Borrowing Base Certificate is thereafter received by the Administrative Agent.
- (ii) The Lenders shall have no obligation to make any advance under the Revolving Credit Facility if after making such advance the Outstanding Advances under the Revolving Credit Facility would exceed the Revolving Credit Limit then in effect.
- (iii) If at any time the aggregate amount of the Outstanding Advances under the Revolving Credit Facility is in excess of the Revolving Credit Limit for any reason (specifically including as a result of a fluctuation in currency exchange rates), the Borrower agrees that within two (2) Business Days after receipt of a written request from the Administrative Agent it will make a repayment under the Revolving Credit Facility in such amount as will result in the aggregate amount of the Outstanding Advances under the Revolving Credit Facility not exceeding the Revolving Credit Limit. The Administrative Agent shall first apply such repayment against Swing Loans and Export Loans, shall second apply such repayment against Prime Rate Loans and Base Rate Loans (as applicable) under the Revolving Credit Facility; and any remaining portion of such repayment shall be held by the Administrative Agent and applied against Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans under the Revolving Credit Facility upon the maturity thereof.

Section 2.2 **Acquisition Credit Commitments.**

(a) *Establishment of Acquisition Credit Facility.* Subject to the terms and conditions hereof, each Lender, by its acceptance hereof, severally agrees to make loans (individually, a "**Acquisition Loan**" and collectively, the "**Acquisition Loans**") in Canadian Dollars or U.S. Dollars to the Borrower up to the amount of such Lender's Acquisition Credit Commitment, subject to any increases or reductions thereof pursuant to the terms hereof, on the Closing Date. The sum of the aggregate principal amount of Acquisition Loans at any time outstanding shall not exceed the Acquisition Credit Limit in effect at such time. Each Borrowing of Acquisition Loans shall be made rateably by the Lenders in proportion to their respective Acquisition Loan Percentages. As provided in Section 2.9 hereof, the Borrower may elect that each Borrowing of Acquisition Loans be either Bankers' Acceptances, BA Equivalent Loans, Prime Rate Loans, Base Rate Loans or LIBOR Loans.

(b) *Purpose.* Advances under the Acquisition Credit Facility may be used by the Borrower to fund the Target Acquisition, payments on the VTB Loan permitted by the VTB Loan Subordination Agreement and other Acquisitions permitted by the Required Lenders.

(c) *Non-Revolving Nature.* The Acquisition Credit Facility shall be a demand non-revolving facility. No amount repaid or prepaid on any Acquisition Loan may be borrowed again.

(d) *Scheduled Payments.* The Borrower shall make equal monthly payments on each Acquisition Loan based on a five year amortization (together with accrued interest thereon to the date of prepayment plus any amounts owing to the Lenders pursuant to Section 2.15), such repayments to be made on the last day of each and every month (commencing on the last day of the month following the month in which such Acquisition Loan was advanced) and the remaining balance of all Obligations owing under the Acquisition Credit Facility payable in full on the Termination Date.

(e) *Repayment.* The Obligations under the Acquisition Credit Facility shall become due and payable on the Termination Date.

(f) *Borrowing under the Acquisition Credit Facility.* Subject to the restrictions contained in this Agreement (and in particular, Section 2.7, Section 2.8 and Section 2.9), the following Availment Options are available under the Acquisition Credit Facility:

- (i) Prime Rate Loans;
- (ii) Base Rate Loans;
- (iii) Bankers' Acceptances from BA Lenders with a maturity of thirty (30) to one hundred and eighty (180) days (inclusive), subject to availability;
- (iv) BA Equivalent Loans from the Non-BA Lenders with a maturity of thirty (30) to one hundred and eighty (180) days (inclusive), subject to availability; or
- (v) LIBOR Loans with an Interest Period of one (1), two (2), three (3) or six (6) months, subject to availability;

provided that Bankers' Acceptances, BA Equivalent Loans and LIBOR Loans will not be issued with a maturity date which in the opinion of the Administrative Agent acting reasonably could result in the Acquisition Credit Limit being exceeded at any time.

The Borrower may convert Outstanding Advances under the Acquisition Credit Facility in the form of any of the above Availment Options into another form of Availment Option, subject to and in accordance with the terms and conditions of this Agreement (but for greater certainty, Bankers' Acceptances, BA Equivalent Loans and LIBOR Loans may not be converted into another Availment Option prior to the maturity thereof unless applicable breakage costs are paid by the Borrower to the Administrative Agent).

Section 2.3 **Guarantee Credit Commitments.**

(a) *Establishment of Guarantee Credit Facility.* Subject to the terms and conditions hereof, each Lender, by its acceptance hereof, severally agrees to make loans (individually, a "**Guarantee Loan**" and collectively, the "**Guarantee Loans**") in Canadian Dollars or U.S. Dollars to the Borrower from time to time on a revolving basis up to the amount of such Lender's Guarantee Credit Commitment, subject to any increases or reductions thereof pursuant to the terms hereof, on or before the Termination Date. The sum of the aggregate principal amount of the L/C Obligations at any time outstanding shall not exceed the Guarantee Credit Limit in effect at such time. Each Borrowing of Guarantee Loans shall be made rateably by the Lenders in proportion to their respective Guarantee Loan Percentages. As provided in Section 2.9 hereof, the Borrower may elect that each Borrowing of Guarantee Loans be Letters of Credit.

(b) *Purpose.* Advances under the Guarantee Credit Facility may be used by the Borrower to finance the day to day operations of the Borrower through the issuance of Letters of Credit.

(c) *Revolving Nature.* The Guarantee Credit Facility shall be a demand revolving facility. For greater certainty, the Borrower shall be entitled to repay all or any portion of the Outstanding Advances under the Guarantee Credit Facility from time to time (without premium or penalty whatsoever) and obtain further Guarantee Loans under the Guarantee Credit Facility from time to time; provided that, the aggregate principal amount of the Outstanding Advances at any time under the Guarantee Credit Facility shall not exceed the Guarantee Credit Limit in effect at such time.

(d) *Repayment.* The Obligations under the Guarantee Credit Facility shall become due and payable on the Termination Date.

(e) *Borrowing under the Guarantee Credit Facility.* Subject to the restrictions contained in this Agreement (and in particular, Section 2.6, Section 2.7, Section 2.8 and Section 2.9), Letters of Credit are available under the Guarantee Credit Facility, provided that Letters of Credit will not be issued with a maturity date which in the opinion of the Administrative Agent acting reasonably could result in the Guarantee Credit Limit being exceeded at any time.

Section 2.4 **Risk Management Credit Facility.**

(a) *Establishment of Risk Management Credit Facility.* Subject to the terms and conditions hereof, HSBC by its acceptance hereof, severally agrees to extend credit to the Borrower from time to time by way of FEFC up to the amount of such Lender's Risk Management Commitment, subject to any increases or reductions thereof pursuant to the terms hereof, before the Termination Date (the "**Risk Management Credit Facility**"). The sum of the aggregate notional amount of FEFCs at any time outstanding shall not exceed the Risk Management Credit Limit in effect at such time.

(b) *Sublimits.* Subject to the terms and conditions hereof, as part of the Risk Management Credit Facility, HSBC may issue FEFCs, the notional risk amount of which shall not in the aggregate at any time outstanding exceed such Lender's FEFC Sublimit. Each FEFC shall constitute usage of the Risk Management Commitment.

(c) *Purpose of Risk Management Credit Facility.* The Risk Management Credit Facility may be used by the Borrower for hedging foreign currency exposure incurred in connection with import purchases and export sales in the ordinary course of business (specifically excluding any speculative transactions), subject to the terms and conditions of this Agreement.

(d) *Repayment.* The obligations under any FEFC issued under the Risk Management Credit Facility shall be due and payable by the Borrower upon the earlier of: (i) the maturity date of such FEFC; (ii) the issuance by HSBC of a demand for payment of all Obligations of the Borrowers under the Risk Management Credit Facility; and (iii) the Acceleration Date.

(e) *Revolving Nature.* The Borrower may from time to time satisfy all or any portion of its obligations under FEFCs issued under the Risk Management Credit Facility and enter into new FEFCs under the Risk Management Credit Facility; provided that (i) the notional risk amount of all FEFCs (in the aggregate) at any time under the Risk Management Credit Facility shall not exceed the Risk Management Credit Limit, and (ii) the notional risk amount of all FEFCs at any time under the Risk Management Credit Facility shall not exceed the FEFC Sublimit and the notional amount of all FEFCs at any time issued by HSBC under the Risk Management Credit Facility shall not exceed the FEFC Sublimit of such Lender.

(f) *Availability.* The Borrower may utilize the Risk Management Credit Facility by purchasing FEFCs from HSBC or any of its Affiliates from time to time upon such terms and conditions as may be offered by HSBC from time to time, provided that:

- (i) the maturity date of any FEFC shall not be later than the date which is twelve (12) months after the date of issuance; and
- (ii) the issuance of all FEFCs shall be subject to availability in accordance with the internal policies of HSBC and market availability, and subject to payment by the Borrower to HSBC or any of its Affiliates of its usual fees for such a transaction concurrently with the entering into of such transaction.

(g) *General Matters.* HSBC shall not be obliged to enter into any FEFC hereunder unless the Borrower enters into and delivers to HSBC or any of its Affiliates, as applicable, the required form of documentation in connection therewith including without limitation any indemnities which may be required by HSBC or any of its Affiliates (and further provided that HSBC shall not have any obligation to enter into any FEFC so long as a Default or an Event of Default has occurred and is continuing). HSBC's policies in connection with Deemed Risk are subject to change without notice in accordance with HSBC's internal policies. Any amount in respect of which the Borrower is obligated to indemnify or reimburse HSBC or any of its Affiliates under the terms of any contract entered into by the Borrower with HSBC or any of its Affiliates in respect of any FEFCs shall bear interest in accordance with the provisions of this Agreement as if such amount was a Prime Rate Loan or a Base Rate Loan under the Revolving Credit Facility, both before and after the date on which payment, cost or expense, in respect of which such indemnity or reimbursement obligation arises, is made or incurred by HSBC or any of its Affiliates. For greater certainty, the Security shall secure payment and performance of all Obligations, including without limitation under the Risk Management Credit Facility.

(h) *Fees.* The Borrower shall pay to HSBC or any of its Affiliates, as applicable, in respect of each FEFC entered into by it with HSBC or any of its Affiliates, the fees determined by HSBC's treasury department.

(i) *Establishment of Hedging Agreements.* Each Lender or an Affiliate of a Lender (for the purpose of this subsection, each a "**Hedging Lender**") may, without notice to or the consent of the Administrative Agent or the other Hedging Lenders, enter into Hedging Agreements with the Borrower from time to time upon such terms and conditions as may be agreed between such Hedging Lender and the Borrower, provided that such Hedging Lender does not have actual knowledge that the Borrower is not in compliance with Section 2.4(e) or Section 8.2(l) at such time or that entering into such Hedging Agreement would result in such non-compliance. The pricing and all other terms and conditions of each proposed Hedging Agreement shall be determined between such Hedging Lender and the Borrower. Without limiting the generality of the foregoing, the Lenders acknowledge that the Administrative Agent may in its discretion determine that Hedging Agreements shall be entered into only between HSBC and its Affiliates, and the Borrower.

Section 2.5 **MasterCard Credit Facility.**

(a) *Establishment of MasterCard Credit Facility.* Subject to the terms and conditions in this Agreement, HSBC hereby establishes a credit facility for the Borrower in the aggregate maximum principal amount of the MasterCard Credit Limit (the "**MasterCard Credit Facility**").

(b) *Purpose of Facility.* Advances under the MasterCard Credit Facility shall be used by the Borrower to facilitate the payment of business expenses incurred by employees of the Borrower.

(c) *MasterCard Credit Limit.* The Outstanding Advances at any time under the MasterCard Credit Facility shall not exceed the MasterCard Credit Limit. HSBC shall have no obligation to make an advance under the MasterCard Credit Facility if after making such advance, the Obligations under the MasterCard Credit Facility would exceed the MasterCard Credit Limit. If at any time the Obligations under the MasterCard Credit Facility exceed the MasterCard Credit Limit, the Borrower shall pay to HSBC the principal amount required by it to reduce the Obligations under the MasterCard Credit Facility to an amount not greater than the MasterCard Credit Limit.

(d) *Terms and Conditions.* The Borrower may receive advances under the MasterCard Credit Facility by way of debits through the use of corporate cards issued by HSBC to officers and employees of the Borrower upon the completion of a MasterCard Agreement and all other necessary documentation reasonably required by HSBC.

(e) *Repayment.* The Obligations under the MasterCard Credit Facility shall become due and payable by the Borrower upon the earlier to occur of (i) the issuance by HSBC of a demand for payment of all Obligations of the Borrower under the MasterCard Credit Facility pursuant to the terms of the MasterCard Agreement; and (ii) the Acceleration Date. Until such time, the Obligations under the MasterCard Credit Facility shall be payable by the Borrower monthly in accordance with the terms of the MasterCard Agreement made between the Borrower and HSBC (the "**MasterCard Agreement**").

(f) *Fees.* The Borrower shall pay to HSBC in respect of the MasterCard Credit Facility the fees required to be paid by it as set out in the MasterCard Agreement.

(g) *General Matters.* HSBC shall not be obliged to make an advance under the MasterCard Credit Facility unless and until the Borrower enters into and delivers the MasterCard Agreement to HSBC.

Section 2.6 **Letters of Credit.**

(a) *General Terms.* Subject to the terms and conditions hereof, as part of the Guarantee Credit Facility, the L/C Issuer shall issue letters of guarantee, standby letters of credit and documentary letters of credit (collectively, "**Letters of Credit**" and each a "**Letter of Credit**") for the account of the Borrower. Each Letter of Credit shall be issued by the L/C Issuer, but each Lender shall be obligated to reimburse the L/C Issuer for such Lender's Guarantee Loan Percentage of the amount of each drawing thereunder and, accordingly, each Letter of Credit shall constitute usage of the Guarantee Credit Commitment of each Lender pro rata in an amount equal to its Guarantee Loan Percentage of the L/C Obligations then outstanding.

(b) *Applications.* At any time before the Termination Date, the L/C Issuer shall, at the request of the Borrower, issue one or more Letters of Credit in Canadian Dollars or U.S. Dollars, in a form satisfactory to the L/C Issuer, with expiration dates no later than 12 months from the date of issuance (or which are cancellable not later than 12 months from the date of issuance and each renewal), in an aggregate face amount as set forth above, upon the receipt of an application duly executed by the Borrower for the relevant Letter of Credit in the form then customarily prescribed by the L/C Issuer for the Letter of Credit requested (each an "**Application**"). Notwithstanding anything contained in any Application to the contrary: (i) the Borrower shall pay fees in connection with each Letter of Credit as set forth in Section 3.1(a) hereof, (ii) except as otherwise provided in Section 2.12 hereof or clause (iv) of this Section 2.6(b), unless an Event of Default has occurred, the L/C Issuer will not call for the funding by the Borrower of any amount under a Letter of Credit before being presented with a drawing thereunder, (iii) if the L/C Issuer is not timely reimbursed for the amount of any drawing under a Letter of Credit on the date such drawing is paid, the Borrower's obligation to reimburse the L/C Issuer, through the Administrative Agent, for the amount of such drawing shall bear interest (which the Borrower hereby promises to pay) from and after the date such drawing is paid at a rate per annum equal to the sum of 1.50% per annum plus the Prime Rate from time to time in effect plus one quarter of one percent (0.25%) per annum

(computed on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed) and (iv) the L/C Issuer shall not be obligated to issue or renew any Letter of Credit if there is at such time a default of any Lender's obligations to make Revolving Loans under this Agreement or any Lender is at such time a Defaulting Lender hereunder, unless the L/C Issuer has entered into satisfactory arrangements with the Borrower or such Lender to eliminate the L/C Issuer's risk with respect to such Lender. Unless the L/C Issuer has received written notice from any Lender or the Administrative Agent, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, not to issue or amend said Letter of Credit, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. If the L/C Issuer issues any Letter of Credit with an expiration date that is automatically extended unless the L/C Issuer gives notice that the expiration date will not so extend beyond its then scheduled expiration date, unless the Required Lenders, through the Administrative Agent, instruct the L/C Issuer otherwise, the L/C Issuer will give such notice of non-renewal before the time necessary to prevent such automatic extension, if before such required notice date: (i) the expiration date of such Letter of Credit if so extended would be after the Termination Date, (ii) the Guarantee Credit Commitments have been terminated, or (iii) a Default or Event of Default exists and is continuing or the Administrative Agent has demanded payment of all Guarantee Loans, at the request or with the consent of the Required Lenders, has given the L/C Issuer instructions not to so permit the extension of the expiration date of such Letter of Credit. The L/C Issuer agrees to issue amendments to any Letter(s) of Credit increasing the amount, or extending the expiration date thereof, at the request of the Borrower subject to the conditions of Section 7.3 hereof and the other terms of this Section 2.6.

(c) *The Reimbursement Obligations.* Subject to Section 2.6(b) above, the obligation of the Borrower to reimburse the L/C Issuer for all drawings under a Letter of Credit (a "**Reimbursement Obligation**") shall be governed by the Application related to such Letter of Credit and this Agreement, except that reimbursement shall be made by no later than 1:00 P.M. (Toronto time) on the date when each drawing is to be paid if the Borrower has been informed of such drawing by the L/C Issuer on or before 11:30 a.m. (Toronto time) on the date when such drawing is to be paid or, if notice of such drawing is given to the Borrower after 11:30 a.m. (Toronto time) on the date when such drawing is to be paid, by the end of such day, in immediately available funds at the Administrative Agent's principal office in Toronto, Ontario, or such other office as the Administrative Agent may designate in writing to the Borrower (who shall thereafter cause to be distributed to the L/C Issuer such amount(s) in like funds), provided, that, if such day is not a Business Day, the date for such payment shall be extended to the next succeeding Business Day. Upon payment by the L/C Issuer of any drawing under a Letter of Credit, the Borrower shall be deemed to have requested (without regard to the timing requirements for delivery of a Notice of Borrowing otherwise set forth in this Agreement) a Revolving Loan on that date in an amount equal to (or if necessary, such greater amount as is required to comply with the minimum Borrowing amounts permitted by this Agreement) the related Reimbursement Obligation with respect to such drawing and the proceeds of such Revolving Loan shall be applied on that date to pay such Reimbursement Obligation to the L/C Issuer. Any such Revolving Loan shall initially be a Prime Rate Loan. If the Borrower does not make any such reimbursement payment on the date due and the Participating Lenders fund their participations therein in the manner set forth in Section 2.6(e) below, then all payments thereafter received by the Administrative Agent in discharge of any of the relevant Reimbursement Obligations shall be distributed in accordance with Section 2.6(e) below.

(d) *Obligations Absolute.* The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each Letter of Credit Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following: (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document; (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction; (iii) any draft, demand, certificate or other document presented under such Letter of

Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect, or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit; (iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Insolvency Legislation; or (v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any of its Subsidiaries.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(e) *The Participating Interests.* Each Lender (other than the Lender acting as L/C Issuer in issuing the relevant Letter of Credit), by its acceptance hereof, severally agrees to purchase from the L/C Issuer, and the L/C Issuer hereby agrees to sell to each such Lender (a "**Participating Lender**"), an undivided percentage participating interest (a "**Participating Interest**"), to the extent of its Guarantee Loan Percentage, in each Letter of Credit issued by, and each Reimbursement Obligation owed to, the L/C Issuer. Upon any failure by the Borrower to pay any Reimbursement Obligation at the time required on the date due, as set forth in Section 2.6(c) above, or if the L/C Issuer is required at any time to return to the Borrower or to a trustee, receiver, liquidator, custodian or other Person any portion of any payment of any Reimbursement Obligation, each Participating Lender shall, not later than the Business Day it receives a certificate in the form of Exhibit A hereto from the Administrative Agent (with a copy to the L/C Issuer) to such effect, if such certificate is received before 1:00 p.m. (Toronto time), or not later than 1:00 p.m. (Toronto time) the following Business Day, if such certificate is received after such time, pay to the Administrative Agent for the account of the L/C Issuer an amount equal to such Participating Lender's Guarantee Loan Percentage of such unpaid or recaptured Reimbursement Obligation together with interest on such amount accrued from the date the related payment was made by the L/C Issuer to the date of such payment by such Participating Lender at a rate per annum equal to the Prime Rate then in effect. Without limiting the obligations of each Participating Lender, the Administrative Agent shall provide such certificate promptly to each Participating Lender (with a copy to the L/C Issuer) after the event giving rise thereto. Each such Participating Lender shall thereafter be entitled to receive its Guarantee Loan Percentage of each payment received in respect of the relevant Reimbursement Obligation and of interest paid thereon, with the L/C Issuer retaining its Guarantee Loan Percentage thereof as a Lender hereunder. The several obligations of the Participating Lenders to the L/C Issuer under this Section 2.6 shall be absolute, irrevocable, and unconditional under any and all circumstances whatsoever and shall not be subject to any set off, counterclaim or defense to payment which any Participating Lender may have or have had against the Borrower, the L/C Issuer, the Administrative Agent, any Lender or any other Person whatsoever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of any Commitment of any Lender, and each payment by a Participating Lender under this Section 2.6 shall be made without any offset, abatement, withholding or reduction whatsoever.

(f) *Indemnification.* The Participating Lenders shall, to the extent of their respective Guarantee Loan Percentages, indemnify the L/C Issuer (to the extent not reimbursed by the Borrower) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from the L/C Issuer's gross negligence or wilful misconduct) that the L/C Issuer may suffer or incur in connection with any Letter of Credit issued by it. The obligations of the Participating Lenders under this Section 2.6 shall survive termination of this Agreement and of all Applications, Letters of Credit, and all drafts and other documents presented in connection with drawings thereunder.

(g) *Manner of Requesting a Letter of Credit.* The Borrower shall provide at least two (2) Business Days advance written notice to the Administrative Agent of each request for the issuance of a Letter of Credit, such notice in each case to be accompanied by an Application for such Letter of Credit properly completed and executed by the Borrower and, in the case of an extension or an increase in the amount of a Letter of Credit, a written request therefor, in a form acceptable to the Administrative Agent and the L/C Issuer, in each case, together with the fees called for by this Agreement. The Administrative Agent shall promptly notify the L/C Issuer of the Administrative Agent's receipt of each such notice and the L/C Issuer shall promptly notify the Administrative Agent of the issuance of the Letter of Credit so requested.

(h) *No Obligation to Issue.* The L/C Issuer shall not be under any obligation to issue any Letter of Credit if: (i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing the Letter of Credit, or any Applicable Law or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the L/C Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it; or (ii) the issuance of the Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally.

Notwithstanding anything to the contrary contained in this Section 2.6 or elsewhere in this Agreement, in the event that a Lender with a Guarantee Credit Commitment is a Defaulting Lender, until such time as the L/C Issuer has entered into arrangements satisfactory to it and the Borrower to eliminate the L/C Issuer's risk with respect to the participation in Letters of Credit by all such Defaulting Lenders, including by cash collateralizing each such Defaulting Lender's Participating Interest, the L/C Issuer shall not be required to issue, amend or renew any Letter of Credit to the extent that the sum of the aggregate principal amount of L/C Obligations (including L/C Obligations in respect of such Letter of Credit) outstanding at such time exceeds the Guarantee Credit Limit in effect at such time less such Defaulting Lender's Guarantee Credit Commitment.

Section 2.7 *Applicable Interest Rates.*

(a) *Prime Rate Loans.* Each Prime Rate Loan made or maintained by a Lender shall bear interest during each day it is outstanding (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or continued, or created by conversion from another type of Loan, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Prime Rate from time to time in effect plus 1.00% per annum in respect of Revolving Loans and 1.50% per annum in respect of Acquisition Loans or any Loans other than Revolving Loans, accruing daily and payable monthly in arrears on the last day of each and every month, and at maturity (whether by acceleration or otherwise); provided that, if upon determination of the Prime Rate, Prime Rate is below zero, Prime Rate shall be deemed to be zero.

(b) *Base Rate Loans.* Each Base Rate Loan made or maintained by a Lender shall bear interest during each day it is outstanding (computed on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or continued, or created by conversion from another type of Loan, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of the Base Rate from time to time in effect plus 1.00% per annum in respect of Revolving Loans and 1.50% per annum in respect of Acquisition Loans or any Loans other than Revolving Loans, accruing daily and payable on the last day of each and every month, and at maturity (whether by acceleration or otherwise); provided that, if upon determination of the Base Rate, Base Rate is below zero, Base Rate shall be deemed to be zero.

(c) *LIBOR Loans.* Each LIBOR Loan made or maintained by a Lender shall bear interest during each Interest Period it is outstanding (computed, notwithstanding any provision to the contrary in this Agreement (including the use of the term "per annum"), on the basis of a year of 360 days and actual days elapsed) on the unpaid principal amount thereof from the date such Loan is advanced or continued, or created by conversion from another type of Loan, until maturity (whether by acceleration or otherwise) at a rate per annum equal to the sum of LIBOR applicable for such Interest Period plus 2.25% per annum in respect of Revolving Loans and 2.75% per annum in respect of Acquisition Loans or any Loans other than Revolving Loans, accruing daily and payable on the last day of the Interest Period and at maturity (whether by acceleration or otherwise), and, if the applicable Interest Period is longer than three (3) months, on each day occurring every three (3) months after the commencement of such Interest Period; provided that if upon determination of LIBOR, LIBOR is below zero, LIBOR shall be deemed to be zero.

The Borrower acknowledges that the ability of the Lenders to maintain or provide any LIBOR Loan and/or to charge interest on any LIBOR Loan at LIBOR, is and will be subject to any Applicable Law which may prohibit or restrict or limit such loans and/or such interest. The Borrower agrees that the Lenders shall have the right to comply with any such requirements and, if the Administrative Agent determines it to be necessary as a result of such requirement or a change to such requirement, the Administrative Agent may convert any LIBOR Loan to a Base Rate Loan or require immediate repayment of all LIBOR Loans, including accrued interest thereon and all applicable breakage costs pursuant to Section 2.25.

(d) *Matters relating to Interest:*

- (i) Any change in the Prime Rate shall cause an immediate adjustment of the interest rate applicable to Prime Rate Loans, Swing Loans and Export Loans in Canadian Dollars, and any change in the Base Rate shall cause an immediate adjustment of the interest rate applicable to Base Rate Loans, Swing Loans and Export Loans in U.S. Dollars, in each case without the necessity of any notice to the Borrower.
- (ii) Unless otherwise stated, in this Agreement if reference is made to a rate of interest, fee or other amount "per annum" or a similar expression is used, such interest, fee or other amount shall be calculated on the basis of a year of three hundred and sixty-five (365) or three hundred and sixty-six (366) days, as the case may be.
- (iii) For the purposes of this Agreement, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis of such determination period.
- (iv) THE BORROWER CONFIRMS THAT IT FULLY UNDERSTANDS AND IS ABLE TO CALCULATE THE RATE OF INTEREST APPLICABLE TO EACH OF THE CREDIT FACILITIES BASED ON THE METHODOLOGY FOR CALCULATING PER ANNUM RATES PROVIDED FOR IN SECTION 2.7(D) OF THIS AGREEMENT. The Administrative Agent agrees that if requested in writing by the Borrower it shall calculate the nominal and effective per annum rate of interest on any Loan outstanding at any time and provide such information to the Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve the Borrower or any other Obligor under this Agreement or any other Loan Document, nor result in any liability to the Administrative Agent or any Lender.

THE BORROWER HEREBY IRREVOCABLY AGREES NOT TO PLEAD OR ASSERT, WHETHER BY WAY OF DEFENCE OR OTHERWISE, IN ANY PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, THAT THE INTEREST PAYABLE HEREUNDER AND UNDER THE OTHER LOAN DOCUMENTS AND THE CALCULATION THEREOF HAS NOT BEEN ADEQUATELY DISCLOSED TO IT, WHETHER PURSUANT TO SECTION 4 OF THE *INTEREST ACT* (CANADA) OR ANY OTHER APPLICABLE LAW OR LEGAL PRINCIPLE.

(e) *Rate Determinations.* The Administrative Agent shall determine each interest rate applicable to the Loans and the Reimbursement Obligations hereunder, and its determination thereof shall be conclusive and binding except in the case of manifest error.

Section 2.8 **Minimum Borrowing Amounts.** Each Borrowing of Prime Rate Loans or Base Rate Loans advanced under a Credit Facility shall be in an amount not less than the equivalent of \$100,000. Each Borrowing in the form of a Bankers' Acceptance or BA Equivalent Loan advanced under a Credit Facility shall have an Interest Period as selected by the Borrower and be in a minimum aggregate amount of \$500,000 and in whole multiples of \$100,000 thereafter. Each Borrowing of LIBOR Loans advanced, continued or converted under a Credit Facility shall be in an amount equal to \$500,000 or such greater amount which is an integral multiple of \$100,000 thereafter.

Section 2.9 **Manner of Borrowing Loans and Designating Applicable Interest Rates.** □

(a) *Notice to the Administrative Agent.* The Initial Advance shall be made by the Administrative Agent to the Borrower on the Closing Date following receipt of a Notice of Borrowing (as defined below) delivered by the Borrower to the Administrative Agent on or before the Closing Date. For all other Loans (other than Swing Loans), the Borrower shall give notice to the Administrative Agent by no later than (i) 11:00 a.m. (Toronto time) at least three (3) Business Days before the date of a proposed Borrowing of LIBOR Loans, (ii) 11:00 a.m. (Toronto time) at least two (2) Business Days before the date of a proposed Borrowing in the form of a Bankers' Acceptance or a BA Equivalent Loan, and (iii) other than Swing Loans, 11:00 a.m. (Toronto time) at least one Business Day before the date of any proposed Borrowing in the form of a Prime Rate Loan or Base Rate Loan. The Loans included in each Borrowing shall bear interest initially at the rate contemplated in Section 2.7 and specified in such Notice of Borrowing. Thereafter, subject to the terms and conditions hereof, the Borrower may from time to time elect to change or continue the type of interest rate borne by each Borrowing or, subject to the minimum amount requirement for each outstanding Borrowing set forth in Section 2.8 hereof, a portion thereof. If such Borrowing is of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans, on the last day of the Interest Period applicable thereto, such Borrower may continue or convert part or all of such Borrowing into another type of Borrowing. The Borrower shall give all such notices requesting the advance of a Borrowing to the Administrative Agent by telephone or facsimile (which notice shall be irrevocable once given and, if by telephone, shall be promptly confirmed in writing), substantially in the form attached hereto as Exhibit B (each, a "**Notice of Borrowing**") or Exhibit C (a "**Notice of Continuation/Conversion**"), as applicable, or in such other form acceptable to the Administrative Agent. Notice of the continuation of a Borrowing of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans for an additional Interest Period, or of the conversion of part or all of a Borrowing of Bankers' Acceptances, BA Equivalent Loans, Prime Rate Loans or Base Rate Loans into LIBOR Loans or of the conversion of part or all of a Borrowing of LIBOR Loans, Prime Rate Loans or Base Rate Loans into Bankers' Acceptances or BA Equivalent Loans, must be given by no later than 11:00 a.m. (Toronto time) at least three (3) Business Days before the date of the requested continuation or conversion. All such notices concerning the advance, continuation or conversion of a Borrowing shall specify the date of the requested advance, continuation or conversion of a Borrowing (which shall be a Business Day), the amount of the requested Borrowing to be advanced, continued or converted, the type of Loans to comprise such new, continued or converted Borrowing and, if such Borrowing is to be comprised of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans, the Interest Period applicable thereto. The Borrower agrees that the Administrative Agent may rely on any such notice via telephone, email or facsimile given by any person to the Administrative Agent in good faith believes is an authorized

representative of the Borrower without the necessity of independent investigation, and in the event any such notice by telephone conflicts with any written confirmation such telephonic notice shall govern if the Administrative Agent has acted in reliance thereon.

(b) *Notice to the Lenders.* The Administrative Agent shall give prompt notice by telephone or facsimile to each Lender of any notice from the Borrower received pursuant to Section 2.9 above and, if such notice requests the Lenders to make LIBOR Loans, the Administrative Agent shall give notice to the Borrower and each Lender by like means of the interest rate applicable thereto promptly after the Administrative Agent has made such determination.

(c) *Borrower's Failure to Notify; Automatic Continuations and Conversions.* With respect to any outstanding Borrowing of LIBOR Loans, if (x) (A) the Borrower fails to give notice pursuant to Section 2.9 above of the continuation or conversion of any outstanding principal amount of a Borrowing of LIBOR Loans before the last day of its then current Interest Period within the period required by Section 2.9 or (B) whether or not such notice has been given, one or more of the conditions set forth in Section 2.9 hereof for the continuation or conversion of a Borrowing of LIBOR Loans would not be satisfied, or (y) such Borrowing is not prepaid in accordance with Section 2.12, such Borrowing shall automatically convert into a Borrowing of Base Rate Loans. With respect to any outstanding Borrowing of Bankers' Acceptances or BA Equivalent Loans, if (x) (A) the Borrower fails to give notice pursuant to Section 2.9 above of the continuation or conversion of any outstanding principal amount of a Borrowing of Bankers' Acceptances or BA Equivalent Loans before the last day of its then current Interest Period within the period required by Section 2.9 or (B) whether or not such notice has been given, one or more of the conditions set forth in Section 7.3 hereof for the continuation or conversion of a Borrowing of Bankers' Acceptances or BA Equivalent Loans would not be satisfied, or (y) such Borrowing is not prepaid in accordance with Section 2.12, such Borrowing shall automatically convert into a Borrowing of Prime Rate Loans. In the event the Borrower fails to give notice pursuant to Section 2.6(c) above of a Borrowing equal to the amount of a Reimbursement Obligation and has not notified the Administrative Agent by 1:00 p.m. (Toronto time) on the day such Reimbursement Obligation becomes due that it intends to repay such Reimbursement Obligation through funds not borrowed under this Agreement, such Borrower shall be deemed to have requested a Borrowing of Prime Rate Loans, or Base Rate Loans, as applicable, given the currency of the Reimbursement Obligation due, under the Revolving Credit Facility (or, at the option of the Administrative Agent, under the Swing Line) on such day in the amount of the Reimbursement Obligation then due, which Borrowing shall be applied to pay the Reimbursement Obligation then due.

(d) *Disbursement of Loans.* Not later than 2:00 p.m. (Toronto time) on the date of any requested advance of a new Borrowing, subject to Article 7 hereof, each Lender shall make available its Loan comprising part of such Borrowing in funds immediately available at the principal office of the Administrative Agent in Toronto, Ontario. The Administrative Agent shall make the proceeds of each new Borrowing available to the Borrower by depositing such proceeds to the credit of the Borrower's principal operating account maintained with the Administrative Agent or its Affiliate or as the Borrower and the Administrative Agent may otherwise agree.

(e) *Administrative Agent Reliance on Lender Funding.* Unless the Administrative Agent shall have been notified by a Lender prior to (or, in the case of a Borrowing of a Prime Rate Loan or a Base Rate Loan, by 2:00 p.m. (Toronto time) on) the date on which such Lender is scheduled to make payment to the Administrative Agent of the proceeds of a Loan (which notice shall be effective upon receipt) that such Lender does not intend to make such payment, the Administrative Agent may assume that such Lender has made such payment when due and the Administrative Agent may in reliance upon such assumption (but shall not be required to) make available to the Borrower the proceeds of the Loan to be made by such Lender and, if any Lender has not in fact made such payment to the Administrative Agent, such Lender shall, on demand, pay to the Administrative Agent the amount made available to the Borrower attributable to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on (but excluding) the date such Lender pays such amount to the Administrative Agent at a rate per annum equal to the then applicable Prime Rate. If such amount is not received from such Lender by the Administrative Agent immediately upon demand, the Borrower will, on demand, repay to the Administrative Agent the

proceeds of the Loan attributable to such Lender with interest thereon at a rate per annum equal to the interest rate applicable to the relevant Loan, but without such payment being considered a payment or prepayment of a Loan under Section 2.15 hereof so that the Borrower will have no liability under such Section with respect to such payment.

Section 2.10 Interest Periods. As provided in Section 2.9 hereof, at the time of each request to advance, continue or convert a Borrowing of Bankers' Acceptances, BA Equivalent Loans or LIBOR Loans, the Borrower shall select an Interest Period applicable to such Loans from among the available options.

Section 2.11 Maturity of Loans. Each Revolving Loan, both for principal and interest or other fees not sooner paid, shall mature and be due and payable by the Borrower on the Termination Date. Each Acquisition Loan, both for principal and interest or other fees not sooner paid, shall mature and be due and payable by the Borrower on the Termination Date. Each Guarantee Loan, both for principal and interest or other fees not sooner paid, shall mature and be due and payable by the Borrower on the Termination Date. All Obligations outstanding under each of the MasterCard Credit Facility and the Risk Management Credit Facility shall mature and be due and payable by the Borrower on the earlier of (i) demand by the Administrative Agent, and (ii) such earlier date on which such Commitments are terminated pursuant to Section 2.16, Section 9.2 or Section 9.3 hereof.

Section 2.12 Prepayments.

(a) *Optional.* The Borrower may prepay in whole or in part (but, if in part, then: (i) in an amount not less than \$500,000, and integral multiples of \$100,000 in excess thereof, and (ii) in an amount such that the minimum amount required for a Borrowing pursuant to Section 2.8 hereof remains outstanding) any Borrowing at any time, upon three (3) Business Days prior notice by the Borrower to the Administrative Agent (except in respect of Borrowings under the Revolving Credit Facility (including any Swing Loans and Export Loans) which shall not be subject to a notice period), such prepayment to be made by the payment of the principal amount to be prepaid, accrued interest thereon to the date fixed for prepayment plus any amounts due the Lenders under Section 2.15 hereof. LIBOR Loans, Bankers' Acceptances and BA Equivalent Loans may not be prepaid prior to the last day of the applicable Interest Period and extensions of credit under the Risk Management Credit Facility may not be prepaid prior to the maturity thereof unless the Borrower pays the applicable breakage fees.

(b) *Mandatory Repayments.*

- (i) *Disposition.* If the Borrower or any other Obligor shall at any time or from time to time make or agree to make a Disposition with respect to any Property (other than the sale of inventory in the ordinary course of business or worn or obsolete equipment), then the Borrower shall promptly notify the Administrative Agent of any such Disposition to the extent that the amount of the Net Cash Proceeds to be received in respect thereof exceeds \$500,000 in the aggregate for all such Dispositions in any calendar year (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such other Obligor in respect thereof) and, the Borrower or such other Obligor may retain such proceeds provided that the Borrower or such other Obligor replaces the asset to which such proceeds relate or reinvests such proceeds in its business within six (6) months of receipt. Immediately after the end of the reinvestment period described in the prior sentence, to the extent such Net Cash Proceeds have not been so reinvested or used to replace the applicable asset, the Borrower shall notify the Administrative Agent and shall prepay the Obligations to the extent that the amount of such Net Cash Proceeds not so reinvested exceeds \$500,000 in any calendar year.
- (ii) *Event of Loss.* If the Borrower or any other Obligor shall at any time or from time to time suffer an Event of Loss with respect to any Property, then the Borrower

shall promptly notify the Administrative Agent of any Event of Loss to the extent that the amount of the Net Cash Proceeds to be received in respect thereof exceeds \$500,000 in the aggregate for all such Events of Loss in any calendar year (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such other Obligor in respect thereof) and, the Borrower or such other Obligor may retain such proceeds provided that the Borrower or such other Obligor replaces, repairs or rebuilds the asset to which such proceeds relate or reinvests such proceeds in its business within six (6) months of receipt. Immediately after the end of the reinvestment period described in the prior sentence, to the extent such Net Cash Proceeds have not been so reinvested or used to replace, rebuild or repair the applicable asset, the Borrower shall notify the Administrative Agent and shall prepay the Obligations in the amount of such Net Cash Proceeds not so reinvested or used to replace, rebuild or repair the applicable asset.

- (iii) *Debt Issuances.* If the Borrower or any other Obligor shall issue any Indebtedness other than Permitted Indebtedness, then the Borrower shall promptly notify the Administrative Agent of such issuance (including the amount of the estimated Net Cash Proceeds to be received by the Borrower or such other Obligor in respect thereof) and, promptly upon receipt by the Borrower or such other Obligor of the Net Cash Proceeds of such issuance, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds.
- (iv) *Equity issuances.* If the Borrower or any other Obligor shall issue new equity securities (whether common or preferred stock or otherwise), other than (A) equity securities issued in connection with the exercise of employee stock options, (B) capital stock of the Borrower or any other Obligor issued to employees or board members, (C) equity securities issued by any Subsidiary to the Borrower or any other Obligor, and (D) equity securities issued in connection with a Permitted Acquisition, the Borrower shall notify the Administrative Agent of the estimated Net Cash Proceeds of such issuance to be received for the account of the Borrower or such other Obligor in respect thereof, and promptly upon receipt by the Borrower or such other Obligor of Net Cash Proceeds of such issuance, the Borrower shall prepay the Obligations in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds, provided that the Borrower or any other Obligor shall not be required to prepay any of the Obligations if the Senior Funded Debt to EBITDA Ratio is less than 2:0:1.0 at the time of such equity issuance.
- (v) *Method of Repayment.* Prepayments of Loans under this Section 2.12(b) shall be applied first against the scheduled repayments under the Acquisition Credit Facility, and second against outstanding Obligations under the Revolving Credit Facility, in each case, in reverse chronological order. Unless the Borrower otherwise directs, prepayments of Loans under this Section 2.12(b) shall be applied first to Borrowings of Prime Rate Loans and Base Rate Loans until payment in full thereof with any balance applied to Borrowings of LIBOR Loans, Bankers' Acceptances and BA Equivalent Loans in order in which their Interest Periods expire. Each prepayment of Loans under this Section 2.12(b) shall be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date of prepayment together with any amounts due the Lenders under Section 2.15 hereof. Each prefunding of L/C Obligations shall be made in accordance with Section 9.4 hereof. The amount of the Acquisition Credit Facility will be permanently reduced at the time of and by the amount of each repayment pursuant to this Section 2.12. The amount of the Revolving Credit Facility will be permanently reduced at the time of and by the amount of each repayment

pursuant to Section 2.12(b)(iii); any other prepayment of the Revolving Credit Facility shall not cause a permanent reduction in the amount of the Revolving Credit Facility.

(c) The Borrower shall also pay at the time of any prepayment pursuant to this Section 2.12 any amounts due the Lenders under Section 2.15 hereof.

(d) The Borrower shall, on each date any Commitments are reduced pursuant to Section 2.16 hereof, prepay the applicable Loans, and, if necessary, prefund the L/C Obligations by the amount, if any, necessary to reduce the sum of the aggregate principal amount of Loans and L/C Obligations then outstanding to the amount to which the applicable Commitments have been so reduced.

Section 2.13 Default Rate. Notwithstanding anything to the contrary contained herein, following the occurrence of any Event of Default which is continuing or after acceleration, the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all Loans and Reimbursement Obligations, and letter of credit fees, at a rate per annum (the "**Default Rate**") equal to the interest rate, Acceptance Fee, issuance fee or standby fee otherwise payable plus the sum of 2.00% per annum; *provided, however*, that in the absence of acceleration, any adjustments pursuant to this Section shall be made at the election of the Administrative Agent, acting at the request or with the consent of the Required Lenders, with written notice to the Borrower. Following the occurrence of any Event of Default which is continuing or after acceleration, interest shall be paid on demand of the Administrative Agent at the request or with the consent of the Required Lenders. In addition (but without duplication of amounts payable pursuant to the preceding sentence), the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on all overdue amounts of principal, interest, fees and other amounts under any Loan Document at the applicable rate of interest.

Section 2.14 Evidence of Indebtedness.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, the type thereof and the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender's share thereof.

(c) The entries maintained in the accounts maintained pursuant to paragraph (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided, however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

Section 2.15 Funding Indemnity. If any Lender shall incur any loss, cost or expense (including, without limitation, any loss, cost or expense incurred by reason of the liquidation or re-employment of deposits or other funds acquired by such Lender to fund or maintain any Bankers' Acceptance, BA Equivalent Loan or LIBOR Loan or the relending or reinvesting of such deposits or amounts paid or prepaid to such Lender) as a result of:

(a) any payment, prepayment or conversion of a Bankers' Acceptance, BA Equivalent Loan or LIBOR Loan on a date other than the last day of its Interest Period.

- (b) any failure (because of a failure to meet the conditions of Article 7 or otherwise) by the Borrower to borrow or continue a Bankers' Acceptance, BA Equivalent Loan or LIBOR Loan, or to convert a Prime Rate Loan, Base Rate Loan, Bankers' Acceptance or BA Equivalent Loan into a LIBOR Loan on the date specified in a notice given pursuant to Section 2.9 hereof or to convert a Prime Rate Loan, Base Rate Loan or LIBOR Loan into a Bankers' Acceptance or BA Equivalent Loan on the date specified in a notice given pursuant to Section 2.9 hereof;
- (c) any failure by the Borrower to make any payment of principal on any Bankers' Acceptance, BA Equivalent Loan or LIBOR Loan when due (whether by acceleration or otherwise); or
- (d) any acceleration of the maturity of a Bankers' Acceptance, BA Equivalent Loan or LIBOR Loan as a result of the occurrence of any Event of Default hereunder,

then, upon the demand of the Administrative Agent the Borrower shall pay to the Administrative Agent for the account of such Lender such amount as will reimburse such Lender for such loss, cost or expense. If any Lender makes such a claim for compensation, it shall provide to the Borrower with a copy to the Administrative Agent, a certificate setting forth the amount of such loss, cost or expense in reasonable detail and the amounts shown on such certificate shall be conclusive absent manifest error if reasonably determined.

Section 2.16 **Credit Facility Terminations.**

(a) The Borrower shall have the right at any time and from time to time, upon five (5) Business Days prior written notice to the Administrative Agent (or such shorter period of time agreed to by the Administrative Agent), to permanently terminate or reduce any Credit Facility without premium or penalty and in whole or in part, any partial termination to be (i) in an amount of not less than \$500,000 or integral multiples of \$100,000 in excess thereof and (ii) allocated rateably among the Lenders in proportion to their respective Revolver Percentages, Acquisition Loan Percentages or Guarantee Loan Percentages, as applicable, provided that no Credit Facility may be reduced to an amount less than the sum of the aggregate principal amount of Loans and L/C Obligations then outstanding after giving effect to such reduction and any payments made concurrently therewith (unless, in the case of any L/C Obligations under outstanding Letters of Credit, there is no Credit Exposure with respect to such Letters of Credit or such Credit Exposure is cash collateralized pursuant to the terms hereof in favour of the Lenders). Any termination of the Revolving Credit Facility below the Swing Line Sublimit then in effect shall reduce the Swing Line Sublimit by a like amount. Any termination of the Revolving Credit Facility below the Export Line Sublimit then in effect shall reduce the Export Line Sublimit by a like amount. The Administrative Agent shall give prompt notice to each Lender of any such termination of a Credit Facility.

- (b) Any termination of a Credit Facility pursuant to this Section 2.16 may not be reinstated.

Section 2.17 **Substitution of Lenders.** In the event (a) any Lender is a Defaulting Lender or is otherwise in default in any material respect with respect to its obligations under the Loan Documents or (b) a Lender fails to consent to an amendment or waiver requested under Section 10.3 hereof at a time when the Required Lenders have approved such amendment or waiver (any such Lender referred to in clause (a) or (b) above being hereinafter referred to as an "**Affected Lender**"), the Borrower may, in addition to any other rights the Borrower may have hereunder or under Applicable Law, require, at the Affected Lender's expense, any such Affected Lender to assign, at par plus accrued interest and fees, without recourse, all of its interest, rights, and obligations hereunder (including all of its Commitments and the Loans and participation interests in Letters of Credit and other amounts at any time owing to it hereunder and the other Loan Documents) to a commercial bank or other financial institution specified by the Borrower, provided that (i) such assignment shall not conflict with or violate any Applicable Law, (ii) the Borrower shall have received the written consent of the Administrative Agent, the Swing Line Lender, the Export Line Lender and the L/C Issuer, which consent shall not be unreasonably withheld or delayed, to such assignment, (iii) the Borrower shall have paid to the Affected Lender all monies (together with,

unless the Affected Lender is in default in any material respect with respect to its obligations hereunder, amounts due to such Affected Lender under Section 2.15 hereof as if the Loans owing to it were prepaid rather than assigned) other than such principal and accrued interest and fees owing to it hereunder, and (iv) the assignment is entered into in accordance with the other requirements of Section 12.20 of this Agreement (provided any assignment fees and reasonable and documented out of pocket reimbursable expenses due thereunder shall be paid by the Borrower).

Section 2.18 **Swing Loans.**

(a) *Generally.* Subject to the terms and conditions hereof and Section 2.1, the Swing Line Lender shall make loans in Canadian Dollars as a Prime Rate Loan or US Dollars as a Base Rate Loan to the Borrower, in each case, under the Swing Line (individually a "**Swing Loan**" and collectively the "**Swing Loans**") which shall not in the aggregate at any time outstanding exceed the Swing Line Sublimit. The Swing Loans may be availed of by the Borrower from time to time and borrowings thereunder may be repaid and used again during the period ending on the Termination Date. Each Swing Loan shall constitute usage of the Revolving Credit Commitment. Swing Loans may be advanced in any amount.

(b) *Interest on Swing Loans.* Each Swing Loan shall bear interest during each day it is outstanding (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed for Prime Rate Loans and on the basis of a year of 360 days and actual days elapsed for Base Rate Loans) on the unpaid principal amount thereof from the date such Loan is advanced until maturity (whether by acceleration or otherwise) at a rate per annum equal to (i) the sum of the Prime Rate from time to time in effect plus 1.00% per annum or (ii) the sum of the Base Rate from time to time in effect plus 1.00% per annum. Interest on each Swing Loan shall be due and payable monthly in arrears on the last day of each and every month and at maturity (whether by acceleration or otherwise).

(c) *Swing Loans Advances.* All advances to the Borrower under the Swing Line shall be made by way of overdrafts in the following manner. The Swing Line Lender will make advances into one or more accounts maintained with the Swing Line Lender designated by the Borrower as required in order to honour cheques drawn by the Borrower on such accounts which are presented to the Swing Line Lender for payment. As deposits are made into such accounts by the Borrower, the Swing Line Lender shall withdraw funds from such accounts from time to time and apply such funds as repayments under the Swing Line. Advances to the Borrower and repayments by the Borrower under the Swing Line shall be made without notice and shall be on a dollar for dollar basis (i.e. not subject to minimum amounts or multiples). Anything contained in the foregoing to the contrary notwithstanding, (i) the obligation of the Swing Line Lender to make Swing Loans shall be subject to all of the terms and conditions of this Agreement and (ii) in the event that a Lender with a Revolving Credit Commitment is a Defaulting Lender, until such time as the Swing Line Lender has entered into arrangements satisfactory to it and the Borrower to eliminate the Swing Line Lender's risk with respect to the participation in Swing Loans by all such Defaulting Lenders, the Swing Line Lender shall not be obligated to make any Swing Loan to the extent that the sum of the aggregate principal amount of Revolving Loans and Swing Loans outstanding at such time exceeds the Revolving Credit Limit in effect at such time less such Defaulting Lender's Revolving Credit Commitment.

(d) *Refunding Loans.* In its sole and absolute discretion, the Swing Line Lender may at any time direct the Administrative Agent, on behalf of the Borrower (which hereby irrevocably authorizes the Administrative Agent to act on its behalf for such purpose) and with notice to the Borrower, request each Lender to make a Revolving Loan in the form of a Prime Rate Loan and/or Base Rate Loan, as applicable, in an amount equal to such Lender's Revolver Percentage of the amount of the Swing Loans outstanding on the date such notice is given. Regardless of the existence of any Event of Default, each Lender shall make the proceeds of its requested Revolving Loan available to the Administrative Agent, in immediately available funds, at the Administrative Agent's principal office in Toronto, Ontario, before 12:00 Noon (Toronto time) on the Business Day following the day such notice is given. The proceeds of such Borrowing of Revolving Loans shall be immediately applied to repay the outstanding Swing Loans.

(e) *Participations.* If any Lender refuses or otherwise fails to make a Revolving Loan when requested by the Administrative Agent pursuant to Section 2.18(d) above, such Lender will, by the time and in the manner such Revolving Loan was to have been funded to the Administrative Agent, purchase from the Swing Line Lender an undivided Participating Interest in the outstanding Swing Loans in an amount equal to its Revolver Percentage of the aggregate principal amount of Swing Loans that were to have been repaid with such Revolving Loans. Each Lender that so purchases a participation in a Swing Loan shall thereafter be entitled to receive its Revolver Percentage of each payment of principal received on the Swing Loan and of interest received thereon accruing from the date such Lender funded to the Administrative Agent its participation in such Loan. The several obligations of the Lenders under this Section shall be absolute, irrevocable and unconditional under any and all circumstances whatsoever and shall not be subject to any set off, counterclaim or defense to payment which any Lender may have or have had against the Borrower, any other Lender or any other Person whatsoever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Commitments of any Lender, and each payment made by a Lender under this Section shall be made without any offset, abatement, withholding or reduction whatsoever.

Section 2.19 **Export Line Loans.**

(a) *Generally.* Subject to the terms and conditions hereof and Section 2.1, the Export Line Lender shall make loans in Canadian Dollars as a Prime Rate Loan or US Dollars as a Base Rate Loan to the Borrower, in each case, under the Export Line (individually a "**Export Loan**" and collectively the "**Export Loans**") which shall not in the aggregate at any time outstanding exceed the Export Line Sublimit. The Export Loans may be availed of by the Borrower from time to time and borrowings thereunder may be repaid and used again during the period ending on the Termination Date. Each Export Loan shall constitute usage of the Revolving Credit Commitment. Export Loans may be advanced in any amount.

(b) *Interest on Export Loans.* Each Export Loan shall bear interest during each day it is outstanding (computed on the basis of a year of 365 or 366 days, as the case may be, and the actual days elapsed for Prime Rate Loans and on the basis of a year of 360 days and actual days elapsed for Base Rate Loans) on the unpaid principal amount thereof from the date such Loan is advanced until maturity (whether by acceleration or otherwise) at a rate per annum equal to (i) the sum of the Prime Rate from time to time in effect plus 1.00% per annum or (ii) the sum of the Base Rate from time to time in effect plus 1.00% per annum. Interest on each Export Loan shall be due and payable monthly in arrears on the last day of each and every month and at maturity (whether by acceleration or otherwise).

(c) *Export Loans Advances.* All advances to the Borrower under the Export Line shall be made by way of overdrafts in the following manner. The Export Line Lender will make advances into one or more accounts maintained with the Export Line Lender designated by the Borrower as required for the negotiation of Usance Bills under Documentary Credit prior to acceptance from the applicable documentary credit issuing bank drawn at 180 days or less from date of draft (i.e. at "sight") with recourse to the Borrower. Anything contained in the foregoing to the contrary notwithstanding, (i) the obligation of the Export Line Lender to make Export Loans shall be subject to all of the terms and conditions of this Agreement and (ii) in the event that a Lender with a Revolving Credit Commitment is a Defaulting Lender, until such time as the Export Line Lender has entered into arrangements satisfactory to it and the Borrower to eliminate the Export Line Lender's risk with respect to the participation in Export Loans by all such Defaulting Lenders, the Export Line Lender shall not be obligated to make any Export Loan to the extent that the sum of the aggregate principal amount of Revolving Loans and Export Loans outstanding at such time exceeds the Revolving Credit Limit in effect at such time less such Defaulting Lender's Revolving Credit Commitment.

(d) *Availability.* Export Loans are available on a full recourse basis to the Borrower. The Export Line Lender shall finance 100% of the face value of Usance Bills under Documentary Credit acceptable to the Export Line Lender, in its sole discretion, upon presentation of appropriate commercial documentation as specified in accordance with Uniform Customs and Practice for Documentary Credits (2007 revision) International Chamber of Commerce Publication No. 600. In the case of non-payment or

non-acceptance of any Usance Bills under Documentary Credit, the Export Line Lender will take recourse against the Borrower for full payment. Usance Bills under Documentary Credit to Related Parties are not eligible for negotiation under the Export Line. All amounts outstanding under the Export Line shall be repaid on demand by the Export Line Lender, and unless otherwise demanded, all amounts outstanding shall be repaid on the maturity date of each Usance Bill under Documentary Credit financed by an Export Loan.

(e) *Refunding Loans.* In its sole and absolute discretion, the Export Line Lender may at any time direct the Administrative Agent, on behalf of the Borrower (which hereby irrevocably authorizes the Administrative Agent to act on its behalf for such purpose) and with notice to the Borrower, request each Lender to make a Revolving Loan in the form of a Prime Rate Loan and/or Base Rate Loan, as applicable, in an amount equal to such Lender's Revolver Percentage of the amount of the Export Loans outstanding on the date such notice is given. Regardless of the existence of any Event of Default, each Lender shall make the proceeds of its requested Revolving Loan available to the Administrative Agent, in immediately available funds, at the Administrative Agent's principal office in Toronto, Ontario, before 12:00 Noon (Toronto time) on the Business Day following the day such notice is given. The proceeds of such Borrowing of Revolving Loans shall be immediately applied to repay the outstanding Export Loans.

(f) *Participations.* If any Lender refuses or otherwise fails to make a Revolving Loan when requested by the Administrative Agent pursuant to Section 2.19(e), such Lender will, by the time and in the manner such Revolving Loan was to have been funded to the Administrative Agent, purchase from the Export Line Lender an undivided Participating Interest in the outstanding Export Loans in an amount equal to its Revolver Percentage of the aggregate principal amount of Export Loans that were to have been repaid with such Revolving Loans. Each Lender that so purchases a participation in an Export Loan shall thereafter be entitled to receive its Revolver Percentage of each payment of principal received on the Export Loan and of interest received thereon accruing from the date such Lender funded to the Administrative Agent its participation in such Loan. The several obligations of the Lenders under this Section shall be absolute, irrevocable and unconditional under any and all circumstances whatsoever and shall not be subject to any set off, counterclaim or defense to payment which any Lender may have or have had against the Borrower, any other Lender or any other Person whatsoever. Without limiting the generality of the foregoing, such obligations shall not be affected by any Default or Event of Default or by any reduction or termination of the Commitments of any Lender, and each payment made by a Lender under this Section shall be made without any offset, abatement, withholding or reduction whatsoever.

Section 2.20 **Defaulting Lenders.**

(a) *Adjustments.* Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

- (i) The Defaulting Lender's right to approve or disapprove any amendment, waiver or consent or any other matter with respect to this Agreement shall be restricted as set forth in Section 10.3 hereof.
- (ii) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 9 or otherwise), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a *pro rata* basis of any amounts owing by that Defaulting Lender to the L/C Issuer, Swing Line Lender or Export Line Lender hereunder; third, if so determined by the Administrative Agent or requested by the L/C Issuer and to the extent permitted by Applicable Law, to be held as cash collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; fourth, as the Borrower may request (so long as no Event of Default has occurred and is

continuing), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuer, Swing Line Lender or the Export Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer, the Swing Line Lender or the Export Line Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Event of Default has occurred and is continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that 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 Loans or Letter of Credit Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or Letter of Credit Borrowings were made at a time when the conditions set forth in Section 7.3 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Letter of Credit Borrowings owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Letter of Credit Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 2.20(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

- (iii) The Defaulting Lender shall be limited in its right to receive Letter of Credit fees as provided in Section 3.1(a).
- (iv) During any period in which there is a Defaulting Lender, for purposes of computing the amount of the obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit, Swing Loans or Export Loans pursuant to Section 2.6, Section 2.18 and Section 2.19, the "**Revolver Percentage**" of each non-Defaulting Lender shall be computed without giving effect to the Commitment of that Defaulting Lender; provided that (i) each such reallocation shall be given effect only if, at the date the applicable Lender becomes a Defaulting Lender, no Event of Default has occurred and is continuing, and (ii) the aggregate obligation of each non-Defaulting Lender to acquire, refinance or fund participations in Letters of Credit, Swing Loans and Export Loans shall not exceed the positive difference, if any, of (1) the Commitment of that non-Defaulting Lender minus (2) the aggregate Credit Exposure of that Lender.

(b) *Defaulting Lender Cure.* If the Borrower, the Administrative Agent, the Swing Line Lender, the Export Line Lender and the L/C Issuer collectively agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative 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 (which may include arrangements with respect to any cash collateral), such Defaulting Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit, Swing Loans and Export Loans to be held on a *pro rata* basis by the Lenders in accordance with their applicable Percentages (without

giving effect to Section 2.20(a)(iv)), whereupon such Defaulting 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 having been a Defaulting Lender.

Section 2.21 Determination of Equivalent Amounts. ☐ Whenever it is necessary or desirable at any time to determine the Equivalent Amount in either U.S. Dollars or Canadian Dollars of an amount expressed in the other currency or in any other currency, or vice-versa (specifically including for greater certainty the determination of whether the Outstanding Advances under any Credit Facility exceed the maximum amount of such Credit Facility), the Equivalent Amount shall be determined by reference to the Exchange Rate on the date of such determination.

Section 2.22 Commitment to Purchase Bankers' Acceptances and BA Equivalent Notes.

(a) Each BA Lender which is a bank listed in Schedule I of the *Bank Act* (Canada) agrees to purchase those Bankers' Acceptances which it has accepted, at a discount from the face amount thereof calculated at the CDOR Rate for the relevant Interest Period in effect on the issuance date thereof; provided that if upon determination of CDOR Rate, CDOR Rate is below zero, CDOR Rate shall be deemed to be zero.

(b) Each BA Lender which is a bank listed in Schedule II or Schedule III of the *Bank Act* (Canada) agrees to purchase those Bankers' Acceptances which it has accepted, at a discount from the face amount thereof calculated using a rate not in excess of the CDOR Rate for the relevant Interest Period in effect on the issuance date thereof plus a premium not in excess of one-tenth of one percent (0.10%); provided that if upon determination of CDOR Rate, CDOR Rate is below zero, CDOR Rate shall be deemed to be zero.

(c) Each Non-BA Lender agrees to purchase BA Equivalent Notes issued by it hereunder at a discount from the face amount thereof calculated using a rate not in excess of the CDOR Rate for the relevant Interest Period in effect on the issuance date thereof; provided that if upon determination of CDOR Rate, CDOR Rate is below zero, CDOR Rate shall be deemed to be zero.

Section 2.23 Special Provisions Regarding Bankers' Acceptances. ☐ The following provisions are applicable to Bankers' Acceptances issued by the Borrower and accepted by any BA Lender hereunder:

(a) *Payment of Bankers' Acceptances.* The Borrower agrees to provide for each Bankers' Acceptance by payment of the face amount thereof to the Administrative Agent on behalf of the BA Lender on the maturity of the Bankers' Acceptance or, prior to such maturity, on the Acceleration Date; and the Administrative Agent shall remit the said amount to such BA Lender and such BA Lender shall in turn remit such amount to the holder of the Bankers' Acceptance. If the Borrower fails to provide for the payment of the Bankers' Acceptance accordingly, any amount not so paid shall be immediately payable by the Borrower to the Administrative Agent on behalf of the BA Lender together with interest on such amount calculated daily and payable monthly at the rate and in the manner applicable to Prime Rate Loans under the Revolving Credit Facility. The Borrower agrees not to claim any days of grace for the payment at maturity of any Bankers' Acceptance and agrees to indemnify and save harmless the applicable BA Lender in connection with all payments made by the applicable BA Lender (or by the Administrative Agent on its behalf) pursuant to Bankers' Acceptances accepted by the applicable BA Lender, together with all reasonable costs and expenses incurred by the applicable BA Lender in this regard. The Borrower hereby waives any defences to payment which might otherwise exist if for any reason a Bankers' Acceptance is held by a BA Lender for its own account at maturity.

(b) *Availability of Bankers' Acceptances.* If at any time and from time to time the Administrative Agent determines, acting reasonably, that there no longer exists a market for Bankers'

Acceptances for the term requested by the Borrower, or at all, the Administrative Agent shall so advise the Borrower, and in such event the BA Lenders shall not be obliged to accept and the Borrower shall not be entitled to issue Bankers' Acceptances.

(c) *Power of Attorney.* The Borrower hereby appoints each BA Lender as its true and lawful attorney to complete and issue Bankers' Acceptances on behalf of the Borrower in accordance with written (including facsimile and electronically) transmitted instructions provided by the Borrower to the Administrative Agent on behalf of such BA Lender, and the Borrower hereby ratifies all that its said attorney may do by virtue thereof. The Borrower agrees to indemnify and hold harmless the Administrative Agent and the BA Lenders and their respective directors, officers and employees from and against any charges, complaints, costs, damages, expenses, losses or liabilities of any kind or nature which they may incur, sustain or suffer, arising from or by reason of acting, or failing to act, as the case may be, in reliance upon this power of attorney, except to the extent caused by the negligence or wilful misconduct of the Administrative Agent or the BA Lender or their respective directors, officers and employees. The Borrower hereby agrees that each Bankers' Acceptance completed and issued and accepted in accordance with this Section by a BA Lender on behalf of the Borrower is a valid, binding and negotiable instrument of the Borrower as drawer and endorser. The Borrower agrees that each BA Lender's accounts and records will constitute prima facie evidence of the execution and delivery by the Borrower of Bankers' Acceptances. This power of attorney shall continue in force until written notice of revocation has been served upon the Administrative Agent by the Borrower at the Administrative Agent's address set out in Section 12.6.

Section 2.24 Special Provisions regarding BA Equivalent Notes. Each Non-BA Lender will not accept Bankers' Acceptances hereunder, and shall instead from time to time make BA Equivalent Loans to the Borrower. Each BA Equivalent Loan shall be evidenced by a non-interest bearing promissory note payable by the Borrower to the Non-BA Lender in question substantially in the form of Exhibit E attached hereto, which will be purchased by the Non-BA Lender. Each BA Equivalent Note shall be negotiable by the Non-BA Lender without notice to or the consent of the Borrower, and the holder thereof shall be entitled to enforce such BA Equivalent Note against the Borrower free of any equities, defences or rights of set-off that may exist between the Borrower and the Non-BA Lender. In this Agreement, all references to a BA Equivalent Note shall mean the loan evidenced thereby if required by the context; and all references to the "issuance" of a BA Equivalent Note by a Non-BA Lender and similar expressions shall mean the making of a BA Equivalent Loan by the Non-BA Lender which is evidenced by a BA Equivalent Note. The following provisions are applicable to each BA Equivalent Loan made by a Non-BA Lender to the Borrower hereunder:

(a) *Payment of BA Equivalent Notes.* The Borrower agrees to provide for each BA Equivalent Note by payment of the face amount thereof to the Administrative Agent on behalf of the Non-BA Lender on the maturity of the BA Equivalent Note or, prior to such maturity, on the Acceleration Date; and the Administrative Agent shall remit the said amount to such Non-BA Lender and such Non-BA Lender shall in turn remit such amount to the holder of the BA Equivalent Note. If the Borrower fails to provide for the payment of the BA Equivalent Note accordingly, any amount not so paid shall be immediately payable by the Borrower to the Administrative Agent on behalf of the Non-BA Lender together with interest on such amount calculated daily and payable monthly at the rate and in the manner applicable to Prime Rate Loans under the Revolving Credit Facility. The Borrower agrees not to claim any days of grace for the payment at maturity of any BA Equivalent Note and agrees to indemnify and save harmless the Non-BA Lender in connection with all payments made by the Non-BA Lender (or by the Administrative Agent on its behalf) pursuant to BA Equivalent Notes accepted by the Non-BA Lender, together with all reasonable costs and expenses incurred by the Non-BA Lender in this regard. The Borrower hereby waives any defences to payment which might otherwise exist if for any reason a BA Equivalent Note is held by a Non-BA Lender for its own account at maturity.

(b) *Availability of BA Equivalent Loans.* The Non-BA Lenders shall have no obligation to make BA Equivalent Loans during any period in which the BA Lenders' obligation to issue Bankers' Acceptances is suspended pursuant to Section 2.23(b) of this Agreement.

(c) **Power of Attorney.** The Borrower hereby appoints each Non-BA Lender as its true and lawful attorney to complete BA Equivalent Notes on behalf of the Borrower in accordance with written (including facsimile and electronically) transmitted instructions delivered by the Borrower to the Administrative Agent, and the Borrower hereby ratifies all that its said attorney may do by virtue thereof. The Borrower agrees to indemnify and hold harmless the Administrative Agent and the Non-BA Lenders and their respective directors, officers and employees from and against any charges, complaints, costs, damages, expenses, losses or liabilities of any kind or nature which they may incur, sustain or suffer, arising from or by reason of acting, or failing to act, as the case may be, in reliance upon this power of attorney except to the extent caused by the negligence or wilful misconduct of the Administrative Agent or the Non-BA Lenders or their respective directors, officers and employees. The Borrower hereby agrees that each BA Equivalent Note completed by a Non-BA Lender on behalf of the Borrower is a valid, binding and negotiable instrument of the Borrower as drawer and endorser. The Borrower agrees that the Non-BA Lenders' accounts and records will constitute prima facie evidence of the execution and delivery by the Borrower of BA Equivalent Notes. This power of attorney shall continue in force until written notice of revocation has been served upon the Administrative Agent on behalf of the Non-BA Lenders by the Borrower at the Administrative Agent's address provided in Section 12.6.

Section 2.25 **Breakage Costs.** Notwithstanding anything to the contrary contained anywhere else in this Agreement, the Borrower acknowledges that advances made by a Lender by way of Bankers' Acceptances, BA Equivalent Loans, LIBOR Loans or extensions of credit under the Risk Management Credit Facility may not be repaid prior to the maturity thereof. If any such advance is repaid or converted prior to the scheduled maturity date thereof (whether as a result of acceleration or otherwise), the Borrower agrees to pay to the Administrative Agent on behalf of such Lender upon demand all losses, damages, costs and expenses which such Lender has incurred as a result of such repayment or conversion prior to the said scheduled maturity date, as determined by such Lender in accordance with its usual practice. The Administrative Agent shall provide the Borrower with a written certificate showing in reasonable detail the basis for such claim, which shall be deemed to be *prima facie* correct.

Section 2.26 **Security for Hedge Transactions.** If a Lender continues to be a party to one or more Hedging Agreements with the Borrower after all other indebtedness and obligations of the Borrower to such Lender hereunder have been repaid and satisfied in full (or assigned by such Lender to an assignee), for greater certainty such Lender shall continue to be a Lender for all purposes of this Agreement and the Hedging Liabilities in respect of such Hedging Agreements shall continue to be Obligations hereunder and shall continue to be secured by the Security as provided herein, but such Lender shall not thereafter be a "Required Lender" as such term is defined herein.

ARTICLE 3. FEES.

Section 3.1 **Fees.**

(a) **Revolving Credit Facility Commitment Fee.** The Borrower shall pay to the Administrative Agent for the rateable account of the Lenders in accordance with their Revolver Percentages a commitment fee of 0.25% per annum (computed, notwithstanding any provision to the contrary in this Agreement (including the use of the term "*per annum*"), on the basis of a year of 365 days or 366 days, as applicable, and actual days elapsed) on the average daily Unused Revolving Credit Commitments. Such commitment fee shall be payable monthly in arrears on the last day of each month (commencing on August 31, 2018) and on the Termination Date, unless the Revolving Credit Commitments are terminated in whole on an earlier date, in which event the unpaid commitment fee accrued to the date of such termination shall be paid on the date of such termination.

(b) **Acquisition Credit Facility Commitment Fee.** The Borrower shall pay to the Administrative Agent for the rateable account of the Lenders in accordance with their Acquisition Loan Percentages a commitment fee of 0.25% per annum (computed, notwithstanding any provision to the contrary in this Agreement (including the use of the term "*per annum*"), on the basis of a year of 365 days or 366 days, as applicable, and actual days elapsed) on the average daily Unused Acquisition Credit Commitments.

Such commitment fee shall be payable monthly in arrears on the last day of each month (commencing on August 31, 2018) and on the Termination Date, unless the Acquisition Credit Commitments are terminated in whole on an earlier date, in which event the unpaid commitment fee accrued to the date of such termination shall be paid on the date of such termination.

(c) *Standby Letter of Credit Fees.* The Borrower shall pay to the Administrative Agent, for the benefit of the L/C Issuer, (i) in respect of each standby Letter of Credit, in respect of the period from the date of issuance of such Letter of Credit to the last day of the then current month (both inclusive), a fee equal to 1.50% per annum multiplied by the face amount of such Letter of Credit multiplied by the number of days in such period and divided by three hundred and sixty-five (365) or three hundred and sixty-six (366), as applicable, payable on the last day of such month; (ii) in respect of each subsequent month (other than the month in which the standby Letter of Credit shall expire), a fee equal to 1.50% per annum multiplied by the face amount of such Letter of Credit multiplied by the number of days in such month and divided by three hundred and sixty-five (365) or three hundred and sixty-six (366), as applicable, payable on the last day of such month; and (iii) in respect of the month in which the standby Letter of Credit shall expire, a fee equal to 1.50% per annum multiplied by the face amount of such Letter of Credit multiplied by the number of days from such day to the date of expiry of such Letter of Credit (both inclusive) and divided by three hundred and sixty-five (365) or three hundred and sixty-six (366), as applicable, payable on the last day of such month and on the Termination Date. In addition, the Borrower shall pay to the L/C Issuer for its own account the L/C Issuer's standard issuance, drawing, negotiation, amendment, assignment, and other administrative fees for each standby Letter of Credit as reasonably established by the L/C Issuer from time to time.

(d) *Other Letter of Credit Fees.* The Borrower shall pay to the Administrative Agent, for the benefit of the L/C Issuer, in respect of each Letter of Credit (other than standby Letters of Credit), a fee as provided in Schedule 3.1(d), calculated against the face amount and over the term of such Letter of Credit. In addition, the Borrower shall pay to the L/C Issuer for its own account the L/C Issuer's standard issuance, drawing, negotiation, amendment, assignment, and other administrative fees for each such Letter of Credit as reasonably established by the L/C Issuer from time to time.

(e) *Bankers' Acceptance and BA Equivalent Note Acceptance Fee.* The Borrower agrees to pay an acceptance fee (an "**Acceptance Fee**") in respect of each Bankers' Acceptance and each BA Equivalent Note issued hereunder, in an amount equal to 2.25% per annum in respect of Revolving Loans and 2.75% per annum in respect of Acquisition Loans or any Loans other than Revolving Loans multiplied by the face amount of the Bankers' Acceptance or BA Equivalent Note, as the case may be, with the product thereof further multiplied by the number of days in the Interest Period of the subject Bankers' Acceptance or BA Equivalent Note, as the case may be, and divided by 365 or 366, as applicable, payable at the time of acceptance (and for greater certainty, in addition to paying the said Acceptance Fees, the Borrower acknowledges that the proceeds it will receive upon the issuance of such Bankers' Acceptance or BA Equivalent Note as the case may be, will be less than the face amount payable by it to the holder of such Bankers' Acceptance or BA Equivalent Note on the date thereof, as more particularly provided in Section 2.22 hereof).

ARTICLE 4. PLACE AND APPLICATION OF PAYMENTS.

Section 4.1 **Place and Application of Payments.** [All payments of principal of and interest on the Loans and the Reimbursement Obligations, and of all other Obligations payable by the Borrower under this Agreement and the other Loan Documents, shall be made by the Borrower to the Administrative Agent by no later than 2:00 p.m. (Toronto time) on the due date thereof (except, in respect of Reimbursement Obligations, as provided in Section 2.6(c)) at the office of the Administrative Agent specified in Section 12.6 (or such other location as the Administrative Agent may designate to the Borrower), for the benefit of the Lender or Lenders entitled thereto. Any payments received after such time shall be deemed to have been received by the Administrative Agent on the next Business Day. All such payments shall be made in U.S. Dollars or Canadian Dollars, as applicable, in immediately available funds at the place of payment, in each case without set off or counterclaim. The Administrative Agent will

promptly thereafter cause to be distributed like funds relating to the payment of principal or interest on Loans and on Reimbursement Obligations in which the Lenders have purchased Participating Interests rateably to the Lenders and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement. If the Administrative Agent causes amounts to be distributed to the Lenders in reliance upon the assumption that the Borrower will make a scheduled payment and such scheduled payment is not so made, each Lender shall, on demand, repay to the Administrative Agent the amount distributed to such Lender together with interest thereon in respect of each day during the period commencing on the date such amount was distributed to such Lender and ending on (but excluding) the date such Lender repays such amount to the Administrative Agent, at a rate per annum equal to the Prime Rate in effect for each such day.

Anything contained herein to the contrary notwithstanding (including, without limitation, Section 2.12(b) above), all payments and collections received in respect of the Obligations and all proceeds of the Collateral received, in each instance, by the Administrative Agent or any of the Lenders after demand (where applicable), acceleration, the final maturity of the Obligations or termination of the Commitments as a result of demand, where applicable, or an Event of Default shall be remitted to the Administrative Agent and distributed as follows:

- (a) first, to the payment of any outstanding costs and expenses incurred by the Administrative Agent, in monitoring, verifying, protecting, preserving or enforcing the Liens on the Collateral or in protecting, preserving or enforcing rights under the Loan Documents, and in any event including all costs and expenses of a character which the Borrower has agreed to pay the Administrative Agent under Section 12.8 hereof (such funds to be retained by the Administrative Agent for its own account unless it has previously been reimbursed for such costs and expenses by the Lenders, in which event such amounts shall be remitted to the Lenders to reimburse them for payments theretofore made to the Administrative Agent);
- (b) second, to the payment of any outstanding interest and fees due hereunder and the other Loan Documents to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;
- (c) third, to the payment of principal on the Loans and unpaid Reimbursement Obligations, together with amounts to be held by the Administrative Agent as collateral security for any L/C Obligations under outstanding Letters of Credit pursuant to Section 9.4 hereof (until the Administrative Agent is holding an amount of cash equal to the then outstanding amount of all such L/C Obligations), cash management obligations, and Hedging Liability, the aggregate amount paid to, or held as collateral security for, the Lenders and, in the case of Hedging Liability, their Affiliates to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof;
- (d) fourth, to the payment of all other unpaid Obligations and all other indebtedness, obligations, and liabilities of the Borrower and the other Obligors secured by the Loan Documents (including, without limitation, Funds Transfer and Deposit Account Liability) to be allocated pro rata in accordance with the aggregate unpaid amounts owing to each holder thereof; and
- (e) finally, to the Borrower or whoever else may be lawfully entitled thereto.

Section 4.2 Account Debit. The Borrower hereby irrevocably authorizes the Administrative Agent to charge any of its deposit accounts maintained with the Administrative Agent for the amounts from time to time necessary to pay any then due Obligations; provided that the Borrower acknowledges and agrees that the Administrative Agent shall not be under an obligation to do so and the Administrative Agent shall not incur any liability to the Borrower or any other Person for the Administrative Agent's failure to do so.

**ARTICLE 5.
SECURITY.**

Section 5.1 **Security.** ☐The Borrower has provided or agrees to provide or cause to be provided the security listed below (collectively, the "**Security**") as continuing security for the payment of the Obligations and the payment and performance of all other present and future, direct and indirect, indebtedness and obligations of the Borrower to the Administrative Agent and the Lenders (and their respective Affiliates, if applicable), respectively, arising under or in respect of this Agreement, the Hedging Agreements and the other Loan Documents:

- (a) a general security agreement in respect of all present and future personal property, assets and undertaking of the Obligor;
- (b) an Intellectual Property security agreement in respect of all present and future Intellectual Property of the Obligor;
- (c) an assignment of each Obligor's interest in policies of insurance in which it may have an interest;
- (d) an assignment (by way of security) of Material Contracts including the Target Purchase Agreement from the Borrower (to be delivered on or before the completion of the Target Acquisition);
- (e) an assignment of each Obligor's interest in Export Development Canada insurance policies;
- (f) a performance security guarantee (PSG) from Export Development Canada;
- (g) an export guarantee (EGP) from Export Development Canada;
- (h) the VTB Loan Subordination Agreement (to be delivered on or before the completion of the Target Acquisition);
- (i) subordination and postponement agreements from such third parties as may be reasonably required by the Administrative Agent;
- (j) estoppel letters or certificates from such third parties as may be reasonably required by the Administrative Agent; and
- (k) such other security and further assurances as the Administrative Agent may reasonably require from time to time.

Section 5.2 **Further Assurances and Future Subsidiaries.** ☐The Borrower agrees that it shall, and shall cause each Guarantor to, from time to time at the request of the Administrative Agent or the Required Lenders, execute and deliver such documents and do such acts and things as the Administrative Agent or the Required Lenders may reasonably request, consistent with the terms of Section 5.1 hereof, in order to provide for or perfect or protect such Liens on the Collateral. In the event that the Borrower or any of its Subsidiaries forms or acquires any Material Subsidiary or any Subsidiary becomes a Material Subsidiary, the Borrower agrees that it shall (a) within 30 days of such formation or acquisition, provide written notice of same to the Administrative Agent and (b) within 30 days of a written request from the Administrative Agent (which request may be delivered in the Administrative Agent's sole discretion) or such longer period of time agreed to by the Administrative Agent (acting reasonably) in writing (i) cause such newly formed or acquired Material Subsidiary to execute a Guarantee, and execute and deliver such Collateral Documents in substantially the form as delivered by the Borrower as the Administrative Agent may then reasonably require and as provided by the Borrower, and (ii) also deliver

to the Administrative Agent, or cause such Material Subsidiary to deliver to the Administrative Agent, at the Borrower's cost and expense, such other instruments, documents, certificates, and opinions reasonably required by the Administrative Agent in connection therewith.

Section 5.3 Release of Security. ☐ At such time as all Obligations have been satisfied in full and all Commitments of the Lenders in connection therewith shall have been terminated, the Administrative Agent shall, at the expense and request of the Borrower, without any representations, warranties or recourse of any kind whatsoever, enter into such agreements and other instruments as may be necessary to release, reassign, reconvey and discharge the Security; provided that any asset which is disposed of by the Borrower or any Guarantor in accordance with the terms of this Agreement shall be automatically released from the Security, which release shall be formally evidenced by the Administrative Agent following a written request by, and at the expense of, the Borrower.

ARTICLE 6. REPRESENTATIONS AND WARRANTIES.

Each Obligor hereby represents and warrants to the Administrative Agent and the Lenders as follows:

Section 6.1 Organization and Qualification. ☐ Each Obligor is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized, has full and adequate corporate or other power to own its Property and conduct its business as now conducted, and is duly licensed or qualified and in good standing in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such licensing or qualifying, except where the failure to do so would not have a Material Adverse Effect. Schedule 6.1 hereto identifies each Obligor, the jurisdiction of organization and chief executive office of each Obligor and a description of each class of each Obligor's authorized capital stock and other equity interests and the number of shares of each class issued and outstanding. All of the outstanding shares of capital stock and other equity interests of each Obligor are validly issued and outstanding and fully paid and non-assessable and all such shares and other equity interests indicated on Schedule 6.1 as owned by the Borrower or another Obligor are owned, beneficially and of record, by the Borrower or such Obligor free and clear of all Liens other than the Liens granted in favour of the Administrative Agent pursuant to the Collateral Documents and Permitted Liens. Except as set forth on Schedule 6.1, there are, as of the date hereof, no outstanding commitments or other obligations of any Obligor to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of any Obligor.

Section 6.2 Authority and Validity of Obligations. ☐ Each Obligor has full corporate or limited partnership power and authority to enter into the Loan Documents executed by it, in respect of the Borrower, to make the borrowings herein provided for, in respect of each Guarantor, to guarantee the Obligations, to grant to the Administrative Agent the Liens described in the Collateral Documents executed by such Person, and to perform all of its obligations under the Loan Documents executed by it. The Loan Documents delivered by the Borrower and each Guarantor have been duly authorized, executed, and delivered by such Persons and constitute valid and binding obligations of the Borrower and each Guarantor enforceable against them in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or similar laws affecting creditors' rights generally and general principles of equity (regardless of whether the application of such principles is considered in a proceeding in equity or at law); and this Agreement and the other Loan Documents do not, nor does the performance or observance by the Borrower or any Guarantor of any of the matters and things herein or therein provided for, (a) contravene or constitute a default under any provision of law or any judgment, injunction, order or decree binding upon the Borrower or any Guarantor or any provision of the organizational documents (e.g., charter, certificate or articles of incorporation and by-laws, certificate or articles of association and operating agreement, limited partnership agreement, or other similar organizational documents) of the Borrower or any Guarantor, (b) contravene or constitute a default under any covenant, indenture or agreement of or affecting the Borrower or any Guarantor or any of their Property, in each case under (a) and (b) where such contravention or default, individually or in the

aggregate, would reasonably be expected to have a Material Adverse Effect, or (c) result in the creation or imposition of any Lien on any Property of the Borrower or any Guarantor other than the Liens granted in favour of the Administrative Agent pursuant to the Collateral Documents.

Section 6.3 Location of Assets. ☐The property and assets of each of the Obligor are located in those jurisdictions specified in Schedule 6.3 and in no other jurisdiction, other than tangible Collateral in transit to or from such locations. Set out in Schedule 6.3 are the following:

- (a) the legal description of all real property owned by any Obligor;
- (b) a list of all locations leased by any Obligor, as lessee; and
- (c) a list of all other locations in or on which any property or assets owned by any Obligor is located.

Section 6.4 Use of Proceeds. ☐The Borrower shall use the proceeds of the Revolving Credit Facility for the purposes set out in Section 2.1(b), the proceeds of the Acquisition Credit Facility for the purposes set out in Section 2.2(b), the proceeds of the Guarantee Credit Facility for the purposes set out in Section 2.3(b).

Section 6.5 Financial Reports. ☐The financial statements of the Borrower furnished to the Administrative Agent and the Lenders fairly present in all material respects the Consolidated financial condition of the Borrower and the Consolidated results of its operations and cash flows in conformity with IFRS applied on a consistent basis (subject to year-end audit adjustments and the absence of footnote disclosures). On or prior to the Closing Date, the Borrower has delivered to the Administrative Agent two-year *pro-forma* financial projections and, as of the date of this Agreement, such projections are based on reasonable estimates, information and assumptions and the Borrower has no reason to believe that such projections are incorrect or misleading in any material respect.

Section 6.6 Full Disclosure. ☐The written statements and information furnished to the Administrative Agent and the Lenders by the Borrower in connection with the negotiation of this Agreement and the other Loan Documents and the commitments by the Lenders to provide all or part of the financing contemplated hereby, when taken as a whole, do not as of the date thereof or date furnished contain any untrue statements of a material fact or omit a material fact necessary to make the material statements contained herein or therein not misleading in light of the circumstances under which made, the Administrative Agent and the Lenders acknowledging that as to any projections furnished to the Administrative Agent and the Lenders, the Borrower only represents that the same were prepared on the basis of information and estimates that the Borrower believed to be reasonable at the time of preparation.

Section 6.7 Trademarks, Franchises, and Licenses. ☐

- (a) Except as described on Schedule 6.7 hereto, to the knowledge of each Obligor, the Obligor own, possess, or have the right to use all necessary Intellectual Property to conduct their businesses as now conducted, without known infringement of any valid Intellectual Property of any other Person, in each case where the failure to own, possess, or have such right would reasonably be expected to have a Material Adverse Effect. All such Intellectual Property, other than ordinary course third party computer software, including the name of the registered owner thereof, and a description of the nature of such rights, is listed on Schedule 6.7 hereto.
- (b) The Intellectual Property set forth in such Schedule 6.7, or otherwise owned or licenced by such Obligor, is sufficient to enable each of the Obligor and their respective Subsidiaries to carry on their respective businesses as they are presently conducted.

- (c) Each of the Obligors has made available to the Administrative Agent all Material Contracts and material licenses to which any of the Obligors is a party or by which any of them is bound in connection with the licensing, distribution or other exploitation of Intellectual Property of the Obligors or any of their respective Subsidiaries.
- (d) There is no claim of any material infringement or breach of any Intellectual Property of any other Person by any of the Obligors and none of the Obligors has received any notice that any of them is infringing upon or breaching any Intellectual Property rights of any other Person in any material respect. None of the Obligors is aware of any material infringement or violation of any of the Intellectual Property rights of any of the Obligors by any other Person.
- (e) In all circumstances where necessary to permit the exploitation of any material Intellectual Property of the Obligors, each of the Obligors has renewed or made applications for renewal within the applicable renewal periods for all of their respective material registered Intellectual Property.
- (f) The Intellectual Property of the Obligors does not, to any of the Obligors' knowledge, contain any content, elements or matter which would be defamatory of any Person or which would contravene in any material respect any Applicable Laws or regulations of any country, state, province or territory, including any obscenity or hate laws of the United States of America, Canada or any other jurisdiction in which, to any of the Obligors' knowledge, any such Intellectual Property is made available to the public (including through subscriptions therefor or viewing fees).
- (g) Each of the Obligors has employed reasonable measures to identify and protect the security and integrity of its Intellectual Property. All Intellectual Property created or developed by or on behalf of any of the Obligors, to the knowledge of the Obligors, was created or developed by employees of such Obligor in the course of their employment, or by contractors or consultants under the provisions of written agreements that grant such Obligor, as applicable, all rights to material prepared under such agreements necessary for the exploitation of such rights. Except as disclosed in Schedule 6.7, to the knowledge of the Obligors, all such employees and contractors, to the fullest extent legally permitted, have waived their moral rights in such material in favour of the Obligors, and/or its licensees.

Section 6.8 Governmental Authority, Licensing and Material Contracts. ☐The Obligors have received all licenses, permits, and approvals of all federal, provincial, state, and local governmental authorities, if any, necessary to conduct their businesses, in each case where the failure to obtain or maintain the same would reasonably be expected to have a Material Adverse Effect. No investigation or proceeding which, could reasonably be expected to result in revocation or denial of any such license, permit or approval is pending or, to the knowledge of any Obligor, threatened, unless such revocation or denial would not reasonably be expected to have a Material Adverse Effect. Attached hereto as Schedule 6.8 is a true and complete list of all Material Contracts. All such Material Contracts are valid and subsisting and in good standing in all material respects. None of the Obligors is in material default or breach of, in any respect, nor has any of the Obligors received any notice of default or termination under, any Material Contract, the termination of which could reasonably be expected to cause a Material Adverse Effect.

Section 6.9 Good Title. ☐The Obligors have good and defensible title (or valid leasehold interests) to their respective Property as reflected on the most recent Consolidated balance sheet of the Obligors furnished to the Administrative Agent and the Lenders (except for assets sold or otherwise disposed of in the ordinary course of business, if sold or disposed of prior to the date hereof, or in compliance with this Agreement, if sold or disposed of after the date hereof), subject to no Liens other than Permitted Liens.

Section 6.10 Litigation and Other Controversies. ☐As at the Closing Date, except as disclosed in Schedule 6.10 hereto, there is no litigation or governmental or arbitration proceeding or labour controversy pending, nor to the knowledge of any Obligor threatened, against any Obligor or any of their Property which, individually or in the aggregate, is in an amount in excess of \$500,000.

Section 6.11 Taxes. ☐Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Tax returns required to be filed by any Obligor in any jurisdiction have, in fact, been filed, and all Taxes, assessments, fees, and other governmental charges upon any Obligor or upon any of its Property, income or franchises, which are shown to be due and payable in such returns, have been paid, except such Taxes, assessments, fees and governmental charges, if any, as are being contested in good faith and by appropriate proceedings which prevent enforcement of the matter under contest and as to which adequate reserves established in accordance with IFRS have been provided. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and except as disclosed in Schedule 6.11 hereto, no Obligor knows of any proposed additional Tax assessment against it or any other Obligors for which adequate provisions in accordance with IFRS have not been made on their accounts. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and except as disclosed in Schedule 6.11 hereto, adequate provisions in accordance with IFRS for Taxes on the books of the Obligors have been made for all open years, and for the Borrower's current fiscal period.

Section 6.12 Approvals. ☐No authorization, consent, license or exemption from, or filing or registration with, any Governmental Authority, nor any approval or consent of any party to any Material Contract or any other Person, is or will be necessary to the valid execution, delivery or performance by any Obligor of any Loan Document or in connection with the Target Acquisition, except for such approvals, consents, authorizations, licenses, exceptions, filings or registrations which have been obtained or made prior to the date of this Agreement and remain in full force and effect, and except, in the case of any approval or consent under any covenant, indenture or agreement, where the failure to obtain the same would not reasonably be expected to have a Material Adverse Effect. The completion of the Target Acquisition did not or will not (as applicable) violate any Applicable Law or any Material Contracts.

Section 6.13 Affiliate Transactions. ☐Except for Permitted Transactions with Affiliates, no Obligor is a party to any contracts or agreements with any of its Affiliates on terms and conditions which are less favourable to such Obligor than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

Section 6.14 Pension Plans. ☐As of the date of this Agreement, other than Statutory Plans, no Obligor administers, maintains or contributes to any Pension Plans or has liability in respect of any Pension Plans. All contributions required to be made by the Borrower and each other Obligor to the Pension Plans have been made on a timely basis in accordance with the terms of such plans, any collective agreements and Applicable Law. No Obligor administers, maintains or contributes to any Defined Benefit Pension Plan as of the date hereof.

Section 6.15 Compliance with Laws.

(a) Except as described in Schedule 6.14 hereto, the Obligors are in compliance with the requirements of all federal, provincial and local laws, rules and regulations applicable to or pertaining to their Property or business operations, except where any such noncompliance, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) Except as described in Schedule 6.14 hereto, without limiting the representations and warranties set forth in Section 6.15(a) above, except for such matters, individually or in the aggregate, which would not reasonably be expected to result in a Material Adverse Effect, the Borrower represents and warrants that: (i) the Obligors, and each of the Premises, comply with all applicable Environmental Laws; (ii) the Obligors have obtained all governmental approvals required for their operations and each of the Premises by any applicable Environmental Law; (iii) the Obligors have not, and no Obligor has any knowledge of any other Person who has, caused any Release, threatened Release or disposal of any

Hazardous Material at, on, about, or off any of the Premises or any other location at which the Obligors carry on operations in any material quantity and, to the knowledge of each Obligor, none of the Premises are adversely affected by any Release, threatened Release or disposal of a Hazardous Material originating or emanating from any other property; (iv) except as described in Schedule 6.14 hereto, none of the Premises contain and have contained any: (1) underground storage tanks, (2) asbestos containing building material, (3) landfills or dumps, or (4) hazardous waste management facility as defined pursuant to any Environmental Law; (v) the Obligors have not used a material quantity of any Hazardous Material and have conducted no Hazardous Material Activity at any of the Premises, (vi) the Obligors are not liable for response or corrective action, natural resource damage or other harm pursuant to any Environmental Law; (vii) the Obligors are not subject to, have no notice or knowledge of and are not required to give any notice of any Environmental Claim involving any Obligor or any of the Premises, and there are no conditions or occurrences at any of the Premises that could reasonably be anticipated to form the basis for an Environmental Claim against any Obligor or such Premises; (viii) none of the Premises are subject to any, and the Borrower does not have any knowledge of any, imminent restriction on the ownership, occupancy, use or transferability of the Premises in connection with any (1) Environmental Law or (2) Release, threatened Release or disposal of a Hazardous Material; and (ix) there are no conditions or circumstances at any of the Premises which pose an unreasonable risk to the environment or the health or safety of Persons.

Section 6.16 Insurance. ☐ The Obligors have placed insurance, including property, machinery and liability insurance, in appropriate amounts and for appropriate risks as would be considered prudent for similar businesses. Attached hereto as Schedule 6.16 is a true and complete list of all insurance policies held by the Obligors including the following information in respect of each policy: name of insurer, type and amount of coverage, deductible limit (if applicable) and policy expiry date. The Borrower shall provide the Administrative Agent with an updated Schedule 6.16 from time to time as additional insurance policies are purchased or held by the Obligors from time to time.

Section 6.17 No Guarantees. ☐ No Guarantees have been granted by any Obligor except for (i) Guarantees which comprise part of the Security or in respect of Guarantees that constitute Permitted Indebtedness; and (ii) Guarantees listed on Schedule 6.17 attached hereto.

Section 6.18 Other Agreements. ☐ No Obligor is in default under the terms of any covenant, loan agreement, debt instrument, indenture or agreement of or affecting such Person or any of its Property, which default if uncured, would reasonably be expected to have a Material Adverse Effect.

Section 6.19 Solvency. ☐ The Obligors on a consolidated "going concern" basis are solvent, able to pay their debts as they become due, and have sufficient capital to carry on their business and all businesses in which they are about to engage.

Section 6.20 No Broker Fees. ☐ Except as disclosed in Schedule 6.20 hereto, no broker's or finder's fee or commission will be due and payable by any Obligor with respect hereto or to any of the transactions contemplated thereby as a result of any actions by any Obligor; and each Obligor hereby agrees to indemnify the Administrative Agent and the Lenders against, and agree that they will hold the Administrative Agent and the Lenders harmless from, any claim, demand, or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable legal fees) arising in connection with any such claim, demand, or liability.

Section 6.21 No Default. ☐ No Default or Event of Default has occurred and is continuing.

Section 6.22 Third-Party Benefit. ☐ None of the Loans under this Agreement and none of the other services and products to be provided by the Lenders pursuant to this Agreement will be used by, on behalf of or for the benefit of any person other than the Obligors or, in respect of any Letter of Credit, the beneficiary thereof.

Section 6.23 No Undisclosed Liabilities. ☐ No Obligor has any liabilities of any kind whatsoever greater than \$250,000 individually or \$1,000,000 in the aggregate (including any

environmental liabilities), whether or not accrued and whether or not determined or determinable, other than:

- (a) liabilities disclosed on, reflected in or provided for in its financial statements provided to the Lenders;
- (b) liabilities incurred in the ordinary course of business since the date of such financial statements; and
- (c) liabilities disclosed or referred to in this Agreement.

Section 6.24 **Certain Events.** No event has occurred since March 31, 2018 which has caused or could reasonably be expected to cause a Material Adverse Effect.

Section 6.25 **Labour Matters.** Schedule 6.25 contains a list of all labour agreements to which any of the Obligors is a party. Except as disclosed in Schedule 6.25, none of the Obligors is a party to any collective bargaining agreement nor subject to any application for certification or threatened or apparent union-organizing campaigns for employees not covered under a collective bargaining agreement nor are there any current, pending or, to the knowledge of the Obligors after due inquiry, threatened, strikes, lockouts or other disputes with respect to any of the Obligors or any charge of unfair labour practice (other than routine individual grievances).

Section 6.26 **Accounts.** Schedule 6.26 attached hereto includes a complete list of all deposit, current and other accounts maintained with any bank, trust company or other financial institution in which any Obligor has rights.

Section 6.27 **Anti-Terrorism Laws.** No Obligor is, and to the best of its knowledge after due inquiry, none of its Affiliates, is in violation of any Applicable Law relating to the prevention of terrorism or money laundering.

Section 6.28 **Survival of Representations and Warranties.** Each Obligor acknowledges that the Administrative Agent and the Lenders shall rely upon the representations and warranties contained herein or in any other Loan Document or in certificates given pursuant hereto or thereto in connection with the establishment and continuation of the Credit Facilities and also in connection with the entering into by any Lender of any Hedging Agreement with the Borrower. For greater certainty, each of the representations set out in Article 6 shall be true and correct and shall be deemed to be given on the occurrence of the making of each Borrowing and the issuance of a Letter of Credit, and on each day any Borrowing or Letter of Credit is outstanding, in each case by reference to the facts and circumstances existing on the date of such Borrowing or issuance (except where expressly given as of a specified date, in which case the representations shall be true and correct as of such date). Notwithstanding any investigations which may be made by the Administrative Agent or the Lenders, the said representations and warranties shall survive the execution and delivery of this Agreement until full and final payment and satisfaction of the Obligations.

ARTICLE 7. CONDITIONS PRECEDENT.

The obligation of each Lender to advance, continue or convert any Loan shall be subject to the following conditions precedent:

Section 7.1 **Initial Credit Event.** The Lenders shall have no obligation to make the first advance under the Revolving Credit Facility, the Guarantee Credit Facility, the MasterCard Credit Facility and the Risk Management Credit Facility until the following conditions shall have been performed and satisfied:

- (a) the Administrative Agent shall have received for each Lender this Agreement duly executed by (i) the Borrower and each of the Guarantors and (ii) the Lenders;
- (b) the Administrative Agent shall have received the Security duly executed by the Borrower and the Guarantors, as applicable, and confirmation that the Liens on the collateral securing the Loans will be first priority Liens and are perfected (including the filing of financing statements and applicable registrations in all applicable jurisdictions against the Borrower and the Guarantors, in favour of the Administrative Agent, as secured party);
- (c) the Administrative Agent shall have received evidence of insurance required to be maintained under the Loan Documents, naming the Administrative Agent as additional insured or first loss payee, as applicable;
- (d) the Administrative Agent shall have received copies of each Obligor's organizational documents and any amendments thereto, certified in each instance by its Secretary, Assistant Secretary or other authorized officer;
- (e) the Administrative Agent shall have received an organizational chart including the Borrower and any other Obligors;
- (f) the Administrative Agent shall have received copies of resolutions of each Obligor's board of directors (or similar governing body) authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party and the consummation of the transactions contemplated hereby and thereby, together with specimen signatures of the persons authorized to execute such documents on each Obligor's behalf, all certified in each instance by its Secretary, Assistant Secretary or other authorized officer;
- (g) the Administrative Agent shall have received copies of the certificates of status (or equivalent) for each Obligor from the relevant authority of its jurisdiction of incorporation or organization and of each jurisdiction in which it is qualified to do business as a foreign corporation or organization;
- (h) the Administrative Agent shall have received the initial fees required as set forth in by Section 3.1 hereof, together with the other fees and expenses payable hereunder on the Closing Date;
- (i) the Administrative Agent shall have received and be satisfied with the results of all company, personal property, judgment, bankruptcy and execution searches conducted by its counsel with respect to each Obligor, evidencing the absence of Liens on its Property except as permitted by Section 8.2(b) hereof;
- (j) the Administrative Agent shall have received the favourable written opinion of counsel to each Obligor, in form and substance reasonably satisfactory to the Administrative Agent;
- (k) the Administrative Agent shall have received satisfactory evidence that each Obligor has obtained all required consents and approvals of all Persons including all requisite Governmental Authorities, to the execution, delivery and performance of this Agreement and the other Loan Documents or an officer's certificate in form and substance reasonably satisfactory to the Administrative Agent affirming that no such consents or approvals are required (except in the case of any consent or approval under any covenant, indenture or agreement, where the failure to obtain the same would not reasonably be expected to have a Material Adverse Effect);

- (l) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects as of said time;
- (m) no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Event;
- (n) no event has occurred since the Closing Date and is continuing which has caused or could reasonably be expected to cause a Material Adverse Effect;
- (o) neither the Administrative Agent or any Lender shall have received any order or demand in respect of the Borrower under Section 224(1.1) of the Income Tax Act (Canada) or any similar provincial Applicable Law;
- (p) delivery of all required subordination agreements, in form and substance reasonably satisfactory to the Administrative Agent;
- (q) delivery of the most recent financial statements of the Borrower;
- (r) receipt of pro forma compliance certificate confirming compliance with the Financial Covenants;
- (s) receipt of a Borrowing Base Certificate in the form of Exhibit G attached hereto, certified by the Chief Financial Officer of the Borrower or such other senior officer acceptable to the Administrative Agent;
- (t) receipt of two year consolidated pro forma annual financial projections (incorporating the proposed debt and equity structure) including income statement, balance sheet, cash flow statement, capital expenditure budget, assumptions and covenant calculations, all in form and substance satisfactory to the Administrative Agent acting reasonably;
- (u) receipt of all information to enable the Administrative Agent and the Lenders to comply with "know your customer", anti-money laundering, and other compliance matters;
- (v) receipt of satisfactory evidence of the payout (or arrangements for payout) of any existing Indebtedness (other than Permitted Indebtedness including the earn-out payments owing to Vendor) incurred by the Borrower;
- (w) the Administrative Agent shall be satisfied in their discretion with the ownership, management, organizational and legal structure of the Borrower and its Subsidiaries;
- (x) the Administrative Agent shall have completed and shall be satisfied with its due diligence (including review of financial, environmental, insurance, legal and business matters) of the Borrower and the other Obligors;
- (y) the Administrative Agent shall be satisfied in its discretion with the terms of the leases for each leased property and the Borrower shall have obtained, or used its commercially reasonable efforts to obtain, landlord agreements for each such property; and
- (z) the Administrative Agent shall have received such other agreements, instruments, documents, certificates, and opinions as the Administrative Agent may reasonably request.

Section 7.2 **Acquisition Credit Event.** The Lenders shall have no obligation to make the first advance under the Acquisition Credit Facility until the following conditions shall have been performed and satisfied:

- (a) the conditions set forth in Section 7.1 have been performed and satisfied;
- (b) delivery of the most recent financial statements of the Target and the Borrower;
- (c) a satisfactory review of Material Contracts and a review of the audited financial statements of the Target for the last two years (which audited financial statements may contain a qualified opinion as to inventory);
- (d) the Administrative Agent shall have completed and shall be satisfied with its due diligence (including review of financial, environmental, insurance, legal and business matters) of the Vendor and the Target Acquisition, including a satisfactory review of the acquisition report from advisors;
- (e) the Administrative Agent shall have received and be satisfied with the results of all company, personal property, judgment, bankruptcy and execution searches conducted by its counsel with respect to the Vendor, evidencing the absence of Liens on its Property except as permitted by Section 8.2(b) hereof;
- (f) the Administrative Agent shall have received, in form and substance satisfactory to it, (i) an assignment (by way of security) of Material Contracts including the Target Purchase Agreement from the Borrower, (ii) the VTB Loan Subordination Agreement, and (iii) if required by the Administrative Agent, any additional Security in respect of the Intellectual Property acquired by the Obligors pursuant to the Target Acquisition;
- (g) the Administrative Agent shall be satisfied in its discretion with all agreements and matters relating to the Target Acquisition, including the Target Purchase Agreement, Material Contracts, earn-out agreements, key management retention contracts and all ancillary documents to be delivered in connection therewith; and
- (h) the Target Acquisition shall be completed concurrently with the Initial Advance hereunder to the satisfaction of the Administrative Agent, acting reasonably.

Section 7.3 Subsequent Credit Events. [At the time of each Credit Event hereunder (other than as contemplated by Section 7.1 and Section 7.2 above), before or concurrently with such Credit Event:

- (a) in respect of an advance under the Acquisition Credit Facility only, if such advance is in respect of a payment under the VTB Loan, it is permitted pursuant to the terms of the VTB Loan Subordination Agreement;
- (b) in respect of an advance under the Acquisition Credit Facility only, if such advance is to fund an Acquisition, the Administrative Agent shall be satisfied that the contemplated Acquisition is a Permitted Acquisition;
- (c) in respect of an advance under the Guarantee Credit Facility only, receipt of a performance security guarantee (PSG) from Export Development Canada, in form and substance satisfactory to the Administrative Agent and the L/C issuer, in respect of the specific Letter of Credit to be issued in connection with such advance;
- (d) each of the representations and warranties set forth herein and in the other Loan Documents shall be and remain true and correct in all material respects as of said time, except to the extent the same expressly relate to an earlier date;
- (e) no Default or Event of Default shall have occurred and be continuing or would occur as a result of such Credit Event;

- (f) no event has occurred since the Closing Date which has caused a Material Adverse Effect which is continuing or could reasonably be expected to cause a Material Adverse Effect;
- (g) the Borrower shall have given any required Notice of Borrowing or a Notice of Continuation/Conversion, as applicable, to the Administrative Agent in accordance with the notice requirements provided herein; and
- (h) neither the Administrative Agent or any Lender shall have received any order or demand in respect of the Borrower under Section 224(1.1) of the Income Tax Act (Canada) or any similar provincial Applicable Law.

ARTICLE 8. COVENANTS.

Section 8.1 **Positive Covenants.** The Borrower and each Obligor hereby covenants and agrees with the Administrative Agent and the Lenders that so long as this Agreement is in force:

(a) *Maintenance of Business.* The Borrower shall, and shall cause each other Obligor to, preserve and maintain its existence, except as otherwise provided in Section 8.2(e)(iii) hereof. The Borrower shall, and shall cause each other Obligor to, preserve and keep in force and effect all licenses, permits, franchises, approvals, patents, trademarks, trade names, trade styles, copyrights, and other proprietary rights necessary to the proper conduct of its business where the failure to do so would reasonably be expected to have a Material Adverse Effect.

(b) *Maintenance of Properties.* The Borrower shall, and shall cause each other Obligor to, maintain, preserve, and keep its property, plant, and equipment in good repair, working order and condition (ordinary wear and tear excepted), and shall from time to time make all necessary and proper repairs, renewals, replacements, additions, and improvements thereto so that at all times the efficiency thereof shall be fully preserved and maintained, except to the extent that, in the reasonable business judgment of such Person, any such Property is no longer necessary for the proper conduct of the business of such Person. Should any Obligor neglect or fail to maintain its property, plant or equipment as set forth above, or fail to make the necessary repairs following receipt of written notice by the Administrative Agent to that effect, or if any Property is left vacant or unoccupied for a minimum of thirty (30) consecutive days, the Administrative Agent may, without prejudice to its rights and recourses and upon prior written notice to the Obligors, enter the subject Property for the purpose of doing the work required or taking any appropriate or reasonable measures, the whole at the Borrower's expense.

(c) *Taxes, Rents and Assessments.* The Borrower shall duly pay and discharge, and shall cause each other Obligor to duly pay and discharge, all taxes, rents, rates, assessments, fees and governmental charges upon or against it or its Property, in each case before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith and by appropriate proceedings that prevent enforcement of the matter under contest and adequate reserves are provided therefor.

(d) *Insurance.* The Borrower shall insure and keep insured, and shall cause each other Obligor to insure and keep insured, with good and responsible insurance companies, all insurable Property owned by it which is of a character usually insured by Persons similarly situated and operating like Properties against loss or damage from such hazards and risks, and in such amounts, as are insured by Persons similarly situated and operating like Properties; and the Borrower shall insure, and shall cause each other Obligor to insure, such other hazards and risks (including, without limitation, business interruption and public liability risks) as and to the extent usually insured by Persons similarly situated and conducting similar businesses, all of which policies of insurance shall be in such amounts as are customary in the industry for similar businesses and properties, and shall include a standard mortgage clause approved by the Insurance Bureau of Canada; and the interest of the Administrative Agent shall be noted on such policies (except liability insurance policies) as first mortgagee and loss payee; and the

Administrative Agent shall be named as an additional insured under such liability insurance policies. The Borrower shall, upon the request of the Administrative Agent, furnish to the Administrative Agent and the Lenders a certificate setting forth in summary form the nature and extent of the insurance maintained pursuant to this Section. The Borrower shall promptly notify the Administrative Agent of any loss or damage to any Collateral in an amount exceeding \$250,000. The Borrower shall provide the Administrative Agent with an updated Schedule 6.16 from time to time as additional insurance policies are purchased or held by the Obligor from time to time.

(e) *Inspection:* The Borrower shall, and shall cause each other Obligor to, permit the Administrative Agent and each of its duly authorized representatives and agents to visit and inspect any of its Property, corporate books, and financial records, to examine and make copies of its books of accounts and other financial records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers, employees and independent public accountants, and by this provision the Borrower hereby authorizes such accountants to discuss with the Administrative Agent the finances and affairs of the Borrower and the other Obligor at such reasonable times and intervals as the Administrative Agent may designate and, so long as no Default or Event of Default exists, with reasonable prior notice to the Borrower; *provided, however*, that in the absence of any Default or Event of Default, the Borrower shall not be required to reimburse the Administrative Agent for more than one such inspection in any calendar year.

(f) *Pension Plan Compliance:* The Borrower shall, and shall cause each other Obligor to make all contributions to all Pension Plans when due pursuant to Applicable Law. Except with the prior written consent of the Required Lenders, not to be unreasonably withheld, the Borrower shall, and shall cause each Obligor to refrain from taking any action to commence, or assume an obligation to commence to sponsor, administer or contribute to any Defined Benefit Pension Plan.

(g) *Compliance with Laws:*

- (i) The Borrower shall, and shall cause each other Obligor to, comply in all respects with the requirements of all federal, provincial, and local laws, rules, regulations, ordinances and orders applicable to or pertaining to its Property or business operations, where any such noncompliance, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or result in a Lien (other than a Permitted Lien) upon any of its Property.
- (ii) Without limiting the agreements set forth in Section 8.1(g)(i) above, the Borrower shall, and shall cause each other Obligor to, at all times, do the following to the extent the failure to do so, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect: (i) comply in all material respects with, and maintain each of the Premises in compliance in all material respects with, all applicable Environmental Laws; (ii) use commercially reasonable efforts to require that each tenant and subtenant, if any, of any of the Premises or any part thereof comply in all material respects with all applicable Environmental Laws; (iii) obtain and maintain in full force and effect and comply with the terms of all material governmental approvals required by any applicable Environmental Law for the operations conducted by the Borrower or any of the other Obligor at each of the Premises; (iv) cure any material violation by it at any of the Premises of applicable Environmental Laws; (v) not allow its operation at any of the Premises (1) to be a landfill or dump or (2) to be a hazardous waste management facility or solid waste disposal facility as defined pursuant to any Environmental Law; (vi) not manufacture, use, generate, transport, treat, store, release, dispose or handle any Hazardous Material at any of the Premises except in the ordinary course of its business and in *de minimus* amounts; (vii) abide by and observe any restrictions on the use of the Premises imposed by any Governmental Authority as set forth in a deed or other instrument affecting the Borrower's or any other Obligor's interest therein; (viii) promptly provide or

otherwise make available to the Administrative Agent any reasonably requested environmental assessment report or other record concerning the Premises which the Borrower or any other Obligor possesses or can reasonably obtain; and (ix) perform, satisfy, and implement any operation or maintenance actions required of any Obligor by any Governmental Authority or Environmental Law, or included in any order issued by any Governmental Authority under any Environmental Law.

(h) *Material Contracts*: The Borrower shall, and shall cause each other Obligor to, at all times comply with, adhere to and maintain, the terms and conditions of each of the Material Contracts, except where any such noncompliance, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(i) *Preservation of Corporate Existence*: The Borrower shall, and shall cause each other Obligor to, maintain its corporate existence, preserve its rights, powers, permits, licences, privileges, franchises and goodwill, and exercise any rights of renewal or extensions of any leases, licences, concessions, franchises or any other rights whatsoever which are necessary or material to the conduct of its business and carry on and conduct its business in a proper and efficient manner so as to protect its property and the earnings, income and profits of its business; and not materially change the nature of its business.

(j) *Transactions With Related Persons*: The Borrower shall, and shall cause each other Obligor to, conduct all transactions with Related Parties, to the extent permitted by the terms of the Loan Documents, on terms that are fair and reasonable and no less favourable to it than it would obtain in any comparable arm's length transaction with a Person that is not a Related Party.

(k) *Notification of Certain Events*: The Borrower shall, and shall cause each other Obligor to, furnish to the Administrative Agent promptly after knowledge thereof shall have come to the attention of any responsible officer of the Borrower a certificate signed by one of its officers, without personal liability specifying (i) any amendment to any of its articles of incorporation or other charter documents and by-laws which has had or could reasonably be expected to have a Material Adverse Effect; (ii) that it has received or given a notice of termination of any one or more of the Material Contracts (whether for breach of any such agreement, insolvency of any of the parties thereto or otherwise (other than in accordance with its terms and not as a result of default)) and provide a copy of such notice to the Administrative Agent; (iii) the occurrence of any event which would result in a Material Adverse Effect; (iv) the occurrence of a Default or Event of Default; (v) any threatened or pending litigation, claim or proceeding or any governmental, regulatory or arbitration proceeding or labour controversy or fine, penalty or other similar monetary obligation against or imposed upon the Borrower or any Obligor or any of their respective Property which involve, in the aggregate, an amount in excess of \$250,000; or (vi) any judgment or order in respect of which it is obligated to pay an amount in excess of \$250,000.

(l) *Formation of Subsidiaries*: Promptly upon the formation or acquisition of any Material Subsidiary or upon any Subsidiary becoming a Material Subsidiary, the Borrower shall provide the Administrative Agent notice thereof and timely comply with the requirements of Article 5 (at which time Schedule 6.1 shall be deemed amended to include reference to such Material Subsidiary).

(m) *Use of Proceeds*: The Borrower shall use the credit extended under this Agreement solely for the purposes set forth in, or otherwise permitted by, Section 6.4 hereof.

(n) *Change in Location of Assets*: The Borrower shall promptly notify the Administrative Agent of any additional owned real property, leased locations or other location at which any material property or assets owned by any Obligor is located (other than inventory in transit) which are not listed on Schedule 6.3 hereto as of the Closing Date, and shall promptly provide to the Administrative Agent an updated Schedule 6.3.

(o) *Changes to Subsidiaries*: The Borrower shall promptly notify the Administrative Agent of any change to the jurisdiction of location of any Obligor's chief executive office or principal office, name,

form or jurisdiction of organization, or any other change to Schedule 6.1, and upon the occurrence of any such change shall promptly provide to the Administrative Agent an updated Schedule 6.1.

(p) *Collateral*: The Borrower shall, and shall cause each other Obligor that has granted security on or in Collateral pursuant to the Collateral Documents, to (i) defend the Collateral against the claims and demands of all other parties, including, without limitation, defenses, setoffs, claims and counterclaims asserted by any account debtor against the Borrower or other Obligor, as applicable, the Administrative Agent, or any Lender, except as permitted hereunder, (ii) provide to the Administrative Agent upon request all credit and other information respecting the financial condition of any account debtor where the aggregate amounts payable by such account debtor exceed \$250,000, (iii) not use any of the Collateral in violation of any policy insuring the Collateral if such would reasonably be expected to result in a Material Adverse Effect, and (iv) at the Administrative Agent's request, mark any and all of its books and records to indicate the security interest granted by the Collateral Documents.

(q) *Bank Accounts*: On or before the date one hundred and eighty (180) days following the Closing Date, the Borrower shall, and shall cause each other Obligor to, (i) maintain all depository, operating and investment accounts with HSBC and (ii) maintain all treasury and cash management services with HSBC.

(r) *Prompt Payment*: The Borrower shall pay all principal, interest and other amounts payable by it to the Administrative Agent and the Lenders pursuant to this Agreement and the Collateral Documents promptly when due.

(s) *Payment of Obligations*: The Borrower shall, and shall cause each other Obligor to, pay its obligations, including tax liabilities, that, if not paid, could reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Obligor has set aside on its books adequate reserves with respect thereto in accordance with IFRS and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

(t) *Intellectual Property*. At the request of the Administrative Agent at any time, acting reasonably, it shall immediately upon request, (x) provide the Administrative Agent with an updated Schedule 6.7 hereto (including all of the Obligors' Intellectual Property including licenses), and (y) forthwith register the Administrative Agent's Lien against such Intellectual Property as determined by the Administrative Agent, acting reasonably, in the intellectual property offices in each jurisdiction determined by the Administrative Agent.

(u) *Further Assurances*: The Borrower shall, and shall cause each other Obligor to, provide the Administrative Agent with such further information, financial data, documentation and other assurances as it may reasonably require from time to time in order to ensure ongoing compliance with the terms of this Agreement.

Section 8.2 **Negative Covenants.** ☐The Borrower and each Obligor hereby covenants and agrees with the Administrative Agent and the Lenders that so long as this Agreement is in force:

(a) *Borrowings and Guarantees*: The Borrower shall not, nor shall it permit any other Obligor to, issue, incur, assume, create or have outstanding any Indebtedness or be or become liable as endorser, guarantor, surety or otherwise for any debt, obligation or undertaking of any other Person, or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another, or subordinate any claim or demand it may have to the claim or demand of any other Person; *provided, however*, that the foregoing shall neither restrict nor operate to prevent:

- (i) the Obligations of the Borrower owing to the Administrative Agent and the Lenders (and their Affiliates);
- (ii) Subordinated Debt;
- (iii) purchase money indebtedness and Capitalized Lease Obligations of the Borrower and the other Obligor in an amount not to exceed \$250,000 in the aggregate at any one time outstanding;
- (iv) Indebtedness incurred as a result of intercompany advances permitted by Section 8.2(c)(v) and Section 8.2(c)(vi);
- (v) guarantees by any Obligor of obligations of any other Obligor, in each case to the extent such obligation are not prohibited by the terms hereof; and
- (vi) indebtedness owing to a seller under a Permitted Acquisition which constitutes (A) earn outs for which the performance conditions entitling the creditor to the payment of such earn outs have been satisfied in which case the Subordination Agreement will permit such payment if at such time no Default or Event of Default has occurred or would result for such payment, and/or (B) deferred purchase price obligations.

(b) *Liens*: The Borrower shall not, nor shall it permit any other Obligor to, create, incur or permit to exist any Lien of any kind on any Property owned by any such Person; *provided, however*, that the foregoing shall not apply to nor operate to prevent:

- (i) Liens arising by statute in connection with worker's compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, good faith cash deposits in connection with tenders, contracts or leases to which the Borrower or any other Obligor is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not for borrowed money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefor;
- (ii) mechanics', workmen's, materialmen's, landlords', carriers' or other similar Liens with respect to obligations arising in the ordinary course of business which are not due or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest;
- (iii) Liens on equipment (and proceeds thereof) of the Borrower or any other Obligor created solely for the purpose of securing indebtedness permitted by Section 8.2(a)(iii) hereof, representing or incurred to finance the purchase price of such Property, provided that no such Lien shall extend to or cover other Property of the Borrower or such other Obligor other than the respective Property (and proceeds thereof) so acquired, and the principal amount of indebtedness secured by any such Lien shall at no time exceed the purchase price of such Property, as reduced by repayments of principal thereon;
- (iv) any interest or title of a lessor or licensor under any operating lease or license;
- (v) easements, rights of way, servitudes, restrictions, and other similar encumbrances against real (immovable) property incurred in the ordinary course

of business which, in the aggregate, are not substantial in amount and which do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any other Obligor;

- (vi) Liens in existence on the Closing Date and set forth on Schedule 8.2(b) hereof and includes any extension or renewal thereof;
- (vii) customary rights of setoff, revocation, refund or chargeback under deposit agreements with banks or other financial institutions where the Borrower or any other Obligor maintains deposits in the ordinary course of business;
- (viii) Liens securing Subordinated Debt; and
- (ix) Liens granted in favour of the Administrative Agent pursuant to the Collateral Documents;
- (x) title defects or irregularities which are of a minor nature and which do not reduce the value of the Property of the Person or materially interfere with the use of such Property in the operation of the business of the Person;
- (xi) Liens resulting from the deposit of cash or securities in connection with bids or tenders in the ordinary course of business, or to secure obligations in the ordinary course of business pursuant to workers' compensation, employment insurance or similar legislation;
- (xii) Liens securing appeal bonds and other similar Liens arising in connection with court proceedings (including, without limitation, surety bonds, security for costs of litigation where required by Applicable Law and letters of credit) or any other instruments serving a similar purpose;
- (xiii) attachments, judgments and other similar Liens arising in connection with court proceedings; provided, however, that the Liens are in existence for less than 10 days after their creation or the execution or other enforcement of the Liens is effectively stayed or the claims so secured are being actively contested in good faith and by proper legal proceedings;
- (xiv) the reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown of any real property or any interest therein or in any comparable grant in jurisdictions other than Canada, provided they do not reduce the value of the Property of the Person or materially interfere with the use of such Property in the operation of the business of the Person;
- (xv) Liens given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operation of the business or the ownership of the Property of the Person, provided that such Liens do not reduce the value of the Property of the Person or materially interfere with the use of such Property in the operation of the business of the Person;
- (xvi) servicing agreements, development agreements, site plan agreements, subdivision agreements and other agreements with Governmental Authorities pertaining to the use or development of any of the Property of the Person, provided same are complied with and do not reduce the value of the Property of the Person or materially interfere with the use of such Property in the operation of

the business of the Person including, without limitation, any obligations to deliver letters of credit and other security as required;

- (xvii) applicable municipal and other governmental restrictions, including municipal by-laws and regulations, affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and do not reduce the value of the Property of the Person or materially interfere with the use of such Property in the operation of the business of the Person; and
- (xviii) the right reserved to or vested in any Governmental Authority by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of the Person, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof.

Notwithstanding anything to the contrary contained in this Agreement or any Collateral Document (including any provision for, reference to, or acknowledgement of, any Lien), nothing herein and no approval by the Administrative Agent or the Lenders of any Lien (whether such approval is oral or in writing) shall be construed as or deemed to constitute a subordination by the Administrative Agent or the Lenders of any security interest or other right, interest or Lien in or to the Collateral or any part thereof in favour of any Lien or any holder of any Lien.

(c) *Investments, Loans and Advances:* The Borrower shall not, nor shall it permit any other Obligor to, directly or indirectly, make, retain or have outstanding any Investments (whether through purchase of stock or obligations or otherwise in, or loans or advances to (other than for travel advances and other similar cash advances made to employees in the ordinary course of business), any other Person; *provided, however,* that the foregoing shall not apply to nor operate to prevent:

- (i) Investments in direct obligations of Canada, the United States of America or of any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the relevant government, provided that any such obligations shall mature within one year of the date of issuance thereof;
- (ii) Investments in certificates of deposit issued by any Lender or by any commercial bank having capital and surplus of not less than \$500,000,000 and a minimum rating at all times during the investment of A+ or better by S&P or A1 or better by Moody's which have a maturity of one year or less;
- (iii) Investments in money market funds that invest solely, and which are restricted by its charter to invest solely, in Investments of the type described in the immediately preceding subsections (a) and (b) above;
- (iv) An Obligor's Investments from time to time in any other Obligor;
- (v) Intercompany advances made from time to time by any Obligor to another Obligor;
- (vi) Intercompany advances made from time to time by any Obligor to Covalon Medical Device (Shanghai) Co., Ltd. and Covalon Technologies (Israel) Ltd. up to the maximum aggregate amount of \$500,000 at any time so long as (A) both before and immediately after the making of such advance no Default or Event of Default has occurred or would occur as a result of such advance, (B) the Borrower is in compliance with each of the Financial Covenants as of the last completed Fiscal Quarter, and (C) the Borrower will remain in *pro forma*

compliance with the Financial Covenants (as if such advance had been made) as at the end of the Fiscal Quarter in which such advance will be made; and

(vii) Investments in Permitted Acquisitions;

In determining the amount of Investments permitted under this Section, Investments shall always be taken at the original cost thereof (regardless of any subsequent appreciation or depreciation therein) net of any cash distributions in respect thereof, and loans and advances shall be taken at the principal amount thereof then remaining unpaid.

(d) *Acquisitions*: The Borrower shall not, nor shall it permit any other Obligor to, directly or indirectly, make any Acquisition or make any purchase of assets out of the ordinary course of *business* other than any Permitted Acquisition.

(e) *Amalgamations, Consolidations and Sales*: Except with the consent of the Administrative Agent and the Required Lenders, the Borrower shall not, nor shall it permit any other Obligor to, be a party to any amalgamation or consolidation, or sell, transfer, lease or otherwise dispose of all or any part of its Property, including any Disposition of Property as part of a sale and leaseback transaction, or in any event sell or discount (with or without recourse) any of its notes or accounts receivable; *provided, however*, that so long as no Default or Event of Default exists which is continuing this Section shall not apply to nor operate to prevent:

- (i) the sale or lease of inventory in the ordinary course of business;
- (ii) the sale, transfer, lease or other disposition of Property of the Obligors to one another;
- (iii) the sale of delinquent notes or accounts receivable in the ordinary course of business for purposes of collection only (and not for the purpose of any bulk sale or securitization transaction);
- (iv) the sale, transfer or other disposition of any tangible personal property that, in the reasonable business judgment of the Borrower or any other Obligor, has become obsolete or worn out, and which is disposed of in the ordinary course of business;
- (v) subject to Section 2.12(b)(i) hereof, the sale of other assets up to the aggregate amount of \$250,000 per Fiscal Year; and
- (vi) the amalgamation of any Obligor with and into the Borrower or any other Obligor, provided that in the case of any amalgamation involving the Borrower, the Borrower is the entity surviving the amalgamation, or any dissolution of an Obligor (other than the Borrower) in connection with any transfer by such Obligor of all or substantially all of its assets to the Borrower or any other Obligor.

Promptly upon the amalgamation, dissolution or disposition of any Obligor permitted by this Section 8.2(d), the Borrower shall provide the Administrative Agent notice thereof (at which time Schedule 6.1 shall be deemed amended to reflect such amalgamation, dissolution or disposition).

(f) *Maintenance of Subsidiaries*: The Borrower shall not assign, sell or transfer, nor shall it permit any other Obligor to issue, assign, sell or transfer, any shares of capital stock or other equity interests of a Subsidiary; *provided, however*, that the foregoing shall not operate to prevent (a) Liens on the capital stock or other equity interests of Subsidiaries granted to the Administrative Agent pursuant to the Collateral Documents or otherwise permitted by Section 8.2(b) hereof, and (b) any transaction permitted by Section 8.2(e)(vi) above.

(g) *Distributions*: The Borrower shall not, nor shall it permit any other Obligor to, make, declare or pay any Distribution; *provided, however*, that (x) the foregoing shall not operate to prevent the making of Distributions by any Obligor to another Obligor and (y) Distributions may be made, declared or paid by an Obligor so long as (A) both before and immediately after the making of such Distribution no Default or Event of Default has occurred or would occur as a result of such Distribution, (B) the Borrower is in compliance with each of the Financial Covenants as of the last completed Fiscal Quarter, and (C) the Borrower will remain in *pro forma* compliance with the Financial Covenants (as if such Distribution had been made) as at the end of the Fiscal Quarter in which such Distribution will be made.

(h) *Payments of Debt*: The Borrower shall not, nor shall it permit any other Obligor to, make any payment to any Person on account or in respect of any Subordinated Debt (including the VTB Loan) unless (i) at the time of any such payment, no Default or Event of Default has occurred and is continuing and (ii) no Default or Event of Default would be caused or could reasonably be expected to occur as a result of the making of any such payment, and provided further that it shall not make any payment on account or in respect of any Subordinated Debt except to the extent specifically permitted in accordance with the terms of the applicable subordination agreement (if any) delivered in favour of the Administrative Agent in respect of such Subordinated Debt.

(i) *Burdensome Contracts with Affiliates*: The Borrower shall not, nor shall it permit any other Obligor to, enter into any contract, agreement or business arrangement with any of its Affiliates (other than with the Borrower or any other Obligor), except for (i) the contracts, agreements and arrangements described on Schedule 8.2(h) hereto, (ii) transactions permitted by Section 8.2(c), Section 8.2(d) and Section 8.2(g) of this Agreement, (iii) the payment of reasonable compensation and benefits to officers, (iv) the payment of customary fees to outside directors, (v) customary indemnification arrangements with directors and officers (vi) the reimbursement of officers and directors for expenses in the ordinary course of business and (vii) contracts, agreements or other business arrangements on terms and conditions which are no less favourable to the Borrower or such other Obligor than would be usual and customary in similar contracts, agreements or business arrangements between Persons not affiliated with each other ("**Permitted Transactions with Affiliates**").

(j) *No Changes in Fiscal Year*: The Borrower shall not, nor shall it permit any other Obligor to, change its Fiscal Year from its present basis without the prior written consent of the Administrative Agent, not to be unreasonably withheld.

(k) *Change in the Nature of Business*: The Borrower shall not, nor shall it permit any other Obligor to, engage in any business or activity except an Eligible Line of Business without the prior written consent of the Administrative Agent, not to be unreasonably withheld.

(l) *Limitation on Hedging Agreements*: The Borrower shall not, nor shall it permit any other Obligor to, enter into any Hedging Agreement with any Person except Hedging Agreements entered into (a) to hedge or mitigate risks to which the Borrower or any other Obligor has actual exposure, and (b) for the purpose of hedging or mitigating against the risk of fluctuating currencies and, in each case, not for speculative purposes.

(m) *Change of Control*: The Borrower shall not, nor shall it permit any other Obligor to, permit any Change of Control, except with the prior written consent of the Required Lenders not to be unreasonably withheld.

(n) *Pension Plans*: The Borrower shall not, nor shall it permit any other Obligor to (i) except with the consent of the Required Lenders (not to be unreasonably withheld), terminate any Pension Plan in a manner, or take any other action with respect to any Pension Plan, which could reasonably be expected to result in any liability of the Borrower or any other Obligor greater than \$1,000,000, (ii) fail to make all contributions to all Pension Plans when due under Applicable Law, or (iii) where such an acquisition could reasonably be expected to result in a Material Adverse Effect, acquire an interest in any Person without the prior written consent of the Required Lenders if such Person sponsors, maintains or contributes to any Pension Plan including a Defined Benefit Pension Plan, such consent not to be

unreasonably withheld or arbitrarily delayed. It shall not establish, sponsor, administer, maintain or contribute to any Defined Benefit Pension Plan without the prior written consent of the Required Lenders (not to be unreasonably withheld).

Section 8.3 Financial Reports. The Borrower shall, and shall cause each other Obligor to, maintain a standard system of accounting in accordance with IFRS and shall furnish to the Administrative Agent, the following information respecting the business and financial condition of the Borrower and each other Obligor:

- (a) as soon as available, and in any event no later than 60 days after the last day of each Fiscal Quarter, a copy of the unaudited, company prepared Consolidated financial statements of the Borrower for such Fiscal Quarter and for the Fiscal Year to date period then ended, each in reasonable detail showing in comparative form (other than during the first Fiscal Year) the figures for the corresponding date and periods in the previous Fiscal Year, together with management discussion and analysis for such period describing any material variances in actual financial results in comparison to the prior fiscal period and/or financial forecast and budget, prepared by the Borrower in accordance with IFRS and certified to by its chief financial officer or another officer of the Borrower acceptable to the Administrative Agent;
- (b) as soon as available, and in any event no later than 60 days after the last day of each Fiscal Quarter, a written certificate in substantially the form attached hereto as Exhibit D or otherwise reasonably satisfactory to the Administrative Agent, signed on behalf of the Borrower by the chief financial officer of the Borrower or another officer of the Borrower acceptable to the Administrative Agent (a "**Compliance Certificate**") to the effect that after making due enquiry, the Borrower is in compliance with all covenants under this Agreement, that all representations and warranties are true and correct as of the date of such Compliance Certificate (except where a representation or warranty is expressly given as of a specified date), and that no Default or Event of Default has occurred during the period covered by such statements or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by the Borrower or any other Obligor to remedy the same. Such Compliance Certificate shall also set forth the calculations supporting such statements in respect of Section 8.4 hereof;
- (c) as soon as available, and in any event no later than 120 days after the last day of each Fiscal Year, a copy of the Consolidated audited financial statements of the Borrower for such Fiscal Year, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous Fiscal Year accompanied by an unqualified opinion (as to scope of audit and going concern) of a firm of independent public accountants of recognized national standing, selected by the Borrower to the effect that the financial statements have been prepared in accordance with IFRS and present fairly in all material respects the Consolidated financial condition of the Borrower as of the close of such Fiscal Year and the results of the Consolidated operations and cash flows of the Borrower for such Fiscal Year;
- (d) as soon as available, and in any event no later than 60 days after the end of each Fiscal Year, a copy of the Borrower's Consolidated financial forecast and budget for the following Fiscal Year, such financial forecast and budget to show the Borrower's projected Consolidated revenues, expenses, cash flow and balance sheet on a month-by-month basis, such financial forecast and budget to be in reasonable detail prepared by the Borrower and in form reasonably satisfactory to the Administrative Agent (which shall include a summary of all assumptions made in preparing such financial forecast);
- (e) as soon as available and in any event within 60 days after the last day of each of its Fiscal Quarters, a Borrowing Base Certificate in the form of Exhibit G attached hereto,

certified by the Chief Financial Officer of the Borrower or such other senior officer acceptable to the Administrative Agent, which certificate shall include a detailed list of aged accounts receivables, aged accounts payable and inventory;

- (f) promptly upon the occurrence thereof, notice of any Change of Control;
- (g) as soon as available and in any event within 60 days after the last day of each of its Fiscal Quarters, if any of the information disclosed in the Schedules attached hereto is no longer accurate, an officer's certificate of the Borrower attaching copies of all applicable revised Schedules required to ensure that such information remains accurate as of the last day of such Fiscal Quarter;
- (h) promptly after knowledge thereof shall have come to the attention of any responsible officer of the Borrower, written notice of (i) any threatened or pending litigation or governmental, regulatory or arbitration proceeding or labour controversy or fine, penalty or other similar monetary obligation against or imposed upon the Borrower or any other Obligor or any of their Property which, if adversely determined, could reasonably be expected to have a Material Adverse Effect or could reasonably be expected to give rise to a Default or Event of Default or (ii) the occurrence of any Default or Event of Default hereunder; and
- (i) such other financial and operating statements and reports as the Administrative Agent or any Lender may reasonably request.

Section 8.4 Financial Covenants. The Borrower hereby covenants and agrees with the Administrative Agent and the Lenders that so long as this Agreement is in force:

- (a) *Fixed Charge Coverage Ratio.* As of the last day of each Fiscal Quarter, the Borrower shall maintain the Fixed Charge Coverage Ratio as determined on a Consolidated, rolling four quarter basis in accordance with IFRS, for the four Fiscal Quarters then ended, of greater than 1.25 to 1.00.
- (b) *Senior Funded Debt to EBITDA Ratio.* As of the last day of each Fiscal Quarter, the Borrower shall maintain the Senior Funded Debt to EBITDA Ratio, as determined on a Consolidated, rolling four quarter basis in accordance with IFRS, for the four Fiscal Quarters then ended, of less than 2.75 to 1.00.
- (c) *Current Ratio.* As of the last day of each Fiscal Quarter, the Borrower shall maintain the Current Ratio as determined on a Consolidated, rolling four quarter basis in accordance with IFRS, for the four Fiscal Quarters then ended, of greater than 1.20 to 1.00.

ARTICLE 9. EVENTS OF DEFAULT AND REMEDIES.

Section 9.1 Events of Default. Any one or more of the following shall constitute an "**Event of Default**" hereunder:

- (a) default in the payment when due of all or any part of the principal of or interest on any Loan (whether at the stated maturity thereof or at any other time provided for in this Agreement including on demand by the Administrative Agent) or of any Reimbursement Obligation or of any fee or other Obligation payable hereunder or under any other Loan Document, which default, in the case of payment of interest or fees, is not remedied within two (2) Business Days;

- (b) default in the observance or performance of any covenant set forth in Section 8.1, (other than Section 8.1(b), Section 8.1(c), Section 8.1(h), Section 8.1(j), Section 8.1(s)), Section 8.2, Section 8.3 or Section 8.4, hereof or of any provision in any Loan Document dealing with the remittance and/or reinvestment, as applicable, of the proceeds of Collateral or requiring the maintenance of insurance thereon;
- (c) default in the observance or performance of any other covenant hereof or of any other Loan Document which is not remedied within thirty (30) days after the earlier of (i) the Borrower or such other Obligor, as the case may be, becoming aware of such default or (ii) written notice thereof is given to the Borrower by the Administrative Agent;
- (d) any representation or warranty made herein or in any other Loan Document or in any certificate furnished to the Administrative Agent or the Lenders pursuant hereto or thereto or in connection with any transaction contemplated hereby or thereby proves untrue as of the date of the issuance or making or deemed making thereof; provided, however, that (i) to the extent any representation or warranty is made or deemed to be made in any Fiscal Quarter when additional or revised disclosure is required to be made on a Schedule referred to in such representation or warranty in order for such representation or warranty to be correct or correct when so made or deemed to be made, no Default or Event of Default shall result from the making or deemed making of such representation or warranty provided that such additional or revised disclosure is made within 60 days after the last day of such Fiscal Quarter pursuant to Section 8.3(g) and (ii) if any such representation or warranty is not already subject to a materiality qualification, it shall only prove untrue if as of the date of the making or deemed making thereof it proves untrue in any material respect;
- (e) (i) any event occurs or condition exists (other than those described in subsections (a) through (d) above) which is specified as an event of default under any of the other Loan Documents and, such default has not been cured by the Borrower within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent, (ii) any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect or is declared to be null and void, or any of the Collateral Documents shall for any reason fail to create a valid and perfected first priority Lien in favour of the Administrative Agent in any material portion of the Collateral purported to be covered thereby except as expressly permitted by the terms thereof or by the terms of this Agreement, or any other Obligor takes any action for the purpose of terminating, repudiating or rescinding any Loan Document executed by it or any of its obligations thereunder, or (iii) any Obligor in any manner contests the validity of any Guarantee forming part of the Security or any Collateral Document;
- (f) default shall occur under any indenture, agreement or other instrument evidencing any Indebtedness issued, assumed or guaranteed by the Borrower or any other Obligor aggregating in excess of \$250,000; and, in all cases, such default shall continue until the expiration of any applicable cure period (whether or not such maturity is in fact accelerated) and shall not have been waived by the holder or holders of such Indebtedness;
- (g) any judgment or judgments, writ or writs or warrant or warrants of attachment, or any similar process or processes, or any fines, penalties or other similar monetary obligations, shall be entered, filed against or imposed upon the Borrower or any other Obligor, or against any of its Property, in an aggregate amount in excess of \$1,000,000 (except to the extent fully covered by insurance pursuant to which the insurer has accepted liability therefor in writing), and which remains undischarged, unvacated, unbonded, unstayed or unpaid for a period of 30 days;

- (h) (i) any Pension Plan shall fail to satisfy the minimum funding standard required for any plan year or part thereof under Applicable Law or a waiver of such standard is sought or granted under the provisions of Applicable Law and in either case, such event results or would reasonably be expected to result in liability of the Borrower or any other Obligor in excess of \$1,000,000, or (ii) the filing by the Borrower or any other Obligor or an administrator of any Pension Plan of a notice of intent to terminate a Pension Plan having aggregate unfunded vested liabilities in excess of \$1,000,000;
- (i) any Material Adverse Effect shall occur and be continuing;
- (j) the Borrower or any other Obligor shall (i) have entered involuntarily against it an order for relief under any Insolvency Legislation which remains undismitted or unstayed for a period of 60 days, (ii) not pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its Property, (v) institute any proceeding seeking to have entered against it an order for relief under any Insolvency Legislation to adjudicate it insolvent, or (except as part of a transaction contemplated by Section 8.2(e)(iii) hereof) seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file a defence to any such proceeding filed against it, (vi) take any corporate, partnership or other organizational action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in Section 9.1(k) hereof;
- (k) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Borrower or any other Obligor, or any substantial part of any of its Property, or a proceeding described in Section 9.1(j) shall be instituted against the Borrower or any other Obligor, and such appointment (unless applied for or consented to by the Borrower or such other Obligor in which case clause (j) above shall apply immediately) continues undischarged or such proceeding continues undismitted or unstayed for a period of 60 days; or
- (l) the perfection or priority of any Lien on any item or items of Collateral having a fair market value in excess of \$1,000,000 securing the Obligations shall be adversely affected in any material respect, except as a result of any action or failure to act on the part of the Administrative Agent or any Lender (including, without limitation, any action required to be taken by the Administrative Agent under Section 10.21 hereof).

Section 9.2 Non-Bankruptcy Defaults. Without limitation to the Administrative Agent's right to demand at any time in the sole discretion of the Required Lenders (regardless of whether an Event of Default has occurred and is continuing), when any Event of Default other than those described in Section 9.1(j) or Section 9.1(k) hereof has occurred and is continuing, the Administrative Agent shall, by written notice to the Borrower: (a) if so directed by the Required Lenders, terminate the remaining Commitments and all other obligations of the Lenders hereunder on the date stated in such notice (which may be the date thereof); (b) if so directed by the Required Lenders, declare the principal of and the accrued interest on all outstanding Loans to be forthwith due and payable and thereupon all outstanding Loans, including both principal and interest thereon, shall be and become immediately due and payable together with all other amounts payable under the Loan Documents without further demand, presentment, protest or notice of any kind; and (c) if so directed by the Required Lenders, demand that the Borrower immediately pay to the Administrative Agent the full amount then available for drawing under each or any Letter of Credit, and the Borrower agrees to immediately make such payment and acknowledges and agrees that the Lenders would not have an adequate remedy at law for failure by the Borrower to honour any such demand and that the Administrative Agent, for the benefit of the Lenders, shall have the right to require the Borrower to specifically perform such undertaking whether or not any drawings or other demands for

payment have been made under any Letter of Credit. The Administrative Agent, after giving notice to the Borrower pursuant to Section 9.1(c) or this Section 9.2, shall also promptly send a copy of such notice to the other Lenders, but the failure to do so shall not impair or annul the effect of such notice.

Section 9.3 Bankruptcy Defaults. When any Event of Default described in Section 9.1(j) or Section 9.1(k) hereof has occurred and is continuing, then all outstanding Loans shall immediately become due and payable together with all other amounts payable under the Loan Documents without presentment, demand, protest or notice of any kind, the obligation of the Lenders to extend further credit pursuant to any of the terms hereof shall immediately terminate and the Borrower shall immediately pay to the Administrative Agent the full amount then available for drawing under all outstanding Letters of Credit, the Borrower acknowledging and agreeing that the Lenders would not have an adequate remedy at law for failure by the Borrower to honour any such demand and that the Lenders, and the Administrative Agent on their behalf, shall have the right to require the Borrower to specifically perform such undertaking whether or not any draws or other demands for payment have been made under any of the Letters of Credit.

Section 9.4 Collateral for Undrawn Letters of Credit.

- (a) If the prepayment of the amount available for drawing under any or all outstanding Letters of Credit is required under Section 9.2 or Section 9.3 above or any other provision hereof, the Borrower shall forthwith pay the amount required to be so prepaid, to be held by the Administrative Agent as provided in subsection (b) below.
- (b) All amounts prepaid pursuant to subsection (a) above shall be held by the Administrative Agent in one or more separate collateral accounts (each such account, and the credit balances, properties, and any investments from time to time held therein, and any substitutions for such account, any certificate of deposit or other instrument evidencing any of the foregoing and all proceeds of and earnings on any of the foregoing being collectively called the "**Collateral Account**") as security for, and for application by the Administrative Agent (to the extent available) to, the reimbursement of any payment under any Letter of Credit then or thereafter made by the Administrative Agent, and to the payment of the unpaid balance of all other Obligations (including, without limitation, all Hedging Liability and Funds Transfer and Deposit Account Liability). The Collateral Account shall be held in the name of and subject to the exclusive dominion and control of the Administrative Agent for the benefit of the Administrative Agent, the Lenders and the L/C Issuer. If and when requested by the Borrower, the Administrative Agent shall invest funds held in the Collateral Account from time to time in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the Government of Canada with a remaining maturity of one year or less, provided that the Administrative Agent is irrevocably authorized to sell investments held in the Collateral Account when and as required to make payments out of the Collateral Account for application to amounts due and owing from the Borrower to the L/C Issuer, the Administrative Agent or the Lenders; *provided, however*, that if the Borrower shall have made payment of all obligations referred to in subsection (a) above required under Section 9.2 or Section 9.3 hereof or any other provision hereof, so long as no Letters of Credit, Commitments, Loans or other Obligations (other than Contingent Obligations, unless a claim with respect thereto has been asserted), remain outstanding, at the request of the Borrower, the Administrative Agent shall release to the Borrower any remaining amounts held in the Collateral Account.

Section 9.5 Notice of Default. The Administrative Agent shall give notice to the Borrower under Section 9.1(c) hereof promptly upon being requested to do so by the Required Lenders and shall thereupon notify all the Lenders thereof.

Section 9.6 Appointment of a Monitor. If an Event of Default has occurred and is continuing, the Required Lenders may appoint a monitor to review the operations of the Borrower and the

other Obligor and make recommendations to the Required Lenders in respect thereof. The Borrower shall, and shall cause the other Obligor to, provide the monitor with full access to all books and records, operations and management of the Borrower and the other Obligor. The reasonable costs and fees of such monitor shall be for the account of the Borrower and the other Obligor.

Section 9.7 Judgment Currency. ☐ If for the purposes of obtaining judgment against any Obligor in any court in any jurisdiction with respect to this Agreement it becomes necessary for a Lender to convert into the currency of such jurisdiction (in this section called the "**Judgment Currency**") any amount due to the Lender by any Obligor hereunder in any currency other than the Judgment Currency, the conversion shall be made at the Exchange Rate prevailing on the Business Day before the day on which judgment is given. In the event that there is a change in the Exchange Rate prevailing between the Business Day before the day on which the judgment is given and the date of payment of the amount due, the applicable Obligor will, on the date of payment, pay such additional amounts (if any) or be entitled to receive reimbursement of such amount, 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 Exchange Rate prevailing on the date of payment is the amount then due under this Agreement in such other currency. Any additional amount due by the applicable Obligor under this Section will 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.

Section 9.8 Acceleration of Certain Contingent Obligations. ☐ Upon the occurrence and during the continuance of an Event of Default, any Lender which has issued a LIBOR Loan, Bankers' Acceptance or BA Equivalent Note or entered into a Hedging Agreement with the Borrower may make a Prime Rate Loan or Base Rate Loan, as applicable, to the Borrower in an amount equal to the face amount of such Bankers' Acceptance or BA Equivalent Note or the amount required to unwind such Hedging Agreement (such amount to be determined in accordance with the terms thereof), as the case may be; and the proceeds of any such Loan shall be held by such Lender and used to satisfy the Lender's obligations under the said LIBOR Loan, Bankers' Acceptance or BA Equivalent Note as such becomes due, or to effect the unwinding of such Hedging Agreement. Any such Loan shall bear interest at the rate and in the manner applicable to Prime Rate Loans or Base Rate Loans, as applicable.

ARTICLE 10. THE ADMINISTRATIVE AGENT AND THE LENDERS.

Section 10.1 Appointment and Authorization of Administrative Agent. ☐ Each Lender hereby appoints HSBC as the Administrative Agent under the Loan Documents and hereby authorizes the Administrative Agent to take such action as the Administrative Agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Administrative Agent by the terms thereof, together with such powers as are reasonably incidental thereto. The Lenders expressly agree that the Administrative Agent is not acting as a fiduciary of the Lenders in respect of the Loan Documents, the Borrower or otherwise, and nothing herein or in any of the other Loan Documents shall result in any duties or obligations on the Administrative Agent or any of the Lenders except as expressly set forth herein.

Section 10.2 Administrative Agent and Its Affiliates. ☐ The Administrative Agent shall have the same rights and powers under this Agreement and the other Loan Documents as any other Lender and may exercise or refrain from exercising such rights and power as though it were not the Administrative Agent, and the Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower or any Affiliate of the Borrower as if it were not the Administrative Agent under the Loan Documents. The term "**Lender**" as used herein and in all other Loan Documents, unless the context otherwise clearly requires, includes the Administrative Agent in its individual capacity as a Lender. References herein to the Administrative Agent's Loans, or to the amount owing to the Administrative Agent for which an interest rate is being determined, refer to the Administrative Agent in its individual capacity as a Lender.

Section 10.3 **Decision-Making.**

(a) Any amendment to this Agreement and the granting of any waiver or consent by the Lenders, in each case, relating to the following matters shall require the unanimous agreement of the Lenders:

- (i) the making of the initial Credit Event despite any condition precedent relating thereto not having been satisfied;
- (ii) decreases in interest rates and fees in respect of the Credit Facilities;
- (iii) any increase in any Commitment;
- (iv) any reduction of, or compromise with respect to, or waiver of, the amount of any Obligation hereunder;
- (v) extensions of the maturity date of the Credit Facilities;
- (vi) extensions of the scheduled dates for any payments of principal, interest or other amounts hereunder or the scheduled amounts of repayments hereunder;
- (vii) releases of all or any substantial portion of the Security except to the extent provided in paragraph (c) below;
- (viii) any proposed amendments to the definitions of "Required Lenders", "Percentage", "Revolver Percentage", "Acquisition Loan Percentage" or "Guarantee Loan Percentage" in Section 1.1; and
- (ix) any proposed amendments to this Section 10.3, and any other provision of this Agreement which requires the unanimous consent of the Lenders in connection with any action to be taken or consent to be provided by the Lenders,

provided, that notwithstanding anything to the contrary contained herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

(b) Except for the matters described in paragraph (a) above, any amendment to this Agreement shall be effective if made among the Borrower, the Administrative Agent and the Required Lenders, and for greater certainty any such amendment which is agreed to by the Required Lenders shall be final and binding upon all Lenders.

(c) The Administrative Agent may from time to time without notice to or the consent of the Lenders execute and deliver releases of the Security or any portion thereof in respect of any item of Collateral (whether or not the proceeds of sale thereof are received by the Administrative Agent) which the Obligors are permitted to dispose of without obtaining the prior written consent of the Required Lenders; and in providing any such releases the Administrative Agent may rely upon and assume the correctness of all information contained in any certificate or document provided by the Borrower, without further enquiry. Otherwise, any release or discharge in respect of the Security or any portion thereof shall require the written consent of the Lenders acting unanimously.

(d) Except for the matters which require the unanimous consent of the Lenders as set out above, any action to be taken or decision to be made by the Lenders pursuant to this Agreement (specifically including for greater certainty the issuance of written notice to the Borrower of the occurrence of a Default, the issuance of a demand for payment of the Obligations, a decision to make any Credit Event other than the initial Credit Event hereunder despite any condition precedent relating thereto not

being satisfied or the provision of any waiver in respect of a breach of any covenant or any Event of Default) shall be effective if approved by the Required Lenders; and any such decision or action shall be final and binding upon all the Lenders.

(e) Any action to be taken or decision to be made by the Lenders pursuant to this Agreement which is required to be unanimous shall be made at a meeting of the Lenders called by the Administrative Agent pursuant to Section 10.11(l) or by a written instrument executed by all of the Lenders. Any action to be taken or decision to be made by the Lenders pursuant to this Agreement which is required to be made by the Required Lenders shall be made at a meeting of the Lenders called by the Administrative Agent pursuant to Section 10.11(l) or by a written instrument executed by the Required Lenders. Any such instrument may be executed by fax or electronic mail and in counterparts.

Section 10.4 **Exculpatory Provisions.**

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative 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 Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Loan Documents), but the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Applicable 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 Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative 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 is necessary, or as the Administrative Agent believes in good faith is necessary, under the provisions of the Loan Documents) or (ii) in the absence of its own gross negligence or wilful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing the Default is given to the Administrative Agent by the Borrower or a Lender.

(c) Except as otherwise expressly specified in this Agreement, the Administrative 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 specified in this Agreement, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 10.5 Reliance by Administrative Agent. The Administrative 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 posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative 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 a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative 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.

Section 10.6 Indemnification of Administrative Agent. Each Lender agrees to indemnify the Administrative Agent and hold it harmless (to the extent not reimbursed by the Borrower), rateably according to its applicable Percentage (and not jointly or jointly and severally) from and against any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any counsel, which may be incurred by or asserted against the Administrative Agent in any way relating to or arising out of the Loan Documents or the transactions therein contemplated. However, no Lender shall be liable for any portion of such losses, claims, damages, liabilities and related expenses resulting from the Administrative Agent's gross negligence or wilful misconduct.

Section 10.7 Delegation of Duties. The Administrative 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 Administrative Agent from among the Lenders (including the Person serving as Administrative Agent) and their respective Affiliates. The Administrative 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 provisions of this Article and other provisions of this Agreement for the benefit of the Administrative Agent shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Section 10.8 Security.

(a) Except to the extent provided in paragraph (b) and where required to be provided directly to Lenders in accordance with Applicable Law, the Security shall be granted in favour of and held by the Administrative Agent for and on behalf of the Lenders in accordance with the provisions of this Agreement. The Administrative Agent shall, in accordance with its usual practices in effect from time to time, take all steps required to perfect and maintain the Security, including: taking possession of the certificates representing the securities required to be pledged hereunder; filing renewals and change notices in respect of such Security; and ensuring that the name of the Administrative Agent is noted as loss payee or mortgagee on all property insurance policies covering the Collateral. If the Administrative Agent becomes aware of any matter concerning the Security which it considers to be material, it shall promptly inform the Lenders. The Administrative Agent shall comply with all instructions provided by the Lenders in connection with the enforcement or release of the Security which it holds. The Administrative Agent agrees to permit each Lender to review and make photocopies of the original documents comprising the Security from time to time upon reasonable notice.

(b) If any Obligor has provided Security in favour of any Lender directly except for purchase-money security interests, such Lender agrees to pay to the Administrative Agent all amounts received by it in connection with the enforcement of such Security, and all such amounts shall be deemed to constitute proceeds of realization and shall be dealt with as provided in Section 4.1. Each Lender which holds any such Security agrees that it shall not enforce such Security unless and until the Required Lenders have made a determination to enforce the Security pursuant to Section 10.3(d).

Section 10.9 Payments by Administrative Agent.

(a) The following provisions shall apply to all payments made by the Administrative Agent to the Lenders hereunder:

- (i) the Administrative Agent shall be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender until an amount in respect of such payment has been received by the Administrative Agent from the Borrower;
- (ii) if the Administrative Agent receives a payment of principal, interest, fees or other amount owing by the Borrower under any Credit Facility which is less than the full amount of any such payment due, the Administrative Agent shall distribute such amount received among the Lenders in each Lender's Percentage of such Credit Facility;
- (iii) if any Lender has advanced more or less than its Percentage of any Credit Facility, such Lender's entitlement to a payment of principal, interest, fees or other amount owing by the Borrower under such Credit Facility shall be increased or reduced, as the case may be, to reflect the amount actually advanced by such Lender;
- (iv) if a Lender's Percentage of a Credit Event under any Credit Facility has been advanced for less than the full period to which any payment by the Borrower relates, such Lender's entitlement to receive a portion of any payment of interest or fees under such Credit Facility shall be reduced in proportion to the length of time such Lender's Percentage has actually been outstanding (unless such Lender has paid all interest required to have been paid by it to the Administrative Agent pursuant to this Agreement);
- (v) the Administrative Agent acting reasonably and in good faith shall, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender is entitled and such determination shall be deemed to be prima facie correct;
- (vi) upon request, the Administrative Agent shall deliver a statement detailing any of the payments to the Lenders referred to herein;
- (vii) all payments by the Administrative Agent to a Lender hereunder shall be made to such Lender at its address set out herein unless notice to the contrary is received by the Administrative Agent from such Lender; and
- (viii) if the Administrative Agent has received a payment from the Borrower on a Business Day (not later than the time required for the receipt of such payment as set out in this Agreement) and fails to remit such payment to any Lender entitled to receive its Percentage of such payment on such Business Day, the Administrative Agent agrees to pay interest on such late payment at a rate determined by the Administrative Agent in accordance with prevailing banking industry practice on interbank compensation.

(b) The Administrative Agent may in its sole discretion from time to time make adjustments in respect of any Lender's share of a Borrowing, conversion, rollover or repayment under any Credit Facility in order that the outstanding Borrowings due to such Lender under such Credit Facility shall be approximately in accordance with such Lender's Percentage of such Credit Facility.

Section 10.10 Protection of Administrative Agent.

(a) Unless the Administrative Agent has actual knowledge or actual notice to the contrary, it may assume that each Lender's address set out in Schedule 1 attached hereto is correct, unless and until it has received from such Lender a notice designating a different address.

(b) The Administrative Agent may engage and pay for the advice or services of any lawyers, accountants or other experts whose advice or services may to it seem necessary, expedient or desirable and rely upon any advice so obtained (and to the extent that such costs are not recovered from the Borrower pursuant to this Agreement, each Lender agrees to reimburse the Administrative Agent in such Lender's Percentage of such costs so long as such advice or services were contracted with the unanimous agreement of the Lenders).

(c) Unless the Administrative Agent has actual knowledge or actual notice to the contrary, it may rely as to matters of fact which might reasonably be expected to be within the knowledge of any Obligor upon a statement contained in any Loan Document.

(d) Unless the Administrative Agent has actual knowledge or actual notice to the contrary, it may rely upon any communication or document believed by it to be genuine.

(e) The Administrative Agent may refrain from exercising any right, power or discretion vested in it under this Agreement unless and until instructed by the Required Lenders as to whether or not such right, power or discretion is to be exercised and, if it is to be exercised, as to the manner in which it should be exercised (provided that such instructions shall be required to be provided by all of the Lenders in respect of any matter for which the unanimous consent of the Lenders is required as set out herein).

(f) The Administrative Agent may refrain from exercising any right, power or discretion vested in it which would or might in its sole and unfettered opinion be contrary to any law of any jurisdiction or any directive or otherwise render it liable to any Person, and may do anything which is in its opinion in its sole discretion necessary to comply with any such law or directive.

(g) The Administrative Agent may refrain from acting in accordance with any instructions of the Required Lenders to begin any legal action or proceeding arising out of or in connection with this Agreement or take any steps to enforce or realize upon any Security, until it shall have received such security as it may reasonably require (whether by way of payment in advance or otherwise) against all costs, claims, expenses (including legal fees) and liabilities which it will or may expend or incur in complying with such instructions.

(h) The Administrative Agent shall not be bound to disclose to any Person any information relating to the Obligors or any Related Party if such disclosure would or might in its opinion in its sole discretion constitute a breach of any law or regulation or be otherwise actionable at the suit of any Person.

(i) The Administrative Agent shall not accept any responsibility for the accuracy and/or completeness of any information supplied in connection herewith or for the legality, validity, effectiveness, adequacy or enforceability of any Loan Document and shall not be under any liability to any Lender as a result of taking or omitting to take any action in relation to any Loan Document except in the case of the Administrative Agent's gross negligence or wilful misconduct.

Section 10.11 Duties of Administrative Agent. [The Administrative Agent shall:

(a) as a non-fiduciary administrative agent for the Borrower, maintain a record of the outstanding Credit Events owing to each Lender (including the interest of each Lender in all outstanding

Letters of Credit), which record shall conclusively be presumed to be correct and accurate, absent manifest error;

- (b) hold and maintain the Security to the extent provided in Section 10.8;
- (c) provide to each Lender copies of all financial information received from the Borrower promptly after receipt thereof, and copies of any Notice of Borrowing, Notice of Continuation/Conversion repayment notices and other notices received by the Administrative Agent from the Borrower upon request by any Lender;
- (d) promptly advise each Lender of any Borrowing required to be made by it hereunder and disburse all repayments to the Lenders hereunder in accordance with the terms of this Agreement;
- (e) promptly notify each Lender of the occurrence of any Default of which the Administrative Agent has actual knowledge or actual notice;
- (f) at the time of engaging any administrative agent, receiver, receiver-manager, consultant, monitor or other party in connection with the Security or the enforcement thereof, obtain the agreement of such party to comply with the applicable terms of this Agreement in carrying out any such enforcement activities and dealing with any proceeds of realization;
- (g) account for any monies received by it in connection with this Agreement, the Security and any other agreement delivered in connection herewith or therewith;
- (h) each time the Borrower requests the written consent of the Lenders in connection with any matter, use its reasonable commercial efforts to obtain and communicate to the Borrower the response of the Lenders in a reasonably prompt and timely manner having due regard to the nature and circumstances of the request;
- (i) give written notice to the Borrower in respect of any other matter in respect of which notice is required in accordance with or pursuant to this Agreement, promptly or promptly after receiving the consent of the Lenders, if required under the terms of this Agreement;
- (j) except as otherwise provided in this Agreement, act in accordance with any instructions given to it by the Required Lenders;
- (k) if so instructed by the Required Lenders, refrain from exercising any right, power or discretion vested in it under this Agreement or any document incidental thereto; and
- (l) call a meeting of the Lenders at any time not earlier than five (5) days and not later than thirty (30) days after receipt of a written request for a meeting provided by any Lender.

Section 10.12 Lenders' Obligations Several; No Partnership. ☐The obligations of each Lender under this Agreement are several. The failure of any Lender to carry out its obligations hereunder shall not relieve the other Lenders of any of their respective obligations hereunder. No Lender shall be responsible for the obligations of any other Lender hereunder. Neither the entering into of this Agreement nor the completion of any transactions contemplated herein shall constitute the Lenders a partnership.

Section 10.13 Sharing of Information. ☐The Administrative Agent and the Lenders may share among themselves any information they may have from time to time concerning the Obligors whether or not such information is confidential; but shall have no obligation to do so (except for any obligations of the Administrative Agent to provide information to the extent required in this Agreement).

Section 10.14 **Acknowledgement by Obligors.** Each Obligor hereby acknowledges notice of the terms of the provisions of this Article 10 and agrees to be bound hereby to the extent of its obligations hereunder.

Section 10.15 **Amendments to Article 10.** The Administrative Agent and the Lenders may amend any provision in this Article 10, except Sections 10.3, 10.8, 10.14, 10.15, 10.16, 10.19, 10.21, 10.22 or 10.23, without prior notice to and consent of the Borrower, and the Administrative Agent shall provide a copy of any such amendment to the Borrower reasonably promptly thereafter; provided however if any such amendment would materially adversely affect any rights, entitlements, obligations or liabilities of any of the Obligors or any of their respective Subsidiaries, such amendment shall not be effective until the Borrower provides its written consent thereto, such consent not to be unreasonably withheld or arbitrarily delayed.

Section 10.16 **Deliveries, etc.** As between the Obligors on the one hand, and the Administrative Agent and the Lenders on the other hand:

(a) all statements, certificates, consents and other documents which the Administrative Agent purports to deliver to an Obligor on behalf of the Lenders shall be binding on each of the Lenders, and none of the Obligors shall be required to ascertain or confirm the authority of the Administrative Agent in delivering such documents;

(b) all certificates, statements, notices and other documents which are delivered by an Obligor to the Administrative Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders; and

(c) all payments which are delivered by the Borrower to the Administrative Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders.

Section 10.17 **Sharing of Payments by Lenders.** If any Lender, by exercising any right of compensation, setoff or counterclaim or otherwise, obtains any payment or other reduction that might result in such Lender receiving payment or other reduction of a proportion of the aggregate amount of its Loans and accrued interest thereon or other obligations hereunder greater than its pro rata share thereof as provided herein, then the Lender receiving such payment or other reduction shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders rateably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, 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,
- (ii) the provisions of this Section shall not be construed to apply to (x) any payment made by any Obligor pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in disbursements under Letters of Credit to any assignee or participant, other than to any Obligor or any Affiliate of an Obligor (as to which the provisions of this Section shall apply); and
- (iii) the provisions of this Section shall not be construed to apply to (w) any payment made while no Event of Default has occurred and is continuing in respect of obligations of the Borrower to such Lender that do not arise under or in connection with the Loan Documents, (x) any payment made in respect of an

obligation that is secured by a Lien permitted pursuant to Section 8.2(b) hereof or that is otherwise entitled to priority over the Borrower's obligations under or in connection with the Loan Documents, (y) any reduction arising from an amount owing to an Obligor upon the termination of derivatives entered into between an Obligor and such Lender, or (z) any payment to which such Lender is entitled as a result of any form of credit protection obtained by such Lender.

The Obligors consent to the foregoing and agree, to the extent they may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Obligor rights of setoff and counterclaim and similar rights of Lenders with respect to such participation as fully as if such Lender were a direct creditor of each Obligor in the amount of such participation.

Section 10.18 L/C Issuer. ☐The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith. The L/C Issuer shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article 10 with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the Applications pertaining to such Letters of Credit as fully as if the term "**Administrative Agent**", as used in this Article 10, included the L/C Issuer with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to such L/C Issuer.

Section 10.19 Hedging Liability and Funds Transfer and Deposit Account Liability Arrangements. ☐By virtue of a Lender's execution of this Agreement or an assignment agreement pursuant to Section 12.20 of this Agreement, any Affiliate of such Lender with whom the Borrower or any other Obligor has entered into an agreement creating Hedging Liability or Funds Transfer and Deposit Account Liability shall be deemed a Lender party hereto for purposes of any reference in a Loan Document to the parties for whom the Administrative Agent is acting, it being understood and agreed that the rights and benefits of such Affiliate under the Loan Documents consist exclusively of such Affiliate's right to share in payments and collections out of the Collateral and the Guarantees as more fully set forth in Section 4.1 hereof. In connection with any such distribution of payments and collections, or any request for the release of the Administrative Agent's Liens in connection with the termination or expiration of all Credit Exposure, the Administrative Agent shall be entitled to assume no amounts are due to any Lender or its Affiliate with respect to Hedging Liability or Funds Transfer and Deposit Account Liability unless such Lender has notified the Administrative Agent in writing of the amount of any such liability owed to it or its Affiliate prior to such distribution or payment or release of Liens.

Section 10.20 Designation of Additional Agents. ☐The Administrative Agent shall have the continuing right, for purposes hereof, at any time and from time to time to designate one or more of the Lenders (and/or its or their Affiliates) as "syndication agents," "documentation agents," "book runners," "lead arrangers," "arrangers," or other designations for purposes hereto, but such designation shall have no substantive effect, and such Lenders and their Affiliates shall have no additional powers, duties or responsibilities as a result thereof.

Section 10.21 Authorization to Release or Subordinate or Limit Liens. ☐The Administrative Agent is hereby irrevocably authorized by each of the Lenders, and hereby agrees for the benefit of the Borrower, to (a) release any Lien covering any Collateral that is sold, transferred, or otherwise disposed of in accordance with the terms and conditions of this Agreement and the relevant Collateral Documents (including a sale, transfer, or disposition permitted by the terms of Section 8.2(d) hereof or which has otherwise been consented to in accordance with Section 10.3 hereof), (b) release any other Obligor from its obligations under the Loan Documents if all of the outstanding equity interests in such Obligor are sold, transferred or otherwise disposed of in accordance with the terms and conditions of this Agreement (including a sale, transfer or disposition permitted by the terms of Section 8.2(d) hereof or which has otherwise been consented to in accordance with Section 10.3 hereof), (c) release or subordinate any Lien on Collateral consisting of Property subject to Liens permitted by Section 8.2(b)(iii) hereof, (d) reduce or limit the amount of the indebtedness secured by any particular item of Collateral to an amount not less than the estimated value thereof to the extent necessary to reduce mortgage registry, filing and similar

tax, and (e) release Liens on the Collateral following termination or expiration of all Credit Exposure, payment in full in cash of all Hedging Liability and, if then overdue, payment in full in cash of all Funds Transfer and Deposit Account Liability.

Section 10.22 Authorization to Enter into, and Enforcement of, the Collateral Documents.

□The Administrative Agent is hereby irrevocably authorized by each of the Lenders to execute and deliver the Collateral Documents on behalf of each of the Lenders and their Affiliates and to take such action and exercise such powers under the Collateral Documents as the Administrative Agent considers appropriate, provided that the Administrative Agent shall not amend the Collateral Documents unless such amendment is agreed to in writing by the Required Lenders. Each Lender acknowledges and agrees that it will be bound by the terms and conditions of the Collateral Documents upon the execution and delivery thereof by the Administrative Agent. Except as otherwise specifically provided for herein, no Lender (or its Affiliates) other than the Administrative Agent shall have the right to institute any suit, action or proceeding in equity or at law for the foreclosure or other realization upon any Collateral or for the execution of any trust or power in respect of the Collateral or for the appointment of a receiver or for the enforcement of any other remedy under the Collateral Documents; it being understood and intended that no one or more of the Lenders (or their Affiliates) shall have any right in any manner whatsoever to affect, disturb or prejudice the Lien of the Administrative Agent (or any security trustee therefor) under the Collateral Documents by its or their action or to enforce any right thereunder, and that all proceedings at law or in equity shall be instituted, had, and maintained by the Administrative Agent (or its security trustee) in the manner provided for in the relevant Collateral Documents for the benefit of the Lenders and their Affiliates. The Administrative Agent, any Lender or counterparty under a Hedging Agreement may be the purchaser of any or all of the Collateral at any public sale and the Administrative Agent, as agent for and representative of the Lenders and counterparties under Hedging Agreements (but not any Lender or counterparty under a Hedging Agreement in its individual capacity), shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations (as defined in the Security Agreement) as a credit on account of the purchase price for any Collateral payable by the Administrative Agent or by or on behalf of the Lenders and counterparties under Hedging Agreements at such sale.

Section 10.23 Replacement of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, upon notice to the Borrower, to appoint a successor, which shall be a Lender having a Revolving Credit Commitment. The Administrative Agent may also be removed at any time by the Required Lenders upon 30 days' notice to the Administrative Agent and the Borrower as long as the Required Lenders, in consultation with the Borrower, appoint and obtain the acceptance of a successor within such 30 days, which shall be a Lender having a Revolving Credit Commitment.

(b) 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 Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications specified in Section 10.23(a), provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative 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 Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in the preceding paragraph.

(c) Upon a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Administrative Agent, and the former Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided in the preceding paragraph). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the termination of the service of the former Administrative Agent, the provisions of this Section 10.23 and of Section 12.8 shall continue in effect for the benefit of such former Administrative 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 former Administrative Agent was acting as Administrative Agent.

Section 10.24 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon the Administrative Agent or any other 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 the L/C Issuer also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other 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.

Section 10.25 Collective Action of the Lenders. Each of the Lenders hereby acknowledges that to the extent permitted by Applicable Law, any collateral security and the remedies provided under the Loan Documents to the Lenders are for the benefit of the Lenders collectively and acting together and further acknowledges that its rights hereunder and under any collateral security are to be exercised by the Administrative Agent upon the decision of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Loan Documents). Accordingly, notwithstanding any of the provisions contained herein or in any collateral security, each of the Lenders hereby covenants and agrees that it shall not be entitled to take any action hereunder or thereunder including, without limitation, any declaration of default hereunder or thereunder but that any such action shall be taken only by the Administrative Agent with the prior written agreement of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Loan Documents). Each of the Lenders hereby further covenants and agrees that upon any such written agreement being given, it shall co-operate fully with the Administrative Agent to the extent requested by the Administrative Agent. Notwithstanding the foregoing, in the absence of instructions from the Lenders and where in the sole opinion of the Administrative Agent, acting reasonably and in good faith, the exigencies of the situation warrant such action, the Administrative Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the interest of the Lenders.

ARTICLE 11. CHANGE IN CIRCUMSTANCES.

Section 11.1 Increased Costs.

- (a) *Increased Costs Generally.* If any Change in Law shall:
- (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge 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, any Letter of Credit, any participation in a Letter of Credit or any Loan 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, or any change in the rate, of any Excluded Tax payable by such Lender; or

- (iii) impose on any Lender or any applicable interbank market any other condition, cost or expense affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount), then upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered; provided that the implementation of Basel III or any other change in capital adequacy rules to which any Lender is at the date hereof subject or to the risk weighting for capital adequacy for the purposes or the provision of the Credit Facilities or any commitment to provide or participate in the Credit Facilities shall be deemed to be a Change in Law, regardless of the date enacted, adopted, issued, implemented or taking effect.

(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 Loans made by, or the Letters of Credit issued or participated in by such Lender, to a level below that which such Lender or its holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of its 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 its 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, including reasonable detail of the basis of calculation of the amount or amounts, and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay to 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 shall not constitute a waiver of such Lender's right to demand such compensation, except that the Borrower shall not be required to compensate a Lender pursuant to this Section 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 therefore, unless the Change in Law giving rise to such increased costs or reductions is retroactive, in which case the nine-month period referred to above shall be extended to include the period of retroactive effect thereof.

Section 11.2 **Taxes.**

(a) *Payments Subject to Taxes.* If any Obligor, the Administrative Agent, or any Lender is required by Applicable Law to deduct or pay any Indemnified Taxes (including any Other Taxes) in respect of any payment by or on account of any obligation of an Obligor hereunder or under any other Loan Document, then (i) the sum payable shall be increased by that Obligor when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or payments been required, (ii) that Obligor shall make any such deductions required to be made by it

under Applicable Law and (iii) that Obligor shall timely pay the full amount required to be 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 Administrative 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 Administrative Agent or such Lender 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 Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of such 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 an Obligor to a Governmental Authority, such Obligor shall deliver to the Administrative 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 Administrative 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, at the request of the Borrower, deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative 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, (a) any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to withholding or information reporting requirements, and (b) any Lender that ceases to be, or to be deemed to be, resident in Canada for purposes of Part XIII of the *Income Tax Act* (Canada) or any successor provision thereto shall within five (5) days thereof notify such Borrower and the Administrative Agent in writing.

(f) *Treatment of Certain Refunds and Tax Reductions.* If the Administrative 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 an Obligor has paid additional amounts pursuant to this Section or that, because of the payment of such Taxes or Other Taxes, it has benefited from a reduction in Excluded Taxes otherwise payable by it, it shall pay to the Borrower or Obligor, as applicable, an amount equal to such refund or reduction (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower or Obligor under this Section with respect to the Taxes or Other Taxes giving rise to such refund or reduction), net of all out-of-pocket expenses of the Administrative Agent or such Lender, as the case may be, and without interest (other than any net after-Tax interest paid by the relevant Governmental Authority with respect to such refund). The Borrower or Obligor as applicable, upon the request of the Administrative Agent or such Lender agrees to repay the amount paid over to the Borrower or Obligor (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender if the Administrative Agent or such Lender is required to repay such refund or reduction to such Governmental Authority. This paragraph shall not be construed to require the Administrative Agent or any Lender 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, to arrange its affairs in any particular manner or to claim any available refund or reduction.

Section 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 any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 11.2, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans 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, if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 11.2, if any Lender's obligations are suspended pursuant to Section 11.4 or if any Lender defaults in its obligation to fund Loans hereunder, then the Borrower may, at its sole expense and effort, upon 10 days' notice to such Lender and the Administrative 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 12.20 of this Agreement), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (i) the Borrower pay the Administrative Agent the assignment fee specified in Section 12.20(b)(vi);
- (ii) the assigning Lender receives payment of an amount equal to the outstanding principal of its Loans and participations in disbursements under Letters of Credit, 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; and
- (iv) such assignment does not conflict with Applicable Law.

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.

Section 11.4 **Illegality.** If any Lender determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable lending office to make or maintain any Loan (or to maintain its obligation to make any Loan), or to participate in, issue or maintain any Letter of Credit (or to maintain its obligation to participate in or to issue any Letter of Credit), or to determine or charge interest rates based upon any particular rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender with respect to the activity that is unlawful shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if conversion would avoid the activity that is unlawful, convert any Loans, or take any necessary steps with respect to any Letter of Credit in order to avoid the activity that is

unlawful. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a different lending office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

Section 11.5 Inability to Determine Rates Etc. If the Required Lenders determine that for any reason a market for Bankers' Acceptances does not exist at any time or the Lenders cannot for other reasons, after reasonable efforts, readily sell Bankers' Acceptances or perform their other obligations under this Agreement with respect to Bankers' Acceptances, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the Borrower's right to request the acceptance of Bankers' Acceptances shall be and remain suspended until the Required Lenders determine and the Administrative Agent notifies the Borrower and each Lender that the condition causing such determination no longer exists. If the Required Lenders determine that for any reason adequate and reasonable means do not exist for determining LIBOR for any requested Interest Period with respect to a proposed LIBOR Loan, or a LIBOR Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBOR Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a borrowing, conversion or continuation of LIBOR Loans or, failing that, will be deemed to have converted such request into a request for a borrowing of Base Rate Loans in the amount specified therein.

Section 11.6 Inability to Fund U.S. Dollar Advances in Canada. If a Lender determines in good faith, which determination shall be final, conclusive and binding on the Borrower, and the Administrative Agent notifies the Borrower that (i) by reason of circumstances affecting financial markets inside or outside Canada, deposits of United States dollars are unavailable to such Lender in Canada, (ii) adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided in the definition of LIBOR or Base Rate, as the case may be, (iii) the making or continuation of United States Dollar advances in Canada has been made impracticable by the occurrence of a contingency (other than a mere increase in rates payable by such Lender to fund the advance) which materially and adversely affects the funding of the advances at any interest rate computed on the basis of LIBOR or Base Rate, as the case may be, or by reason of a change in any Applicable Law or government regulation, guideline or order (whether or not having the force of law but, if not having the force of law, one with which a responsible bank would comply) or in the interpretation thereof by any Governmental Authority affecting such Lender or any relevant financial market, which results in LIBOR or Base Rate, as the case may be, no longer representing the effective cost to such Lender of deposits in such market for a relevant Interest Period, or (iv) any change to present law or any future law, regulation, order, treaty or official directive (whether or not having the force of law but, if not having the force of law, one with which a responsible bank would comply) or any change therein or any interpretation or application thereof by any Governmental Authority has made it unlawful for such Lender to make or maintain or give effect to its obligations in respect of United States Dollar advances in Canada as contemplated herein, then:

- (i) the right of the Borrower to obtain any affected type of credit from such Lender shall be suspended until such Lender determines that the circumstances causing such suspension no longer exist and the Administrative Agent so notifies the Borrower and the other Lenders;
- (ii) if any affected type of credit is not yet outstanding, any applicable Notice of Borrowing or Notice of Continuation/Conversion shall be cancelled and the advance requested therein shall not be made;
- (iii) if any LIBOR Loan is already outstanding at any time when the right of the Borrower to obtain extensions of credit by way of a LIBOR Loan is suspended, it shall, subject to the Borrower having the right to obtain credit by way of a Base Rate Loan at such time, be converted on the last day of the Interest Period applicable thereto (or on such earlier date as may be required to comply with any

Applicable Law) to a Base Rate Loan in the principal amount equal to the principal amount of the LIBOR Loan or, if the Borrower do not have the right to obtain credit by way of a Base Rate Loan at such time, such LIBOR Loan shall be converted on the last day of the Interest Period applicable thereto (or on such earlier date as may be required to comply with any Applicable Law) to a Prime Rate Loan in the principal amount equal to the Equivalent Amount of Canadian Dollars of the principal amount of such LIBOR Loan; and

- (iv) if any Base Rate Loan is already outstanding at any time when the right of the Borrower to obtain credit by way of a Base Rate Loan is suspended, it shall, subject to the Borrower having the right to obtain extension of credit by way of a LIBOR Loan at such time, be immediately converted to a LIBOR Loan in the principal amount equal to the principal amount of the Base Rate Loan and having an Interest Period of one month or, if the Borrower does not have the right to obtain credit by way of a LIBOR Loan at such time, it shall be immediately converted to a Prime Rate Loan in the principal amount equal to the Equivalent Amount of Canadian Dollars of the principal amount of the Base Rate Loan.

If the Borrower is notified by the Administrative Agent as aforesaid, then the Borrower may indicate to the Administrative Agent in writing that it desires to replace the aforesaid Lender and, in such event, the provisions of Section 2.17 shall apply *mutatis mutandis* to such Lender as if such Lender were the Affected Lender.

ARTICLE 12. MISCELLANEOUS.

Section 12.1 No Waiver, Cumulative Remedies. No delay or failure on the part of the Administrative Agent or any Lender or on the part of the holder or holders of any of the Obligations in the exercise of any power or right under any Loan Document shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Administrative Agent, the Lenders and of the holder or holders of any of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

Section 12.2 Non Business Days. If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment shall be extended to the next succeeding Business Day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 12.3 Documentary Taxes. The Borrower agrees to pay any documentary, stamp or similar taxes payable in respect of this Agreement or any other Loan Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

Section 12.4 Survival of Indemnities. All indemnities and other provisions in this Agreement relative to reimbursement to the Lenders of amounts sufficient to protect the yield of the Lenders with respect to the Loans and Letters of Credit, shall survive the termination of this Agreement and the other Loan Documents and the payment of the Obligations.

Section 12.5 Environmental Indemnity. In addition to any other liability of the Borrower hereunder, the Borrower hereby agrees to indemnify and save harmless the Indemnitees from and against:

- (a) any losses suffered by the Indemnitees for, in connection with, or as a direct or indirect result of, the failure of any Obligor to comply with all requirements of Environmental Law;
- (b) any losses suffered by the Indemnitees for, in connection with, or as a direct or indirect result of, the inaccuracy or breach of any environmental representation, warranty or covenant by the Borrower or any other Obligor made herein or in any other Loan Document evidencing or securing any Obligations or setting forth terms and conditions applicable thereto or otherwise relating thereto;
- (c) any losses suffered by the Indemnitees for, in connection with, or as a direct or indirect result of, the presence of any Hazardous Material situated in, on or under any property owned, leased, occupied, managed or controlled by any of the Obligors; and
- (d) any and all liabilities, losses, damages, penalties, expenses (including reasonable legal fees) and claims which may be paid, incurred or asserted against the Indemnitees for, in connection with, or as a direct or indirect result of, any legal or administrative proceedings with respect to the presence of any Hazardous Material on or under any property owned, leased, occupied, managed or controlled by any of the Obligors, or the Release, presence or threatened Release of any Hazardous Material into or upon any such property, the atmosphere, or any watercourse or body of water; including the costs of defending and/or counterclaiming or claiming over against third parties in respect of any such claims or matters and any cost, liability or damage arising out of a settlement entered into by the Indemnitees of any such claims or matters;

except to the extent arising from the gross negligence or wilful misconduct of such Indemnitees.

Section 12.6 Notices. Except as otherwise specified herein, all notices hereunder and under the other Loan Documents shall be in writing (including, without limitation, notice by facsimile or electronic mail) and shall be given to the relevant party at its address, facsimile number or email address set forth below, or such other address, facsimile number or email address as such party may hereafter specify by notice to the Administrative Agent and the Borrower, by courier, by certified or registered mail, by facsimile or electronic mail or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices under the Loan Documents to any Lender shall be addressed to its address, facsimile number or email address set forth on its Administrative Questionnaire; and notices under the Loans Documents to the Borrower, any Guarantor or the Administrative Agent shall be addressed to their respective addresses, facsimile numbers or email addresses set forth below:

If to the Borrower or any other Obligor:

1660 Tech Ave., Unit 5
Mississauga, Ontario, L4W 5S7

Attention: Danny Brannagan, Chief Financial Officer
Email: DBrannagan@covalon.com

If to the Administrative Agent:

HSBC Bank Canada
4550 Hurontario Street,
Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
Email: maximilian.p.smith@hsbc.ca

If to HSBC, as Lender:

HSBC Bank Canada
 4550 Hurontario Street,
 Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
 Email: maximilian.p.smith@hsbc.ca

Each such notice, request or other communication shall be effective (i) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section or in the relevant Administrative Questionnaire and a confirmation of such facsimile has been received by the sender, (ii) if given by mail, five (5) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if given by electronic mail, one (1) Business Day after such electronic mail is sent, or (iv) if given by any other means, when delivered at the addresses specified in this Section or in the relevant Administrative Questionnaire; provided that any notice given pursuant to Article 2 hereof shall be effective only upon receipt.

Section 12.7 **Headings.** Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

Section 12.8 **Costs and Expenses; Indemnification.**

(a) The Borrower agrees to pay all reasonable, reasonably itemized, out-of-pocket costs and expenses of the Administrative Agent in connection with the preparation, negotiation, syndication, and administration of the Loan Documents, including, without limitation, the reasonable fees and disbursements of counsel to the Administrative Agent in connection with the preparation and execution of the Loan Documents, and any amendment, waiver or consent related thereto, whether or not the transactions contemplated herein are consummated, together with any fees and charges suffered or incurred by the Administrative Agent in connection with title insurance policies, collateral filing fees and lien searches. The Borrower agrees to pay to the Administrative Agent, all costs and expenses reasonably incurred or paid by the Administrative Agent, including reasonable legal fees and disbursements and court costs, in connection with any amount payable under Section 2.6(e) hereof and in connection with any Default or Event of Default hereunder or in connection with the enforcement of any of the Loan Documents (including all such costs and expenses incurred by the Administrative Agent, any receiver, receiver-manager, agent or consultant in connection with any proceeding under or pursuant to any Insolvency Legislation involving the Borrower or any other Obligor as a debtor thereunder). The Borrower further agrees to indemnify the Administrative Agent, each Lender, the L/C Issuer, each Affiliate of a Lender, and any security trustee therefor, and their respective directors, officers, employees, agents, financial advisors, and consultants (each such Person being called an "**Indemnitee**") against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, all reasonable fees and disbursements of counsel for the Administrative Agent only and all reasonable expenses of litigation or preparation therefor, whether or not the Indemnitee is a party thereto, or any settlement arrangement arising from or relating to any such litigation) which any of them may pay or incur arising out of or relating to any Loan Document or any of the transactions contemplated thereby or the direct or indirect application or proposed application of the proceeds of any Loan or Letter of Credit, other than those which arise from the gross negligence or wilful misconduct of the party claiming indemnification or the final judicial determination of a breach by the party claiming indemnification of its express obligations under the Loan Documents. The Borrower, upon demand by the Administrative Agent at any time, shall reimburse the Administrative Agent for any legal or other expenses (including, without limitation, all reasonable fees and disbursements of counsel for any such Indemnitee) in connection with investigating or defending against any of the foregoing (including any settlement costs relating to the foregoing) except if the same is directly due to the gross negligence or wilful misconduct of the party to be indemnified or the final judicial determination of a breach by the party to be indemnified of its express obligations under the Loan Documents. To the extent permitted by Applicable Law, neither the Borrower nor any Guarantor shall assert, and each such Person 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 or the other Loan Documents or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. The obligations of the Borrower under this Section shall survive the termination of this Agreement.

(b) The Borrower unconditionally agrees to forever indemnify, defend and hold harmless, and covenants not to sue for any claim for contribution against, each Indemnitee for any damages, costs, loss or expense, including without limitation, response, remedial or removal costs and all fees and disbursements of counsel to any such Indemnitee, arising out of any claim for personal injury or property damage in connection with the Borrower or any other Obligor or otherwise occurring on or with respect to its Property (whether owned or leased), except for damages, costs, losses or expenses arising from the gross negligence or wilful misconduct of the party claiming indemnification or the final judicial determination of a breach by the party claiming indemnification of its express obligations under the Loan Documents. This indemnification shall survive the payment and satisfaction of all Obligations and the termination of this Agreement, and shall remain in force beyond the expiration of any applicable statute of limitations and payment or satisfaction in full of any single claim under this indemnification. This indemnification shall be binding upon the successors and assigns of the Borrower and shall inure to the benefit of each Indemnitee and its successors and assigns.

Section 12.9 Set off. In addition to any rights now or hereafter granted under the Loan Documents or Applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, each Lender, each L/C Issuer, each subsequent holder of any Obligation, and each of their respective affiliates, is hereby authorized by the Borrower and each Guarantor at any time or from time to time, upon providing written notice to the Administrative Agent, but without notice to the Borrower, any Guarantor or to any other Person other than the Administrative Agent, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including, but not limited to, indebtedness evidenced by certificates of deposit, whether matured or unmatured, and in whatever currency denominated, but not including trust accounts) and any other indebtedness at any time owing by that Lender, L/C Issuer, subsequent holder, or affiliate, to or for the credit or the account of the Borrower, or such Guarantor, whether or not matured, against and on account of the overdue Obligations of the Borrower, or such Guarantor to that Lender, L/C Issuer, or subsequent holder under the Loan Documents, including, but not limited to, all claims of any nature or description arising out of or connected with the Loan Documents, irrespective of whether or not (a) that Lender, L/C Issuer, or subsequent holder shall have made any demand hereunder or (b) the principal of or the interest on the Loans and other amounts due hereunder shall have been accelerated pursuant to Article 9 hereof.

Section 12.10 Entire Agreement and Conflicts. The Loan Documents constitute the entire understanding of the parties thereto with respect to the subject matter thereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. To the extent that there is a conflict or an inconsistency between the provisions of this Agreement and the provisions of any other Loan Document, the provisions of this Agreement shall govern and prevail.

Section 12.11 Governing Law. This Agreement and the other Loan Documents (except as otherwise specified therein), and the rights and duties of the parties hereto, shall be construed and determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Section 12.12 Submission to Jurisdiction. Each Obligor irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the Province of Ontario, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions

by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Obligor or its properties in the courts of any jurisdiction.

Section 12.13 Waiver of Venue. Each Obligor irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in Section 12.12 above. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 12.14 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER 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 PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 12.15 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 and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in the conditions precedent Section(s) of this Agreement, this Agreement shall become effective when it has been executed by the Administrative Agent and when the Administrative Agent has received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) *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, including Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada) and other similar federal or provincial laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or its Uniform Electronic Evidence Act, as the case may be.

Section 12.16 Severability of Provisions. Any provision of any Loan Document which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement and the other Loan Documents may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement and other Loan Documents are intended to be subject to all applicable mandatory provisions of law which may

be controlling and to be limited to the extent necessary so that they will not render this Agreement or the other Loan Documents invalid or unenforceable.

Section 12.17 Excess Interest. □Notwithstanding any provision to the contrary contained herein or in any other Loan Document, no such provision shall require the payment or permit the collection of any amount of interest in excess of the maximum amount of interest permitted by Applicable Law (including Section 347 of the Criminal Code (Canada) and Section 8 of the *Interest Act* (Canada)) to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the Loans or other obligations outstanding under this Agreement or any other Loan Document ("**Excess Interest**"). If any Excess Interest is provided for, or is adjudicated to be provided for, herein or in any other Loan Document, then in such event (a) the provisions of this Section shall govern and control, (b) neither the Borrower nor any guarantor or endorser shall be obligated to pay any Excess Interest, (c) any Excess Interest that the Administrative Agent or any Lender may have received hereunder shall, at the option of the Administrative Agent, be (i) applied as a credit against the then outstanding principal amount of Obligations hereunder and accrued and unpaid interest thereon (not to exceed the maximum amount permitted by Applicable Law), (ii) refunded to the Borrower, or (iii) any combination of the foregoing, (d) the interest rate payable hereunder or under any other Loan Document shall be automatically subject to reduction to the maximum lawful contract rate allowed under applicable usury laws (the "**Maximum Rate**"), and this Agreement and the other Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in the relevant interest rate, and (e) neither the Borrower nor any guarantor or endorser shall have any action against the Administrative Agent or any Lender for any damages whatsoever arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any of the Borrower's Obligations is calculated at the Maximum Rate rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on the Borrower's Obligations shall remain at the Maximum Rate until the Lenders have received the amount of interest which such Lenders would have received during such period on the Borrower's Obligations had the rate of interest not been limited to the Maximum Rate during such period.

Section 12.18 Construction. □The parties acknowledge and agree that the Loan Documents shall not be construed more favourably in favour of any party hereto based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation of the Loan Documents. The provisions of this Agreement relating to Subsidiaries shall only apply during such times as the Borrower has one or more Subsidiaries.

Section 12.19 Lenders' Obligations. □No Lender shall be responsible for a Commitment for any other Lender. The obligation of each Lender to make its Commitment available to the Borrower is a separate obligation between each applicable Lender and the Borrower, and that obligation is not the solidary or joint and several obligation of any other Lender. Nothing contained in this Agreement and no action taken by the Lenders pursuant hereto shall be deemed to constitute the Lenders a partnership, association, joint venture or other entity.

Section 12.20 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 no Obligor may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (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 paragraph (d) of this Section and, to the extent expressly

contemplated hereby, the Related Parties of each of the Administrative 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 Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that:

- (i) except if an Event of Default has occurred and is continuing or in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Commitment being assigned (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loan 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 Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000, unless each of the Administrative Agent and, so long as no Default has occurred and is continuing, the Borrower otherwise consents to a lower amount (each such consent not to be unreasonably withheld or delayed);
- (ii) 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 Loan 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 credits on a non-pro rata basis;
- (iii) any assignment of a Commitment relating to a credit under which Letters of Credit may be issued must be approved by the L/C Issuer (such approval not to be unreasonably withheld or delayed) unless the Person that is the proposed assignee is itself already a Lender with a Commitment under that credit;
- (iv) any assignment must be approved by the Administrative Agent (such approval not to be unreasonably withheld or delayed);
- (v) any assignment must be approved by the Borrower (such approval not to be unreasonably withheld or delayed) unless the proposed assignee is itself already a Lender or an Affiliate thereof or a Default or Event of Default has occurred and is continuing; and
- (vi) each Assignee shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of Three Thousand Five Hundred Dollars (\$3,500) or the Equivalent Amount thereof, and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible 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 other Loan Documents, including any collateral security, 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, Section 12.5 and Section 12.8, and shall continue

to be liable for any breach of this Agreement by such Lender, with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section. Any payment by an assignee to an assigning Lender in connection with an assignment or transfer shall not be or be deemed to be a repayment by the Borrower or a new Loan to the Borrower.

(c) Register. The Administrative Agent shall maintain at its office 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 Loans 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 Administrative Agent and the Lenders may 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, notwithstanding notice to the contrary. 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 Administrative Agent, sell participations to any Person (other than a natural person, an Obligor or any Affiliate of an Obligor) (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 Loans 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 Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Voting rights of Participants as between a Participant and a Lender in the relevant participation agreement shall (i) be limited to matters in respect of (a) increases in Commitments of the relevant Lender, (b) reductions of principal, interest or fees payable to such Lender, (c) extensions of final maturity or scheduled amortizations of Loans or Commitments in which such Participant participates and (d) releases of all or substantially all of the value of the Security, and (ii) for clarification purposes, shall not include the right to vote on waivers of Defaults or Events of Default. Any payment by a Participant to a Lender in connection with a sale of a participation shall not be or be deemed to be a repayment by the Borrower or a new Loan to the Borrower.

Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of and be bound by the obligations under Sections 11.1, 11.2 and 11.3, to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 12.9 as though it were a Lender, provided such Participant agrees to be subject to Section 10.17 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 and, in connection with such sale, the Borrower specifically agrees that it will make greater payments than the applicable Lender would have been entitled to receive. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Sections 11.1 or 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) and Section 11.3 or 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, but no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 12.21 Confidentiality. Each of the Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors to the extent any such Person has a need to know such Information (it being understood that the Persons to whom such disclosure is made will first be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any governmental or regulatory authority, (c) to the extent required by Applicable Laws or regulations or by any subpoena, court order 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 suit, 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, to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement, (g) subject to an agreement containing provisions substantially the same as those of this Section, to any pledgee of a Lender, in respect of a pledge permitted by Section 12.20(f) of this Agreement, (h) subject to an agreement containing provisions substantially the same as this Section, to any Lender's equity investors, (i) with the prior written consent of the Borrower, (j) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section or (B) becomes available to the Administrative Agent, any Lender or the L/C Issuer on a non-confidential basis from a source other than the Borrower or any other Obligor or any of their directors, officers, employees or agents, including accountants, legal counsel and other advisors, (k) to rating agencies if requested or required by such agencies in connection with a rating relating to the Loans or Commitments hereunder, (l) subject to an agreement containing provisions substantially the same as those of this Section 12.21, to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligation under this Agreement, or (m) to entities which compile and publish information about the syndicated loan market, provided that only basic information about the pricing and structure of the transaction evidenced hereby may be disclosed pursuant to this subsection (m). For purposes of this Section, "**Information**" means all information received from the Borrower or any of the other Obligors or from any other Person on behalf of the Borrower or any other Obligor relating to the Borrower or any other Obligor or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the L/C Issuer on a non-confidential basis prior to disclosure by the Borrower or any of the other Obligors or from any other Person on behalf of the Borrower or any of the other Obligors. This Section 12.21 shall survive for one (1) year after the termination of all of the Commitments and the payment of all Obligations due hereunder.

Notwithstanding any contrary provision of this Section 12.21, each Lender shall have the right to publicize its participation in the Loans and the transactions contemplated in this Agreement and the other Loan Documents through industry standard methods including, without limitation, tombstone advertisements and press releases. Prior to any publication, such Lender will secure the Borrower's approval of the form and content of publication, which will not be unreasonably withheld.

Section 12.22 Canadian 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 Canadian anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws (collectively, including any guidelines or orders thereunder, "**AML Legislation**"), the Lenders, the L/C Issuer and the Administrative Agent may be required to obtain, verify and record information regarding the Borrower and its directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby and in that regard, without limiting the generality of the foregoing, may require that the authorized signing officers of the Borrower who will be signing this Agreement, and other Loan Documents (each, a "**signatory**") shall have made themselves available to the Administrative Agent in person, and shall have produced to the Administrative Agent a minimum of two unexpired identification documents (at least one of which must be a birth certificate, driver's license, passport, provincial health insurance card, if permitted by the applicable provincial law, or other government-issued document) and permitted examination and the making of copies of same with a view to the Administrative

Agent gathering the full names of, and the dates of birth of each such signatory, the type of identification document examined, the reference numbers of each of the identification documents examined (collectively, the "**Personal Information**") and such Personal Information (together with photocopies of each identification document examined) shall have been provided to the Administrative Agent on or prior to the Closing Date. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender, the L/C Issuer or the Administrative Agent, or any prospective assignee or participant of a Lender, the L/C Issuer or the Administrative Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

(b) If the Administrative Agent has ascertained the identity of the Borrower or any authorized signatories of the Borrower for the purposes of applicable AML Legislation, then the Administrative Agent:

- (i) shall be deemed to have done so as an agent for each Lender and the L/C Issuer (and to hold on behalf of the Lenders and the L/C Issuer for their review upon reasonable request from time to time), and this Agreement shall constitute a "written agreement" in such regard between each Lender, the L/C Issuer and the Administrative Agent within the meaning of the applicable AML Legislation; and
- (ii) shall provide to each Lender and the L/C Issuer copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders and the L/C Issuer agrees that the Administrative Agent does not have any obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender or the L/C Issuer, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any such authorized signatory in doing so.

Section 12.23 **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 name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the *Patriot Act*.

[SIGNATURE PAGES TO FOLLOW]

This Credit Agreement is entered into between us for the uses and purposes hereinabove set forth as of the date first above written.

BORROWER:

COVALON TECHNOLOGIES LTD.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

GUARANTORS:

COVALON TECHNOLOGIES INC.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

COVALON HEALTHCARE INC.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

COVALON TECHNOLOGIES HOLDINGS (USA), LTD.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

COVALON TECHNOLOGIES (USA), LTD.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

COVALON TECHNOLOGIES AG, LTD.

By: [signed: Brian Pedlar]

Name:

Title:

By: [signed: Danny Branagan]

Name:

Title:

COVALON TECHNOLOGIES (EUROPE) LTD.

By: [signed: Brian Pedlar]

Name:

Title:

HSBC BANK CANADA, as Administrative Agent

By: [signed]

Name:

Title:

By: [signed]

Name:

Title:

HSBC BANK CANADA, as a Lender

By: [signed]

Name:

Title:

By: [signed]

Name:

Title:

EXHIBIT A

Form of Notice of Payment Request

[Date]

[Name of Lender]

[Address]

Attention:

Reference is made to the Credit Agreement, dated as of August 9, 2018 between *inter alia* Covalon Technologies Ltd., the Lenders party thereto, and HSBC Bank Canada, as Administrative Agent (as extended, renewed, amended or restated from time to time, the "**Credit Agreement**"). Capitalized terms used herein and not defined herein have the meanings assigned to them in the Credit Agreement. **[The Borrower has failed to pay its Reimbursement Obligation in the amount of \$_____.** Your Guarantee Loan Percentage of the unpaid Reimbursement Obligation is \$_____] or [_____ has been required to return a payment by the Borrower of a Reimbursement Obligation in the amount of \$_____. Your Guarantee Loan Percentage of the returned Reimbursement Obligation is \$_____.]

Very truly yours,

HSBC BANK CANADA,
as L/C Issuer

By: _____
Name:
Title:

EXHIBIT B

Form of Notice of Borrowing

Date: _____, _____

HSBC Bank Canada
As Administrative Agent for the Lenders party
to the Credit Agreement referred to below

4550 Hurontario Street,
Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
Email: maximilian.p.smith@hsbc.ca

Ladies and Gentlemen:

The undersigned, Covalon Technologies Ltd. (the "**Borrower**"), refers to the Credit Agreement dated as of August 9, 2018 (as extended, renewed, amended or restated from time to time, the "**Credit Agreement**"), between *inter alia*, the Borrower, the Lenders signatory thereto, and you, as Administrative Agent, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 2.9(a) of the Credit Agreement, of the Borrowing requested below (the "**Proposed Borrowing**"):

1. The Business Day of the Proposed Borrowing is _____, ____.
2. The aggregate amount of the Proposed Borrowing is \$ _____.
3. The Proposed Borrowing is being advanced under the **[Revolving/Acquisition/Guarantee]** Credit Facility.
4. The Proposed Borrowing is to be comprised of \$ _____ of **[Prime Rate] [Bankers' Acceptances] [BA Equivalent Notes] [Base Rate][LIBOR]** Loans.
5. **[The Interest Period for the [Bankers' Acceptances] [BA Equivalent Loans] [LIBOR Loan] included in the Proposed Borrowing shall be _____ [months/days] and the last day thereof shall be _____.]**
6. The proceeds of the Proposed Borrowing shall be deposited in the following account:
Bank: _____
ABA/SWIFT: _____
Account Name: _____
Account Number: _____
Reference: _____

The undersigned hereby certifies on behalf of the Borrower that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing, before and after giving effect thereto and to the application of the proceeds therefrom:

- (a) the representations and warranties of the Borrower and each of the Obligors contained in Article 6 of the Credit Agreement are true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) as though made on and as of such date (except to the extent such representations and warranties relate to an earlier date, in which case they were true and correct in all material respects as of such date); and
- (b) no Default or Event of Default has occurred and is continuing or would result from such Proposed Borrowing.

Very truly yours,

COVALON TECHNOLOGIES LTD.

By: _____
Name:
Title:

EXHIBIT C

Form of Notice of Continuation/Conversion

Date: _____, _____

HSBC Bank Canada
As Administrative Agent for the Lenders party
to the Credit Agreement referred to below
4550 Hurontario Street,
Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
Email: maximilian.p.smith@hsbc.ca

Ladies and Gentlemen:

The undersigned, Covalon Technologies Ltd. (the "**Borrower**"), refers to the Credit Agreement dated as of August 9, 2018 (as extended, renewed, amended or restated from time to time, the "**Credit Agreement**"), between *inter alios*, Covalon Technologies Ltd., the Lenders signatory thereto, and you, as Administrative Agent, the terms defined therein being used herein as therein defined, and hereby gives you notice irrevocably, pursuant to Section 2.9 of the Credit Agreement, that it elects to (a) continue a [**LIBOR**] [**Bankers' Acceptance**] Loan or a portion thereof; (b) convert a [**LIBOR**] Loan [**or Bankers' Acceptance**] or a portion thereof into a [**Prime Rate**] [**Bankers' Acceptance**] [**Base Rate**] [**LIBOR**] Loan; or (c) convert a [**Prime Rate**] [**Bankers' Acceptance**] [**Base Rate**] [**LIBOR**] Loan or a portion thereof into a [**Prime Rate**] [**Bankers' Acceptance**] [**Base Rate**] [**LIBOR**] Loan and sets forth below the terms on which such conversion or continuation is requested to be made:

1. The proposed conversion or continuation date is _____, _____ (the "**Date of Conversion**").
2. The aggregate amount of the [**Revolving Credit Facility/Acquisition Credit Facility/Guarantee Credit Facility**] Loans to be [**converted**] [**continued**] is \$_____.
3. The Loans are to be [**converted into**] [**continued as**] [**Prime Rate**] [**Bankers' Acceptance**] [**Base Rate**] [**LIBOR**] Loans.
4. [**If applicable: The Interest Period for the [Revolving Credit Facility/Acquisition Credit Facility/ Guarantee Credit Facility] Loans included in the [conversion] [continuation] shall be _____ [days/months].**]

The undersigned hereby certifies on behalf of the Borrower that on the date hereof, and on the Date of Conversion, before and after giving effect thereto no Default or Event of Default has occurred and is continuing, or would result from such proposed conversion or continuation.

- (a) the representations and warranties of the Borrower and each of the Obligors contained in Article 6 of the Credit Agreement are true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) as though made on and as of such date (except to the extent such representations and warranties relate to an earlier date, in which case they were true and correct in all material respects as of such date); and
- (b) no Default or Event of Default has occurred and is continuing or would result from such Proposed Borrowing.

Very truly yours,

COVALON TECHNOLOGIES LTD.

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT D

Form of Compliance Certificate

[Date]

HSBC Bank Canada, as Administrative Agent
4550 Hurontario Street,
Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
Email: maximilian.p.smith@hsbc.ca

Reference is made to the Credit Agreement, dated as of August 9, 2018, between, *inter alia*, COVALON TECHNOLOGIES LTD., the Lenders party thereto, and HSBC Bank Canada, as Administrative Agent (as extended, renewed, amended or restated from time to time, the "**Credit Agreement**"). Unless otherwise defined herein or the context otherwise requires, capitalized terms used herein, which are defined in the Credit Agreement have the respective meanings provided in the Credit Agreement.

The undersigned, [name] solely in my capacity as [designated officer] of the Borrower and without any personal liability, after making due enquiry, hereby certifies to the Administrative Agent and to each of the Lenders that the following is true and correct as of the date hereof:

1. The Borrower is in compliance with the covenants set forth in Article 8 of the Credit Agreement and all representations and warranties of the Obligors set out in Article 6 of the Credit Agreement are true and correct as of the date hereof unless made as of a specified date.
2. As of [●], 20[●], the date of the last day of the most recent Fiscal Quarter (the "**Quarter End Date**") no Default or Event of Default has occurred and is continuing. **[or if a Default has occurred, specify such Default or Event of Default and state what action, if any, the Borrower is taking or causing to be taken in connection therewith]**
3. The Fixed Charge Coverage Ratio of the Borrower on a Consolidated basis as of the Quarter End Date is _____ to _____, calculated in accordance with the Credit Agreement, such calculation summarized in the attached Exhibit.
4. The Fixed Charge Coverage Ratio of the Borrower on a Consolidated basis as at the Quarter End Date pursuant to Section 8.4(a) of the Credit Agreement must be greater than 1.25:1.
5. The Senior Funded Debt to EBITDA Ratio of the Borrower on a Consolidated basis as at the Quarter End Date is _____ to _____, calculated in accordance with the Credit Agreement, such calculation summarized in the attached Exhibit.
6. The Senior Funded Debt to EBITDA Ratio of the Borrower on a Consolidated basis as at the Quarter End Date pursuant to Section 8.4(b) of the Credit Agreement must be less than 2.75 to 1.
7. The Current Ratio of the Borrower on a Consolidated basis as of the Quarter End Date is _____ to _____, calculated in accordance with the Credit Agreement, such calculation summarized in the attached Exhibit.
8. The Current Ratio of the Borrower on a Consolidated basis as at the Quarter End Date pursuant to Section 8.4(c) of the Credit Agreement must be greater than 1.20:1.

Certified this _____ day of _____, _____.

Name:
Title:

EXHIBIT E

Form of BA Equivalent Note

[insert date]

FOR VALUE RECEIVED, the undersigned hereby promises to pay to the order of [name of Non-BA Lender] at its office at [insert address from Credit Agreement], the sum of _____ Dollars (\$ _____) in lawful money of Canadian on [insert date of maturity] without interest.

<>

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT F

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 [**Insert name of Assignor**] (the "**Assignor**") and [**Insert name of Assignee**] (the "**Assignee**"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "**Credit Agreement**"), receipt of a copy of which is hereby acknowledged by the 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 Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender 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 under the respective facilities identified below (including without limitation any letters of credit and guarantees and swingline loans 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) 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 pursuant to clauses (i) and (ii) above being referred to herein collectively as, the "**Assigned Interest**"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____

[and is an Affiliate/Approved Fund of [*identify Lender*]]

3. Borrower: Covalon Technologies Ltd.

4. Administrative Agent:

HSBC Bank Canada, as the administrative agent under the Credit Agreement

5. Credit Agreement:

The Credit Agreement dated as of August 9, 2018 between Covalon Technologies Ltd., as Borrower, the Lenders party thereto and HSBC Bank Canada, as Administrative Agent.

6. Assigned Interest:

Facility Assigned	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans	CUSIP Number
	\$	\$	%	
	\$	\$	%	
	\$	\$	%	

7. Trade Date: _____

Effective Date: _____, 20__ **[TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]**

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Title: _____

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Title: _____

[Consented to and] Accepted:

HSBC BANK CANADA, as
Administrative Agent

By _____
Title: _____

[Consented to:]

[NAME OF RELEVANT PARTY]

By _____
Title: _____

ANNEX 1 to Assignment and Assumption

**STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION**

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (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. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under 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 Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 8.3 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, 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 Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the 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 Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

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 permitted 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 facsimile or by sending a scanned copy by electronic mail 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 governing the Credit Agreement.

EXHIBIT G

FORM OF BORROWING BASE CERTIFICATE

TO: HSBC BANK CANADA, AS ADMINISTRATIVE AGENT (THE "**ADMINISTRATIVE AGENT**")

AND TO: THE FINANCIAL INSTITUTIONS (THE "**LENDERS**") FROM TIME TO TIME PARTY TO THE CREDIT AGREEMENT (AS DEFINED BELOW)

This certificate is delivered pursuant to the credit agreement dated as of August 9, 2018 among, *inter alia*, the Administrative Agent, as administrative agent, the Lenders, as lenders, and COVALON TECHNOLOGIES LTD., as borrower, (as such agreement may be amended, supplemented, restated, replaced or otherwise modified from time to time, "**Credit Agreement**"). All capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement.

A. Determination of Revolving Credit Limit

COVALON TECHNOLOGIES LTD. (the "**Borrower**") hereby provides the following information to the Administrative Agent and the Lenders for the purposes of the determination of the Revolving Credit Limit as at _____ (the "**Applicable Date**"), and hereby represents and warrants that such information is correct as at the Applicable Date.

As at the Applicable Date, the Revolving Credit Limit is \$_____, determined as follows:

1. Eligible CAD/USD Accounts Receivable: _____ x 75% = \$ _____ ("**Amount A**")
2. Eligible Insured Accounts Receivable: _____ x 90% = \$ _____ ("**Amount B**")
3. Eligible Inventory: lesser of (a) _____ x 50% and (b) \$2,000,000 = \$ _____ ("**Amount C**")
4. Assigned Cash: \$ _____ ("**Amount D**")
5. Deferred revenue as at the Applicable Date: \$ _____ ("**Amount E**")
6. Potential Statutory Priority Amount as at the Applicable Date: \$ _____ ("**Amount F**")
7. Revolving Credit Limit = The lesser of (i) the Revolving Credit Maximum Amount (\$5,000,000) and (ii) Amount A plus Amount B plus Amount C plus Amount D less Amount E less Amount F: \$ _____.
8. Outstanding Advances under the Revolving Credit as at the Applicable Date: \$ _____.

B. Attachments

Attached to this certificate are:

9. a detailed list of aged accounts receivables as at the Applicable Date, which indicates in respect of each account receivable:

- (a) whether the account debtor is an Obligor or a Related Party thereto;
 - (b) whether such account receivable is in dispute or subject to any defence, counterclaim or claim by the account debtor for credit, set-off, allowance or adjustment;
 - (c) whether the Borrower has any obligation to hold any portion of the account receivable in trust or as agent for any other Person (except pursuant to a Statutory Lien not at the time overdue);
 - (d) whether the account receivable is owing by an account debtor which is insolvent or subject to any proceeding under Insolvency Legislation; and
 - (e) whether there is any other reason why such account receivable would not satisfy the definition of "Eligible CAD/USD Accounts Receivable" or "Eligible Insured Accounts Receivable";
10. a detailed list of inventory as at the Applicable Date, which indicates in respect of such inventory whether there is any reason why such inventory would not satisfy the definition of "Eligible Inventory"; and
11. a detailed list of accounts payable as at the Applicable Date (including a list of contra accounts, if applicable).

C. Certificate of Officer

The undersigned officer of the Borrower hereby certifies on behalf of the Borrower and without personal liability that as at the date hereof:

12. the foregoing information and all information contained in the attachments hereto is true, correct and complete as at the Applicable Date;
13. the representations and warranties contained in Section 6 of the Credit Agreement are true and correct in all material respects;
14. no Default or Event of Default has occurred which is continuing; and
15. since the date of the most recent interim financial statements of the Obligors delivered to the Administrative Agent, nothing has occurred which would have a Material Adverse Effect upon the condition, either financial or otherwise, of the Obligors.

Dated this _____ day of _____, _____.

COVALON TECHNOLOGIES LTD.

By: _____

Name:

Title:

SCHEDULE 1

COMMITMENTS

(amounts are in Canadian Dollars unless otherwise indicated)

A. Revolving Credit Facility

<u>Lender</u>	<u>Revolving Credit Commitment</u>
HSBC Bank Canada	\$5,000,000*
Total	\$5,000,000

*includes the Swing Line Sublimit of \$0 and the Export Line Sublimit of \$5,000,000

B. Acquisition Credit Facility

<u>Lender</u>	<u>Acquisition Credit Commitment</u>
HSBC Bank Canada	\$9,000,000
Total	\$9,000,000

C. Guarantee Credit Facility

<u>Lender</u>	<u>Guarantee Credit Commitment</u>
HSBC Bank Canada	U.S.\$2,000,000
Total	U.S.\$2,000,000

E. Risk Management Credit Facility

(a) FEFC Sublimit

<u>Lender</u>	<u>FEFC Sublimit</u>
HSBC Bank Canada	U.S.\$480,000
Total	U.S.\$480,000

F. MasterCard Credit Facility

<u>Lender</u>	<u>MasterCard Credit Limit</u>
HSBC Bank Canada	\$100,000

Lenders and Addresses for Service

HSBC Bank Canada
4550 Hurontario Street,
Mississauga, ON L5R 4E4

Attention: Senior Relationship Manager re: Covalon
Email: maximilian.p.smith@hsbc.ca

Schedule 3.1(d)
Letter of Credit Fees

[Redacted for Confidentiality]

Schedule 6.1
Obligors

[Redacted for Confidentiality]

Schedule 6.3
Location of Assets

[Redacted for Confidentiality]

Schedule 6.7
Trademarks, Franchises and Licenses

Nil.

Schedule 6.8
Material Contracts

[Redacted for Confidentiality]

**Schedule 6.10
Litigation**

Nil.

Schedule 6.11
Taxes

Nil.

**Schedule 6.14
Pension Plans**

Nil.

Schedule 6.15
Compliance with Laws

Nil.

Schedule 6.16
Insurance

[Redacted for Confidentiality]

Schedule 6.17
Borrowings and Guarantees

Nil.

Schedule 6.20
Broker Fees

[Redacted for Confidentiality]

Schedule 6.25
Labour Matters

Nil.

Schedule 6.26
Accounts

[Redacted for Confidentiality]

Schedule 8.2(b)
Liens

Debtor	Secured Party	File Number
Covalon Technologies Inc.	Blue Chip Leasing Corporation	735391206
Covalon Technologies Inc.	Royal Bank of Canada	721276254
Covalon Technologies Inc.	Royal Bank of Canada	721276263
Covalon Technologies Ltd.	The Toronto-Dominion Bank	676135746

Schedule 8.2(h)
Affiliate Transactions

Nil.