

CREDIT AGREEMENT

TRANS-NORTHERN PIPELINES INC.
as Borrower

- and -

ROYAL BANK OF CANADA
Administrative Agent

- and -

ROYAL BANK OF CANADA AND BANK OF MONTREAL
as Lenders

- and -

THE OTHER LENDERS that may, from time to time,
become a party to this Agreement

- with -

RBC CAPITAL MARKETS and BMO CAPITAL MARKETS
as Co-Lead Arrangers and Joint Bookrunners

- and -

BMO CAPITAL MARKETS
As Syndication Agent

CDN.\$130,000,000

CREDIT FACILITIES

NORTON ROSE FULBRIGHT CANADA LLP

Contents

Section	Page
ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION	
1.1 Definitions.....	1
1.2 Certain Rules of Interpretation	18
1.3 Schedules.....	20
ARTICLE 2 THE FACILITIES	
2.1 Establishment of the Facilities.....	20
2.2 Lenders' Obligations	21
2.3 Purpose	21
2.4 Availment of Tranche A Facility.....	21
2.5 Availment of Tranche B Facility.....	21
2.6 Availment of Tranche C Facility	22
2.7 Manner and Timing of Borrowing Notices; Minimum Drawdowns	22
2.8 Rollovers and Conversions	22
2.9 Extension of Tranche C Maturity Date	23
ARTICLE 3 INTEREST AND FEES	
3.1 Interest on Prime Rate Advances	24
3.2 Default Interest.....	24
3.3 Fees	24
3.4 Interest on Overdue Amounts	25
3.5 Interest Act.....	25
3.6 Nominal Rate of Interest; Deemed Re-investment Principle	25
3.7 Criminal Rate of Interest	25
3.8 Evidence of Indebtedness.....	26
ARTICLE 4 REPAYMENT AND REDUCTION OF FACILITIES	
4.1 Repayment of Tranche A Facility	26
4.2 Repayment of Tranche B Facility	26
4.3 Repayment of Tranche C Facility.....	26
4.4 Mandatory Repayment of Demand Facilities	26
4.5 Mandatory Repayment of Amounts Exceeding Availability	26
4.6 Mandatory Repayment of Insurance Proceeds.....	27
4.7 [Reserved].....	27
4.8 Voluntary Prepayment of the Facilities	27
4.9 Repayment Notice.....	27
4.10 Payment under this Agreement.....	27
4.11 Reduction or Cancellation of Tranche A Facility and Tranche C Facility.....	27
4.12 Cash Collateralization of Letters of Credit	28
4.13 Prepayment and Bankers' Acceptances	29
ARTICLE 5 BANKERS' ACCEPTANCES AND LETTERS OF CREDIT	
5.1 Funding of Bankers' Acceptances	29
5.2 Safekeeping of Drafts.....	30
5.3 Interest Periods	31
5.4 Payment on Maturity	31
5.5 Special Provisions Relating to BA Discount Notes	31
5.6 No Market.....	31
5.7 Letter of Credit Advances.....	32

Contents

Section	Page
5.8 Fees in respect of Letters of Credit.....	33
5.9 Demand Under Letter of Credit.....	33
5.10 Borrower's Reimbursement Obligation Absolute.....	34
5.11 LC Lender Repaid Unconditionally.....	34
ARTICLE 6 CHANGE IN CIRCUMSTANCES AND INDEMNIFICATION	
6.1 Tax Gross-Up.....	34
6.2 Change in Law.....	36
6.3 Payment of Additional Compensation.....	37
6.4 Illegality.....	37
6.5 Indemnity - General.....	37
6.6 Limitation.....	38
ARTICLE 7 CONDITIONS PRECEDENT	
7.1 Conditions Precedent to Effectiveness.....	38
7.2 Conditions Precedent to All Advances.....	40
7.3 Waiver of Conditions.....	40
ARTICLE 8 REPRESENTATIONS AND WARRANTIES	
8.1 Representations and Warranties.....	40
8.2 Non-Waiver.....	46
8.3 Nature of Representations.....	47
ARTICLE 9 COVENANTS	
9.1 Affirmative Covenants.....	47
9.2 Negative Covenants.....	50
9.3 Reporting Requirements.....	52
ARTICLE 10 INSURANCE	
10.1 Maintenance of Insurance.....	53
10.2 Administrative Agent's Right to Maintain.....	53
10.3 Requirement of Additional or Changes to Insurance.....	53
10.4 Power of Attorney.....	54
10.5 Damage Destruction.....	54
ARTICLE 11 DEFAULT AND REMEDIES; DEMAND FOR REPAYMENT	
11.1 Events of Default.....	54
11.2 Acceleration and Termination of Rights.....	56
11.3 Demand for Payment by a Lender.....	57
11.4 Obligations due on Demand.....	58
11.5 Payment and Deemed Advance of Bankers' Acceptances.....	59
11.6 Payment and Deemed Advance of Letters of Credit.....	59
11.7 Remedies Cumulative and Waivers.....	59
11.8 Termination of Lenders' Obligations.....	60
11.9 Perform Obligations.....	60
11.10 Setoff or Compensation.....	60
11.11 Application of Payments.....	60
11.12 "True-Up" Adjustments on Acceleration.....	61

Contents

Section	Page
ARTICLE 12 SECURITY	
12.1 Security on all Assets	61
12.2 Security Documents	61
12.3 Sharing of Security	62
12.4 Exclusivity of Remedies	62
12.5 Form of Security	62
12.6 After-Acquired Property	63
12.7 Undertaking to Grant Fixed Charge Security	63
12.8 Further Assurances	63
12.9 Security for Lender Hedge Agreements with Former Lenders	64
12.10 Discharge of Security	65
ARTICLE 13 ADMINISTRATIVE AGENT	
13.1 Appointment of Administrative Agent	65
13.2 Administrative Agent's Reliance, etc.	66
13.3 Taking and Enforcement of Remedies; Release of Security	67
13.4 Administrative Agent as Lender	68
13.5 Lender Credit Decision	68
13.6 Indemnification	68
13.7 Successor Administrative Agent	68
13.8 Setoff and Sharing of Payments	69
13.9 Dissemination of Information	69
13.10 Lenders Co-ordination	69
13.11 Availability of Lender's Proportionate Share	70
13.12 Return of Payments	70
13.13 Tranche C Facility Non-Funding Lenders	70
13.14 Erroneous Payments by the Administrative Agent	71
ARTICLE 14 AMENDMENTS AND WAIVERS	
14.1 Amendments and Waivers	74
14.2 Required Lenders Consent	74
14.3 Technical Amendments	74
14.4 Waivers and Releases	74
14.5 Unanimous Consent	74
ARTICLE 15 ASSIGNMENTS AND PARTICIPATIONS	
15.1 Assignment by Borrower	75
15.2 Participation	75
15.3 Assignments by Lenders	75
15.4 Register	76
15.5 Assignment Fees	76
15.6 Disclosure to Transfer	76
15.7 Replacements of Lenders under Certain Circumstances	76
ARTICLE 16 GENERAL	
16.1 Expenses	77
16.2 Submission To Jurisdiction	78
16.3 Notices	78
16.4 Enurement	79

Contents

Section	Page
16.5 Further Assurances	79
16.6 Counterparts; Electronic Execution.....	79
16.7 Entire Agreement; Credit Agreement Governs	79
16.8 Judgment Currency	79
16.9 Confidentiality.....	80
16.10 Anti-Terrorism Laws.....	81
16.11 CDOR Discontinuation	82

CREDIT AGREEMENT

THIS AGREEMENT is made as of August 12, 2022.

BETWEEN:

TRANS-NORTHERN PIPELINES INC.,
a corporation governed by the federal laws of Canada
(the "**Borrower**"),

- and -

ROYAL BANK OF CANADA,
in its capacity as administrative agent of the Lenders hereunder
(the "**Administrative Agent**")

- and -

ROYAL BANK OF CANADA and BANK OF MONTREAL,
together with such other financial institutions that may,
from time to time, become a party hereto as Lenders
(collectively, the "**Lenders**").

RECITALS:

- (A) The Lenders have agreed to provide the Facilities on the terms and conditions set forth herein;
- (B) The Administrative Agent has agreed, independently of its obligations as a Lender, to act as Administrative Agent on behalf of the Lenders with regard to the Facilities on the terms and conditions set forth herein;

The Parties to this Agreement agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, the following words and terms have the meanings set out below:

"**Additional Compensation**" has the meaning specified in Section 6.2;

"**Additional Compensation Notice**" has the meaning specified in Section 6.2;

"**Administrative Agent**" means Royal Bank of Canada, in its capacity as Administrative Agent for the Lenders (and not in its capacity as a Lender), and includes any Successor Administrative Agent appointed pursuant to Section 13.7;

"**Advance**" means an advance of funds to the Borrower by way of a Prime Rate Advance, a BA Advance, or the issuance of a Letter of Credit (each of which is a Type of Advance), including Conversions and Rollovers of existing Advances, and "**Advances**" means all such types of Advance;

"**Advance Date**" means the date, which shall be a Business Day, on which an Advance is to be made;

“**Affiliate**” of any Person means, at the time such determination is being made, any other Person Controlling, Controlled by or under common Control with such first Person, in each case, whether directly or indirectly;

“**Agent’s Account**” means the following account maintained by the Administrative Agent to which payments and transfers under this Agreement are to be effected:

Beneficiary Bank: Royal Bank of Canada
SWIFT: ROYCCAT2
Beneficiary: RBCCM Agency Services
200 Bay Street
Toronto, ON CA M5J 2W7
Account Number: 00002-2667608
Ref: Trans-Northern Pipeline Inc.

and such other accounts as the Administrative Agent may designate from time to time by notice to the Borrower and the Lenders.

“**Agreed Currency**” has the meaning specified in Section 16.8;

“**Anti-Terrorism Laws**” means any Applicable Laws relating to terrorism, money laundering, government sanction or “know your client” including Executive Order No. 13224, the *USA Patriot Act*, the laws comprising or implementing the *Bank Secrecy Act*, the laws administered by the United States Treasury Department’s Office of Foreign Asset Control, the Criminal Code, the *Proceeds of Crime (Money Laundering) Act* and *Terrorist Financing Act*.

“**Applicable Law**” means applicable laws (including common law), statutes, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, treaties, policies, notices, directions, decrees, judgments, awards or requirements, in each case, of any Governmental Authority having the force of law;

“**Applicable Margin**” means, at any time in respect of an Advance, a margin, expressed as a per annum rate of interest based on a year of 365 or 366 days, as the case may be, payable to the Administrative Agent (for the account of the Lenders) equal to the rate opposite the Funded Debt to EBITDA Ratio (as at the most recently completed fiscal quarter of the Borrower) in the row and column applicable to the Type of Advance in question:

Level	Funded Debt to EBITDA Ratio	Prime Rate Advances	BA Stamping Fees and Financial LCs	Performance LCs	Standby Fees
1	<5.0:1.0	75.00 bps	175.00 bps	115.50 bps	35.00 bps
2	≥5.0:1.0 < 6.0:1.0	100.00 bps	200.00 bps	132.00 bps	40.00 bps
3	≥6.0:1.0	125.00 bps	225.00 bps	148.50 bps	45.00 bps

provided that:

- (a) effective as of the Closing Date, the Applicable Pricing Margin shall be set at level 1; and
- (b) without duplication of interest on overdue amounts as provided in Section 3.3, the above rates per annum shall increase by 200 bps *per annum* during the continuance of any Event of Default.

“**arm’s length**” has the meaning that it has for the purposes of the ITA;

“ASPE” means Accounting Standards for Private Enterprises as set out in the CPA Canada Handbook;

“Assignee” has the meaning specified in Section 15.3;

“Assignment Effective Date” has the meaning specified in Section 15.3;

“BA” means a Bankers’ Acceptance or a BA Discount Note, as the case may be;

“BA Advance” means the issuance of a Bankers’ Acceptance by the Borrower which is accepted and purchased by a BA Lender or the issuance of a BA Discount Note which is purchased by a Non-BA Lender;

“BA Discount Note” means, a non-interest bearing note, draft, or other bill of exchange in Canadian Dollars that is issued by the Borrower and purchased by a Non-BA Lender;

“BA Discount Proceeds” means, in respect of any Bankers’ Acceptance, an amount calculated on the applicable Advance Date which is (rounded to the nearest full cent, with one-half of one cent being rounded up) equal to the Face Amount of such Bankers’ Acceptance multiplied by a factor, where such factor is calculated by dividing one by the sum of one plus the product of (a) the BA Discount Rate applicable thereto expressed as a decimal fraction multiplied by (b) a fraction, the numerator of which is the term of such Bankers’ Acceptance expressed in number of days and the denominator of which is 365, rounded to the nearest multiple of 0.00001;

“BA Discount Rate” means (a) with respect to any Bankers’ Acceptance accepted by a Lender named on Schedule I to the *Bank Act* (Canada), the rate determined by the Administrative Agent as being the CDOR Rate on the applicable Advance Date, and (b) with respect to any Bankers’ Acceptance accepted by any other Lender, the lesser of (i) the rate advised by such Lender to the Administrative Agent as being the interest rate per annum equivalent to the discount rate of such Lender, calculated on the basis of a year of 365 days and determined in accordance with normal market practice at or about 10:15 a.m. (Toronto time) on the applicable Advance Date, for Bankers Acceptances of such Lender having a comparable Face Amount and identical maturity date to the Face Amount and maturity date of such Bankers’ Acceptance, and (ii) the rate determined by the Administrative Agent in accordance with (a) above plus 0.10% per annum;

“BA Lender” means any Lender that accepts and purchases Bankers’ Acceptances;

“BA Period” means a term of 1, 2 or 3 months’ duration or, subject to availability, from 30 to 90 days selected by the Borrower in respect of a BA Advance;

“Bankers’ Acceptance” means a depository bill as defined in the *Depository Bills and Notes Act* (Canada) in Canadian Dollars that is in the form of an order signed by the Borrower and accepted by a Lender pursuant to this Agreement or, for Lenders not participating in clearing services contemplated in that Act, a draft or bill of exchange in Canadian Dollars that is drawn by the Borrower and accepted by a Lender pursuant to this Agreement;

“Bankers’ Acceptance Fee” means, with respect to any Bankers’ Acceptance, the amount calculated by multiplying the Face Amount of the Bankers’ Acceptance by the Applicable Margin, and then multiplying the result by a fraction, the numerator of which is the duration of the term of the Bankers’ Acceptance on the basis of the actual number of days to elapse from and including the date of acceptance and purchase of the Bankers’ Acceptance by the Lender up to but excluding the maturity date of the Bankers’ Acceptance and the denominator of which is 365;

“Books and Records” means books and records of the Borrower relating to its Business or its Property, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, formulae, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence, and other data and information,

financial or otherwise including all data and information stored on computer-related or other electronic media;

"Borrower" means Trans-Northern Pipelines Inc., a corporation governed by the federal laws of Canada, and its successors and permitted assigns;

"Borrower's Counsel" means Fasken Martineau DuMoulin LLP, or such other firm of legal counsel as the Borrower may from time to time designate;

"Borrowing Notice" means a notice substantially in the form set out in Schedule B attached hereto, to be delivered by the Borrower to the Administrative Agent in connection with a request for an Advance;

"Borrowings" means, at any time, the principal amounts outstanding by way of Advances made to the Borrower by the Lenders hereunder, together with the face amount of outstanding Bankers' Acceptances accepted by the Lenders and the face amount of outstanding Letters of Credit issued hereunder.

"Business" means the business of operating the Pipeline and all business activities ancillary thereto;

"Business Day" means a day, other than a Saturday or a Sunday, on which the Administrative Agent is open for commercial banking business in Toronto, Canada;

"Canadian Dollars" and **"Cdn. \$"** mean the lawful currency of Canada;

"Cancellation Notice" has the meaning specified in Section 4.11;

"Capital Lease" means, at any time, a capital lease within the meaning of ASPE;

"Capital Lease Obligations" means, at any time with respect to any person and without duplication, the amount of the obligations under Capital Leases required to be shown as a liability on the consolidated balance sheet of such person in accordance with applicable GAAP (as specified in the definition of Capital Lease); provided that, unless otherwise expressly provided or the context otherwise requires, references herein to "Capital Lease Obligations" shall be and shall be deemed to be references to Capital Lease Obligations of the Borrower;

"Cash Equivalents" means, without duplication, as to any Person:

- (a) securities issued by or directly and fully guaranteed or insured by the federal governments of Canada or the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the federal governments of Canada or the United States is pledged in support of those securities) having maturities of not more than 365 days from the date of acquisition;
- (b) certificates of deposit, guaranteed investment certificates and term deposits with maturities of 365 days or less from the date of acquisition, bankers' acceptances or bearer deposit notes with maturities not exceeding 365 days and demand deposits, in each case, with the Administrative Agent, any Lender or with any United States commercial bank or any Canadian chartered bank (or comparable Financial Institution) having capital and surplus in excess of \$500,000,000 and a senior unsecured rating of "A-" or better by S&P and "A3" or better by Moody's;
- (c) repurchase obligations with a term of not more than seven days for underlying securities of the types described in subparagraphs (a) and (b) above entered into with any financial institution meeting the qualifications specified in subparagraph (b) above;

- (d) commercial paper rated at least P-1 by Moody's or A-1 by S&P or at least R-1 by DBRS and in each case maturing within 365 days after the date of acquisition; and
- (e) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in subparagraphs (a) through (d) of this definition.

"CDOR Rate" means, on any date, with respect to any Bankers' Acceptance:

- (a) the per annum rate of interest which is the rate determined as being the arithmetic average of the rates *per annum* (calculated on the basis of a year of three hundred and sixty-five (365) days) applicable to Canadian Dollar bankers' acceptances having identical issue and comparable maturity dates as the Bankers' Acceptances proposed to be issued by the Borrower displayed and identified as such on the display referred to as the "Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page" (or any display substituted therefor) of Reuters Monitor Money Rates Service as at approximately 10:15 a.m. (Toronto time) on such day, or if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by the Administrative Agent in good faith after 10:15 a.m. (Toronto time) to reflect any error in a posted rate of interest or in the posted average annual rate of interest);
- (b) if the rate referred to in paragraph (a) does not appear on such "Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page", then the CDOR Rate, on any such day, shall be the interest rate per annum equivalent to the discount rate (expressed as a rate per annum based on a year of three hundred and sixty-five (365) days) at which the Lender that is the Administrative Agent is offering at such time on such day for the purchase of bankers' acceptances accepted by it denominated in Canadian Dollars having a comparable face value and with identical issue and maturity dates to the bankers' acceptances proposed to be issued by the Borrower on such day, or if such day is not a Business Day, then on the immediately preceding Business Day;

provided that, if the rate determined as aforesaid shall ever be less than zero, such rate shall be deemed to be zero for purposes of this Agreement;

"CER" means the Canadian Energy Regulator of Canada or any other Governmental Authority in Canada having jurisdiction over the sale, transportation or exportation of refined products that is or is to be transported through the Pipeline, and includes the Governor General of Canada when his approval of the new licence, certificate, order or decision issued or action taken by the CER or such other Governmental Authority is required by Applicable Law to make such licence, certificate, order, decision or action effective;

"Change of Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the phase in, adoption or taking effect of any Applicable Law, (b) any change in any Applicable Law or in the administration, interpretation, implementation or application thereof by any Governmental Authority, (c) the making or issuance of any Applicable Law by any Governmental Authority or (d) compliance by any Lender or the Issuing Lender (or by any lending office of such Lender or by such Lender's or the Issuing Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law, but if not having the force of law, compliance is generally regarded as mandatory) of any Governmental Authority made or issued after the date of this Agreement. Notwithstanding anything herein to the contrary, (i) the *Dodd Frank Wall Street Reform and Consumer Protection Act* and all requests, rule, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives concerning capital adequacy promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or Canadian or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to be a "Change of Law" regardless of the date enacted, adopted or issued;

"Claims" means claims, suits, actions, proceedings, assessments and judgements (including charges, disbursements and reasonable out-of-pocket legal fees incurred in connection therewith);

“Closing Date” means August 12, 2022;

“Code” means the *US Internal Revenue Code of 1986*;

“Commitment” means the commitment of each Lender to loan to the Borrower a Proportionate Share of the aggregate principal amount of any Facility or Facilities, in an aggregate amount not at any time in excess of the amount set forth opposite such Lender’s name on Schedule A hereto, and subject to the right of the Lenders to terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities;

“Commitment Plan” means the commitment plan developed to facilitate monitoring and reporting of progress in the completion of all condition requirements of the CER (or its predecessor) amending safety order AO-001-SO-T217-03-2010;

“Compliance and Reporting Certificate” means a certificate to be delivered by Borrower in the form attached as Schedule C;

“Constating Documents” means, with respect to a corporation, its articles of incorporation, amalgamation or continuance or other similar document and its by-laws and includes any unanimous shareholders agreement or similar agreement, all as amended or replaced from time to time;

“Control” means the right, directly or indirectly, to direct or cause the direction of the management of the affairs of a Person, whether by ownership of capital or otherwise; and **“Controlled”** and **“Controlling”** shall have a corresponding meaning;

“Conversion” means the conversion of one Type of Advance into another Type or Types of Advance;

“Conversion Notice” means a notice substantially in the form attached as Schedule D to be delivered by the Borrower in connection with a Conversion;

“Continuance Notice” has the meaning specified in Section 11.3(b);

“Continuing Lender” has the meaning specified in Section 11.3(b);

“CPA Canada” means the Chartered Professional Accountants of Canada or any successor to it;

“Credit Documents” means this Agreement, the Security, the Hedge Agreements and all other agreements to be executed and delivered from time to time to the Administrative Agent, the Lenders or any of them by the Borrower under or pursuant to this Agreement or the Hedge Agreements, and when used in relation to a Person, means the Credit Documents to which such Person is a party or by which it is bound from time to time, and **“Credit Document”** means any one of them;

“Debenture” means the demand debenture issued by the Borrower to the Administrative Agent pursuant to Section 12.2(a);

“Debt” in relation to any Person, means, at any time, any of the following, without duplication:

- (a) all indebtedness for or in respect of borrowed money of such Person;
- (b) all indebtedness of such Person which is evidenced by bonds, debentures, notes or other similar instalments, or not so evidenced but which would be considered indebtedness for borrowed money in accordance with GAAP;

- (c) the deferred purchase price for property or services and all liabilities secured by a Lien on any property owned by such Person even though such Person has not assumed or otherwise become liable for the payment thereof;
- (d) obligations under guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations for the repayment of indebtedness or other obligations of any other Person which would otherwise constitute Debt within the meaning of this definition;
- (e) Capital Lease Obligations of such Person;
- (f) all other debt upon which interest charges are customarily paid by such Person;
- (g) shares in the capital of such Person redeemable at the time of determination of Debt at the option of the holder;
- (h) any recourse to such Person in respect of any sale, securitization or other asset-backed financing of receivables or other assets;
- (i) any liability of such Person, whether or not contingent, under any lease and leaseback transaction, synthetic lease, sale and leaseback transaction or similar transaction;
- (j) any liability of such Person, whether or not contingent, under any bankers' acceptance or letter of credit or similar instrument, including any liability arising under any indemnity obligation pertaining thereto;
- (k) net Hedge Obligations owing by such Person; and
- (l) guarantees by such Person in any manner of any part or all of an obligation included in clauses (a) to (k) above;

for certainty, (i) the endorsement or deposit to the Borrower's current account of a cheque, draft or similar instrument for collection, trade payables, utility charges and accrued expenses and liabilities (including Taxes payable or deferred) which are liabilities incurred in the ordinary course of business, and (ii) mark-to-market amounts constituting Hedge Obligations shall, in each case, not constitute Debt;

"deemed interest period" has the meaning specified in Section 3.3;

"Default" means an event which would become, with the giving of notice or the passage of time or the making of any determination or any combination of such factors, unless cured or waived, an Event of Default;

"Demand Facilities" means the Tranche A Facility and the Tranche B Facility;

"Demanding Lender" has the meaning specified in Section 11.3;

"Deposit Amount" has the meaning specified in Section 11.7;

"Designated Accounts" means, in respect of any Advance under the Facilities, the Canadian Dollar account maintained by the Borrower at a branch of account of the Administrative Agent or a Lender that the Borrower designates in its notice requesting such Advance;

"DB Plans" has the meaning specified in Section 8.1(p).

"Disposition" means, in relation to any Person, a sale, transfer, assignment, or other disposition of assets by such Person;

“Distribution” means any:

- (a) payment of any dividend on or in respect of any shares or units of any class in the capital of the Borrower (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (b) redemption, retraction, purchase or other acquisition or retirement, in whole or in part, of shares or units of any class in the capital of the Borrower (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (c) payment of principal, interest or other amounts in whole or in part, of any Debt of the Borrower (including any Debt incurred or assumed by the Borrower pursuant to a Capital Lease) to a Related Party; or
- (d) the transfer of any property for consideration of less than fair market value to a Related Party;

“EBITDA” means, for any period with respect to any Person, such Person’s net income or net loss for such period,

plus, without duplication:

- (a) amounts deducted in calculating net income or net loss in respect of depreciation and amortization and other non-cash expenses;
- (b) amounts deducted in calculating net income or net loss in respect of Interest Expense and other financing costs; and
- (c) amounts deducted in calculating net income or net loss in respect of income taxes, whether or not deferred;

excluding, for such period:

- (d) any gain or loss attributable to the sale, conversion or other Disposition of Property (excluding sales of inventory in the ordinary course of business);
- (e) gains resulting from the write-up of Property and losses resulting from the write-down of Property;
- (f) any gain or loss on the repurchase or redemption of any securities (including in connection with the early retirement or defeasance of any Debt);
- (g) market-to-market fair value adjustments of financial instruments;
- (h) any foreign exchange translation gain or loss;
- (i) any other extraordinary, non-recurring or unusual items; and
- (j) net income or net loss and other items specified in items (a) to (i) attributable to minority equity investments of the Person which were included in the calculation of its net income or net loss in accordance with equity accounting principles under GAAP;

all of which shall be calculated in accordance with GAAP unless otherwise expressly described;

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

“Environmental Approvals” means approvals, permits, certificates, licences, authorizations, consents, agreements, instructions, directions, registrations or approvals issued, granted, conferred or required by a Governmental Authority pursuant to any Environmental Laws with respect to the operation of the Borrowers Business or pertaining to its Property;

“Environmental Laws” means Applicable Law relating to the Environment, or employee or public health or safety, and includes any Applicable Law relating to the storage, generation, use, handling, manufacture, processing, labelling, advertising, sale, display, transportation, treatment, reuse, recycling, release and disposal of Hazardous Substances;

“Erroneous Payment” has the meaning set out in Section 13.14(a).

“Erroneous Payment Deficiency Assignment” has the meaning set out in Section 13.14(d).

“Erroneous Payment Impacted Facilities” has the meaning set out in Section 13.14(d).

“Erroneous Payment Return Deficiency” has the meaning set out in Section 13.14(d).

“Erroneous Payment Subrogation Rights” has the meaning set out in Section 13.14(d).

“Event of Default” means any of the events described in Section 11.1;

“Existing BMO Credit Agreements” means, collectively, the second amended and restated credit agreement dated as of December 6, 2018, among the Borrower, as borrower, Bank of Montreal, as administrative agent, and Bank of Montreal, as lender, and the credit agreement made as of December 17, 2019, among the Borrower, as borrower, Bank of Montreal, as administrative agent, and Bank of Montreal, as lender, each as amended, supplemented or otherwise modified to the date hereof.

“Face Amount” means, (a) in respect of a BA, the amount payable to its holder on the maturity of such BA, and (b) in respect of a Letter of Credit, the maximum amount payable to the beneficiary under such Letter of Credit;

“Facilities” means, collectively, the Tranche A Facility, the Tranche B Facility and the Tranche C Facility, and **“Facility”** means any of them;

“Financial Institution” means any Person which is a bank, trust company, loan company, credit union, caisse populaire, pension plan or fund, insurance company or fund, mutual fund, investment fund, investment dealer, broker or advisor, venture capital fund, government or governmental agency, municipality or other similar entity;

“Financial Statements” for any Fiscal Year means the audited financial statements of the Borrower for such Fiscal Year as described in Section 9.3(b).

“Firm Service Agreements” means the Petro-Canada Facilities Support Agreement and the Ultramar Priority Access Agreement;

“Fiscal Quarter” means any of the quarterly accounting periods of the Borrower ending on March 31, June 30, September 30 and December 31 of each year;

“Fiscal Year” means the annual accounting periods of the Borrower ending on December 31 of each year;

“Funded Debt” means, at any time, the aggregate amount of Debt of the Borrower outstanding under this Agreement, including, for certainty, the maximum amount available to be drawn under all outstanding Letters of Credit and all amounts payable at the maturity of all outstanding Bankers' Acceptances.

“Funded Debt/Cap Ratio” means, with respect to any Fiscal Quarter, that amount which is equal to (a) the total amount of Funded Debt of the Borrower as at the last Business Day of such Fiscal Quarter *divided by* (b) the amount in (a) plus the amount of the Borrower’s shareholders’ equity determined as at the last Business Day of such Fiscal Quarter;

“Funded Debt to EBITDA Ratio” means, as at the end of each Fiscal Quarter of the Borrower, the ratio of (a) the total amount of Funded Debt of the Borrower (determined on a consolidated basis) as at the last day of such fiscal quarter *divided by* (b) EBITDA of the Borrower for the 12 month period ending on the last day of such fiscal quarter (on a consolidated basis);

“GAAP” means generally accepted accounting principles which are in effect from time to time in Canada including, for certainty, ASPE;

“Governmental Authority” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal, dispute settlement panel or body or other law, rule or regulation-making entity:

- (a) having or purporting to have jurisdiction on behalf of any nation, province, state or other geographic or political subdivision of any of them; or
- (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

“Hazardous Substance” means any pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods as defined, judicially interpreted or identified in any Environmental Laws, including, without limitation, any asbestos, asbestos containing materials, mould, microbial organisms or substances related to any of them;

“Hedge Agreements” means, in respect of any Person, agreements entered into by such Person in respect of currency, interest or commodity risk, whether in the form of a futures contract, swap, option or other derivative agreement;

“Hedge Crystallization Event” means, in respect of a Lender Hedge Agreement, the early termination or unwinding of such Lender Hedge Agreement whether as a result of a demand made by the applicable Lender Hedge Provider pursuant to such Lender Hedge Agreement for repayment of all obligations relating thereto or as a result of an automatic early termination of obligations under such Lender Hedge Agreement pursuant to the terms thereof.

“Hedge Obligations” means, in respect of any Person, the obligations of such Person under the Hedge Agreements of such Person;

“Incentive Toll Agreement” means the incentive toll principles of settlement among the Borrower and the shippers on the Pipeline, as approved by the CER (by its predecessor, the National Energy Board) on June 21, 1996, as amended pursuant to a first amending agreement dated January 1, 2010, and as may be further amended, supplemented, restated, or otherwise modified from time to time.

“Indemnified Party” has the meaning specified in Section 6.5;

“Indemnitee” has the meaning specified in Section 6.1;

“Individual LC Sublimit” means, in respect of an LC Lender, the amount set forth opposite such Lender’s name under the heading “Individual LC Sublimit” on Schedule A hereto.

“Interest Coverage Ratio” means, with respect to any Fiscal Quarter, that amount which is equal to (a) EBITDA for the period comprising such Fiscal Quarter and the three immediately preceding Fiscal Quarters *divided* by (b) Interest Expense for the period comprising such Fiscal Quarter and the three immediately preceding Fiscal Quarters;

“Interest Expense” means, for any Person for any period, without duplication, the aggregate expense incurred by such Person on a consolidated basis during such period for interest, fees, commissions, other financing charges and equivalent costs under or in connection with Debt increased to the extent of the net payments payable by the Borrower, and decreased to the extent of net payments receivable by the Borrower, in each case, pursuant to Interest Hedge Agreements, and including (a) interest, (b) amortization of discount and financing fees, (c) commissions, (d) discounts, (e) the interest or time value of money component of costs related to factoring or securitizing receivables or monetizing inventory, (f) bankers’ acceptance fees, if any, (g) discounts on bankers’ acceptances, if any, (h) fees and charges payable with respect to letters of credit and letters of guarantee, (i) the interest portion of any Capital Lease if the aggregate interest portion of all Capital Leases exceeds \$100,000 during such period, (j) [Reserved], (k) guarantee and similar fees paid to a guarantor or other obligor, and (l) all fees and other compensation paid to any Person that has extended credit to such Person (other than, in the case of the Borrower, upfront fees, ticking fees, and agency fees paid to the Agent and the Lenders and reimbursement for expenses or third party fees and costs), in each case whether or not actually paid, and calculated in accordance with GAAP;

“Interest Hedge Agreements” means any interest swap agreement, forward rate agreement, floor, cap or collar agreement, future, derivative or option transaction, insurance or other similar agreement or arrangement, or any combination thereof, entered into by the Borrower where the subject matter of the same is interest rates or the price, value or amount payable thereunder is dependent or based upon the interest rates or fluctuations in interest rates in effect from time to time (but, for certainty, shall exclude conventional floating rate debt).

“Interest Payment Date” means the first Business Day of each calendar month;

“Interest Period” means, with respect to a BA Advance, the period selected by the Borrower in respect of such BA Advance and being of 1, 2 or 3 months’ duration, subject to market availability (or, subject to the agreement of all of the Lenders, such longer or shorter period), and commencing on the date of the applicable Advance;

“Inventory” means inventory (as defined in the PPSA), including without limitation, raw materials, work-in-progress, finished goods and by-products, spare parts, operating supplies and packing, shipping and packaging materials of or relating to the Business;

“Investment” and all derivations of such word, means, directly or indirectly: (a) the acquisition of or any agreement to acquire (whether for cash, property, services, securities or otherwise) any shares, bonds, notes, debentures, partnership or other ownership interests or other securities of any other Person; (b) any form of financial assistance to or for the benefit of any other Person; (c) any loan to any Person; (d) any other extension of credit to any Person, other than in the ordinary course of business; and (e) any purchase of any Property constituting all or substantially all of a Person or a business unit thereof; *provided* that, the following shall not constitute an Investment, namely the acquisition of cash, any credit balance in a bank account and any commission, travel or similar advance for business-related travel expenses, moving expenses and other similar expenses, in each case, incurred in the ordinary course of business or consistent with past practice or industry norm to officers and employees of and consultants to the Borrower made in the ordinary course of business;

“Issue” and any derivation of such word, means, with respect to any Letter of Credit, either to issue, or extend the expiry of, or renew, or increase the amount of, such Letter of Credit;

"ITA" means the *Income Tax Act* (Canada);

"Judgment Currency" has the meaning specified in Section 16.8;

"LC" or **"Letter of Credit"** means an irrevocable standby letter of credit Issued by the Issuing Lender at the request of the Borrower pursuant to Section 5.7 and denominated in Canadian Dollars;

"LC Availability" means \$25,000,000;

"LC Demand" has the meaning specified in Section 5.9;

"LC Documents" has the meaning specified in Section 5.7(a);

"LC Fee" has the meaning specified in Section 5.8;

"LC Fee Rate" means, at any time, a rate as determined in accordance with the definition of "Applicable Margin";

"LC Lender" means the Lender which Issues Letters of Credit as specified in Section 5.7;

"Lenders" means, collectively, Royal Bank of Canada, Bank of Montreal and any other Financial Institution who becomes a Party as Lender pursuant to Section 15.3 or otherwise, and their respective successors and assigns, and **"Lender"** means any one of them;

"Lenders' Counsel" means Norton Rose Fulbright Canada LLP;

"Lender Hedge Agreement" means a Hedge Agreement between a Lender Hedge Provider and the Borrower;

"Lender Hedge Obligations" means all of the obligations, indebtedness and liabilities (present or future, absolute or contingent, matured or not) of the Borrower to a Lender Hedge Provider under or pursuant to a Lender Hedge Agreement;

"Lender Hedge Provider" means: (a) a Lender, or an Affiliate of a Lender, who is party to a Hedge Agreement with a Loan Party that was entered into when such counterparty was a Lender hereunder or an Affiliate of a Lender hereunder; or a former Lender or an Affiliate thereof who was a Lender (or an Affiliate of a Lender) when it entered into a Hedge Agreement with a Loan Party;

"Liens" means mortgages, pledges, liens, hypothecs, charges, security agreements or other encumbrances or other arrangements that in substance secure payment or performance of an obligation, statutory and other non-consensual liens or encumbrances and includes Capital Leases, title retention agreements, restrictions, development or similar agreements, rights-of-way, title defects, adverse claims or interests, trusts or deemed trusts, options to acquire or the interests of a vendor or lessor under any conditional sale agreement or Capital Lease, and **"Lien"** means any one of such Liens;

"Material Adverse Effect" means a material adverse effect upon (i) the businesses, assets or affairs of the Borrower, (ii) the ownership, construction, assets or operation of the Pipeline, (iii) the ability of the Borrower to perform its obligations generally under any of the Credit Documents or the Material Contracts; (iv) the Security, the Liens created thereunder or the priority thereof, in each case, or (v) the material rights of, or material benefits available to, the Lenders under any of the Credit Documents;

"Material Approvals" means those approvals of any Person (including any Governmental Authority), Permits, easements, rights of way which are necessary or desirable for the proper operation or maintenance of the Pipeline or the Business;

“Material Contracts” means all contracts of the Borrower which are material to the proper operation or maintenance of the Pipeline, including the Firm Service Agreements and the Incentive Toll Agreement;

“Non-BA Lender” means any Lender that does not accept Bankers’ Acceptances and who makes BA Advances by way of purchasing BA Discount Notes;

“Non-Funding Lender” means any Lender that has failed to fund its Proportionate Share of any Advance unless such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s reasonable determination that a condition precedent to making an Advance has not been satisfied;

“Obligations” means all loans, advances, debts, liabilities and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable), and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, arising under this Agreement or any of the other Credit Documents, but shall exclude the debts, liabilities and obligations of the Borrower to pay the stated nominal sum of the Debenture and interest thereon at the stated nominal rate under the Debenture. This term includes all principal, interest (including all interest that accrues after the commencement of any proceeding, in bankruptcy after the insolvency of, or for the reorganization of, the Borrower, whether or not allowed in such proceeding), fees, charges, expenses, legal fees and any other sum chargeable to the Borrower under this Agreement or any of the other Credit Documents, other than the debts, liabilities and obligations of the Borrower to pay the stated nominal sum of the Debenture and interest thereon at the stated nominal rate under the Debenture;

“Officer’s Certificate” means a certificate signed by any one of the Chairman of the Board, the President, the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Assistant Treasurer, the Secretary or the Assistant Secretary of the Borrower;

“Participants” has the meaning specified in Section 15.2;

“Party” means each party to this Agreement and **“Parties”** means all of them;

“Permits” means governmental licenses, authorizations, consents, registrations, exemptions, permits and other approvals required by Applicable Law;

“Permitted Debt” means:

- (a) Debt incurred in connection with or pursuant to a Permitted Lien;
- (b) Hedge Obligations of the Borrower with respect to Hedge Agreements permitted pursuant to Section 9.2(j);
- (c) Debt incurred in favour of a Lender pursuant to this Agreement;
- (d) other unsecured Debt in an aggregate amount not exceeding Cdn.\$5,000,000; and
- (e) Debt incurred in favour of any one or more of the Sponsors pursuant to one or more agreements that are in form and substance satisfactory to the Administrative Agent and the Required Lenders, and is expressly subordinated to Debt incurred by the Borrower pursuant to this Agreement on terms satisfactory to the Administrative Agent and the Required Lenders;

“Permitted Lender Hedge Obligations” means Lender Hedge Obligations which are not prohibited by Section 9.2(j); *provided* that, if a Lender Hedge Provider does not have actual knowledge that such Lender Hedge Obligations were not permitted under such Section at the time the applicable Hedge Agreement was

entered into by such Lender Hedge Provider, then such Lender Hedge Obligations will be deemed to be Permitted Lender Hedge Obligations for purposes of Section 11.11;

“Permitted Liens” means the following:

- (a) inchoate or statutory Liens imposed by Applicable Law for Taxes or other governmental assessments, charges or levies that (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
- (b) carriers', warehouseman's, mechanics', construction, materialmen's, repairmen's and other like Liens imposed by Applicable Law and arising in the ordinary course of business, securing obligations that (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
- (c) Liens arising out of judgements or awards outstanding, which judgements or awards (i) do not exceed \$5,000,000, (ii) which the Borrower is currently prosecuting an appeal or pursuing proceedings for review and with respect to which the Borrower shall have secured a stay of execution pending such appeal of proceedings or review, or (iii) which the Borrower has satisfied before execution;
- (d) undetermined or inchoate Liens incidental to current operations which have not yet been filed pursuant to Applicable Law against the Borrower or which relate to obligations that (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
- (e) pledges and deposits made in the ordinary course of business in favour of any Governmental Authority when requested by such Governmental Authority in compliance with workers' compensation, unemployment insurance and other social security laws or regulations and which relate to obligations that (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
- (f) any registered restrictions or conveyances that run with the land, encumbrances, easements, rights-of-way, servitudes, development or similar agreements, crossing rights; and other similar rights in land granted to or reserved by other persons, rights of way for sewers, electrical lines, telegraph and telephone lines and other similar purposes or zoning or other restrictions as to the use of real property, which, in the case of land required for the conduct of the Business of the Borrower, do not, materially impair the use of such land in operation of the Business of the Borrower;
- (g) any limitations, reservations, provisions and conditions expressed in the original grant by the Crown of any real property;
- (h) defects, if any, in surveys and surveying matters generally and defects which are or would be disclosed by proper and up-to-date surveys of any real property;
- (i) any official plans, zoning or building by-laws or building ordinance, municipal by-laws and registrations affecting any real property;
- (j) any existing leases with respect to any real property owned by the Borrower, provided such leases are on commercially reasonable terms, and any leases hereafter entered into with respect to any real property owned by the Borrower, provided such leases are entered into

in the ordinary course of the business of the Borrower and are on commercially reasonable terms, and in each case, do not materially impair the operation of the Business of the Borrower;

- (k) title defects, adverse claims or interests, or irregularities which are of a minor nature and which in the aggregate do not materially impair the operation of the Business of the Borrower;
- (l) any Lien resulting from the deposit of cash or securities in connection with the performance of a bid, tender, sale or contract (excluding the borrowing of money) entered into in the ordinary course of business;
- (m) any judgment rendered, writ of seizure or execution, distress or analogous process issued or claim filed against the Borrower which has not resulted in a Default or Event of Default; and
- (n) Liens:
 - (i) constituting Purchase Money Security Interests (as defined in the PPSA) and other vendor-take back financing; *provided* that such Liens shall attach only to the property subject to the lease giving rise to such Lien, insurance thereon and proceeds thereof; and
 - (ii) which are not otherwise Permitted Liens; *provided* that such Liens do not attach generally to all or substantially all of the undertaking, assets and property of the Borrower,

provided that, the aggregate amount of Debt secured by such Liens does not at any time exceed \$5,000,000.

“Person” means an individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and where the context requires, any of them when they are acting as trustee, executor, administrator or other legal representative;

“Petro-Canada Facilities Support Agreement” means the Facilities Support Agreement dated October 23, 2002 between the Borrower and Petro-Canada as amended from time to time;

“Pipeline” means the Borrower’s pipeline system as described in Schedule E;

“PPSA” means the *Personal Property Security Act* (Ontario);

“Prime Rate” means a fluctuating rate of interest per annum, expressed on the basis of a year of 365 or, as the case may be, 366 days which is equal on each day to the greater of:

- (a) the rate of interest established and quoted by the bank that is the Administrative Agent as its reference rate for determining interest chargeable by it in Canadian Dollar denominated commercial loans made by it in Canada in effect on such day; and
- (b) the rate per annum for Canadian Dollar bankers’ acceptances having a term of 30 days that appears on the “Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page” (or any replacement page) by Reuters Money Market Service (or its successor) at or about 10:15 a.m. on the date of determination as reported by the Administrative Agent, plus 1.00 % per annum;

“Prime Rate Advance” means a loan made by the Lenders to the Borrower in Canadian Dollars on which interest is payable at the Prime Rate;

“Projections” means projections and any forward-looking statements (including statements with respect to booked business) of the Borrower.

“Property” means, with respect to any Person, all or any portion of its undertaking, property and assets, both real and personal, tangible and intangible, now owned and subsequently acquired;

“Proportionate Share” means, in respect of each Lender from time to time under a Facility, the percentage obtained by *dividing* (a) that Lender’s Commitment under such Facility, by (b) the aggregate of Commitments of all Lenders under such Facility;

“Register” has the meaning specified in Section 15.4;

“Related Party” means any Person which is any one or more of the following:

- (a) an Affiliate of the Borrower;
- (b) any unitholder, shareholder or partner of the Borrower;
- (c) an officer, director or trustee of any of the foregoing; and
- (d) a Person which does not deal at arm’s length with the Borrower;

“Release” has the meaning prescribed in any Environmental Law and includes any release, intermittent or gradual release, spill, leak, pumping, addition, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction, whether accidental or intentional;

“Relevant Amount” has the meaning specified in Section 5.9;

“Repayment Notice” has the meaning specified in Section 4.9;

“Required Lenders” shall mean, (a) when there are two or fewer Lenders, all of the Lenders, and (b) when there are three or more Lenders, those Lenders having or holding at least 66⅔% of the aggregate of the Commitments at such date;

“Rollover” means a rollover of a BA Advance pursuant to and in accordance with Section 2.8;

“Rollover Notice” means a notice substantially in the form of Schedule F to be given by the Borrower to the Administrative Agent in connection with a Rollover;

“Secured Parties” means the Administrative Agent, the Lenders and each Lender Hedge Provider;

“Security” has the meaning given specified in Section 12.2.

“Shareholders Agreement” means the shareholders agreement for the Borrower made as of January 12, 1989 among Petro-Canada Inc., Shell Canada Limited and Texaco Canada Limited, as amended, amended and restated or replaced from time to time;

“Shares”, as applied to the shares of any corporation, means the shares of every class whether now or subsequently authorized, regardless of whether such shares shall be limited to a fixed sum or percentage with respect to the rights of such shareholders to participate in dividends and in the distribution of assets upon the voluntary or involuntary liquidation, dissolution or winding-up of such corporation;

“Sponsor Credit Agreement” means the loan facility agreement made effective as of the 17th day of August, 2020 among the Sponsors and the Borrower, as amended, amended and restated or replaced from time to time;

“Sponsors” means all of the shareholders of the Borrower, which, as of the Closing Date, are Suncor Energy Inc., Imperial Oil Limited (Compagnie Pétrolière Imperiale Ltée). and Shell Canada Limited (Shell Canada Limitée);

“Subsidiary” means with respect to any Person, (a) any corporation of which an aggregate of more than 50% of the outstanding Voting Shares to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, Voting Shares of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of more than 50% of such Voting Shares whether by proxy, agreement, operation of law or otherwise, and (b) any partnership or limited liability company in which such Person and/or one or more Subsidiaries of such Person shall have an interest (whether in the form of voting or participation in profits or capital contribution) of more than 50% or of which any such Person is a general partner or may exercise the powers of a general partner;

“Successor Administrative Agent” has the meaning specified in Section 13.7;

“Surviving Claims” means contingent, indemnification or other Obligations not yet due and for which no unsatisfied demand for payment has been made to the Borrower by any Secured Party;

“Taxes” includes all present; and future income, corporation, capital gains, capital, excise, and value added and goods and services taxes and all stamp, documentary franchise and other taxes, levies, imposts, deductions, duties, charges and withholdings whatsoever together with interest and penalties, if any, and charges, fees and other amounts made on or in respect thereof;

“Termination Date” shall mean the date on which (a) all Commitments shall have been terminated, (b) the principal of and interest on each Advance, all fees and all other expenses or amounts due and payable under any Credit Document (other than amounts not yet due and payable under Hedging Agreements) shall have been paid in full (other than in respect of Surviving Claims and (c) all Letters of Credit (other than those that have been cash collateralized or back-stopped on terms reasonably acceptable to the applicable LC Lender) have been fully drawn on or cancelled or have expired and all amounts drawn or paid thereunder have been reimbursed in full to each applicable LC Lender.

“Toll” means the toll of the Borrower on file with the CER applicable to the Pipeline, which, as of the Closing Date, is set out in the Incentive Tolling Agreement, as amended from time to time;

“Tranche A Commitment” means an amount equal to \$55,000,000 or such lesser amount as shall, from time to time, represent the permitted maximum outstanding amount of the Tranche A Facility;

“Tranche A Facility” means that certain revolving credit facility in a maximum principal amount equal to the Tranche A Commitment;

“Tranche B Commitment” means an amount equal to \$60,000,000 or such lesser amount as shall, from time to time, represent the permitted maximum amount of the Tranche B Facility;

“Tranche B Facility” means that certain non-revolving credit facility in a maximum principal amount equal to the Tranche B Commitment;

“Tranche C Commitment” means an amount equal to \$15,000,000 or such lesser amount as shall, from time to time, represent the permitted maximum outstanding amount of the Tranche C Facility;

“**Tranche C Facility**” means that certain revolving credit facility in a maximum principal amount equal to the Tranche C Commitment;

“**Tranche C Maturity Date**” means [●], 2023, as may be extended from time to time in accordance with Section 2.9. [NTD: To be one year from the Closing Date.]

“**Tranche C Termination Notice**” has the meaning specified in Section 2.9(a)

“**Transferee**” has the meaning specified in Section 15.6;

“**Type of Advance**” means any of Prime Rate Advance, BA Advance or the issuance of Letters of Credit;

“**Ultramar Priority Access Agreement**” means the Priority Access Agreement dated April 14, 2003 between the Borrower and Ultramar Ltd. as amended from time to time;

“**Voting Shares**” means Shares of any class of any corporation carrying voting rights under all circumstances, *provided that*, for the purpose of this definition, shares which only carry the right to vote conditionally on the happening of an event shall not be considered Voting Shares unless such right has become exercisable; and

“**Wholly-Owned Subsidiary**” means, in respect of a Person, a Subsidiary of such Person all of the issued and outstanding shares in the capital of which or all of the equity, partnership or other ownership interests in which, whether voting or not, are owned by such Person or one of such Person’s other wholly-Owned Subsidiaries or by such Person and one or more of such Person’s other Wholly-Owned Subsidiaries.

1.2 Certain Rules of Interpretation

- (a) **Consents** — Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent. Whenever the consent or approval of a Party is required in a particular circumstance, unless otherwise expressly provided for herein, such consent or approval shall not be unreasonably withheld or delayed by such Party.
- (b) **Currency** - Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.
- (c) **Governing Law** - This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
- (d) **Including** - Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (e) **No Strict Construction** - The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (f) **Number and Gender** - Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (g) **Severability** — If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity

or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.

- (h) **References to Statutes** - Unless otherwise specified, a reference in this Agreement to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation which amends, supplements, supersedes or re-enacts any such statute or any such regulation.
- (i) **Time** - Time is of the essence in the performance of the Parties' respective obligations. :
- (j) **Time Periods** - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.
- (k) **References to Time of Day** - Except as otherwise specified, a time of day shall be construed as a reference to Toronto, Canada time.
- (l) **Knowledge** - Any reference to the knowledge of any Party shall mean to the best of the knowledge, information and belief, after reviewing all relevant records and making due inquiries regarding the relevant matter, of all relevant officers, directors and employees of such Party and, in the case of the knowledge of the Borrower, the relevant senior managers of its Business;
- (m) **References to Party** - Any reference to a Party shall be construed to include its permitted successors or assigns under this Agreement in accordance with their respective interests.
- (n) **References to Agreements** - The term "this Agreement" refers to this agreement including all schedules, amendments, supplements, extensions, renewals, replacements, novations or restatements from time to time, in each case as permitted, and references to "Articles" or "Sections" means the specified Articles or Sections of this Agreement.
- (o) **Interpretation Clause (Québec)** - For purposes of any assets, liabilities or entities located in the Province of Quebec and for all other purposes pursuant to which the interpretation or construction of this Agreement may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) "personal property" shall be deemed to include "movable property", (b) "real property" shall be deemed to include "immovable property", (c) "tangible property" shall be deemed to include "corporeal property", (d) "intangible property" shall be deemed to include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall be deemed to include a "hypothec", "prior claim", "reservation of ownership" and a resolutive clause, (f) all references to filing, registering or recording under the PPSA shall be deemed to include publication under the Civil Code of Quebec, (g) all references to "perfection" of or "perfected" liens or security interest shall be deemed to include a reference to an "opposable" or "set up" hypothec as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (i) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall be deemed to include a "mandatary", (k) "construction liens" or "mechanics, materialmen, repairmen, construction contractors or other like Liens" shall be deemed to include "legal hypothecs" and "legal hypothecs in favour of persons having taken part in the construction or renovation of an immovable; (l) "joint and several" shall be deemed to include "solidary"; (m) "gross negligence or wilful misconduct" shall be deemed to be "intentional or gross fault"; (n) "beneficial ownership" shall be deemed to include "ownership"; (o) "legal title" shall be deemed to include "holding title on behalf of an owner as mandatary or prête-nom"; (p) "easement" shall be deemed to include "servitude"; (q) "priority" shall be deemed to include "rank" or "prior claim", as applicable; (r) "survey" shall be deemed to include "certificate of location and plan"; (s) "state" shall be deemed to include "province"; (t) "fee simple title" shall be deemed to include "absolute ownership" and "ownership" (including ownership under a right

of superficies); (u) "ground lease" shall be deemed to include "emphyteusis" or a "lease with a right of superficies", as applicable; (v) "leasehold interest" shall be deemed to include "a valid lease"; and (w) "lease" shall be deemed to include a "leasing contract"; (x) "accounts" shall include "claims", (y) "guarantee", "guarantor" shall include "suretyship" and "surety", respectively, and (z) deposit account shall be deemed to include a financial account. The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only (except if another language is required under any Applicable Law) and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement (sauf si une autre langue est requise en vertu d'une loi applicable).*

1.3 Schedules

The Schedules attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it.

Schedule A - Commitments
Schedule B - Borrowing Notice
Schedule C - Compliance and Reporting Certificate
Schedule D - Conversion Notice
Schedule E - Description of Pipeline
Schedule F - Rollover Notice :
Schedule 8.1(q) - Defined Benefit Pension Plans
Schedule 8.1(w) - Insurance
Schedule 8.1(y) - Environmental Disclosure
Schedule 14.3 - Financial Institutions
Schedule 15.3 - Notices for Lenders

ARTICLE 2 THE FACILITIES

2.1 Establishment of the Facilities

Subject to the terms and conditions of this Agreement, the Lenders establish in favour of the Borrower:

- (a) the Tranche A Facility, being a demand revolving facility up to a maximum outstanding principal amount equal to the Tranche A Commitment;
- (b) the Tranche B Facility, being a demand non-revolving facility up to a maximum principal amount equal to the Tranche B Commitment; and
- (c) the Tranche C Facility being a committed revolving facility up to a maximum outstanding principal amount equal to the Tranche C Commitment.

Notwithstanding compliance with the covenants and all other terms and conditions of this Agreement and the other Credit Documents, and regardless of the expiry dates of any outstanding Letters of Credit or the maturity date of any BA Advances, all Obligations under the Demand Facilities are repayable on demand by the Lenders in accordance with Section 4.4, and the Lenders may terminate their Commitments under the Demand Facilities at any time without advance notice or demand and, in each case, regardless of whether the Borrower is in compliance with the terms of this Agreement and the other Credit Documents. Nothing whatsoever in this Agreement, the other Credit Documents or any other agreements, instruments

or documents evidencing or relating to the Demand Facilities shall derogate from, limit or alter the demand nature of the Demand Facilities and the Obligations under or pursuant to the Demand Facilities shall be due and payable upon demand in accordance with Section 4.4.

2.2 Lenders' Obligations

Without affecting or limiting the right of the Lenders to terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities or any outstanding Obligations thereunder, the obligation of each Lender to make Advances under each of the Facilities is several (and not joint or joint and several) and shall not, at any time, exceed its Proportionate Share of such Facility, unless otherwise specified herein. The failure of any Lender to perform its obligations under this Agreement shall not affect the obligation of any other Lender under this Agreement.

2.3 Purpose

The Facilities are being made available to the Borrower, and the Borrower shall utilize the Facilities, solely for the purposes of (a) in respect of the Tranche A Facility, general working capital and corporate purposes, (b) in respect of the Tranche B Facility, refinancing the loans and other availments and obligations currently outstanding under the non-revolving term loan facility under the Existing BMO Credit Agreement and the Sponsor Credit Agreement by way of a single Advance on the Closing Date and (c) in respect of the Tranche C Facility, compliance with the financial resources requirements of the CER as provided for in the *Pipeline Financial Requirements Regulations* (SOR/2018-142) and the Pipeline Financial Requirements Guidelines published by the CER in connection therewith, as such guidelines may be updated from time to time.

2.4 Availment of Tranche A Facility

Subject to the terms and conditions of this Agreement, the Borrower may request the following types of Advances under the Tranche A Facility, in each case in the minimum amounts provided for in Section 2.7:

- (a) Prime Rate Advances;
- (b) BA Advances;
- (c) Letter of Credit issued by an LC Lender; or
- (d) any combination of such Advances.

Any unutilized portion of a Lender's Tranche A Commitment may be cancelled by such Lender, at any time and from time to time, without prior notice, and shall not thereafter be available to the Borrower. Advances under the Tranche A Facility shall be repayable on demand in accordance with the terms hereof. Prior to a cancellation of the availability of the Tranche A Facility or the issuance of a Facility Demand for Repayment, the Tranche A Facility shall be a revolving credit facility; that is, principal amounts borrowed thereunder may be repaid and reborrowed from time to time subject to the terms of this Agreement.

2.5 Availment of Tranche B Facility

Subject to the terms and conditions of this Agreement, the Borrower may request the following types of Advances under the Tranche B Facility, in each case in the minimum amounts provided for in Section 2.7:

- (a) Prime Rate Advances;
- (b) BA Advances; or
- (c) any combination of such availments.

The Tranche B Facility shall be a non-revolving credit facility; that is, principal borrowed and repaid thereunder may not be reborrowed. Advances under the Tranche B Facility shall be repayable on demand in accordance with the terms hereof. The Borrower may, on the Closing Date, request one Advance under the Tranche B Facility in an aggregate principal amount not to exceed the Tranche B Commitment. Any unutilized portion of the Tranche B Commitment shall be permanently reduced and cancelled as of the close of business on the Closing Date. All principal repayments of the Obligations under the Tranche B Facility shall permanently reduce the Tranche B Facility Commitment by the amount of each such repayment without the requirement for further action by any party hereto, and all amounts so repaid may not be reborrowed.

2.6 Availment of Tranche C Facility

Subject to the terms and conditions of this Agreement, the Borrower may request Prime Rate Advances under the Tranche C Facility in the minimum amounts provided for in Section 2.7. The Tranche C Facility shall be revolving credit facility; that is, principal amounts borrowed thereunder may be repaid and reborrowed from time to time subject to the terms of this Agreement.

2.7 Manner and Timing of Borrowing Notices; Minimum Drawdowns

- (a) Upon the timely satisfaction or waiver of all applicable conditions specified in this Agreement, and provided that no Lender has cancelled the availability of the Demand Facilities or issued a Facility Demand for Repayment, the Borrower may request an Advance (which request shall be irrevocable) by delivering a Borrowing Notice to the Administrative Agent (and to the applicable LC Lender, in the case of a Letter of Credit).
- (b) Each Borrowing Notice, Rollover Notice or Conversion Notice, as the case may be, shall be delivered to the Administrative Agent (and to the applicable LC Lender, in the case of a Letter of Credit) not later than:
 - (i) in the case of a Prime Rate Advance, or a Rollover or Conversion into a Prime Rate Advance, 10:00 a.m. (Toronto Time) at least one (1) Business Days prior to the date (which shall be a Business Day) of such Advance;
 - (ii) in the case of BA Advances, or a Rollover or Conversion into a BA Advance, 10:00 a.m. (Toronto Time) at least two (2) Business Days prior to the date (which shall be a Business Day) of such Advance; and
 - (iii) in the case of Letters of Credit, 10:00 a.m. (Toronto Time) at least three (3) Business Days prior to the date (which shall be a Business Day) of such Advance.
- (c) Each Advance (other than a Letter of Credit) shall be in the following minimum principal and incremental amounts:
 - (i) in the case of a Prime Rate Advance, in a minimum aggregate principal amount of \$1,000,000 and in integral multiples of \$100,000 thereafter; and
 - (ii) in the case of a BA Advance, in a minimum aggregate principal amount of \$1,000,000 and in integral multiples of \$100,000 thereafter.

2.8 Rollovers and Conversions

Upon timely satisfaction or waiver of all applicable conditions specified in this Agreement, and provided that no Lender has cancelled the availability of the Demand Facilities or issued a Facility Demand for Repayment, the Borrower may request (which request shall be irrevocable) a Rollover or a Conversion by delivering an Conversion Notice or Rollover Notice to the Administrative Agent. Each Rollover Notice and

Conversion Notice shall be delivered to the Administrative Agent the number of days and at the specified times prior to the proposed Conversion or Rollover in respect of the applicable Type of Advance, all as specified in Section 2.7.

2.9 Extension of Tranche C Maturity Date

- (a) Provided that no Default or Event of Default has occurred and is continuing, and no Lender has delivered written notice to the Administrative Agent within the timeframe specified in Section 2.9(b) notifying the Administrative Agent that its Commitment under the Tranche C Facility shall not be extended (a “**Tranche C Termination Notice**”), on the day immediately prior to the then effective Tranche C Maturity Date, the Tranche C Maturity Date shall be automatically extended for a period of 364 days.
- (b) At any time prior to the date that is 10 Business Days before the then effective Tranche C Maturity Date, any Lender under the Tranche C Facility may, in its sole discretion, deliver a Tranche C Termination Notice (each such Lender a “**Non-Extending Lender**”). The Administrative Agent shall, promptly upon the receipt thereof, notify the Borrower and the other Lenders of such Tranche C Termination Notice. Upon delivery of a Tranche C Termination Notice, the extension provisions provided for in the foregoing clause (a) shall not apply to the Commitment of the applicable Non-Extending Lender under the Tranche C Facility.
- (c) Upon any Lender becoming a Non-Extending Lender, the Administrative Agent shall forthwith so advise each of the other Lenders and such Lenders shall have the right (but not the obligation) to purchase the Commitment under the Tranche C Facility of such Non-Extending Lender (a “**Non-Extending Lender Commitment Amount**”) for a purchase price in an amount equal to the Obligations then owing by the Borrower to such Non-Extending Lender (including all losses, costs and expenses suffered or incurred by the Non-Extending Lenders as a result of complying with this Section 2.9(b) and all amounts owing to it under Section 16.1). Each of the other Lenders wishing to exercise its rights to purchase the Non-Extending Lender Commitment Amount (a “**Purchasing Lender**”) shall so notify the Borrower, the Administrative Agent and each of the other Lenders in writing, and such Purchasing Lender shall thereupon be obligated to purchase not less than 10 days after the date of such notification, an amount equal to the Non-Extending Lender Commitment Amount multiplied by such Purchasing Lender’s Proportionate Share of the Tranche C Commitment, over the aggregate of all Purchasing Lenders’ Proportionate Share of the Tranche C Commitment, or as otherwise agreed to by the Borrower and all Purchasing Lenders. The Non-Extending Lenders, the Purchasing Lenders, the Administrative Agent, the Borrower and each of the other Lenders, if any, shall forthwith duly execute and deliver any necessary documentation to give effect to such purchase, whereupon the Non-Extending Lenders shall, as of the effective date thereof, be released from its obligations to the Borrower hereunder and under the other Credit Documents arising subsequent to such date and cease to be a Lender hereunder.
- (d) If the Non-Extending Lender Commitment Amount is not purchased pursuant to the foregoing clause (c), at the option of the Borrower:
 - (i) so long as no Default or Event of Default exists and is continuing, the Borrower may repay in full all Obligations owing to such Non-Extending Lender (including any expenses, breakage and other costs determined in accordance with this Agreement) including cash collateralization in full of any contingent obligations in respect of any outstanding Letters of Credit, provided that a Bankers’ Acceptance will not be paid prior to the expiry of the applicable Interest Period (but provided that the Borrower may cash collateralize that Bankers’ Acceptance in accordance with Section 4.13) and, upon such repayment, the Non-Extending Lender shall cease to be a Lender hereunder and the Non-Extending Lender Commitment Amount shall be cancelled; the Tranche C Facility Commitment shall be reduced by the amount of the cancelled Non-Extending Lender Commitment Amount, and

the Proportionate Share of each remaining Lender shall be adjusted accordingly; and/or

- (ii) the Borrower may arrange for a replacement lender or lenders acceptable to the Administrative Agent, acting reasonably, to purchase such Non-Extending Lenders' entire Individual Commitment Amount in accordance with Article 15.

ARTICLE 3 INTEREST AND FEES

3.1 Interest on Prime Rate Advances

The Borrower shall pay interest to the Administrative Agent (for the account of the Lenders) on each Prime Rate Advance at a rate *per annum* equal to the Prime Rate plus the Applicable Margin from time to time in effect. Such interest shall be payable in Canadian Dollars monthly in arrears on each Interest Payment Date. The first of such payments shall be made on the first Interest Payment Date that occurs after the first Prime Rate Advance hereunder. Interest on each Prime Rate Advance shall accrue in respect of the period from and including the Advance Date of such Prime Rate Advance, to and including the day immediately preceding the next Interest Payment Date, and thereafter shall be calculated in respect of the period from and including the immediately preceding Interest Payment Date to and including the day immediately preceding the subsequent Interest Payment Date. Interest payments shall be calculated daily on the principal amount of a Prime Rate Advance outstanding during such period and on the basis of a 365-day or 366-day year, as the case may be both before and after default, demand, maturity and judgment. Changes in the Prime Rate shall cause an automatic and immediate adjustment to the interest rate payable on the Prime Rate Advances without the necessity of any notice to the Borrower.

3.2 Default Interest

Upon the occurrence of and during continuance of an Event of Default, the Applicable Margin and interest rates which would otherwise be applicable under this Agreement shall increase by 200 bps.

3.3 Fees

- (a) The Borrower agrees to pay a work fee in the amount of \$150,000 to each of the Lenders on the Closing Date (the "**Work Fees**"). Such fee will be in all respects fully earned, due and payable on the Closing Date.
- (b) The Borrower agrees to pay the Administrative Agent, for the account of the Lenders, a standby fee (the "**Standby Fee**") for the period from and including the Closing Date to the earlier of the Termination Date and the Maturity Date, calculated at a rate *per annum* equal to the Applicable Margin on the daily undrawn balance (if any) of the Tranche C Facility during the period for which the calculation is being made. The Standby Fee shall accrue daily from the Closing Date and shall be payable quarterly in arrears on the first Business Day following the end of each calendar quarter for the calendar quarter then ended and on the cancellation in full of the Tranche C Facility.
- (c) The Borrower shall pay to the Administrative Agent, for its own account, until the Termination Date, a non-refundable agency fee in the amount and at the times specified in the agency fee agreement dated as of the date hereof between the Borrower and the Administrative Agent.

3.4 Interest on Overdue Amounts

The Borrower shall, on demand, pay to the Administrative Agent (for the account of the Lenders) interest on all overdue payments (including interest payments) in connection with this Agreement from the date any such payment becomes overdue and for so long as such amount remains unpaid at a rate *per annum* equal to the Prime Rate plus the then Applicable Margin plus 2% *per annum*. Such interest on overdue amounts shall be computed daily, compounded monthly and shall be payable both before and after default, demand, maturity and judgement.

3.5 Interest Act

Each interest rate which is calculated under this Agreement on any basis other than the actual number of days in a calendar year (the “**deemed interest period**”) is, for the purposes of the *Interest Act* (Canada), equivalent to a yearly rate calculated by *dividing* such interest rate by the number of days in the deemed interest period, then *multiplying* such result by the actual number of days in the calendar year (365 or 366).

3.6 Nominal Rate of Interest; Deemed Re-investment Principle

The Parties acknowledge and agree that all calculations of interest under the Credit Documents are to be made on the basis of the nominal interest rate described in this Agreement and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest. The Parties acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

3.7 Criminal Rate of Interest

In no event shall the aggregate “interest” (as defined in Section 347 (the “**Criminal Code Section**”) of the *Criminal Code* (Canada)), payable to any Lender under this Agreement or any other Credit Document exceed the effective annual rate of interest lawfully permitted under the Criminal Code Section on the “credit advanced” (as defined in such section) under this Agreement or any other Credit Document. Further, if any payment, collection or demand pursuant to this Agreement or any other Credit Document in respect of such “interest” is determined to be contrary to the provisions of the Criminal Code Section, such payment, collection, or demand shall be deemed to have been made by mutual mistake of the Parties and such “interest” shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by the Criminal Code Section so as to result in receipt by such Lender of interest at a rate not in contravention of the Criminal Code Section, such adjustment to be effected, to the extent necessary, as follows:

- (a) firstly, by reducing the amounts or rates of interest required to be paid to that Lender; and
- (b) then, by reducing any fees, charges, expenses and other amounts required to be paid to the affected Lender which would constitute “interest” for the purposes of the Criminal Code Section.

Notwithstanding the above, and after giving effect to all such adjustments, if any Lender shall have received an amount in excess of the maximum permitted by the Criminal Code Section, then the Borrower shall be entitled, by notice in writing to the affected Lender, to obtain reimbursement from that Lender in an amount equal to such excess. For greater certainty, to the extent that any charges, fees or expenses are held to be within such meaning of “interest” (as defined in the Criminal Code Section), such amounts shall be pro-rated over (i) the period of time to which they relate or (ii) otherwise over the period from first Advance Date hereunder to the date on which all of the Obligations are irrevocably repaid.

3.8 Evidence of Indebtedness

The indebtedness of the Borrower resulting from Advances pursuant to the Facilities and other obligations pursuant to the Credit Documents shall be evidenced in the books and records maintained by the Administrative Agent. Such records maintained by the Administrative Agent shall constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Administrative Agent and the Lenders hereunder. The failure of the Administrative Agent to correctly record any such amount or date shall not, however, adversely affect the obligation of the Borrower to pay amounts due under this Agreement to the Lenders or the Administrative Agent, as applicable, in accordance with this Agreement

ARTICLE 4 REPAYMENT AND REDUCTION OF FACILITIES

4.1 Repayment of Tranche A Facility

All Borrowings and other Obligations in respect of the Tranche A Facility are repayable upon demand in accordance with Section 4.4.

4.2 Repayment of Tranche B Facility

The aggregate outstanding principal amount of the Tranche B Facility shall be repaid in instalments in the amount of \$1,500,000 on the last Business Day of each calendar quarter, commencing on September 30, 2022, until the Tranche B Facility is repaid in full. Notwithstanding the foregoing, all amounts outstanding under the Tranche B Facility are repayable upon demand in accordance with Section 4.4.

4.3 Repayment of Tranche C Facility

Unless the Borrowings in respect of the Tranche C Facility are required to be paid at an earlier date pursuant to the terms of this Agreement, all Borrowings and other Obligations in respect of the Tranche C Facility shall be repaid on the Tranche C Maturity Date, as such date may be extended from time to time in accordance with the terms hereof.

4.4 Mandatory Repayment of Demand Facilities

Subject to Section 11.3, the Borrower shall repay or pay, as the case may be, to the Administrative Agent, on behalf of the Lenders, all Borrowings and other Obligations outstanding under any Demand Facility within 10 Business Days after receipt by the Borrower of a demand for payment by the Administrative Agent in respect of a Demand Facility (each such demand, a "**Facility Demand for Payment**").

Nothing whatsoever in this Agreement, the Security or any other Credit Document shall derogate from, limit or alter the demand nature of, and the rights of each of the Lenders under the Demand Facilities to demand repayment of the Demand Facilities and, subject to Section 11.3, all Advances and other Obligations under or pursuant to a Demand Facility shall be due and payable 10 Banking Days after demand for payment by the Administrative Agent.

4.5 Mandatory Repayment of Amounts Exceeding Availability

If at any time the aggregate principal amount outstanding under a Facility exceeds the Commitments under such Facility, the Borrower shall immediately repay to the Administrative Agent, for distribution to the Lenders, an amount sufficient to reduce the aggregate principal amount outstanding under such Facility to the Commitment under such Facility.

4.6 Mandatory Repayment of Insurance Proceeds

Except as otherwise specified under Article 11, the Borrower shall repay Borrowings with the proceeds in excess of \$2,500,000 received by the Borrower under any policy of property or casualty insurance maintained by the Borrower which are not, within 180 days of the receipt of such proceeds, applied or irrevocably committed in writing to, or used to reimburse the Borrower for amounts paid by the Borrower for, the repair or replacement of the property that is the subject of a claim under such policy of insurance. Such proceeds shall be applied as a prepayment of Borrowings outstanding under the Tranche B Facility until the Tranche B Facility has been repaid in full and cancelled, and shall thereafter be applied as a prepayment of Borrowings outstanding under the Tranche C Facility and the Tranche A Facility (on a *pro rata* basis).

4.7 [Reserved]

4.8 Voluntary Prepayment of the Facilities

The Borrower may from time to time voluntarily prepay Borrowings without penalty; *provided* that:

- (a) a Bankers' Acceptance or BA Discount Note may not be prepaid prior to its maturity date, but may be cash collateralized in accordance with Section 4.13;
- (b) the Borrower's Obligations in respect of Letters of Credit may not be prepaid prior to their respective maturity or expiry dates, but Letters of Credit may be returned for cancellation or cash collateralized in accordance with Section 4.12;
- (c) each prepayment of a Prime Rate Advance shall be in a minimum amount of \$500,000 and in whole multiples of \$100,000 thereafter; and
- (d) the Borrower shall deliver a Repayment Notice in accordance with Section 4.9 in connection with any prepayment.

4.9 Repayment Notice

The Borrower shall give the Administrative Agent prior written notice of any prepayment of Borrowings under this Agreement (a "**Repayment Notice**"), which Repayment Notice shall be delivered to the Administrative Agent not less than 3 Business Days prior to the date of the applicable prepayment. Any Repayment Notice given by the Borrower shall be irrevocable and binding on the Borrower and shall specify the date or dates upon which such prepayment is to be made (which date shall be a Business Day), the Facility and Type of Advance being repaid, and the amount of such prepayment. Each prepayment of a Borrowing under this Agreement shall be made together with accrued interest on the portion of the Borrowing being prepaid and, subject to breakage costs, shall be made without premium or penalty. No amounts prepaid under the Tranche B Facility may be reborrowed.

4.10 Payment under this Agreement

Unless otherwise expressly provided in this Agreement, the Borrower shall make any payment required to be made by it to the Administrative Agent by depositing the amount of the payment in the relevant currency to the Agent's Account not later than 10:00 a.m. (Toronto time) on the date the payment is due.

4.11 Reduction or Cancellation of Tranche A Facility and Tranche C Facility

- (a) The Borrower may, upon not less than three (3) Business Days prior written notice to the Administrative Agent (a "**Cancellation Notice**"), cancel all or any portion of Facility A or Facility C (or each of them); *provided* that:

- (i) any such cancellation or reduction shall be in a minimum amount of \$500,000, and in whole multiples of \$100,000 thereafter;
 - (ii) any cancellation under this Section shall reduce the Commitments of the Lenders in accordance with their Proportionate Shares under the applicable Facility and, to the extent that any repayment is required to ensure that the amount of outstanding Advances does not exceed the Commitments under the applicable Facility, the Borrower shall make such repayment on or prior to the effectiveness of such cancellation; and
 - (iii) if any such reduction will not result in a proportionate reduction of the Commitments of the Lenders under the Tranche A Facility and the Tranche C Facility, then the Commitments of each Lender under the Facility that is not being reduced shall be adjusted, if and to the extent required, to ensure that the individual Commitments of each Lender under the Tranche A Facility and the Tranche C Facility are in the same proportion to the aggregate Commitments thereunder immediately prior to such reduction.
- (b) Each Cancellation Notice shall be irrevocable and shall specify the date upon which such cancellation is to take effect, the Facility subject to such cancellation and the amount of such cancellation. No Commitments cancelled under this Agreement may be subsequently reinstated. The Administrative Agent shall promptly forward a copy of any notice of reduction or cancellation to the applicable Lenders.

4.12 Cash Collateralization of Letters of Credit

- (a) To cash collateralize a Letter of Credit issued hereunder, the Borrower shall provide for the funding in full of such undrawn Letter of Credit by paying to and depositing with the Administrative Agent (for the benefit of the Issuing Lender) cash collateral in Canadian Dollars equal to 103% of the undrawn face amount of the Letter of Credit to be so cash collateralized.
- (b) Such cash collateral deposited by the Borrower shall be held by the Administrative Agent (for the benefit of the Issuing Lender) in an interest-bearing cash collateral account with interest to be credited to the Borrower at rates prevailing at the time of deposit for similar accounts with the Administrative Agent.
- (c) Such cash collateral account shall be assigned to the Administrative Agent as security for the obligations of the Borrower in relation to the applicable Letter of Credit pursuant to a security agreement in form and substance satisfactory to the Administrative Agent and the Issuing Lender. The Borrower shall deliver such other agreements and documents (including legal opinions) as may be reasonably requested by the Administrative Agent or the Issuing Lender in connection therewith.
- (d) Such cash collateral shall be applied to satisfy the Obligations of the Borrower for such Letter of Credit if drawn, and the Administrative Agent is hereby irrevocably directed by the Borrower to turn over any such cash collateral to the Issuing Lender for application against such Obligations to the extent same is drawn. Amounts held in such cash collateral accounts may not be withdrawn by the Borrower prior to the expiry of such Letter of Credit, without the consent of the Issuing Lender.
- (e) If after expiry or cancellation of any Letter of Credit for which such funds are held and application by the Issuing Lender of the amounts in such cash collateral accounts to satisfy the obligations of the Borrower hereunder with respect to the applicable Letter of Credit, any excess remains, such excess shall first be applied to pay any unpaid Obligations then due with the balance to be promptly remitted to the Borrower.

- (f) The Borrower agrees to indemnify the Lenders for any deficiency in the amount of such funds on deposit to satisfy the obligations of the Borrower to repay the Face Amount of any Letter of Credit presented for payment.

4.13 Prepayment and Bankers' Acceptances

- (a) To cash collateralize Borrowings consisting of BA Advances before their maturity dates, the Borrower shall be required to cash collateralize the payment obligation that will become due upon the maturity of the applicable Bankers' Acceptances or BA Discount Notes, as the case may be.
- (b) In such event the Borrower shall deposit an amount equal to the Face Amount of such Bankers' Acceptances or BA Discount Notes with the Administrative Agent (for the benefit of the Lenders). Such cash collateral deposited by the Borrower shall be held by the Administrative Agent (for the benefit of the Lenders) in an interest-bearing cash collateral account with interest to be credited to the Borrower at rates prevailing at the time of deposit for similar accounts with the Administrative Agent.
- (c) Such cash collateral account shall be assigned to the Administrative Agent as security for the obligations of the Borrower in relation to the applicable Bankers' Acceptances or BA Discount Notes pursuant to a security agreement in form and substance satisfactory to the Administrative Agent. The Borrower shall deliver such other agreements and documents (including legal opinions) as may be reasonably requested by the Administrative Agent in connection therewith.
- (d) Such cash collateral shall be applied to satisfy the obligations of the Borrower for such Bankers' Acceptances or BA Discount Notes as they mature and the Administrative Agent is hereby irrevocably directed by the Borrower to apply any such cash collateral to such maturing Bankers' Acceptances or BA Discount Notes. Amounts held in such cash collateral accounts may not be withdrawn by the Borrower without the consent of all of the Lenders.
- (e) If after maturity of the Bankers' Acceptances or BA Discount Notes for which such funds are held and application by the Lenders of the amounts in such cash collateral accounts to satisfy the obligations of the Borrower hereunder with respect to the Bankers' Acceptances or BA Discount Notes being repaid, any excess remains, such excess shall first be applied to pay any unpaid Obligations then due with the balance to be promptly remitted to the Borrower.
- (f) The Borrower agrees to indemnify the Lenders for any deficiency in the amount of such funds on deposit to satisfy the obligations of the Borrower to repay the Face Amount of the maturing Bankers' Acceptances or BA Discount Notes.

ARTICLE 5 BANKERS' ACCEPTANCES AND LETTERS OF CREDIT

5.1 Funding of Bankers' Acceptances

- (a) If the Administrative Agent receives a Borrowing Notice, Rollover Notice or a Conversion Notice from the Borrower requesting a BA Advance, a Rollover of an existing BA Advance, or a Conversion of an Advance into a BA Advance (as the case may be), the Administrative Agent shall notify each of the Lenders of such request prior to 12:00 p.m. (Toronto, Canada time) on the Business Day prior to the date of such requested Advance, Rollover or Conversion, which notice shall specify each Lender's Proportionate Share of such Advance.
- (b) The Face Amount of each draft shall be at least \$500,000, and in integral multiples of \$100,000 thereafter, or, in the case of a BA Advance under the Tranche B Facility, in such other amounts that may be required to give effect the amortization prescribed in Section 4.2, and the Face Amount of any such Bankers' Acceptance or BA Discount Note may be increased or reduced by

the Administrative Agent in its sole and unfettered discretion to the nearest integral multiple of \$1,000.

- (c) Each Lender shall, not later than 11:30 a.m. (Toronto, Canada time) on the date of each BA Advance under a Facility, accept drafts of the Borrower which are presented for acceptance and which have an aggregate Face Amount equal to such Lender's Proportionate Share of the total BA Advance being made.
- (d) On the Advance Date specified in a Borrowing Notice, Rollover Notice or Conversion Notice, the Administrative Agent shall advise the Borrower as to the Administrative Agent's determination of the applicable BA Discount Rate.
- (e) Each Lender shall purchase the Bankers' Acceptances accepted by it at the applicable BA Discount Rate. Each Lender shall provide the Administrative Agent, for the account of the Borrower, the BA Discount Proceeds less the Bankers' Acceptance Fee payable by the Borrower with respect to each Bankers' Acceptance. Each Lender may, at any time, or from time to time, hold, sell, rediscount or otherwise dispose of any or all drafts of the Borrower to be accepted as Bankers' Acceptances.
- (f) Notwithstanding the fact that any person whose signature appears on any Bankers' Acceptances as signatory for the Borrower may no longer be an authorized signatory for the Borrower at the date of issuance of a Bankers' Acceptance, such signature shall nevertheless be valid and sufficient for all purposes as if such authority had remained in force at the time of such issuance, and any such Bankers' Acceptance so signed, shall be binding upon the Borrower. In order to facilitate the issuance of Bankers' Acceptances pursuant to this Agreement, the Borrower hereby authorizes each of the Lenders, and appoints each of the Lenders as the Borrower's attorney, to complete, sign and endorse drafts of depository bills (as defined in the *Depository Bills and Notes Act* (Canada)) on its behalf in handwritten form or by facsimile or mechanical signature or otherwise in accordance with the applicable Borrowing Notice or Conversion Notice and, once so completed, signed and endorsed, to accept them as Bankers' Acceptances under this Agreement and then purchase such Bankers' Acceptances in accordance with the provisions of this Agreement. Drafts so completed, signed, endorsed and negotiated on behalf of the Borrower by a Lender shall bind the Borrower as fully and effectively as if so performed by an officer of the Borrower. Each draft of a Bankers' Acceptance completed, signed or endorsed by a Lender shall mature on the last day of the term thereof. All Bankers' Acceptances to be accepted by a particular Lender shall, at the option of such Lender, be issued in the form of depository bills made payable originally to and deposited with The Depository for Securities Limited pursuant to the *Depository Bills and Notes Act* (Canada).
- (g) The Borrower shall pay the BA stamping fee to the Administrative Agent (for the account of the Lenders) upon issuance of any Bankers' Acceptance or BA Discount Note, at a rate per 365 days equal to the Applicable Margin in effect on the acceptance of such Bankers' Acceptance or BA Discount Note and calculated on the face amount of such Bankers' Acceptance or BA Discount Note and on the basis of the number of days in the term of such Bankers' Acceptance or BA Discount Note divided by 365.
- (h) Notwithstanding the foregoing, the obligations of the Lenders to purchase Bankers' Acceptances and provide BA Discount Proceeds in connection therewith shall be subject to each Lender's right to terminate, cancel or restrict the availability of any unutilized portion of the Demand Facilities.

5.2 Safekeeping of Drafts

The Lenders agree that, in respect of the safekeeping of executed drafts of the Borrower which are delivered to them for acceptance hereunder, they shall exercise the same degree of care which the Lenders give to their own property; *provided* that the Lenders shall not be deemed to be insurers thereof.

5.3 Interest Periods

The Interest Period in respect of each BA Advance shall be specified in the draft and in the applicable Borrowing Notice, Conversion Notice or Rollover Notice related thereto. The last day of each Interest Period shall be a Business Day.

5.4 Payment on Maturity

The Borrower shall pay to the Administrative Agent, for the account of the Lenders, on the last day of the Interest Period of a Bankers' Acceptance or BA Discount Note, as the case may be, an amount equal to the Face Amount of such maturing Bankers' Acceptance or the principal amount of such BA Discount Note, as the case may be; *provided* that the Borrower may, at its option, rollover all or any portion of a Bankers' Acceptance or BA Discount Note by delivering a Rollover Notice in respect thereof to the Administrative Agent no later than 10:00 a.m. (Toronto Time) 3 Business Days prior to the last day of the applicable Interest Period and presenting replacement Bankers' Acceptances or BA Discount Notes to the Lenders for acceptance and purchase or purchase, as the case may be, together with funds equal to (i) the Face Amount of the replacement Bankers' Acceptance or the principal amount of the replacement BA Discount Notes less (ii) the BA Discount Proceeds less the Bankers' Acceptance Fee attributable thereto. In the event that a Borrower fails to deliver a Rollover Notice and fails to make payment to the Administrative Agent in respect of the maturing BA Advance, the Face Amount of the maturing Bankers' Acceptances and the principal amount of the BA Discount Notes forming part of such BA Advance shall be deemed to be converted to a Prime Rate Advance on the last day of the relevant Interest Period.

The Borrower waives presentment for payment and any other defence for payment of any amounts due to a Lender in respect of a Bankers' Acceptance accepted by or pursuant to this Agreement which might otherwise exist solely by reason of such Bankers' Acceptance being held, at the time of maturity thereof, by such Lender in its own right and the Borrower agrees not to claim any days of grace if such Lender as holder sues the Borrower on the Banker's Acceptance for payment of the amount payable by the Borrower thereunder.

5.5 Special Provisions Relating to BA Discount Notes

- (a) Each Borrower and each Lender hereby acknowledges and agrees that from time to time certain Lenders may not be authorized to or may, as a matter of general corporate policy, elect not to accept or purchase Bankers' Acceptances, and the Borrower and each Lender agree that any such Lender may purchase BA Discount Notes in lieu of creating Bankers' Acceptances for its account.
- (b) In the event that any Lender is unable to, or elects as a matter of general corporate policy not to, accept or purchase Bankers' Acceptances hereunder, such Lender shall not be required to accept or purchase Bankers' Acceptances hereunder, but rather, if the Borrower requests the acceptance of such Bankers' Acceptances, the Borrower shall deliver to such Lender a BA Discount Note or BA Discount Notes having the same maturity as the Bankers' Acceptances to be accepted and in an aggregate principal amount equal to the Face Amount of such Bankers' Acceptances. Each such Lender hereby agrees to purchase BA Discount Notes from the Borrower at a purchase price equal to the BA Discount Proceeds which would have been applicable if a Bankers' Acceptance had been accepted by it and such BA Discount Notes shall be governed by the provisions of this Article 5 as if they were Bankers' Acceptances.

5.6 No Market

- (a) Subject as otherwise provided in Section 16.11, if at any time subsequent to the giving of a Borrowing Notice, Rollover Notice or Conversion Notice to the Administrative Agent by the Borrower with regard to any requested BA Advance and before the requested Advance, Rollover or Conversion occurs:

- (i) the Administrative Agent (acting reasonably) determines that adequate and fair means do not exist for ascertaining the rate of interest with respect to the requested BA Advance during the ensuing Interest Period selected; or
- (ii) the Administrative Agent is advised by Lenders holding at least 35% of the Commitments of all Lenders hereunder by written notice (each, a “**Lender CDOR Suspension Notice**”), such notice received by the Administrative Agent no later than 2:00 p.m. (Toronto time) on the second Business Day prior to the date of the requested Advance (including a Conversion or Rollover of an existing Advance) that such Lenders have determined (acting reasonably) that the CDOR Rate will not adequately reflect the cost to such Lenders of making or maintaining their BA Advances included in such Advance for the relevant Interest Period;

then the Administrative Agent shall give notice thereof to the Lenders and the Borrower as soon as possible after such determination or receipt of such Lender CDOR Suspension Notice, as the case may be, and the Borrower shall, within one Business Day after receipt of such notice and in replacement of the Borrowing Notice, Rollover Notice or Conversion Notice, as the case may be, previously given by the Borrower, give the Administrative Agent a Borrowing Notice or a Conversion Notice, as the case may be, which specifies the Advance of a Prime Rate Advance or withdraw the requested Conversion to the relevant BA Advance. In the event the Borrower fails to give, if applicable, a valid replacement Conversion Notice with respect to the maturing BA Advances which are the subject of a Rollover Notice, such maturing BA Advances shall be converted on the last day of the applicable Interest Period into a Prime Rate Advance as if a Conversion Notice had been given to the Administrative Agent by the Borrower pursuant to the provisions hereof. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to an Advance originally requested by way of a BA Advance, then the Borrower shall be deemed to have requested a Prime Rate Advance in the amount specified in the original Borrowing Notice and, on the originally requested Advance Date, the Lenders (subject to the other provisions hereof) shall make available the requested amount by way of a Prime Rate Advance.

5.7 Letter of Credit Advances

Royal Bank of Canada and Bank of Montreal each agree to act as an LC Lender for the purpose of facilitating Advances to the Borrower under the Tranche A Facility by way of Issuance of Letters of Credit. Each Letter of Credit Issued under the Tranche A Facility shall be issued on a bilateral basis; that is, each LC Lender shall issue LCs on a non-fronted basis. The Borrower may, subject to compliance with the terms and conditions of this Agreement, by irrevocable Borrowing Notice to the Administrative Agent and the applicable LC Lender, request Advances under the Tranche A Facility by way of Letters of Credit, which Borrowing Notice shall specify the LC Lender requested to issue such Letter of Credit.

To the extent reasonably practicable, the Borrower shall request the issuance of Letters of Credit on a basis which results in the aggregate amount of Letters of Credit issued by an LC Lender being approximately equal to its Proportionate Share under the Tranche A Facility. Each Letter of Credit Issued hereunder shall be in form and substance satisfactory to the applicable LC Lender, acting reasonably.

Upon receipt of a Borrowing Notice for the issuance of a Letter of Credit, the applicable LC Lender, subject to the terms and conditions of this Agreement, agrees to Issue for the account of the Borrower, the Letters of Credit so requested; *provided* that, the aggregate Face Amount of such Letters of Credit so requested together with all Letters of Credit outstanding shall not exceed the LC Availability and after giving effect to the issuance of such Letters of Credit, the aggregate Face Amount of all Letters of Credit issued by an LC Lender shall not exceed its Individual LC Sublimit; *provided further* that the following conditions (in addition to the conditions precedent applicable to all Advances set forth in Section 7.2) shall be satisfied prior to the issuance of any Letter of Credit:

- (a) the Borrower shall have executed and delivered to the LC Lender the standard documentation and such other documents and materials as may be required by the LC Lender including the

relevant LC Lender's standard application form for documentary letters of credit (collectively, the "**LC Documents**");

- (b) the requested Letter of Credit shall have an expiration date not later than the date which is one year after the date of Issuance, shall be denominated in Canadian Dollars and shall be governed by the laws of Canada (or a province or territory thereof); and
- (c) the Issuance of such Letter of Credit shall not result in (i) the aggregate Face Amount of all Letters of Credit Issued under the Tranche A Facility exceeding the LC Availability, (ii) the aggregate Face Amount of all Letters of Credit issued by an LC Lender exceeding its Individual LC Sublimit, or (ii) the aggregate amount of all Borrowings under the Tranche A Facility exceeding the Tranche A Commitment.

In the event of any conflict or inconsistency between the terms of the LC Documents and this Agreement, the terms of this Agreement shall prevail and any liability of the Borrower in respect of Letters of Credit shall be governed by this Agreement irrespective of the provisions of any LC Documents.

5.8 Fees in respect of Letters of Credit

- (a) Following the Issuance of a Letter of Credit, the Borrower shall pay to the Administrative Agent, for the sole account of the applicable LC Lender, a fee (the "**LC Fee**") calculated daily on the Face Amount of such outstanding Letter of Credit at the end of each day and payable quarterly in arrears. Each payment of the LC Fee for each Letter of Credit shall be paid on the third Business Day after the end of each calendar quarter during which that Letter of Credit is outstanding. The fee payable for each Letter of Credit will be calculated based on the Face Amount of that Letter of Credit at the end of each day multiplied by the number of days in the calendar month during which that Letter of Credit is outstanding and further multiplied by the Applicable Margin for Letters of Credit (expressed as a rate *per annum*), subject to a minimum fee to be charged by the applicable LC Lender on each issuance or renewal of a Letter of Credit as determined in accordance with such LC Lender's usual and customary practices.
- (b) In addition to the LC Fees, the Borrower agrees to pay to each LC Lender for the sole account of such LC Lender, on the Issuance of each Letter of Credit, the prevailing fees and charges assessed by the Issuing Lender in connection with the issuance, administration, amendment and payment or cancellation of letters of credit in accordance with the usual practices of such LC Lender.

5.9 Demand Under Letter of Credit

Each LC Lender shall give the Administrative Agent written notice, or telephone notice (which is promptly confirmed subsequently in writing), of any demand or other request for payment under a Letter of Credit issued by it (for the purpose of this Section, an "**LC Demand**", and the amount so demanded, a "**Relevant Amount**") and the Administrative Agent shall promptly notify the Borrower of such LC Demand and the Relevant Amount.

The Borrower shall immediately pay to the Administrative Agent, for the reimbursement of the applicable LC Lender, in the applicable currency, all amounts drawn under any Letter of Credit which is the subject of an LC Demand. Failing such payment, the Borrower shall be deemed to have requested a Prime Rate Advance in an amount equal to the Relevant Amount, *plus* all charges and expenses payable to or incurred by the applicable LC Lender in connection with any such Letter of Credit, and payment of such amount by the applicable LC Lender shall constitute the making of such an Advance to the Borrower by the Lenders in accordance with their Proportionate Share of the Tranche A Facility.

5.10 Borrower's Reimbursement Obligation Absolute

Any action, inaction or omission taken or suffered by an LC Lender or its respective officers, directors, employees or agents under or in connection with a Letter of Credit or any LC Demand, if in good faith and in conformity with the provisions of the Letter of Credit, shall be binding on the Borrower and shall not place either the Administrative Agent or an LC Lender or its respective officers, directors, employees or agents under any resulting liability to the Borrower. Without limitation, each LC Lender and its respective officers, directors, employees and agents may receive, accept, or pay, any Demand complying with the terms of the Letter of Credit, which may be signed by the beneficiary or any administrator, executor, trustee in bankruptcy, receiver or other Person acting as the representative of, or in place of, the beneficiary. The Borrower covenants that, in the absence of fraud, it will not take any steps, issue any instructions to an LC Lender or any of its respective officers, directors, employees or agents, or institute any proceedings intended to derogate from the right or ability of an LC Lender or its respective officers, directors, employees or agents to honour or pay any LC Demand.

5.11 LC Lender Repaid Unconditionally

The obligations of the Borrower to reimburse the LC Lender with respect to Letters of Credit shall be unconditional and absolute, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of any LC Document, any Letter of Credit or any Credit Document;
- (b) any amendment or waiver of or consent to or actual departure from this Agreement;
- (c) the existence of any claim, set-off, defence or other right which the Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for which any such beneficiary or any such transferee may be acting), the applicable LC Lender or any other Person or entity, whether in connection with this Agreement, the transactions contemplated in this Agreement or in any other agreements or any unrelated transactions;
- (d) any statement or any other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement in such Letter of Credit being untrue or inaccurate in any respect;
- (e) any contrary instructions from the Borrower to the applicable LC Lender (including the commencement of legal proceedings to prohibit payment by an LC Lender of an LC Demand); or
- (f) any other circumstance or happening whatsoever, whether or not similar to any of the above.

ARTICLE 6 CHANGE IN CIRCUMSTANCES AND INDEMNIFICATION

6.1 Tax Gross-Up

- (a) Subject to Section 6.1(f), all payments by the Borrower under this Agreement shall be made free and clear of, and without deduction or withholding for, any and all Taxes unless required by Applicable Law or the interpretation of such Applicable Law, by the relevant Governmental Authority. If the Borrower shall be so required to deduct or withhold any such Taxes from or in respect of any amount payable under this Agreement,

- (i) the amount payable shall be increased by such additional amount as may be necessary so that after making all required deductions or withholdings (including deductions or withholdings applicable to additional amounts paid under this Section 6.1), the Lenders or Administrative Agent, as applicable, receive a net amount equal to the full amount they would have received if no deduction or withholding had been made;
 - (ii) the Borrower shall make such required deductions or withholdings;
 - (iii) the Borrower shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with and within the time required by Applicable Law; and
 - (iv) such Borrower shall deliver to the Lenders or Administrative Agent, as applicable, as soon as practicable after it has made such payment to the relevant Governmental Authority (x) a copy of such receipt as issued by such Governmental Authority evidencing the remittance of all amounts required to be deducted or withheld from the sum payable under this Agreement, or (y) if such a receipt is not available from such authority, notice of the payment of such amount deducted or withheld.
- (b) Without prejudice to Section 6.1(a), if the Administrative Agent or any Lender (in this Section 6.1, an “**Indemnitee**”) is required at any time (whether before or after the Borrower has discharged all of its other obligations under this Agreement) to make any payment on account of any Tax which the Borrower is required to withhold in accordance with Section 6.1(a) or for which the Borrower is otherwise required to indemnify a Lender or the Administrative Agent, as applicable, pursuant to Sections 6.1 (a), (c) or (d), or if any liability in respect of any such payment is asserted, imposed, levied or assessed against such Indemnitee, the Borrower shall, within 30 days of written demand of the Administrative Agent or such Lender, as applicable, promptly indemnify such Indemnitee against such payment or liability, together with interest, penalties and expenses payable or incurred in connection with such payment or liability, including, without limitation, any Tax imposed by any jurisdiction on or in relation to any amounts paid to or for the account of such Indemnitee pursuant to this Section 6.1. An Indemnitee intending to make a claim pursuant to this Section 6.1 shall notify the Borrower of the event in respect of which it believes it is entitled to make such claim and supply reasonable supporting evidence including a copy of the relevant portion of any written assessment, *provided that*, any such Indemnitee shall not be required to disclose any information required to be kept confidential by Applicable Law or contract (in which case the basis of such confidentiality, at the request and expense of the Borrower, shall be supported by an opinion of counsel of reputable standing).
- (c) If the Borrower fails to pay any Taxes required to be paid by it pursuant to this Section 6.1 when due to the appropriate Governmental Authority or fails to remit to the Administrative Agent, for the account of the respective Lenders or for its own account, the required receipts or other documentary evidence required by this Section 6.1, the Borrower shall indemnify the Lenders or the Administrative Agent, as applicable, for any incremental Taxes, interest or penalties that may become payable by any Lender or the Administrative Agent, as applicable, as a result of any such failure.
- (d) Subject to Section 6.1(f), the Borrower will indemnify the Lenders and the Administrative Agent for the full amount of Taxes imposed by any jurisdiction and paid by such Lender or the Administrative Agent, as applicable, with respect to any amounts payable pursuant to this Section 6.1, and any liability arising from or with respect to, such Taxes, whether or not such Taxes were correctly or legally asserted. This indemnification shall be made within 30 days from the date such Lender or the Administrative Agent, as applicable, makes written demand which demand shall identify the nature and amount of Taxes for which indemnification is being sought

and shall include a copy of the relevant portion of any written assessment from the relevant taxing authority demanding payment of such Taxes.

- (e) The agreements and obligations contained in the foregoing provisions of this Section 6.1 shall survive the payment in full of principal, interest, fees and any other amounts payable under this Agreement and the termination of this Agreement.
- (f) The foregoing provisions of this Section 6.1 shall not apply to (i) Taxes imposed in connection with Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any applicable intergovernmental agreements between a non-United States jurisdiction and the United States with respect thereto and any law, regulations, or other official guidance enacted in a non-United States jurisdiction relating to an intergovernmental agreement related thereto, and any agreements entered into pursuant to Section 1471(b)(1) of the Code, (ii) any Taxes now or hereafter imposed, levied, collected, withheld or assessed on (or measured by) net income or net profits, branch income or branch profits or capital gains of a Lender or the Administrative Agent or franchise taxes imposed on a Lender or the Administrative Agent, by any jurisdiction by reason of that Lender or the Administrative Agent (the "**Taxed Party**") (A) having a permanent establishment in such jurisdiction, (B) being organized under the laws of such jurisdiction, (C) being resident in such jurisdiction, (D) being engaged in a trade or business in such jurisdiction, (E) having any other present or former connection with such jurisdiction (other than any connection arising solely from executing, delivering, being a party to, performing its obligations under, receiving payments under, receiving or perfecting a security interest under, or engaging in any other transaction pursuant to, or enforcing, any Credit Document, or selling or assigning any interest in any Credit Document), but does not include any sales, goods or services tax payable under the laws of Canada or any political subdivision of Canada with respect to any goods or services provided by the Taxed Party to the Borrower under this Agreement, or (iii) any Canadian federal withholding taxes imposed on a payment as a result of having been made to a Lender or the Administrative Agent that, at the time of making the payment, (A) is a person that does not deal at arm's length with the Borrower or (B) is a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the Borrower or does not deal at arm's length with a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the Borrower (other than where the non-arm's length relationship arises, or where such Lender or the Administrative Agent is a "specified shareholder" or does not deal at arm's length with a "specified shareholder", as a result of such Lender or the Administrative Agent having become a party to, received or perfected a security interest under or received or enforced any rights under, a Credit Document).

6.2 Change in Law

If any Change in Law, from time to time:

- (a) subjects (whether directly, or as a result of any withholding or deduction by the Borrower) a Lender to any Tax or changes the basis of taxation, or increases any existing Tax (in each case, except for income or capital tax) on payments of principal, interest or other amounts payable by the Borrower to such Lender under any Credit Document or on or by reference to the amount of any Advances made or to be made by any Lender under this Agreement or on or by reference to the Commitment of any Lender; or
- (b) imposes, modifies or deems applicable any reserve, special deposit or similar requirements or otherwise imposes any cost on any Lender in connection with funding or maintaining all or any of the Advances or its Commitment; or
- (c) will have the effect of increasing the amount of overall capital required to be maintained by a Lender, taking into account the existence of such Lender's participation in any Advance or any

of its obligations under any Credit Document (including, without limitation, all or any part of its Commitment),

and the result of any of the above is to increase the cost to a Lender, reduce the income receivable by it or reduce the effective return on the capital of such Lender in respect of any Advances and/or its Commitment to an extent which such Lender believes to be material, the Lender shall give notice to the Borrower (an “**Additional Compensation Notice**”). Such Additional Compensation Notice shall describe the event by reason of which the Lender believes it is entitled to an amount (the “**Additional Compensation**”) which would permit the Lender to receive a net amount equal to the full amount it would have received if no such cost and/or such reduction in such return would have been sustained by such Lender, and shall supply reasonable supporting evidence setting forth the basis of calculation of such Additional Compensation; *provided that*, the Lender shall not be required to disclose any information required to be kept confidential by Applicable Law.

6.3 Payment of Additional Compensation

The Borrower shall pay the Additional Compensation to the Lender, within 10 Business Days of the date of receipt of any Additional Compensation Notice *provided that*, (x) in each case, that such Lender has requested such payments from similarly situated borrowers, (y) the Borrower shall not be required to compensate a Lender pursuant to Section 6.2 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender’s intention to claim compensation therefor and (z) if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof. The obligation to pay such Additional Compensation for subsequent periods will continue until the earlier of termination of the Facilities or the Commitments affected by the change in law or the lapse or cessation of the change in law giving rise to the initial Additional Compensation.

6.4 Illegality

If any change in law makes it unlawful for any Lender to make, fund or maintain all or any portion of an outstanding Advance, to maintain all or any part of its Commitment under this Agreement or to give effect to its obligations in respect of all or any portion of an outstanding Borrowing, such Lender may, by written notice to the Borrower, the Administrative Agent and the other Lenders, terminate its Commitment under this Agreement, and the Borrower shall repay within the time required by such law (or as promptly as practicable if already unlawful) the principal of all Borrowings made by such Lender, together with all accrued interest thereon. If any such change in law shall affect only a particular portion of such Lender’s obligations under this Agreement that is severable from the remainder of this Agreement so that the remainder of this Agreement may be continued in full force and effect without otherwise affecting any of the obligations of such Lender or the Borrower under this Agreement, such Lender may only declare its obligations under such portion to be terminated.

6.5 Indemnities

- (a) Third Party Claims. In addition to any liability of the Borrower to any Lender or the Administrative Agent under any other provision of this Agreement, the Borrower shall indemnify and hold harmless each of the Lenders and the Administrative Agent and their respective directors, officers, employees and representatives (collectively, the “**Indemnified Parties**” and, individually, an “**Indemnified Party**”) from and against any and all Claims asserted against an Indemnified Party by any third party, including any Governmental Authority, and any losses, damages, liabilities (including liabilities under Environmental Laws) and out-of-pocket expenses resulting therefrom, (“**Losses from Third Party Claims**”), in each case as a result of or in connection with the entering into of this Agreement or the other Credit Documents, the consummation of the transactions contemplated thereby and the performance of their respective obligations and the enforcement of their rights thereunder; provided that the Borrower shall not be obliged to indemnify any Indemnified Party in respect of any Losses from Third Party Claims arising from

the gross negligence or wilful misconduct of an Indemnified Party as determined by a court under a final and non-appealable judgment.

- (b) **Funding Indemnity.** The Borrower shall indemnify each of the Indemnified Parties from and against any and all losses, damages, costs and expenses (including documented and reasonable out-of-pocket legal fees incurred in connection therewith) suffered or incurred as a result of any cost or expense incurred by reason of the liquidation or re-employment in whole or in part of deposits or other funds acquired by any Lender to fund any Advance as a result of the Borrower's failure to complete a requested Advance or to make any payment, repayment or prepayment on the date required under this Agreement or specified by the Borrower in any notice given under this Agreement.
- (c) If any event occurs for which an Indemnify Party, the Administrative Agent or any Lender intends to claim indemnity from the Borrower under this Section 6.5, the Indemnified Party shall promptly notify the Borrower of such claim and, when known, the facts constituting the basis for such claim, and if known, the amount or an estimate of the amount of the claim. The failure of an Indemnified Party, the Administrative Agent or any Lender to give notice of a claim promptly shall not adversely affect the Indemnified Party's rights to indemnity under this provision. A certificate of a Lender or the Administrative Agent as to the amount of any such claim, if supported by a detailed calculation of such amount, shall be *prima facie* evidence as to such amount, in the absence of manifest error. The agreements in this Section shall survive the termination of this Agreement and repayment of the Obligations.

6.6 Limitation

No Indemnified Party shall be responsible or liable to any other party to any Credit Document, any successor, assignee or third party beneficiary of such Person or any other Person asserting claims derivatively through such Person, for indirect, punitive, exemplary or consequential damages which may be alleged as a result of credit having been extended, suspended or terminated under any Credit Document or as a result of any other transaction contemplated under this Agreement or under any other Credit Document.

ARTICLE 7 CONDITIONS PRECEDENT

7.1 Conditions Precedent to Effectiveness

This Agreement will become effective upon the following conditions being met (unless waived in writing by all Lenders) including the receipt by the Administrative Agent, for and on behalf of the Lenders, of the following (all in form and substance satisfactory to the Lenders, acting reasonably):

- (a) **Credit Documents** — The Borrower shall have duly executed and delivered to the Administrative Agent this Agreement, the Security, and all other Credit Documents required to be executed and delivered on or before the Closing Date;
- (b) **Officer's Certificate** - The Borrower shall have delivered to the Administrative Agent an Officer's Certificate dated as of the Closing Date and appending: (i) its Constatting Documents; (ii) an incumbency certificate designating and providing specimen signatures for its authorized signing officers; (iii) a certificate of compliance dated on or about the Closing Date confirming its valid existence; (iv) certified copies of all resolutions of the board of directors or shareholders passed to authorize the execution, delivery and performance of this Agreement, the Security, and all other Credit Documents; (v) confirmation that the representations and warranties set forth in Article 8 are true and correct and that it is in compliance with its covenants under this Agreement and the other Credit Documents; (vi) confirmation as to general corporate information and other matters reasonably required by the Lenders; and (vii) true and complete copies of all Material

Contracts and Material Approvals and confirmation that such Material Contracts and Material Approvals are in full force and effect, unamended, and that all conditions precedent to the effectiveness thereof have been satisfied and there exists no default thereunder pertaining thereto;

- (c) **Registration of Security** - The Administrative Agent shall have received satisfactory evidence of the registration, filing and recording of the Security in all personal property of the Borrower in all applicable offices or places of registration, including the Provinces of Ontario and Quebec;
- (d) **Repayment of Existing Credit Agreements** – The Borrower shall have, substantially concurrently with the Closing Date, repaid and cancelled in full each of the Existing BMO Credit Agreements and the Sponsor Credit Agreement, and delivered to the Agent a release in respect of the Existing BMO Credit Agreements and a final repayment notice in respect of the Sponsor Credit Agreement;
- (e) **Fee Letter; Payment of Fees and Expenses** – The Administrative Agent shall have received and executed agency fee letter, and the Borrower shall have, substantially concurrently with the effectiveness of this Agreement, paid all fees and documented reasonable out-of-pocket expenses (including documented reasonable out-of-pocket legal fees and disbursements of Lenders' Counsel) to the Lenders and the Administrative Agent that are due and payable on or before the date of this Agreement (including the Work Fees) and shall have reimbursed the Administrative Agent for all other documented reasonable out-of-pocket costs and expenses incurred by the Administrative Agent and the Lenders in connection with this Agreement up to the Closing Date;
- (f) **Opinion of Counsel** - The Lenders and the Administrative Agent shall have received an opinion dated the date hereof from Borrower's Counsel, substantially in form and substance satisfactory to the Administrative Agent;
- (g) **Material Approvals** - The Lenders and the Administrative Agent shall be satisfied that the Borrower has all Material Approvals to operate and maintain the existing Pipeline;
- (h) **Material Contracts** - The Lenders and Administrative Agent shall have received copies of all Material Contracts which the Administrative Agent has requested be delivered before the Closing Date, and shall be satisfied with their review of all Material Contracts in all material respects;
- (i) **Financial Statements** - The Administrative Agent shall have received a copy of the Financial Statements (which for purposes of satisfying this condition precedent may be unaudited) for the Fiscal Year ended December 31, 2021;
- (j) **Additional Information** - The Administrative Agent and the Lenders shall have received such additional information and documents (including all information and documentation required pursuant to AML/KYC Legislation) as they may reasonably require to complete the transactions contemplated hereby in accordance with the terms and conditions contained herein and which they shall have requested from the Borrower before the Closing Date;
- (k) **Due Diligence** - All business and legal due diligence shall have been completed by the Lenders, with results satisfactory to the Administrative Agent and the Lenders, each acting reasonably;
- (l) **Financial Projections** - The Borrower shall have provided financial projections for the next five years to the Administrative Agent; and
- (m) **Material Adverse Effect** – Since December 31, 2021, no event or circumstance shall have occurred or be continuing which has had, or would reasonably be expected to have, a Material Adverse Effect.

7.2 Conditions Precedent to All Advances

Without affecting or limiting the right of the Lenders to terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities or any outstanding Obligations thereunder, each Advance under this Agreement (including the initial Advance), but excluding, with respect to clauses (b) through (d) below, a Conversion of an existing Advance to a Prime Rate Advance, shall be subject to the satisfaction of the following Conditions Precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Lenders and may be waived by all of the Lenders, in whole or in part):

- (a) **Borrowing Notice** - The Borrower shall deliver a Borrowing Notice in compliance with Section 2.7 to the Administrative Agent;
- (b) **No Event of Default** - No Default or Event of Default shall have occurred and be continuing on the Advance Date, or would result from the making of the Advance;
- (c) **No Material Adverse Effect** - The Administrative Agent shall, acting reasonably, be satisfied that, since the date of the Financial Statements for the immediately prior Fiscal Year, no circumstance exists and no event has occurred that has had, or would be expected to result in, in each case in the determination of the Administrative Agent, a Material Adverse Effect; and
- (d) **Representations True** - All representations and warranties contained in this Agreement shall be true and correct in all material respects (except to the extent already qualified by materiality, in which case such representation and warranty shall be true and correct in all respects) as if made on and as of the applicable Advance Date and the Administrative Agent shall have received a certificate from it confirming the truth and accuracy of such representations and warranties.

7.3 Waiver of Conditions

All of the Lenders may waive compliance with any condition, in whole or in part (with or without terms or conditions), in respect of any Advance without prejudice to their right at any time to assert such conditions in respect of the making of any subsequent Advance, and without prejudice to their rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to their rights to recover damages for breach of any representation, warranty, covenant or condition, contained in this Agreement or any other Credit Document.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties

The Borrower represents and warrants to the Lenders and the Administrative Agent as follows, and acknowledges and confirms that the Lenders are relying on such representations and warranties:

- (a) **Status** - It is a corporation duly incorporated and validly existing under the laws of the jurisdiction of its incorporation.
- (b) **Authority** - It has all necessary corporate power, authority and capacity (a) to own its assets; (b) to carry on the Business as presently conducted; (c) to operate the Pipeline; and (d) to enter into the Credit Documents and to carry out its obligations under the Credit Documents.
- (c) **Registration** - Neither the nature of the Business nor the location or character of the assets owned or leased by it relating to the Business requires it to be registered, licensed or otherwise qualified as an extra-provincial or foreign corporation in any jurisdiction other than in the Provinces of Ontario and Quebec, and it is duly registered, licensed or otherwise qualified for such purpose in such Provinces.

- (d) **No Breach** - It is not a party to, bound or affected by or subject to any:
- (i) Constating Document;
 - (ii) Applicable Law;
 - (iii) indenture, mortgage, lease, agreement, obligation or instrument, including any Material Contract; or
 - (iv) authorization or approvals from any Governmental Authority, including all Material Approvals;
- that would be violated, breached by, or under which default would occur or a Lien (other than Liens granted in connection with the Credit Documents) would, or with notice or the passage of time would, be created as a result of the execution and delivery of, or the performance of obligations under either the Credit Documents or any of the Material Contracts, save for any such violation, breach or default that has not had and would not reasonably be expected to have a Material Adverse Effect.
- (e) **No Restrictions** — Other than the restrictions contained in the Shareholder Agreement, and in respect of which the Borrower has obtained the requisite consents and approvals, its Constating Documents do not contain restrictions on its power to borrow money from the Lenders hereunder or to grant security for borrowed money to the Administrative Agent and the Lenders pursuant to the Credit Documents.
- (f) **Validity/Enforceability of Credit Documents** - The execution and delivery of the Credit Documents and the consummation of the transactions contemplated thereby have been duly authorized by all necessary corporate action on the part of the Borrower. Each of the Credit Documents constitutes a valid and binding obligation of it, enforceable against it in accordance with its terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).
- (g) **No Event of Default or Default** - No Event of Default or Default has occurred and is continuing.
- (h) **Compliance with Applicable Law** - The Business is being operated in compliance with Applicable Law (including all Environmental Laws), save for any non-compliance that has not had and would not reasonably be expected to have a Material Adverse Effect; there are no breaches of any Applicable Law and no enforcement actions or regulatory proceedings pending or, to the best of the Borrower's knowledge, after due inquiry, threatened, that in either case have had or would reasonably be expected to have a Material Adverse Effect.
- (i) **Accounting Systems and Financial Statements** - All of its accounting systems are maintained and all of its audited financial statements have been prepared in accordance with GAAP and, except as may be noted therein, applied on a basis consistent and present fairly, in all material respects, the financial position of the Borrower as at the date thereof and the results of its operations and cash flows for the year then ended in accordance with ASPE.
- (j) **Books and Records** - All Books and Records have been delivered or made available to the Administrative Agent on its request. Such Books and Records fairly and correctly set out and disclose in all material respects the financial position of the Business and all material financial transactions relating to the Business have been accurately recorded in such Books and Records.

- (k) **Material Contracts** — All Material Contracts are in full force and effect and unamended from the copies of the Material Contracts (including amendments) most recently provided to the Administrative Agent, save for any amendment that will be provided to the Agent with the next Compliance Certificate. The Material Contracts have been duly authorized, executed and delivered by the Borrower and constitute legal, valid and binding obligations of the Borrower, enforceable against it (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)). There are no outstanding defaults, violations or events of *force majeure* under such Material Contracts on the part of the Borrower or, to the knowledge of the Borrower, on the part of any other party to such Material Contracts that have had or would reasonably be expected to have a Material Adverse Effect. Current and complete copies of the Material Contracts, other than any amendment that will be provided to the Agent with the next Compliance Certificate have been delivered or made available to the Administrative Agent and, except as notified to the Administrative Agent in writing, there are no current or pending negotiations with respect to the renewal, repudiation, material amendment or assignment of any such Material Contract.
- (l) **Material Approvals** - Except as notified to the Administrative Agent in writing, all Material Approvals which are required to be obtained for the maintenance and operation of the Pipeline are in full force and effect, unamended from the copies of the Material Approvals (including amendments) provided to the Administrative Agent. Except as notified to the Administrative Agent in writing, the Borrower is not aware of any fact or circumstance which has resulted in or would reasonably be expected to result in the Toll being changed in any material adverse respect. No other approval, order, Permit, consent of or filing with any Governmental Authority is required in connection with the execution, delivery and performance of any Credit Document or the performance of its obligations under any Credit Document, the operation or maintenance of the Pipeline, which if not issued or filed would have or would reasonably be expected to have a Material Adverse Effect.
- (m) **Absence of Undisclosed Liabilities** - Except as notified to the Administrative Agent in writing, it has not incurred any material liabilities or obligations (whether accrued, absolute, contingent or otherwise) that would be required by GAAP to be disclosed in its Financial Statements (or in the notes thereto) and which continue to be outstanding, except as disclosed in the Financial Statements or incurred in the ordinary course of business.
- (n) **Absence of Litigation** - There are no material Claims, investigations, grievances or other proceedings, including appeals and applications for review, in progress, or, to the Borrower's knowledge, pending or threatened against or relating to it before any Governmental Authority and it has no knowledge of any existing ground on which any such Claims, investigations, grievances or other proceedings might be commenced with any reasonable likelihood of success, in each case, which have had or would reasonably be expected to have a Material Adverse Effect. There is no judgment, decree, or order of any Governmental Authority or arbitrator outstanding against it, and no CER proceeding pending or threatened, that have had or would reasonably be expected to have a Material Adverse Effect.
- (o) **No Default Under Permitted Liens** - It is not in default under any of the Permitted Liens (or any agreement secured thereby or relating thereto) relating to it or its property, which default has had or would reasonably be expected to have a Material Adverse Effect.
- (p) **Subsidiaries** - It does not own nor does it have any interest in, any shares of any Person, and has no Subsidiaries.
- (q) **Employee Matters** - All material payments due and owing by it on account of workers' compensation, employee health plans, social security and insurance and government pension plans have been paid in full to date, except those which (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect

thereto are maintained on the books of the Borrower in conformity with GAAP; all pension plans pertaining to employees of the Borrower have been maintained in good standing, are in compliance in all material respects with Applicable Law and the aggregate funding deficit of such pension plans does not exceed \$10,000,000. It does not sponsor or maintain any defined benefit pension plans, other than set forth on Schedule 8.1(p) (the “**DB Plans**”).

- (r) **Taxes -**
- (i) It has duly and timely filed all material Tax returns required to be filed by it with the appropriate Governmental Authority and has duly, completely and correctly reported all income and all other amounts and information required to be reported in all material respects;
 - (ii) It has duly and timely paid all material Taxes, including all instalments on account of material Taxes for the current year, that are due and payable by it whether or not assessed by the appropriate Governmental Authority, except those which (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
 - (iii) There are no proceedings, investigations, audits or Claims now pending or threatened against it in respect of any Taxes and there are no matters under discussion, audit or appeal with any Governmental Authority relating to Taxes, which, in either case, have had or would reasonably be expected to have a Material Adverse Effect; and
 - (iv) It has duly and timely withheld all material Taxes and other material amounts required by Applicable Law to be withheld by it (including Taxes and other amounts required to be withheld by it in respect of any amount paid or credited or deemed to be paid or credited by it to or for the account or benefit of any Person, including any employees, officers or directors and any non-resident Person), and has duly and timely remitted to the appropriate Governmental Authority such material Taxes and other amounts required by Applicable Law to be remitted by it, except those (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP;
- (s) **Material Adverse Effect** - There does not exist a change or circumstance which has had or would reasonably be expected to have a Material Adverse Effect.
- (t) **Non-Arm’s Length Transactions** – No director or executive officer or former director or executive officer is engaged in any material transaction or arrangement with, or has any material indebtedness, liability or obligation to, the Borrower and the Borrower is not indebted or otherwise obligated to any such Person in any material respect, other than on such terms as would be commercially reasonable between arm’s length parties. No shareholder of, or any other Person not dealing at arm’s length with the Borrower, is engaged in any transaction or arrangement with, or has any indebtedness, liability or obligation to, the Borrower and the Borrower is not indebted or otherwise obligated to any such Person, except on fair and reasonable terms which are not less favorable to the Borrower as the Borrower would obtain in a transaction with arm’s length parties, including the Firm Service Agreements.
- (u) **Absence of Changes and Unusual Transactions** – Except as notified to the Administrative Agent in writing, since the date of the most current Financial Statements:

- (i) there has not been any change in its financial condition, its operations or the Pipeline other than changes (i) in the ordinary course of business or (ii) which have not had and would not reasonably be expected to have a Material Adverse Effect;
 - (ii) there has not been any damage, destruction, loss, labour dispute, organizing drive, application for certification or other event, development or condition of any character (whether or not covered by insurance) which have had or would reasonably be expected to have a Material Adverse Effect;
 - (iii) no assets have been transferred, assigned, sold or otherwise disposed of nor any debts or entitlements cancelled except, in each case, (i) payment of all Debt owing to the Sponsors under the Sponsor Credit Agreement on the Closing Date, (ii) in the ordinary course of business or (iii) which have not had or would not reasonably be expected to have a Material Adverse Effect;
 - (iv) there has not been any new obligation or liability (fixed or contingent) relating to the operation of the Business or the Pipeline, except (i) current obligations and liabilities incurred in the ordinary course of business or (ii) which have not had or would not reasonably be expected to have a Material Adverse Effect;
 - (v) it has discharged or satisfied all Liens, and paid all obligations and liabilities before they were past due relating to the Business or the Pipeline, other than liabilities (i) that would be required by GAAP to be included in, and which are as a result included in, the Financial Statements or the notes thereto, or (ii) liabilities incurred since the date of the applicable Financial Statements (A) in the ordinary course of business or (B) which have not had or would not reasonably be expected to have a Material Adverse Effect;
 - (vi) it has not suffered an operating loss or any extraordinary loss, waived or omitted to take any action in respect of any rights, or entered into any commitment or transaction not in the ordinary course of business where such loss, rights, commitment or transaction has or would reasonably be expected to have a Material Adverse Effect;
 - (vii) it has not, directly or indirectly, engaged in any transaction, made any loan or entered into any material arrangement (other than the Shareholders Agreement, the Sponsor Credit Agreement and the transactions contemplated thereby and hereby in relation thereto) with any of its executive officers, directors, partners, shareholders, employees (whether current or former or retired), consultants, independent contractors or the Administrative Agent, except in the ordinary course of business consistent with past practice; and
 - (viii) it has not authorized, agreed to or otherwise become committed to do any of the above.
- (v) **Accuracy of Information** - There is no fact known to it which it has not disclosed to the Administrative Agent which has had, or so far as it can now reasonably foresee, will have, a Material Adverse Effect. Excluding audited financial statements (which are addressed in paragraph (i) above), all information, materials and documents:
- (i) prepared and provided to the Administrative Agent by the Borrower respect of the transactions contemplated by this Agreement, or as required by the terms of this Agreement, were, (A) in the case of financial projections, prepared in good faith based upon reasonable assumptions at the date of preparation, (B) in the case of unaudited financial statements, prepared in accordance with ASPE (subject to

year-end audit adjustments and the absence of notes) and present fairly, in all material respects, the financial position of the Borrower as at the date thereof and the results of its operations and cash flows for the period reported on therein and (C) in all other cases, true, complete and correct in all material respects as of the respective dates thereof; and

- (ii) prepared by persons other than the Borrower and provided to the Administrative Agent by or on behalf of a Borrower in respect of the transactions contemplated by this Agreement, or as required by the terms of this Agreement, were, to the best of the knowledge of the Borrower, after due inquiry, (A) in the case of financial projections, prepared in good faith based upon reasonable assumptions at the date of preparation, (B) in the case of unaudited financial statements, prepared in accordance with ASPE (subject to year-end audit adjustments and the absence of notes) and present fairly, in all material respects, the financial position of the Borrower as at the date thereof and the results of its operations and cash flows for the period reported on therein and (C) in all other cases, true, complete and correct in all material respects as of the respective dates thereof.
- (w) **Insurance** - It maintains such policies of insurance, issued by responsible insurers, as are appropriate to the ownership operation and operation of the Pipeline and the Business, in such amounts and against such risks as are customarily carried and insured against by owners of comparable businesses and properties, all in compliance with Article 11. All such policies of insurance are in full force and effect and it is not in default, as to the payment of premiums or otherwise, under the terms of any such policy. Schedule 8.1(w) sets forth a complete list of all policies of insurance which it maintains as at the Closing Date and the particulars of such policies, including the name of the insurer, the risk insured against, the amount of coverage, the amount of any deductible and a summary of all claims under each such policy for the past five years.
- (x) **Licensed Software** — It owns or has licensed for use all of the software now used in conducting its Business and all computer equipment owned or used by it has been properly maintained and is in good working order for the purposes of ongoing operations, subject to ordinary wear and tear, save where the failure to so own, lease or maintain would not have or would not reasonably be expected to have a Material Adverse Effect;
- (y) **Environmental Matters** - except as disclosed in Schedule 8.1(y):
 - (i) There are no environmental inspections that have been conducted on the Pipeline, other than those that have been disclosed in writing to, and in respect of which any reports issued in connection with have been delivered to, the Administrative Agent on behalf of the Lenders.
 - (ii) All Environmental Approvals have been obtained, are valid and in full force and effect, have been and are being complied with, save for those Environmental Approvals in respect of which non-compliance has not had and would not reasonably be expected to have a Material Adverse Effect, and there have been and are no proceedings commenced or threatened to revoke or amend any Environmental Approval, save where such proceedings which have not had and would not reasonably be expected to have a Material Adverse Effect.
 - (iii) All operations relating to the Pipeline while operated by the Borrower, and, to its knowledge, while occupied by its predecessors in title, have been and are now, in compliance in all respects with all Environmental Laws, save where the failure to comply with such Environmental Approval has not had and would not reasonably be expected to have a Material Adverse Effect. Any Release by it, and to its knowledge, by its predecessors in title of any Hazardous Substance from the Business or its Property into the Environment complied and complies in all

respects with all Environmental Laws, save for non-compliance which has not had and would not reasonably be expected to have a Material Adverse Effect.

- (iv) The Pipeline has not been nor is now the subject of any remedial order which has had or would reasonably be expected to have a Material Adverse Effect, nor does it have any knowledge of any investigation or evaluation commenced or threatened as to whether any such remedial order is necessary nor has any threat of any such remedial order been made nor are there any circumstances which would result in the issuance of any such remedial order with respect to the Pipeline, save where such remedial order has not had and would not reasonably be expected to have a Material Adverse Effect.
 - (v) Except as notified to the Administrative Agent in writing, it has never been prosecuted for or convicted of any material offence under any Environmental Law, nor has it been found liable in any proceeding to pay any material fine, penalty, damages, amount or judgment to any Person as a result of any Release or threatened Release or as a result of the breach of any Environmental Law, and to its knowledge, there is no basis for any such proceeding or action, in all cases, relating to the Pipeline.
 - (vi) No part of the Pipeline has ever been used by it as a landfill or for the disposal of waste and, to its knowledge, no part of the Pipeline has been used by any other Person as a landfill or for the disposal of waste.
 - (vii) Except for trace amounts, (A) no asbestos or asbestos containing materials are used, stored or otherwise present in or on the Pipeline and (B) no equipment, waste or other material containing polychlorinated biphenyls (PCBs) are used, stored or otherwise present in or on the Pipeline.
 - (viii) All material environmental data and studies (including the results of any environmental audit) with respect to the Pipeline have been, or within 10 Business Days of receipt thereof by the Borrower will be, delivered to the Administrative Agent.
- (z) **Intellectual Property** - There is no intellectual property that is material to the Business to such an extent that the loss of use thereof would have or would reasonably be expected to have a Material Adverse Effect.
- (aa) **Anti-Terrorism Laws** - The Borrower is not in violation of any Anti-Terrorism Law or engaged in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the provisions hereof. The Borrower's bank accounts and cash management arrangements including the funding thereof from the proceeds of any Advance are used for the sole benefit of the Borrower and not to conduct business on behalf of any third party.

8.2 Non-Waiver

No investigations made by or on behalf of the Administrative Agent or Lenders at any time shall have the effect of waiving, diminishing the scope or otherwise affecting any representation or warranty made by the Borrower in or pursuant to any of the Credit Documents. No waiver of any condition or other provisions, in whole or in part, shall constitute a waiver of any other condition or provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

8.3 Nature of Representations

The representations and warranties made in this Agreement shall not merge upon the execution of this Agreement and all other Credit Documents, and shall be deemed to be repeated as of the date of each Advance (including any Conversion or Rollover), except for a Conversion into a Prime Rate Advance, and as of the date of delivery of each Compliance and Reporting Certificate, subject to changes thereto notified by the Borrower to the Administrative Agent in writing and accepted by the Required Lenders as amendments to such representations and warranties. The Lenders shall be deemed to have relied upon such representations and warranties at each such time as a condition of making an Advance under this Agreement or continuing to extend the Facilities.

ARTICLE 9 COVENANTS

9.1 Affirmative Covenants

Until the Termination Date, the Borrower covenants and agrees that:

- (a) **Punctual Payment** — It shall duly and punctually pay the Obligations at the times and places and in the manner required by the terms of the Credit Documents.
- (b) **Existence** - It shall: (i) maintain its corporate existence in good standing under the laws of its jurisdiction of incorporation or formation; (ii) continue to conduct its Business substantially as now conducted; and (iii) do, or cause to be done, all things necessary to keep in full force and effect all Material Approvals and all properties, rights, franchises, licenses and qualifications required to carry on the Business in all jurisdictions where the Business is currently being carried on, and to operate and maintain the Pipeline and the Business.
- (c) **Conduct of Business** - It shall (i) cause the Pipeline to be operated and managed in accordance with the standards of the Canadian pipeline industry, and (ii) maintain and preserve, or cause to be maintained and preserved, the Pipeline, and all of the Borrower's other property necessary in the proper conduct of its Business in good working order and condition, ordinary wear and tear excepted.
- (d) **Taxes** - It shall file or cause to be filed, when due, all material federal, provincial and local returns, filings, elections and reports which are required to be filed by it in respect of all Taxes, and shall pay or cause to be paid all material Taxes as are required by Applicable Law and in accordance with any assessment or demand for payment received by it as and when such Taxes become due and payable, and provide evidence of payment if so requested by the Administrative Agent, except for Taxes that (i) are not past due, or (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP, and shall, from time to time, withhold or cause to be withheld and remitted, all amounts required to be withheld (including without limitation, income tax, withholding taxes, Canada Pension Plan and employment insurance) from all payments made to officers and employees or to non-residents and to all other applicable Persons and, unless they are being contested in good faith by appropriate proceedings and provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP, shall pay or cause to be paid these amounts and any other amounts the failure to pay which would result in a Lien against its Property, together with any interest and penalties due, to the appropriate Governmental Authority on a timely basis and in the form required by Applicable Law.
- (e) **Payment of Obligations** - It shall pay and discharge or cause to be paid and discharged promptly all material charges and Claims payable by it before any of them shall become past due, including material charges imposed upon it, its income and profits, or any of its Property and all liability

with respect to employee source deduction obligations and employer obligations to its employees, lawful claims for labour, materials, supplies and services or otherwise, save for Claims that (i) are not past due, (ii) are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower in conformity with GAAP, or (iii) are not included in (i) or (ii) and do not in the aggregate with all other Claims and material charges, exceed \$2,500,000 and no enforcement proceedings are continuing unstayed to recover payment thereof.

- (f) **Notice of Adverse Events** - It shall promptly notify the Administrative Agent of (i) any Default or Event of Default of which it becomes aware; (ii) any change or circumstance of which it becomes aware and which has had or would reasonably be expected to have a Material Adverse Effect; (iii) it becoming aware of the occurrence or threat of any litigation, action, suit or other proceeding in excess of \$2,500,000 which is commenced against it, and from time to time thereafter, in each case provide the Administrative Agent with all reasonable information requested by the Administrative Agent concerning the status of any such occurrence; and (iv) any creditor (other than the Lenders) taking enforcement steps or any other action to recover amounts outstanding respecting any of its Debt in an amount in respect of any creditor in excess of \$2,500,000.
- (g) **Hedge Obligations** – Subject to Section 9.2(j), it shall implement an interest rate hedging strategy and, as applicable, currency hedging strategy.
- (h) **Accounting Policies and Practices** - Except as notified to the Administrative Agent in writing, it shall ensure that all of its accounting policies, practices and calculation methods shall be in accordance with GAAP, at all times, it shall keep and maintain Books and Records reflecting all material financial transactions with true and correct entries in accordance with GAAP and on a basis consistent with the Financial Statements delivered at or prior to the initial Advance Date, unless there is a change in accounting principles by reason of any change in the rules, regulations, pronouncements, opinions or other requirements of CPA Canada, in which case such Financial Statements shall be prepared to reflect that change.
- (i) **Access and Provision of Information** - It shall promptly provide the Administrative Agent with all information reasonably requested from time to time concerning its financial condition and property, and during normal business hours and from time to time upon reasonable notice, permit representatives of the Administrative Agent and the Lenders to inspect any of its property, subject to compliance with health and safety requirements, and to examine and take extracts from its financial Books and Records, including accounts and records stored in computer data banks and computer software systems, and to discuss its financial condition with its senior officers and (in the presence of such of its representatives as it may designate) its auditors. Unless an Event of Default has occurred and is continuing, the Administrative Agent shall (i) only be entitled to conduct such an inspection and examination once every year, and (ii) shall use commercially reasonable efforts to conduct any such inspection and examination in a manner that does not unduly disrupt the ability of the Borrower to continue to manage its business and affairs in the normal course. It shall provide the Administrative Agent with such other documents, opinions, consents, acknowledgements and agreements as are reasonably requested by the Administrative Agent which are necessary to implement this Agreement and the other Credit Documents from time to time, and such other information as the Administrative Agent may reasonably request from time to time.
- (j) **Compliance with Laws** - It shall: (i) comply in all respects with all Applicable Law in the conduct of the Business including those relating to Environmental Laws, and (ii) obtain all required Material Approvals and maintain them and Material Contracts in good standing; save, in either case of (i) or (ii), where the failure to do so would not have and would not reasonably be expected to have a Material Adverse Effect.
- (k) **Environmental Covenants** - (i) All required Environmental Approvals shall be maintained in full force, save where the failure to do so would not have and would not reasonably be expected to

have a Material Adverse Effect; (ii) all operations of the Borrower relating to the Business or the Pipeline shall be in compliance in all respects with all Environmental Laws, save for non-compliance which have not had and would not reasonably be expected to have a Material Adverse Effect; any Release by the Borrower of any Hazardous Substance from the Business or the Borrower's Property into the Environment shall comply with all Environmental Laws, save for non-compliance which has not had and would not reasonably be expected to have a Material Adverse Effect; (iii) it shall take all steps necessary to remedy any remedial order and shall take all reasonable steps necessary to ensure that there are no circumstances which would result in the issuance of any remedial order with respect to the Pipeline, save for any remedial order which has not had and would not reasonably be expected to have a Material Adverse Effect; (iv) no part of the Pipeline shall be used by it, as a landfill or for the disposal of waste; (v) no asbestos or asbestos containing materials shall be used, stored or otherwise present (except for trace amounts of asbestos and PCB's) in or on the Pipeline and no equipment, waste or other material containing polychlorinated biphenyls (PCBs) shall be used, stored or otherwise present in or on the Pipeline; (vi) all material environmental data and studies (including the results of any environmental audit) with respect to the Pipeline shall, upon request by the Administration Agent, be promptly delivered or made available to the Administrative Agent and Lenders; and (vii) there shall be no Release by it of any Hazardous Substance in, on or under any of the Pipeline (including underlying soils and substrata, vegetation, surface water and groundwater) at levels which exceed decommissioning or remediation standards under any Environmental Laws or standards published or administered by the Governmental Authority responsible for establishing or applying such standards.

It shall advise the Administrative Agent promptly, and in any event within 5 Business Days, of the occurrence of:

- (i) (A) learning of the existence of Hazardous Materials located on, above or below the surface of any land which it occupies or controls, or contained in the soil or water constituting such land, (except (x) in each case those being stored, used or otherwise handled in substantial compliance with Applicable Law (including Environmental Laws) or (y) trace amounts of Hazardous Materials); and (B) learning of the occurrence of any material release, spill, leak, escape, emission, discharge, leaching, dumping or disposal of Hazardous Materials reportable pursuant to Applicable Law (including Environmental Laws) that has occurred on or from such land;
 - (ii) learning of any Hazardous Substance originating from any portion of the Pipeline and which has migrated onto, or is migrating towards any neighbouring and/or adjoining properties; and
 - (iii) learning of any Hazardous Substance originating from any neighbouring or adjoining properties which migrates onto any land (whether above or below the surface) on which the Pipeline occupies or the Borrower controls.
- (l) **Tolls** - The Borrower will take all reasonable actions required to fix, impose, charge and collect Tolls for the Pipeline in a manner which will enable the Borrower to maximize, over a reasonable period of time determined in accordance with the Firm Service Agreements, the Incentive Tolling Agreement, and prudent pipeline practice, the recovery of its cost-of-service, including a reasonable return on equity.
- (m) **Material Contracts and Material Approvals** — The Borrower will observe and perform in all material respects all of its obligations under the Material Contracts and Material Approvals and enforce against the other parties thereto their contractual obligations, in all material respects.
- (n) **Bank Accounts** - It shall maintain all of its bank accounts and cash management arrangements with any one or more of the Lenders.

- (o) **Use of Proceeds** — It shall only use the proceeds of any Advance for the purposes specified in Section 2.3.
- (p) **Further Assurances** - It shall provide the Administrative Agent and the Lenders with such other documents, opinions, consents, acknowledgements and agreements reasonably requested by them from time to time which are necessary or proper to implement or more effectively carry out the provisions and purposes of this Agreement or any other Credit Documents from time to time.
- (q) **Employee Matters** - It shall provide the Administrative Agent and the Lenders with each actuarial valuation report it receives (including any updates thereto) with respect to each defined benefit pension plan set forth on Schedule 8.1(q).

9.2 Negative Covenants

Until the Termination Date, the Borrower covenants and agrees that:

- (a) **No Liens** - It shall not create, incur, assume, permit or suffer to exist any Lien on or with respect to its Property (whether now owned or acquired after the date of this Agreement) except for Permitted Liens.
- (b) **No Debt** - It shall not create, incur, assume, permit or suffer any Debt to remain outstanding, except (i) the Obligations under this Agreement, (ii) Permitted Debt and (iii) refinancings or amendments or modifications of Permitted Debt.
- (c) **No Consolidation/Amalgamation, etc.** - It will not enter into any transaction (or series of transactions) whether by way of reconstruction, arrangement, reorganization, consolidation, amalgamation, wind-up, liquidation, dissolution, merger or otherwise, whereby all or substantially all of its undertaking and assets would become the Property of any other Person or in the case of an amalgamation, the Property of the continuing corporation resulting from such amalgamation.
- (d) **No Dispositions** - It shall not make a Disposition of any of its Property, except for (i) any Disposition of an unnecessary, obsolete, worn out or unusable not required for the continuing operation of the Business, (ii) the Disposition of Inventory in the ordinary course of business, (iii) any Disposition of assets to the extent that such assets are exchanged for credit against, or the proceeds of Disposition thereof are applied to, the purchase price of replacement property, (iv) Dispositions resulting from casualty or condemnation of assets, (v) any Disposition of cash or Cash Equivalents pursuant to a *bona fide* transaction not otherwise prohibited by this Agreement, (vi) any set-off, netting or novation of claims under any contract, including any Hedging Agreement and (vii) any grant of a Permitted Lien.
- (e) **No Investments** - It shall not make any Investments except for Investments in Cash Equivalents and marketable securities acquired in the normal and ordinary course of business and which do not, in aggregate with all other Investments (determined at the time of making each such Investment) exceed an amount equal to Cdn.\$2,500,000.
- (f) **No Subsidiaries** - it shall not create or acquire any Subsidiaries.
- (g) **No Distributions** - It shall not make any Distributions, unless:
 - (i) no Default or Event of Default has occurred and is continuing, or is reasonably expected to result from the making of such Distribution;
 - (ii) no Facility Demand for Payment has been issued;

- (iii) the Tranche C Facility is then undrawn and no Advances are anticipated to be made thereunder after giving effect to such Distribution;
- (iv) the Interest Coverage Ratio of the Borrower is not less than 1.10:1.00, determined on a *pro forma* basis after giving effect to such Distribution,

and, at least 5 Business Days prior to giving effect to any such Distribution, the Borrower shall have delivered an Officer's Certificate to the Administrative Agent certifying the matters set forth in the foregoing clauses (i) through (iv), together with, in the case of clause (iv), reasonably detailed calculations in respect thereof. Notwithstanding the foregoing, the Borrower is permitted to repay all obligations under the Sponsor Credit Agreement on the Closing Date.

- (h) **Anti-Terrorism Laws** - It shall not violate any Anti-Terrorism Laws or engage or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any Anti-Terrorism Laws.
- (i) **Non-Arm's Length Transactions** - It shall not enter into any material transaction or agreement with any Person which is not at arm's length with the Borrower unless such transaction or agreement is on terms no less favourable to it as would be obtainable in a comparable transaction with a Person which is at arm's length with the Borrower.
- (j) **No Hedge Agreements** - It shall not enter into any Hedge Agreement other than Lender Hedge Agreements which are not entered into for speculative purposes.
- (k) **No Changes to Business** - It shall not:
 - (i) make any changes in any of its business objectives, purposes or operations that would in any way adversely affect, in any material way, the repayment of the Obligations or would have or would reasonably be expected to have or result in a Material Adverse Effect. It shall not engage in any business other than the Business currently engaged in by it and those activities incidental thereto; or
 - (ii) amend its Constating Documents in a manner that would adversely affect, in any material way, the rights and interests of the Administrative Agent or Lenders, or its duty or ability to repay the Obligations.
- (l) **Toll** - The Borrower will make no filing to amend, modify, waive or terminate any portion of the Incentive Toll Agreement that will adversely affect the Lenders in a material manner.
- (m) **Expansion of Pipeline** - The Borrower shall not undertake or acquire any material expansion of the Pipeline.
- (n) **Default, Breach, Assignment, or Amendment of Material Contract or Material Approval** - Except as required by Applicable Law or any applicable Government Authority, or where doing so would not have or be reasonably expected to have a Material Adverse Effect, the Borrower will not (i) amend, modify or waive any material default or breach under any Material Contract or Material Approval or consent to any of the foregoing; (ii) consent to the assignment, in whole or in part, by any party of such party's rights under any Material Contract or Material Approval; or (iii) modify, amend, terminate, surrender, assign or transfer the Material Contracts or Material Approvals or any of them or grant or permit (to the extent its permission is required) any party to grant any licence or material concessions in connection therewith (any such attempted modification, amendment, termination, surrender, assignment, transfer, grant, licence or concession without the prior written consent of the Administrative Agent shall be null and void); or (iv) make any prepayment of monies to become due under the Material Contracts or Material Approvals or any of them.

- (o) **No Windup of Defined Benefit Plans** - The Borrower shall not terminate or windup, or order a termination or windup of, any DB Plan, or take steps to initiate the wind up or termination of any DB Plan (including the filing or delivery of any notice of any such termination or windup or notice of intent to terminate or windup, or notice of intent to order a termination or windup of, any such DB Plan), if doing so would result in a liability of the Borrower in excess of \$5,000,000.
- (p) **Funded Debt/Cap Ratio** - The Borrower shall not permit the Funded Debt/Cap Ratio, as at the end of any Fiscal Quarter, to exceed 55%.

9.3 Reporting Requirements

Until the Termination Date, the Borrower covenants and agrees that:

- (a) **Quarterly Reports** - It shall, as soon as practicable and in any event within 45 days of the end of each of its Fiscal Quarters (including the Fiscal Quarter ending December 31), deliver to the Administrative Agent, unaudited consolidated quarterly financial statements in respect of the most recently ended Fiscal Quarter, which financial statements shall include a balance sheet, a statement of income and retained earnings and a statement of cash flows, all of which shall be prepared in accordance with GAAP (subject to annual audit adjustments and the absence of notes), together with management commentary on significant variances in respect of such period from the annual budget delivered pursuant to Section 9.3(c).
- (b) **Annual Reports** - It shall, as soon as practicable and in any event within 180 days after the end of each Fiscal Year, deliver to the Administrative Agent, the audited consolidated financial statements in respect of such Fiscal Year, including a balance sheet, statement of income and retained earnings and statement of cash flows, stating in comparative form on a consistent basis the respective figures as of the end of and for the previous Fiscal Year, all of which shall be prepared in accordance with GAAP, together with an auditor's report confirming that in such auditor's opinion the statements present fairly, in all material respects, the financial position and the results of its operations and cash flows for the Fiscal Year reported.
- (c) **Annual Budget** - Promptly following approval thereof by its board of directors and, in any event, within 90 days after the end of each Fiscal Year, it will furnish to the Administrative Agent a copy of its operating and capital expenditure budget for the then current Fiscal Year, on a consolidated basis, together with the projected operating and capital expenditure budget for the following two Fiscal Years reviewed by its board of directors.
- (d) **Compliance and Reporting Certificate** - Concurrently with the deliveries pursuant to clause (a) above, it shall provide the Administrative Agent with a Compliance and Reporting Certificate which will include details of its Hedge Obligations, the Funded Debt/Cap Ratio and Funded Debt to EBITDA Ratio as at the end of the relevant Fiscal Quarter.
- (e) **Environmental Notices and Reports** - It shall promptly provide the Lender with: (i) copies of any environmental report in respect of the Pipeline received by the Borrower and which discloses an environmental liability requiring remediation activities that are reasonably expected to result in costs to the Borrower in excess of \$15,000,000 and (ii) notice of any material violation of Environmental Law.
- (f) **Material Contracts** - It shall promptly after the execution, delivery or receipt (as applicable) thereof, provide the Administrative Agent with copies of (a) all material amendments, revisions or supplements to any Material Contract (b) any material notices delivered in connection with a Material Contract; for the purposes of this Section 9.3(f), any amendment, revision or supplement to a Material Contract affecting the tolls and rates in any way provided for therein shall be deemed to be material.

- (g) **CER Filings** - It shall promptly provide the Administrative Agent with any filing it makes with, or correspondence it receives from, the CER which would reasonably be expected to adversely impact the Pipeline or the Business.
- (h) **Commitment Plan Quarterly Updates** - It shall promptly provide the Administrative Agent with copies of the updates to the Commitment Plan after filing such updates with the CER.
- (i) **Updates to Financial Requirement Regulations** - It shall promptly notify the Lenders of: (i) any material amendments or modifications to the financial resource requirements of the CER as provided for in the *Pipeline Financial Requirements Regulations* (SOR/2018-142) and the Pipeline Financial Requirements Guidelines published by the CER in connection therewith, as such guidelines may be updated from time to time and (ii) any changes in the required amount of security posted with the CER pursuant to such Regulations and Guidelines.

ARTICLE 10 INSURANCE

10.1 Maintenance of Insurance

Until the Termination Date, the Borrower shall maintain insurance on all its assets, including without limitation, insurance policies as described in Schedule 8.1(w), with financially sound and reputable insurance companies or associations including all-risk property insurance and comprehensive general liability insurance, and with such coverage and against such loss or damage to the full insurable value of such property without co-insurance as the Administrative Agent (following consultation with the Lenders) shall reasonably require or, in the absence of such requirement, to the extent insured against by comparable corporations or other similar entities engaged in comparable businesses, and that are in compliance with all relevant Material Contracts. The Borrower shall furnish to the Administrative Agent, on written request, but in any event concurrently with the delivery of the annual Financial Statements of the Borrower pursuant to Section 9.3(b), satisfactory evidence of such insurance carried and shall promptly notify the Administrative Agent of any claim made under any such insurance policy that is in excess of \$2,500,000. Until the Termination Date, the Borrower shall deliver to the Administrative Agent, in form and substance satisfactory to the Administrative Agent, acting reasonably, such endorsements to all "All Risk" insurance and any accounts receivable credit insurance as may be reasonably requested by the Administrative Agent from time to time.

10.2 Administrative Agent's Right to Maintain

If at any time or times it shall fail to obtain or maintain any of the policies of insurance required to be maintained under Section 10.1 or to pay all premiums for such policies, the Administrative Agent may (but not have any obligation to do so) at any time or times obtain and maintain such policies of insurance (including payment of premiums) and take any other action as the Administrative Agent deems advisable. By doing so, the Administrative Agent shall not be deemed to have waived any Default or Event of Default arising from any failure to maintain such insurance or pay any premiums for such insurance. All sums incurred by the Administrative Agent in connection therewith, including legal fees, court costs and other charges, shall be payable by the Borrower to the Administrative Agent on demand and shall constitute Obligations.

10.3 Requirement of Additional or Changes to Insurance

The Administrative Agent reserves the right at any time before the Termination Date upon any material change in the Borrower's risk profile (including any material change in the product mix maintained by the Borrower or any laws affecting the potential liability of such Borrower) to require additional forms and limits of insurance to, in the Administrative Agent's reasonable opinion, adequately protect both the Administrative Agent's and Lenders' interests in all or any portion of the Borrower's Property and to ensure that the Borrower is protected by insurance in amounts and with coverage customary for its industry. If reasonably

requested by the Administrative Agent, the Borrower shall deliver to the Administrative Agent from time to time a report of a reputable insurance broker, reasonably satisfactory to the Administrative Agent, with respect to such insurance policies.

10.4 Power of Attorney

It irrevocably makes, constitutes and appoints, until the Termination Date, the Administrative Agent (and all officers, employees or agents designated by the Administrative Agent), coupled with the grant of interest under this Agreement, so long as any Event of Default shall have occurred and be continuing or the anticipated insurance proceeds exceed \$2,500,000, as such Borrower's true and lawful Administrative Agent and attorney-in-fact for the purpose of making, settling and adjusting claims under such Borrower's "All Risk" policies of insurance, endorsing the name of such Borrower on any cheque or other item of payment for the proceeds of such "All Risk" policies of insurance and for making all determinations and decisions with respect to such "All Risk" policies of insurance. The Administrative Agent shall have no duty to exercise any rights or powers granted to it pursuant to this power-of-attorney.

10.5 Damage Destruction

The Borrower shall promptly notify the Administrative Agent of any loss, damage, or destruction to the Borrower's Property in the amount of \$2,500,000 or more, whether or not covered by insurance.

ARTICLE 11 DEFAULT AND REMEDIES; DEMAND FOR REPAYMENT

11.1 Events of Default

Without affecting or limiting the right of the Lenders to terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities or any outstanding Obligations thereunder, the occurrence of any one or more of the following events (each, an "**Event of Default**") shall constitute an Event Of Default hereunder:

- (a) **Payment Default** - The Borrower fails to pay any amount of principal of any Advance when due and payable or fails to pay any interest, fees or other Obligations within three (3) Business Days of when due and payable;
- (b) **Breach of Certain Covenants** - The Borrower neglects or fails to observe or perform any covenant or obligation set forth in Section 9.1(o) or Section 9.2, other than paragraphs (a) and (b) of Section 9.2, or the Borrower neglects or fails to observe or perform the covenants and obligations set forth in Section 9.2(a) or (b), and Borrower shall fail to remedy such Default within 10 days from the earlier of the date that (i) the Borrower becomes aware of such Default, and (ii) the Administrative Agent delivers written notice of the Default to the Borrower
- (c) **Performance of Obligations** - The Borrower neglects or fails to observe or perform any covenant or obligation or comply with any provision under this Agreement or under any other Credit Document on its part to be observed, performed or complied with (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this Article 11) and the Borrower shall fail to remedy such Default within 30 days from the earlier of the date that (i) the Borrower becomes aware of such Default, and (ii) the Administrative Agent delivers written notice of the Default to the Borrower,
- (d) **Cross Default** - The Borrower (i) fails to make any payment or payments when due (after the expiration of any applicable grace period (or any payments in the aggregate)) to any Person in relation to any Debt where the principal amount of such payments not paid when due are in excess of \$5,000,000 or (ii) defaults in the observance or performance of any agreement or instrument evidencing, securing or relating to Debt of which the principal amount then outstanding

is in excess of \$5,000,000, or any other event shall occur or condition exist thereunder, the effect of which default, event or other condition is to cause, or to permit the holder of such Debt to cause such Debt to become due prior to its stated maturity date;

- (e) **Ceasing to Carry on Business** - The Borrower ceases or threatens to cease to carry on the Business;
- (f) **Invalid Obligations** - The Borrower denies, to any material extent, its obligations under any Credit Document or claims any of the Credit Documents to be invalid or unenforceable in whole or in part;
- (g) **Unlawful Credit Documents** - Any of the Credit Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a court, statutory board or commission and the Borrower does not, within 90 days of receipt of notice from the Administrative Agent of such Credit Document or material provision becoming unlawful or being changed, replace such Credit Document with a new agreement requested by the Lenders that is in form and substance satisfactory to the Lenders acting reasonably or amend such Credit Document as requested by and to the satisfaction of the Lenders acting reasonably;
- (h) **Event of Insolvency/Bankruptcy** - The occurrence or threat of any one of the following events:
 - (i) **Involuntary Insolvency** - If a judgment, decree or order of a court of competent jurisdiction is entered against the Borrower, (i) adjudging it bankrupt or insolvent, or approving a petition seeking its reorganization or winding-up under the *Bankruptcy and Insolvency Act (Canada)*, the *Companies' Creditors Arrangement Act (Canada)*, or any other bankruptcy, insolvency or analogous Law in any applicable jurisdiction, or (ii) appointing a receiver, trustee, liquidator, or other person with like powers, over the Borrower, any portion of the Pipeline, or all, or substantially all, of the Property of the Borrower, unless such appointment is stayed or dismissed within 30 days, or (iii) ordering the involuntary winding up or liquidation of the affairs of such party;
 - (ii) **Voluntary Insolvency** - An order or a resolution is passed for the dissolution, winding-up, reorganization or liquidation of the Borrower pursuant to Applicable Laws, including the *Canada Business Corporations Act*, if such order or resolution requires the compromise, settlement, adjustment or arrangement of debt, of creditors (or any class of creditors) of the Borrower, or (ii) the Borrower institutes proceedings to be adjudicated bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act (Canada)*, the *Companies' Creditors Arrangement Act (Canada)* or any other bankruptcy, insolvency or analogous Law, or (iii) the Borrower consents to the filing of any petition under any such Applicable Law or to the appointment of a receiver, or other person with like powers, over all, or substantially all, of the Borrower's property, or (iv) the Borrower makes a general assignment for the benefit of creditors, or (v) the Borrower commits an act of bankruptcy under the *Bankruptcy and Insolvency Act (Canada)* or takes or consents to any action in furtherance of any of the aforesaid purposes;
 - (iii) **Enforcement Against Secured Property** - Any holder of any security interest, mortgage, lien, charge, claim or encumbrance enforces against, delivers a notice of intention to enforce against, or otherwise takes possession, management or control of all or any part of the Pipeline (or the Borrower's interest therein) or a material portion of the other Property of the Borrower; or
 - (iv) **Seizure** - A distress, execution, warrant, garnishment, attachment, sequestration, levy, writ, or any similar process is issued or enforced upon or against all or any

part of the Pipeline or a material portion of the other Property of the Borrower and such process remains unstayed for a period of 30 days, or any third party demand is issued by the Crown, or any Governmental Authority in respect of the Borrower for payment in excess of \$2,500,000, or any other seizure is made by any Governmental Authority on all or any part of the Pipeline or in respect of a material portion of the other Property of the Borrower;

- (i) **Misrepresentation** - Any representation, warranty or statement made by the Borrower in this Agreement or in any other Credit Document or in any certificate, opinion, or other document at any time delivered under this Agreement to the Administrative Agent or the Lenders shall prove to have been misleading or incorrect in any material respect (if such representation, warranty or statement is not subject to a materiality qualification or measurement) or in any respect (if such representation, warranty or statement is subject to a materiality qualification or measurement);
- (j) **Adverse Judgments** - If one or more final judgments, writs of execution, attachments, decrees for the payment of money due or similar process shall have been issued or levied against the Borrower in excess of \$5,000,000 and are not released, satisfied, discharged, vacated or stayed within 30 days after their issuance or levy;
- (k) **Change of Share Ownership** - Any of the Sponsors sells, transfers, assigns or otherwise disposes or divests any of their interests in the equity securities of the Borrower;
- (l) **Sale in Bulk** - The Borrower makes or proposes to make any sale of its assets in bulk;
- (m) **Destruction** - Any material portion of the Borrower's Property is damaged or destroyed and such damage or destruction is not insured;
- (n) **Material Adverse Effect** - An event or circumstance occurs or arises which has a Material Adverse Effect;
- (o) **Default under Material Contract** - Any default occurs which, with the giving of notice or the passage of time or both, would reasonably be expected to give rise to a termination under a Material Contract or a Material Approval, or a notice of termination is provided by any party to any Material Contract or in respect of any Material Approval, or any Material Contract or Material Approval ceases to be in full force and effect; or
- (p) **Windup of Defined Benefit Plans** - The Borrower or any Governmental Authority shall terminate or windup, or order a termination or windup of, any DB Plan which has a solvency deficiency in excess of \$5,000,000, or takes steps to initiate the wind up or termination of any DB Plan which has a solvency deficiency in excess of \$5,000,000 (including the filing or delivery of any notice of any such termination or windup or notice of intent to terminate or windup, or notice of intent to order a termination or windup of, any such DB Plan).

11.2 Acceleration and Termination of Rights

Without affecting or limiting the right of the Lenders to terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities or any outstanding Obligations thereunder, if any Event of Default shall occur, all Obligations shall, upon the request of the Required Lenders and notice from the Administrative Agent to the Borrower, or, in the case of the occurrence of an Event of Default under Section 11.1(h), automatically and without the requirement of notice, become immediately due and payable and interest shall accrue, at the rate or rates determined as provided in this Agreement, to the date of actual payment of such Obligation, all without further notice, presentment, protest, demand, notice of dishonour or any other demand or notice, and all of which are expressly waived by the Borrower. In such event the Administrative Agent may, in its discretion and, shall, upon instructions from the Required Lenders, exercise any right or recourse and/or proceed by any action, suit, remedy or proceeding against

the Borrower authorized or permitted by law for the recovery of all the Obligations and proceed to exercise any and all rights under this Agreement and no such remedy for the enforcement of the rights of the Lenders shall be exclusive of or dependent on any other remedy but any one or more of such remedies may from time to time be exercised independently or in combination. For clarity, the Administrative Agent shall not deliver a notice of exclusive control (or equivalent or analogous notice) to any securities intermediary pursuant to any account control agreement to which the Borrower is party with the Administrative Agent unless an Event of Default has occurred and is continuing.

11.3 Demand for Payment by a Lender

- (a) Subject to Section 11.3(b), upon the request of any Lender (each, a “**Demanding Lender**”) to the Administrative Agent to make a demand under any one or more of the Demand Facilities, the Administrative Agent shall, on behalf of all of the Lenders, make demand for payment under the applicable Demand Facility in respect of all outstanding Borrowings thereunder together with all accrued and unpaid interest, fees and other costs in respect thereof and payable to the Lenders, and shall forthwith issue a Facility Demand for Payment to the Borrower in respect thereof.
- (b) Notwithstanding any other provision to the contrary in this Agreement or any other Credit Document, following the issuance of a Facility Demand for Payment, each Lender under the applicable Demand Facility that is not a Demanding Lender may, at any time prior to the expiry of the 10 Business Day period referenced in Section 4.4, issue a notice to the Borrower and the Administrative Agent (a “**Continuance Notice**”) advising that it is not demanding repayment of all outstanding Obligations owing to it (each such Lender, a “**Continuing Lender**”), following which:
 - (i) only that portion of the Borrowings and other Obligations owing to the Demanding Lender under the Facility in respect of which a Facility Demand for Payment has been issued shall be due and payable in accordance with Section 4.4 and the other provisions hereof (and for certainty, all Borrowings and other Obligations owing to each Continuing Lender, and to any Lender under any Facility which is not then subject to a Facility Demand for Payment shall not be due and payable);
 - (ii) each Continuing Lender may (in its discretion and subject to the other provisions hereof) continue to make Drawdowns, Conversions and Rollovers under any Facility up to its Commitment thereunder;
 - (iii) Drawdowns provided by each Continuing Lender under a Facility (other than the Tranche C Facility) may be used to repay the Borrowers and other Obligations owing by the Borrower to the Demanding Lender; and
 - (iv) the provisions of this Agreement and the other Credit Documents shall be interpreted in all respects so as to give effect to, and shall be deemed to be amended to the extent inconsistent with or to give effect to, this Section 11.3;

provided that, if the Administrative Agent is, in its capacity as a Lender, a Demanding Lender and there are Continuing Lenders, the Administrative Agent shall, provided that, it has received repayment of all Obligations then due and payable and it has no Commitments under any Facility, in each case in its capacity as a Lender, it shall be deemed to have provided its resignation notice under Section 13.7.

- (c) **For certainty, it is hereby acknowledged and agreed that the issuance of a Continuance Notice hereunder shall not limit, restrict or otherwise affect in any manner whatsoever the right of the Administrative Agent or any Lender to make a demand for payment hereunder in accordance herewith or to cancel the availability of the unutilized portion of its**

Commitment under any Demand Facility at any time (without notice or demand), in each case, in its sole discretion.

11.4 Obligations due on Demand

- (a) Subject to Section 11.3(b), if the Administrative Agent has delivered a Facility Demand for Payment to the Borrower:
- (i) the entire principal amount of all Borrowings then outstanding under the Facility subject to such Facility Demand for Payment and all accrued and unpaid interest thereon;
 - (ii) an amount equal to the face amount at maturity of all Bankers' Acceptances issued by the Borrower or outstanding BA Advances which are unmaturing;
 - (iii) an amount equal to the maximum amount then available to be drawn under all unexpired Letters of Credit; and
 - (iv) all other unpaid Obligations accrued and then owing hereunder,

shall, within 10 Business Days after receipt by the Borrower of such Facility Demand for Repayment, become due and payable by the Borrower to the Administrative Agent on behalf of the Lenders, all without any other notice and without presentment, protest, demand, notice of dishonour or any other demand whatsoever (all of which are hereby expressly waived by the Borrower). In such event and if the Borrower does not pay all such amounts when so due, either the Lenders (in accordance with and subject to Section 13.3) or the Administrative Agent on their behalf may, in their discretion, exercise any right or recourse and/or proceed by any action, suit, remedy or proceeding against the Borrower authorized or permitted by law for the recovery of all such amounts then due and owing by the Borrower to the Lenders and proceed to exercise any and all rights hereunder and under the other Credit Documents and no such remedy for the enforcement of the rights of the Lenders shall be exclusive of or dependent on any other remedy but any one or more of such remedies may from time to time be exercised independently or in combination.

- (b) Notwithstanding any other provision to the contrary in this Agreement or the other Credit Documents, in the event there is a Demanding Lender and a Continuing Lender, and the Demanding Lender is not fully repaid after the expiry of the 10 Banking Day period referenced in Section 4.4, the Administrative Agent shall act on the instructions of the Demanding Lender in respect of the enforcement rights and remedies of the Lenders under and pursuant to the Credit Documents (having been adequately indemnified for so doing consistent with Section 13.3 by the Demanding Lender, if the Demanding Lender is not the Administrative Agent); provided that, if the Administrative Agent fails to promptly act on such instructions as aforesaid, the Demanding Lender may enforce all such rights and remedies for and in the name of the Administrative Agent and to the extent necessary to give effect to the foregoing, the Administrative Agent hereby appoints the Demanding Lender as the true and lawful attorney of the Administrative Agent, with full power of substitution, to do all acts, matters and things as may be necessary for carrying out the same (such power of attorney is a power coupled with an interest and shall survive the legal incapacity of, and any bankruptcy, insolvency, receivership, dissolution, liquidation, reorganization, winding up or other analogous proceedings in respect of, the Administrative Agent and extends to the successors, assigns, heirs, executors, administrators and other legal representatives of the Administrative Agent).

11.5 Payment and Deemed Advance of Bankers' Acceptances

Immediately upon the Obligations becoming due and payable as provided under Sections 11.2 or 11.4, the Borrower shall, without necessity of further act or evidence, become unconditionally obligated to deposit immediately with the Administrative Agent, for the benefit of the Lenders, cash in an amount equal to the aggregate Face Amount of all outstanding Bankers' Acceptances.

If the Borrower does not make such required payment the Administrative Agent, on behalf of the Lenders, shall have the option at any time without notice to the Borrower to give notice to the Lenders to make an Advance under the Facilities equal to the Face Amount of all unmatured Bankers' Acceptances outstanding under the Facilities. Any such Advance in respect of an unmatured Bankers' Acceptance shall be non-interest bearing for the remaining term to maturity in respect of such Bankers' Acceptance, but shall, upon the maturity of such Bankers' Acceptance, be an interest bearing Prime Rate Advance. The proceeds of such Advance shall be held by the Administrative Agent in a non-interest bearing cash collateral account as security for the Obligations in respect of such Bankers' Acceptances and shall be applied in payment of such Bankers' Acceptances as they mature or otherwise as the Administrative Agent may require. The Borrower shall execute and deliver as security for such Advance all such security agreements as the Administrative Agent may deem necessary or advisable including, without limitation, an assignment of credit balances in respect of such cash collateral account.

11.6 Payment and Deemed Advance of Letters of Credit

Immediately upon the Obligations becoming due and payable as provided under Sections 11.2 or 11.4, the Borrower shall, without necessity of further act or evidence, become unconditionally obligated to deposit immediately with the Administrative Agent for the benefit of the Lenders cash in an amount equal to the aggregate Face Amount of all outstanding Letters of Credit.

If the Borrower does not make such required payment the Administrative Agent, on behalf of the Lenders, shall have the option at any time without notice to the Borrower to give notice to the Lenders to make a Prime Rate Advance under the Facilities equal to the Face Amount of all issued Letters of Credit outstanding under the Facilities. Any such Advance in respect of an undrawn Letter of Credit shall be non-interest bearing, but shall, upon any such Letter of Credit being drawn, be an interest bearing Prime Rate Advance. The proceeds of such Advance shall be held by the Administrative Agent in a non-interest bearing cash collateral account as security for the Obligations in respect of all outstanding Letters of Credit and shall be applied in payment of such Letters of Credit as they are drawn upon by the beneficiaries thereof or otherwise as the Administrative Agent may, in its discretion, determine. The Borrower shall execute and deliver as security for such Advance all such security agreements as the Administrative Agent may deem necessary or advisable including, without limitation, an assignment of credit balances in respect of such cash collateral account.

11.7 Remedies Cumulative and Waivers

For greater certainty, it is expressly understood and agreed that the respective rights and remedies of the Lenders and the Administrative Agent under this Agreement or any other Credit Document are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity. Any single or partial exercise by the Lenders or by the Administrative Agent of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement or any other Credit Document shall not be deemed to be a waiver of, or to alter, affect or prejudice, any other right or remedy to which any one or more of the Lenders and the Administrative Agent may be lawfully entitled for such default or breach. Any waiver by the Lenders or the Administrative Agent of the strict observance, performance or compliance with any term, covenant, condition or other matter contained in this Agreement and any indulgence granted, either expressly or by course of conduct, by the Lenders or the Administrative Agent shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any right or remedy of the Lenders or the Administrative Agent under this Agreement or any other Credit Document as a result of any other default or breach under this Agreement or any other Credit Document.

11.8 Termination of Lenders' Obligations

The occurrence of an Event of Default (other than an Event of Default which has been waived by the Lenders in accordance with the provisions of this Agreement) shall relieve the Lenders of all obligations to provide any further Advances under this Agreement, *provided that* this shall not prevent the Lenders from disbursing money in accordance with this Agreement in reduction of then outstanding Bankers' Acceptances or for the purposes of cash collateralizing Letters of Credit. In addition, Lenders may, in their sole discretion, but subject to Section 11.3, terminate or demand payment of, or cancel or restrict the availability of any unutilized portion of, the Demand Facilities or any outstanding Obligations thereunder at any time, from time to time.

11.9 Perform Obligations

If an Event of Default has occurred and is continuing, the Required Lenders, may, but shall be under no obligation to, instruct the Administrative Agent on behalf of the Lenders to perform any such covenants or agreements in any manner deemed fit by the Required Lenders or the Administrative Agent without necessarily waiving any rights to enforce the Credit Documents. The reasonable expenses (including any legal costs) paid by the Administrative Agent and/or the Lenders in performing such covenants or agreements shall constitute part of the Obligations.

11.10 Setoff or Compensation

In addition to and not in limitation of any rights granted now or after the date of this Agreement under Applicable Law, upon the occurrence and during the continuance of an Event of Default, the Lenders, or any of them, may at any time and from time to time without notice to the Borrower or any other Person (it being expressly waived by the Borrower) to setoff and compensate and apply any and all deposits, general or special, term or demand, provisional or final, matured or unmatured, and any other indebtedness at any time owing by the Lenders, or to appropriate any other properties or assets at any time held by any of the Lenders, or any of them, to or for the credit of or the account of the Borrower, against and on account of the Obligations, even if any of them are contingent or unmatured.

11.11 Application of Payments

Except as otherwise agreed to by all of the Lenders in their sole discretion and as otherwise expressly provided hereunder, all (i) payments made by the Borrower under the Credit Documents, after acceleration of the Obligations pursuant to the terms hereof, and (ii) proceeds resulting from any realization or enforcement of the Security, including by way of foreclosure, will be applied by the Administrative Agent in the following order:

- (a) first, in full and final payment of any fees and any other amounts due and payable by way of recoverable expenses, including all out-of-pocket realization and enforcement costs and all legal costs and disbursements (on a solicitor and his own client full indemnity basis);
- (b) second, on a *pro rata* basis in payment of all Obligations in respect of Borrowings (including all interest thereon) and to the extent crystallized at such time, Permitted Lender Hedge Obligations;
- (c) third, on a *pro rata* basis in payment of any Obligations of the Loan Parties under any Hedge Agreement with a Lender Hedge Provider to the extent crystallized at such time which are in excess of Permitted Lender Hedge Obligations; and
- (d) finally, if there are any amounts remaining and subject to Applicable Law, to the appropriate Loan Party.

11.12 “True-Up” Adjustments on Acceleration

After all Obligations are declared by the Administrative Agent (or deemed) to be due and payable pursuant to the terms hereof, (a) each Lender agrees that it will at any time or from time to time thereafter at the request of the Administrative Agent as required by any Lender, purchase at par on a non-recourse basis a participation in the aggregate principal amount owing to each of the other Lenders and make any other adjustments as are reasonably necessary or appropriate (including indemnities for any then outstanding Letters of Credit or Bankers’ Acceptances), in order that the aggregate principal amounts owing to each of the Lenders, as adjusted pursuant to this Section 11.12, will be in the same proportion as each Lender’s Proportionate Share immediately prior to the Event of Default resulting in such declaration, and (b) the amount of any repayment made by or on behalf of the Borrower under the Credit Documents or any proceeds received by the Administrative Agent or the Lenders pursuant to Section 11.11(b) will be applied by the Administrative Agent in a manner such that to the extent possible the aggregate principal amount owing to each Lender after giving effect to such application will be in the same proportion as each Proportionate Share immediately prior to the Event of Default resulting in such declaration.

ARTICLE 12 SECURITY

12.1 Security on all Assets

The Obligations and the Lender Hedge Obligations shall be secured, equally and rateably, by first priority Liens, subject to certain Permitted Liens which under Applicable Law or agreement with the Required Lenders, rank in priority thereto, on, to and against all present and future property, assets and undertaking of the Borrower.

12.2 Security Documents

The Borrower shall execute and deliver the following security documents, as applicable (collectively, the “**Security**”):

- (a) a demand debenture granting a first ranking Lien, subject to Permitted Liens, security interest and floating charge over all of the assets and property of the Borrower, subject to such exclusions as may be provided for therein, to be registered in the personal property registries in all appropriate jurisdictions and, at the request of the Required Lenders made at a time when an Event of Default has occurred and is continuing or any event, circumstance, occurrence or change which has had or is reasonably expect to have a Material Adverse Effect, in such land title offices or other real property registries as may be necessary to constitute a fixed charge over the real property interests subject thereto;
- (b) a deed of hypothec granting a first ranking Lien, subject to Permitted Liens, over all of the assets and property of the Borrower, subject to such exclusions as may be provided for therein, to be registered in the Register of Personal and Movable Real Rights (Quebec) and, at the request of the Required Lenders made at a time when an Event of Default has occurred and is continuing or any event, circumstance, occurrence or change which has had or is reasonably expect to have a Material Adverse Effect, in such land registry offices or other real property registries as may be necessary to constitute a first ranking Lien, subject to Permitted Liens, over the real property interests subject thereto;
- (c) a debenture pledge agreement between the Borrower and the Administrative Agent in respect of the demand debenture of the Borrower referred to in paragraph (a) above;
- (d) if requested by the Administrative Agent in accordance with Section 12.7, such other documents and instruments providing a fixed charge in accordance with Section 12.7; and

- (e) such further security agreements, deeds or other instruments of assignment, transfer, mortgage, pledge or charge as the Lenders may reasonably request to effectively secure the undertaking, property and assets of the Borrower in the manner contemplated in paragraphs (a) through (c) above.

12.3 Sharing of Security

- (a) The Borrower and the Lenders agree and acknowledge that the Security is being shared *pari passu* and equally among the Lenders and the Lender Hedge Providers to secure the Loan Obligations and the Lender Hedge Obligations on an equal and rateable basis and that the Administrative Agent will hold the Security for the benefit of the Lenders hereunder and the Lender Hedge Providers with respect to the Lender Hedge Obligations;
- (b) If requested by the Lenders or any Lender Hedge Provider, then the Lenders and the Lender Hedge Providers will enter into such further intercreditor agreements and assurances as may be reasonably requested to further evidence the sharing provisions of this Section 12.3. In addition to the *pari passu* sharing provisions referred to above, such further agreements shall incorporate the following principles (which will also apply prior to the entering into of such further agreements):
 - (i) any matter or thing done or omitted to be done by a Lender under or in respect of this Agreement, the Security or the other Credit Documents will be binding upon the Lender Hedge Providers and each Lender does hereby indemnify and save the other Lenders and the Administrative Agent harmless from any and all claims, demands or actions that a Lender Hedge Provider who is an Affiliate of such Lender may have against the Lenders and the Administrative Agent for any matter or thing done or omitted to be done by any of them under and in respect of this Agreement, the Security and the other Credit Documents; and
 - (ii) if the Obligations are accelerated pursuant to the terms hereof, each Lender Hedge Provider will promptly take all such steps as may be reasonably required to ensure that a Hedge Crystallization Event occurs in respect of all of its outstanding Lender Hedge Agreements.

12.4 Exclusivity of Remedies

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

12.5 Form of Security

The Security will be in such form or forms as may be required by the Administrative Agent, acting reasonably, and will be registered in such offices in Canada or any province thereof as the Administrative Agent, acting reasonably, may from time to time require to protect the Liens created thereby. Should the Administrative Agent determine at any time and from time to time, acting reasonably, that the form and nature of the then existing Security is deficient in any way or does not fully provide the Administrative Agent, the Lenders or the Lender Hedge Providers with the Liens and priority to which each is entitled hereunder, the Borrower will promptly execute and deliver or cause to be executed and delivered to the Administrative Agent, at the Borrower's expense, such amendments to the Security or provide such new security as the Administrative Agent may reasonably request. Without limiting the generality of the foregoing, the Borrower acknowledges that the Security has been prepared based on Applicable Laws and the Borrower agrees that the Administrative Agent will have the right, acting reasonably, to require that the Security be amended or supplemented: (a) to reflect any changes in Applicable Laws, whether arising as a result of statutory

amendments, court decisions or otherwise; or (b) to facilitate the creation and registration of appropriate security in all appropriate jurisdictions, including a fixed charge in respect thereof, but excluding registration against real property unless an Event of Default has occurred and is continuing or any event, circumstance, occurrence or change has had or is reasonably expect to have a Material Adverse Effect, in each case in order to confer upon the Administrative Agent the security intended to be created hereby.

12.6 After-Acquired Property

All property acquired by or on behalf of the Borrower which forms part of the property of the Borrower (hereafter collectively referred to as “**After-Acquired Property**”), will be subject to the Security (subject to the exclusions provided for therein) without any further conveyance, mortgage, pledge, charge, assignment or other act on the part of the Parties. Without limiting the effect of the preceding sentence, the Borrower will, from time to time, execute and deliver and the Administrative Agent will register in all applicable personal property registries and (at the request of the Required Lenders made at a time when an Event of Default has occurred and is continuing or any event, circumstance, occurrence or change which has had or is reasonably expect to have a Material Adverse Effect) in such land title offices or other real property registries as may be necessary to constitute a fixed charge over the real property interests subject thereto, all at the Borrower’s expense, such instruments supplemental to the Security, in form and substance satisfactory to the Administrative Agent, acting reasonably, as may be necessary or desirable to ensure that the Security as amended and supplemented constitutes in favour of the Administrative Agent and the Lenders an effective Security Interest to the extent created by the Security over such After-Acquired Property as required hereunder, subject only to Permitted Liens.

12.7 Undertaking to Grant Fixed Charge Security

The Borrower will forthwith after request from the Administrative Agent (as directed by the Required Lenders) made at a time when an Event of Default has occurred and is continuing grant or cause to be granted to the Administrative Agent, for its benefit and for the benefit of the Lenders a fixed charge in all or any of its real property (including any After-Acquired Property which comprise such real property).

12.8 Further Assurances

The Borrower will, in connection with the provision of any amended, new or replacement Security referred to in Section 12.6 or 12.7:

- (a) do, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, assignments, acts, matters and things which may be reasonably required by the Administrative Agent to give effect to any provision of the amended, new or replacement Security;
- (b) provide the Administrative Agent with such information as is reasonably required by the Administrative Agent to identify the property to be charged;
- (c) do all such things as are reasonably required to grant the Liens to be granted pursuant to the amended, new or replacement Security;
- (d) provide the Administrative Agent with all corporate, partnership or other organizational resolutions and other action required for the Borrower to grant the amended, new or replacement Security;
- (e) provide the Administrative Agent with an opinion of the Borrower’s Counsel confirming the due authorization, execution and delivery by the Borrower of all such agreements and instruments comprising the amended, new or replacement Security in form and content satisfactory to the Administrative Agent, acting reasonably;

- (f) assist the Administrative Agent in the registration or recording of such agreements and instruments in such personal property and, subject to the terms hereof, real property public registry offices in all such jurisdictions as the Administrative Agent, acting reasonably, deems necessary to give full force and effect to the amended, new or replacement Security; and
- (g) pay all documented and reasonable out-of-pocket costs and expenses incurred by the Administrative Agent in connection with the preparation, execution and registration of all agreements, documents and instruments, including any amendments to the Security, made in connection with this Section 12.8.

12.9 Security for Lender Hedge Agreements with Former Lenders

- (a) If a Lender ceases to be a Lender under this Agreement (a “**Former Lender**”), all Lender Hedge Obligations owing to such Former Lender and its Affiliates under Lender Hedge Agreements entered into while such Former Lender was a Lender shall remain secured by the Security (equally and rateably) to the extent that such Lender Hedge Obligations were secured by the Security prior to such Lender becoming a Former Lender and, subject to the following provisions of this Section 12.9. For certainty, any Lender Hedge Obligations under a Hedge Agreement entered into with a Former Lender or an Affiliate thereof after the Former Lender has ceased to be a Lender shall not be secured by the Security. Notwithstanding the foregoing, while any Obligations remain outstanding under any Credit Facility or any Commitment remains in effect, no Former Lender or any Affiliate thereof shall have any right to cause or require the enforcement of the Security or any right to participate in any decisions relating to the Security, including any decisions relating to the enforcement or manner of enforcement of the Security or decisions relating to any amendment to, waiver under, release of or other dealing with all or any part of the Security; for certainty, the sole right of a Former Lender and its Affiliates with respect to the Security while any Obligations remain outstanding under any Facility is to share, on a *pari passu* basis, in any proceeds of realization and enforcement of the Security. If any amendment to this Section 12.9 is proposed that would adversely affect the rights of a Former Lender under this Agreement then such amendment shall require the consent of each affected Former Lender.
- (b) Subject to Section 12.10, if any Lender Hedge Agreement remains outstanding when the Termination Date occurs, the Administrative Agent shall be entitled to discharge the Security; *provided* that:
 - (i) at the request of any Lender Hedge Provider, but subject to paragraph (iii) below, the Borrower agrees to enter into margin arrangements with such Lender Hedge Provider under which the Borrower will be required to provide such Lender Hedge Provider with a pledge of cash or marketable securities with an aggregate value not less than the Lender Hedge Obligations then owing to such Lender Hedge Provider from time to time (to be determined as if a Hedge Crystallization Event had occurred);
 - (ii) to the extent not already provided for therein, at the request of any Lender Hedge Provider (which request may be made at any time after the Closing Date), but subject to paragraph (iii) below, the Borrower agrees to amend their ISDA master agreement with such Lender Hedge Provider to reflect the provisions of paragraph (i) above;
 - (iii) the provisions of paragraph (i) and (ii) above shall survive repayment of the Obligations and termination of the Facilities; and

- (iv) any Lender Hedge Provider may elect to expressly override the provisions in paragraphs (i) and (ii) above in its ISDA master agreement (or in any amendment thereto) by expressly contemplating the discharge of the Security and the consequences thereof; provided that no such election shall affect the rights of any other Lender Hedge Provider.

12.10 Discharge of Security

The Administrative Agent will discharge all of the Security at the Borrower's expense forthwith upon the Borrower's request made on or subsequent to the Termination Date; provided that, at the request of any Lender Hedge Provider, the Borrower agrees to enter into margining arrangements with such Lender Hedge Provider under which the Borrower will be required to provide such Lender Hedge Provider with a pledge of cash or Cash Equivalents with an aggregate value not less than the Lender Hedge Obligations then owing to such Lender Hedge Provider (to be determined as if such Lender Hedge Obligations are then due and payable).

ARTICLE 13 ADMINISTRATIVE AGENT

13.1 Appointment of Administrative Agent

- (a) Each of the Lenders appoints Royal Bank of Canada as Administrative Agent to act on behalf of all the Lenders under this Agreement and the other Credit Documents. The provisions of this Section 13.1 are solely for the benefit of the Administrative Agent and the Lenders, and the Borrower shall not have any rights as a beneficiary of such provisions. In performing its functions and duties under this Agreement and the other Credit Documents, the Administrative Agent shall act solely as an Administrative Agent of the Lenders and does not assume, and shall not be deemed to have assumed, any obligation toward, or relationship of agency or trust with or for, the Borrower or any other Person. The Administrative Agent shall have no duties or responsibilities except for those expressly specified in this Agreement and the other Credit Documents.
- (b) The duties of the Administrative Agent shall be mechanical and administrative in nature and it shall not have, or be deemed to have, by reason of this Agreement, any other Credit Document or otherwise, a fiduciary relationship in respect of any Lender. Except as expressly specified in this Agreement and the other Credit Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for failure to disclose, any information relating to the Borrower or any of their respective Subsidiaries that is communicated to or obtained by the Administrative Agent or any of its Affiliates in any capacity.
- (c) For the purposes of the grant of security under the laws of the Province of Quebec which may now or in the future be required to be provided by the Borrower, the Administrative Agent is hereby irrevocably authorized and appointed by each of the Lenders hereto to act as hypothecary representative (within the meaning of Article 2692 of the *Civil Code of Quebec*) for all present and future Lenders and other Secured Parties (in such capacity, the "**Hypothecary Representative**") in order to hold any hypothec granted under the laws of the Province of Quebec and to exercise such rights and duties as are conferred upon the Hypothecary Representative under the relevant deed of hypothec and Applicable Law (with the power to delegate any such rights or duties). The execution prior to the date hereof by the Administrative Agent in its capacity as the Hypothecary Representative of any deed of hypothec or other security documents made pursuant to the laws of the Province of Quebec, is hereby ratified and confirmed. Any Person who becomes a Lender or successor Administrative Agent shall be deemed to have consented to and ratified the foregoing appointment of the Administrative Agent as the Hypothecary Representative on behalf of all Secured Parties, including such Person and any Affiliate of such Person

designated above as a Lender. For greater certainty, the Administrative Agent, acting as the Hypothecary Representative, shall have the same rights, powers, immunities, indemnities and exclusions from liability as are prescribed in favour of the Administrative Agent in this Agreement, which shall apply *mutatis mutandis*. In the event of the resignation of the Administrative Agent (which shall include its resignation as the Hypothecary Representative) and appointment of a successor Administrative Agent, such successor Administrative Agent shall also act as the Hypothecary Representative, as contemplated above.

13.2 Administrative Agent's Reliance, etc.

If the Administrative Agent should request instructions from the Lenders or any of the affected Lenders with respect to any act or action (including taking no action) in connection with this Agreement or any other Credit Document, then the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from such Lenders, and the Administrative Agent shall not incur liability to any Person by reason of so refraining. The Administrative Agent shall be fully justified in omitting or refusing to take any action under this Agreement or any other Credit Document if (a) such action would, in the opinion of the Administrative Agent, be contrary to Applicable Law or the terms of this Agreement or any other Credit Document; (b) such action would, in the opinion of the Administrative Agent, expose it or the Lenders to liability under Environmental Laws; or (c) the Administrative Agent shall not first be indemnified to its satisfaction against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Without limitation, no Lender shall have any right of action against the Administrative Agent as a result of the Administrative Agent's action or its omission from action under this Agreement or any other Credit Document in accordance with the instructions of such Lenders.

In particular, none of the Administrative Agent, any of its Affiliates nor any of their respective directors, officers, Administrative Agents or employees shall be liable for any action taken or omitted to be taken by it or them under or in connection with this Agreement or the other Credit Documents, except for damages caused by its or their own gross negligence or wilful misconduct. Without limitation, the Administrative Agent:

- (a) may treat any Lender as lender under this Agreement until the Administrative Agent receives written notice of the assignment or transfer of such Lender's interest in accordance with the terms of this Agreement;
- (b) may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts;
- (c) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made in or in connection with this Agreement or the other Credit Documents;
- (d) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Credit Documents on the part of the Borrower or to inspect the Borrower's Property (including the Books and Records) of the Borrower;
- (e) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or the other Credit Documents or any other instrument or document furnished pursuant to each such document; and
- (f) shall incur no liability under or in respect of this Agreement or the other Credit Documents by acting upon any notice, consent, certificate or other instrument or writing (which may be by fax,

e-mail or other electronic transmission) believed by it to be genuine and signed or sent by the proper Party or Parties.

13.3 Taking and Enforcement of Remedies; Release of Security

- (a) Each of the Lenders hereby acknowledges that, to the extent permitted by Applicable Law, the remedies provided hereunder and under the other Credit Documents to the Lenders are for the benefit of the Lenders collectively and acting together and not severally and further acknowledges that its rights hereunder, other than its right to demand payment hereunder pursuant to Section 4.4, are to be exercised not severally, but collectively by the Administrative Agent upon the decision of the Lenders. Notwithstanding any of the provisions contained herein, each of the Lenders hereby covenants and agrees that, other than in respect of making a demand for repayment pursuant to Section 4.4, it shall not be entitled to individually take any action with respect to the Credit Facility, but that any such action shall be taken only by the Administrative Agent with the prior written agreement or instructions of the Lenders; provided that, notwithstanding the foregoing, if (i) the Administrative Agent, having been adequately indemnified against costs and expenses of so doing by the Lenders, shall fail to carry out any such instructions of the Lenders, any Lender may do so on behalf of all Lenders and shall, in so doing, be entitled to the benefit of all protections given the Administrative Agent hereunder or elsewhere, and (ii) in the absence of instructions from the Lenders and where in the sole opinion of the Administrative Agent the exigencies of the situation warrant such action, the Administrative Agent may without notice to or consent of the Lenders or any of them take such action on behalf of the Lenders as it deems appropriate or desirable in the interests of the Lenders. Each of the Lenders hereby further covenants and agrees that upon any such written consent being given by the Lenders, or upon a Lender or the Administrative Agent taking action as aforesaid, it shall cooperate fully with the Lender or the Administrative Agent to the extent requested by the Lender or the Administrative Agent in the collective realization including and, if applicable, the appointment of a receiver, or receiver and manager to act for their collective benefit. Each Lender covenants and agrees to do all acts and things and to make, execute and deliver all agreements and other instruments, including any instruments necessary to effect any registrations, so as to fully carry out the intent and purpose of this Section; and each of the Lenders hereby covenants and agrees that, other than the Security, it has not heretofore and shall not seek, take, accept or receive any security for any of the obligations and liabilities of the Borrower hereunder or under any other document, instrument, writing or agreement ancillary hereto and shall not enter into any agreement with any of the parties hereto or thereto relating in any manner whatsoever to the Credit Facility, unless all of the Lenders shall at the same time obtain the benefit of any such security or agreement.
- (b) With respect to any enforcement, realization or the taking of any rights or remedies to enforce the rights of the Lenders hereunder, under the Security or any other Credit Document, the Administrative Agent shall be a trustee for each Lender, and all monies received from time to time by the Administrative Agent in respect of the foregoing shall be held in trust and shall be trust assets within the meaning of applicable bankruptcy or insolvency legislation and shall be considered for the purposes of such legislation to be held separate and apart from the other assets of the Administrative Agent, and each Lender shall be entitled to their *pro rata* share of such monies. In its capacity as trustee, the Administrative Agent shall be obliged to exercise only the degree of care it would exercise in the conduct and management of its own business and in accordance with its usual practice concurrently employed or hereafter instituted for other substantial commercial loans.
- (c) Each Lender hereby irrevocably authorizes the Administrative Agent to execute and deliver such releases and no-interest letters as may be required in connection with any disposition of assets by the Borrower in respect of which the Administrative Agent has received an officer's certificate of the Borrower certifying that such disposition is permitted hereunder, together with any other information from the Borrower reasonably required by the Administrative Agent, if any, to satisfy itself that any such disposition is permitted hereunder.

13.4 Administrative Agent as Lender

With respect to its Commitment under this Agreement, Royal Bank of Canada or any other Lender that may be a successor Administrative Agent shall have the same rights and powers under this Agreement and the other Credit Documents as any other Lender and may exercise the same as though it were not the Administrative Agent.

13.5 Lender Credit Decision

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on the financial statements of the Borrower provided to it prior to the date of this agreement and such other documents and information as it has deemed appropriate, made its own credit and financial analysis of the Borrower and its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent 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 Credit Documents.

13.6 Indemnification

Each of the Lenders agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower and without limiting the obligations of the Borrower under this Agreement), rateably according to their respective Proportionate Shares, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature that may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement, the Security or any other Credit Document or any action taken or omitted to be taken by it in connection with such documents; *provided that* no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or wilful misconduct. Without limitation, each Lender agrees to reimburse the Administrative Agent promptly upon demand for its rateable share of any out-of-pocket expenses (including reasonable legal fees) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through-negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and each other Credit Document, to the extent that the Administrative Agent is not reimbursed for such expenses by the Borrower.

13.7 Successor Administrative Agent

The Administrative Agent may resign at any time by giving not less than 30 days' prior written notice to each of the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent ("**Successor Administrative Agent**"). If no successor Administrative Agent shall have accepted such appointment by the Required Lenders within 30 days after such notice of resignation, then the resigning Administrative Agent may, on behalf of Lenders, appoint a successor Administrative Agent, which shall be a Lender, if a Lender is willing to accept such appointment, or otherwise a financial institution organized under the laws of the Canada or of any province of Canada with a combined capital and surplus of at least \$100,000,000. If no successor Administrative Agent has been so appointed within 30 days after the date such notice of resignation was given by the resigning Administrative Agent, such resignation shall become effective and the Required Lenders shall then perform all the duties of the Administrative Agent under this Agreement until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided in this Section 13.7.

Any Successor Administrative Agent appointed by the Required Lenders shall be subject to the approval of Borrower, such approval not to be unreasonably withheld or delayed; *provided that* such approval shall not be required if an Event of Default has occurred and is continuing. Upon the acceptance of its appointment as Successor Administrative Agent, the Successor Administrative Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning Administrative Agent. Upon the earlier of the acceptance of any appointment as Administrative Agent by a Successor Administrative

Agent or the effective date of the resigning Administrative Agent's resignation, the resigning Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Credit Documents, except that any indemnity rights or other rights in favour of such resigning Administrative Agent shall continue. After any resigning Administrative Agent's resignation, the provisions of this Section 13.7 shall enure to its benefit as to any actions taken or omitted to be taken by it while it was acting as Administrative Agent under this Agreement and the other Credit Documents.

13.8 Setoff and Sharing of Payments

Any Lender exercising a right of setoff or otherwise receiving any payment on account of the Obligations in excess of its Proportionate Share shall purchase for cash (and the other Lenders shall sell) such participations in each such other Lender's Proportionate Share of the Obligations as would be necessary to cause such Lender to share the amount so setoff or otherwise received with each other Lender in accordance with their respective Proportionate Shares. The Borrower agrees, to the fullest extent permitted by Applicable Law, that, after an Event of Default has occurred and for so long as it is continuing, (a) any Lender may exercise its right of setoff with respect to amounts in excess of its Proportionate Share of the Obligations and may sell participations in such amounts so setoff to other Lenders and (b) any Lender so purchasing a participation in the other Obligations held by other Lenders may exercise all rights of setoff, bankers' lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of the other Obligations in the amount of such participation. Notwithstanding the above, if all or any portion of the setoff amount or payment otherwise received is then recovered from the Lender that has exercised the right of setoff, the purchase of participations by that Lender shall be rescinded and the purchase price restored without interest.

13.9 Dissemination of Information

The Administrative Agent shall use reasonable efforts to provide the Lenders with any notice of Default or Event of Default received by the Administrative Agent from, or delivered by the Administrative Agent to, the Borrower, with notice of any Event of Default of which the Administrative Agent has actually become aware and with notice of any action taken by the Administrative Agent following any Event of Default; *provided that* the Administrative Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to the Administrative Agent's gross negligence or wilful misconduct.

13.10 Lenders Co-ordination

Each Lender shall provide its Proportionate Share of each Prime Rate Advance under the Facilities as follows:

- (a) the Administrative Agent shall advise each Lender of its receipt of a Borrowing Notice on the day such notice is received and shall, as soon as possible, advise each Lender of such Lender's Proportionate Share of such Advance requested by the Borrowing Notice;
- (b) each Lender shall deliver its Proportionate Share of an Advance to the Administrative Agent not later than 1:00 p.m. (Toronto time) on the Advance Date; and
- (c) provided that all the conditions precedent to an Advance specified in this Agreement have been met, the Administrative Agent shall advance to the Borrower the amount delivered by each Lender by crediting the Designated Accounts; *provided that*, if the conditions precedent to the Advance are not met by 2:30 p.m. (Toronto time) on the Advance Date, the Administrative Agent shall return the funds to the Lenders or invest them in an overnight investment for the benefit of the Lenders at the Administrative Agent's discretion, acting reasonably, until such time as the Advance is made, and all costs incidental to such transaction shall be at the cost of the Borrower.

13.11 Availability of Lender's Proportionate Share

Unless, in respect of the Demand Facilities, the Administrative Agent has been notified by a Lender to the contrary at least one Business Day prior to an Advance Date, the Administrative Agent may assume that each Lender will make its Proportionate Share of each Advance available to the Administrative Agent on each Advance Date. If, in respect of an Advance under the Tranche C Facility, such Proportionate Share is not, in fact, paid to the Administrative Agent by such Lender when due, the Administrative Agent will be entitled to recover such amount on demand from such Lender without setoff, counterclaim or deduction of any kind. If any Lender fails to pay the amount of its Proportionate Share of an Advance under the Tranche C Facility, then upon the Administrative Agent's demand, the Borrower shall immediately repay such amount to the Administrative Agent. The Administrative Agent shall not be (nor be deemed to be) obligated to advance funds on behalf of any Lender. Unless, in respect of the Demand Facilities, the Administrative Agent has been notified by a Lender to the at least one Business Day prior to an Advance Date that such Lender will not be advancing funds to the Borrower, to the extent that the Administrative Agent advances funds to Borrower on behalf of any Lender and is not reimbursed on the same Business Day as such Advance is made, the Administrative Agent shall be entitled to retain for its account all interest accrued on such Advance until reimbursed by the applicable Lender.

13.12 Return of Payments

If the Administrative Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by the Administrative Agent and such related payment is not received by the Administrative Agent, then the Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

If the Administrative Agent determines at any time that any amount received by it under this Agreement must be returned to the Borrower or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Credit Document, the Administrative Agent shall not be required to distribute any portion of such amount to any Lender. In addition, each Lender shall repay to the Administrative Agent on demand any portion of such amount that the Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as the Administrative Agent is required to pay to the Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

13.13 Tranche C Facility Non-Funding Lenders

The failure of any Non-Funding Lender to make any Advance under the Tranche C Facility or any payment required by it under this Agreement shall not relieve any other Lender of its obligations to make its Proportionate Share of such Advance under the Tranche C Facility on such date.

Notwithstanding any provision to the contrary, a Non-Funding Lender shall not constitute a "Lender" (or be included in the calculation of "Required Lenders") under the Tranche C Facility for any voting or consent rights under or with respect to any Credit Document that affect the rights and obligations of Lenders under the Tranche C Facility.

At the Borrower's request, a Person acceptable to the Administrative Agent, in the Administrative Agent's sole discretion, shall have the right to purchase from any Non-Funding Lender, and each Non-Funding Lender agrees that it shall, at the Administrative Agent's request, sell and assign to the Administrative Agent or such Person, all of the Commitment of that Non-Funding Lender under the Tranche C Facility for an amount equal to the principal balance of all such Non-Funding Lender's Proportionate Share in the Tranche C Facility and all accrued interest and stated fees through the date of sale, such purchase and sale to be consummated pursuant to an executed assignment agreement.

13.14 Erroneous Payments by the Administrative Agent

- (a) If the Administrative Agent notifies a Lender or other Secured Party, or any person who has received funds on behalf of a Lender or other Secured Party under or pursuant to any of the Credit Documents (any such Lender, other Secured Party or other recipient, a "**Payment Recipient**") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted or paid to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, other Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender or other Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Banking Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of (x) in respect of an Erroneous Payment in United States Dollars, the Federal Funds Rate and, in respect of an Erroneous Payment in Canadian Dollars at a fluctuating rate per annum equal to the overnight rate at which Canadian Dollars may be borrowed by the Administrative Agent in the interbank market in an amount comparable to such Erroneous Payment (as determined by the Administrative Agent) and (y) a rate determined by the Administrative Agent in accordance with banking industry rules or prevailing market practice for interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this Section 13.14(a) shall be conclusive, absent manifest error; provided that, any such interest payable by such Lender or person shall not be reimbursable by the Borrower under 16.1 for any reason.
- (b) Without limiting the immediately preceding Section 13.14(a), each Lender or other Secured Party, or any person who has received funds on behalf of a Lender or other Secured Party under or pursuant to any of the Credit Documents, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or other Secured Party, or other such recipient, otherwise becomes aware was transmitted, paid, or received, in error or by mistake (in whole or in part) in each case:
- (i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent express written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and
 - (ii) such Lender or other Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Banking Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in

reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 13.14(b).

- (c) Each Lender or other Secured Party hereby authorizes the Administrative Agent to set-off, net and apply any and all amounts at any time owing to such Lender or other Secured Party under any Secured Document, or otherwise payable or distributable by the Administrative Agent to such Lender or other Secured Party from any source, against any amount due to the Administrative Agent under the preceding Section 13.14(a) or under the indemnification provisions of this Agreement.
- (d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with the preceding Section 13.14(a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its behalf) (such unrecovered amount, an "**Erroneous Payment Return Deficiency**"), upon the Administrative Agent's notice to such Lender at any time, (i) such Lender shall be deemed to have assigned its Loans (but not any of its Commitments) under any of the applicable Credit Facilities with respect to which such Erroneous Payment was made (the "**Erroneous Payment Impacted Facilities**") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not any of its Commitments) of the Erroneous Payment Impacted Facilities, the "**Erroneous Payment Deficiency Assignment**") at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment Agreement with respect to such Erroneous Payment Deficiency Assignment, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and any of its applicable Commitments which shall survive as to such assigning Lender and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. Subject to Section 15.3, the Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and, upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender under any of the Credit Facilities and such Commitments under such Credit Facilities shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender or other Secured Party under the applicable Credit Documents with respect to each Erroneous Payment Return Deficiency (the "**Erroneous Payment Subrogation Rights**").
- (e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any Subsidiary, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from (i) the Borrower or any Subsidiary or (ii) the proceeds of realization from the enforcement of one or more of the Credit Documents against or in respect of one or more of the Borrower and its Subsidiaries;

provided that, in each case, such funds were received by the Administrative Agent for the purpose of discharging such Obligations.

- (f) To the extent permitted by Applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including waiver of any defense based on "discharge for value", "good consideration" for the Erroneous Payment or change of position by such Payment Recipient, any defense that the intent of the Administrative Agent was that such Payment Recipient retain the Erroneous Payment in all events, or any doctrine or defense similar to any of the foregoing.
- (g) Each party's obligations, agreements and waivers under this Section 13.14 shall survive the resignation or replacement of the Administrative Agent, or any assignment or transfer of rights or obligations by, or the replacement of, a Lender or an Affiliate thereof the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Secured Document.
- (h) For purposes of this Section 13.14, each Lender:
 - (i) agrees it is executing and delivering this Agreement with respect to this Section 13.14 both on its own behalf and as agent for and on behalf of its Affiliates referred to in this Section 13.14 and any person receiving funds under or pursuant to any of the Credit Documents on behalf of such Lender or any of such Affiliates;
 - (ii) represents, warrants, covenants and agrees that its Affiliates referred to in this Section 13.14 and any person receiving funds under or pursuant to any of the Credit Documents on behalf of such Lender or any of such Affiliates are bound by the provisions of this Section 13.14; and
 - (iii) agrees that any matter or thing done or omitted to be done by such Lender, its Affiliates, or any person receiving funds under or pursuant to any of the Credit Documents on behalf of such Lender or any of such Affiliates which are the subject of this Section 13.14 will be binding upon such Lender and each Lender does hereby indemnify and save the Administrative Agent and its Affiliates harmless from any and all losses, expenses, claims, demands or other liabilities of the Administrative Agent and its Affiliates resulting from the failure of such Lender, its Affiliates or such persons to comply with their obligations under and in respect of this Section 13.14, in each case, in accordance with and subject to the limitations in Section 13.6.
- (i) Except pursuant to an Erroneous Payment Deficiency Assignment or the exercise of any Erroneous Payments Subrogation Rights (or any equivalent equitable subrogation rights), the Borrower shall not have any liability to the Administrative Agent for any Erroneous Payment or any interest, loss, cost or damages related thereto or arising therefrom under any provision of this Agreement or any other Credit Document or under any legal principle or theory, whether arising by law or in equity.

ARTICLE 14 AMENDMENTS AND WAIVERS

14.1 Amendments and Waivers

No provision contained in this Agreement nor any other Credit Document, may be amended, supplemented or modified except in accordance with the provisions of this Article 14.

14.2 Required Lenders Consent

Except as provided in Section 14.5, the Required Lenders may from time to time authorize the Administrative Agent to enter into written amendments, supplements or modifications with the Borrower to any of the Credit Documents for the purpose of adding or amending any of its provisions or changing in any manner the rights of the Lenders or of the Borrower under any of them, or to waive, on such terms and conditions as the Required Lenders may specify, any of the requirements of any of the Credit Documents or any Default or Event of Default under this Agreement.

14.3 Technical Amendments

Any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (i) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) or (ii) effect administrative changes of a technical or immaterial nature, and any such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five (5) Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five (5) Business Days' of the date of such notice to the Lenders, a written notice from the Majority of the Lenders stating that the Majority of the Lenders object to such amendment.

14.4 Waivers and Releases

Any waiver or release and any such amendment, supplement or modification shall apply equally to each of the Lenders and shall be binding upon the Borrower, the Administrative Agent, and all Lenders. In the case of any waiver, the Borrower, the Lenders and the Administrative Agent shall be restored to their former positions and rights under the Credit Documents, and any Default or Event of Default waived shall, subject to the terms of such waiver, be deemed to be cured and not continuing, it being understood that no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent on such Default or Event of Default.

14.5 Unanimous Consent

Any amendment, modification, discharge, termination or waiver relating to the terms of this Agreement which changes or relates to:

- (a) the amount or type of the Facilities, the types of Advances available hereunder (or decreases in the periods of notice for Drawdowns, Conversions, Rollovers or voluntary prepayment of Borrowings) or the Commitments;
- (b) decreases in the rates of or deferral of the dates of payment of interest, Bankers' Acceptance stamping fees, LC issuance fees or standby fees or decreases in the amount of principal owing hereunder or deferral of the dates of mandatory repayments of principal payable by the Borrower under the Facilities;
- (c) the release or discharge of, or any material amendment or waiver of, any Security, except to the extent provided for or contemplated hereunder (for certainty, the discharge or release of the collateral from the Security which is not already provided for in the Credit Documents, as opposed

to the release or discharge or material amendment or waiver of the Security itself, shall only require the approval of the Required Lenders);

- (d) any provision hereof contemplating or requiring consent, approval or agreement of “all of the Lenders”, “all Lenders” or “each of the Lenders” or similar expressions or permitting waiver of conditions or covenants or agreements by “all of the Lenders”, “all Lenders” or “each of the Lenders” or similar expressions;
- (e) the provisions of Section 2.3, 4.4, 7.2, 11.3, 11.11, 11.12, 12.3, 12.9, 14.4, 15.3 and this Section 14.5;
- (f) the definition of “Required Lenders” or “BA Discount Rate”; or
- (g) an assignment or transfer by the Borrower of any or all of its rights and obligations under this Agreement;

shall require the unanimous consent in writing of all the Lenders, and any amendment or waiver which changes or relates to the rights or obligations of the Administrative Agent shall also require the agreement of the Administrative Agent.

ARTICLE 15 ASSIGNMENTS AND PARTICIPATIONS

15.1 Assignment by Borrower

The Borrower may not assign or transfer any of its rights or obligations under any Credit Document without prior written consent of each of the Lenders.

15.2 Participation

Any Lender may, in the ordinary course of its business and in accordance with Applicable Law, at any time and from time to time sell to one or more Financial Institutions (“**Participants**”) participating interests in any Advance owing to such Lender, any Commitment of such Lender or any other interest of such Lender under this Agreement and under the other Credit Documents. In the event of any such sale by a Lender of a participating interest to a Participant, such Lender’s Commitment and obligations under this Agreement to the other Parties shall remain unchanged, such Lender shall remain solely responsible for the performance of such obligations, such Lender shall remain the holder of any such Advance for all purposes under this Agreement and the other Credit Documents, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under all Credit Documents.

The Borrower also agrees that each Participant shall, to the extent permitted by Applicable Law, be entitled to the benefits of Article 6 with respect its participation in the Commitments and the Advances outstanding from time to time as if it were a Lender, *provided that* no Participant shall be entitled to receive any greater amount pursuant to any such provisions than the transferor Lender would have been entitled to receive in respect of the amount of the participation transferred had no such transfer occurred.

15.3 Assignments by Lenders

Any Lender may, at any time and from time to time assign to (a) any Lender or any of its or any Lender’s Affiliates; or (b) with the consent of the Borrower and the Administrative Agent (in each case not to be unreasonably withheld), to an entity that is regularly engaged in making, purchasing or investing in loans or securities, (an “**Assignee**”) all or any part of its rights and obligations under this Agreement and the other Credit Documents pursuant to an assignment agreement with such modifications as the Administrative Agent shall require from time to time, executed by such Assignee and such assigning Lender (and, if

applicable, by the Borrower and the Administrative Agent) and delivered to the Administrative Agent for its acceptance and recording; *provided that*, except in the case of an assignment of all of a Lender's interests under this Agreement and unless otherwise agreed to by the Administrative Agent, no such assignment to an Assignee shall be in an aggregate principal amount of less than \$5,000,000.

Upon such execution, delivery, acceptance and recording (referred to as the "**Assignment Effective Date**"), (i) the Assignee shall be a Party and, to the extent provided in such assignment agreement, have the rights and obligations of a Lender under this Agreement, and (ii) the assigning Lender shall, to the extent provided in such assignment agreement, be released from its obligations under this Agreement (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such assigning Lender shall cease to be a Party).

Notwithstanding any provision of this Agreement to the contrary, the consent of the Borrower shall not be required for any Assignment that occurs at any time when any Event of Default shall have occurred and be continuing.

15.4 Register

The Administrative Agent, on behalf of the Borrower, shall maintain a copy of each assignment agreement delivered to it and a register (the "**Register**") for the recordation of the names and addresses of the Lenders and the Commitment of, and principal amount of the Advances (whether or not evidenced by a promissory note) owing to, each Lender from time to time. The entries in the Register shall be conclusive, in the absence of manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register as the owner of an Advance or other obligation under this Agreement for all purposes of this Agreement and the other Credit Documents, notwithstanding any notice to the contrary. Any assignment shall be effective only upon appropriate entries being made in the Register. The Register shall be available for inspection by Borrower or the Lenders from time to time upon reasonable prior notice.

15.5 Assignment Fees

The Administrative Agent shall (a) upon its receipt of an assignment agreement executed by an assigning Lender and an Assignee, together with payment to the Administrative Agent of a registration and processing fee of \$3,500 (unless such fee is waived by the Administrative Agent), promptly accept such Assignment; and (b) record the information into the Register on the Assignment Effective Date determined.

15.6 Disclosure to Transfer

The Borrower authorizes each Lender to disclose to any Participant or Assignee (each, a "**Transferee**") and any prospective Transferee any and all information in such Lender's possession concerning the Borrower that has been delivered to such Lender by or on behalf of the Borrower pursuant to this Agreement or which has been delivered to such Lender by or on behalf of the Borrower in connection with such Lender's credit evaluation of the Borrower prior to becoming a Party, *provided that* neither the Administrative Agent nor any Lender shall provide to any Transferee or prospective Transferee any material, non-public information unless such person shall have previously executed a confidentiality agreement, in the form satisfactory to the Administrative Agent and the Borrower.

15.7 Replacements of Lenders under Certain Circumstances

The Borrower shall be permitted to replace any Lender under the Tranche C Facility that becomes a Non-Funding Lender, with a replacement Financial Institution, *provided that* (a) such replacement does not conflict with any Applicable Law; (b) no Event of Default shall have occurred and be continuing at the time of such replacement; (c) the replacement Financial Institution shall purchase, at par, all Advances and other amounts owing to the Non-Funding Lender under the Tranche C Facility; (d) the replacement Financial Institution, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably

satisfactory to the Administrative Agent and the Borrower; (e) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 15.3 (*provided that* the Non-Funding Lender shall be obligated to pay the registration and processing fee referred to in Section 15.4); (f) the replacement Lender shall not be a non-resident of Canada for the purposes of the ITA or if a non-resident of Canada for the purposes of the ITA, shall be an authorized foreign bank deemed to be resident in Canada for the purpose of Part XIII of the ITA in respect of all amounts paid or credited to such replacement Lender under or in respect of this Agreement; and (g) any such replacement shall not be deemed to be a waiver of any right that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender.

ARTICLE 16 GENERAL

16.1 Expenses

- (a) The Borrower shall, promptly upon notice from the Administrative Agent, pay all documented and reasonable out-of-pocket costs and expenses of the Administrative Agent and the Lenders incurred in connection with this Agreement, including in connection with the preparation, execution, delivery, administration and enforcement of this Agreement or any of the other Credit Documents and the documented and reasonable out-of-pocket fees and disbursements of all consultants and advisors retained by the Administrative Agent in connection with any of the foregoing, including without limitation, the reasonable fees and out-of-pocket expenses of the Lenders' Counsel. Notwithstanding the foregoing, other than documented and reasonable legal fees, the Borrower shall not be required to reimburse the Agent and the Lenders for costs and expenses incurred in connection with due diligence prior to the date of this Agreement.
- (b) Without limiting the foregoing clause (a), the Borrower further agrees to pay within ten (10) Business Days of demand by the Administrative Agent all documented and reasonable out-of-pocket costs and expenses incurred by the Administrative Agent in connection with the preparation or review of waivers, consents and amendments requested by the Borrower and, to the extent reasonably required, questions of interpretation of this Agreement and the other Credit Documents and in connection with the establishment of the validity and enforceability of this Agreement and the other Credit Documents and the preservation or enforcement of rights of the Lenders under this Agreement and the other Credit Documents, including, without limitation, all documented and reasonable out-of-pocket costs and expenses sustained by the Administrative Agent as a result of any failure by the Borrower to perform or observe any of their obligations under any of the Credit Documents, together with interest at the Prime Rate plus 2% per annum from and after such 10th Business Day if such payment is not made by such time. All such costs and expenses shall be payable whether or not an Advance is made under this Agreement.
- (c) The Borrower agrees to indemnify and save the Administrative Agent and the Lenders (including their respective directors, officers and employees) harmless from any and all losses, damages, and all documented and reasonable out-of-pocket costs and expenses arising or incurred pursuant to or in connection with the execution, delivery, performance or administration of the Credit Documents (provided that the Borrower shall only so indemnify for one counsel), including all such losses, damages, costs and expenses resulting from any failure by the Borrower to fulfil any of its obligations under the Credit Documents or any misrepresentation by the Borrower. This indemnity is independent of and in addition to any right which the Administrative Agent or any Lender may have to seek recovery of costs in any litigation which results in respect of this Agreement or any other Credit Document and is intended to ensure that the Lenders and the Administrative Agent are fully indemnified for one-hundred percent (100%) of the losses, damages and reasonable out-of-pocket fees and disbursements which may be suffered or incurred by any of them. In the event that a court holds that under prevailing rules or regulations any such Administrative Agent or Lender is not entitled to full reimbursement of any portion or all of its costs of any litigation, the Borrower agrees that, to the extent permitted by Applicable Law, it remains liable pursuant to this indemnity to pay each of the Administrative Agent and the Lender

the difference between the amount of the reasonable out-of-pocket fees legal fees and disbursements which has been incurred in conducting such litigation and the amount of costs which the court awards under its rules or regulations. Notwithstanding the generality of the foregoing, the foregoing indemnity shall not apply to costs and expenses that (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or wilful misconduct of or material breach of this Agreement by the Administrative Agent or a Lender, (ii) are of the nature provided for in Section 16.1(a) or (b) relating to matters set forth in those Sections, (iii) other than documented and reasonable legal fees, are incurred in conducting due diligence by the Administrative Agent and the Lenders prior to the date of this Agreement in relation to the Facilities and which are compensated for by the Work Fees, (iv) are comprised of (A) employee compensation or (B) office supplies or (vi) arise from (A) any dispute between or amongst any of the Administrative Agent and the Lenders or (B) any successful suit or proceeding brought by the Borrower for damages against any of the Administrative Agent and the Lender.

16.2 Submission To Jurisdiction

Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of competent jurisdiction in the Province of Ontario in respect of any action or proceeding relating in any way to this Agreement.

16.3 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section referred to as a "Notice") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

- (a) in the case of a Notice to the Borrower at:

Trans-Northern Pipelines Inc.
Suite 310, 45 Vogell Road
Richmond Hill, ON L4B 3P6

Attention: Michael Speagle
Director, Business Services & Secretary-Treasurer
Fax: 905-770-8675
E-mail: mspeagle@tnpi.ca

- (b) in the case of the Administrative Agent, at:

Royal Bank of Canada
155 Wellington Street West, 8th Floor
Toronto, Ontario
M5V 3K7

Attention: Manager, Agency Services Group
E-mail: rbcmagnt@rbccm.com

- (c) to any Lender, as set out in Schedule 15.3.

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, *provided that* it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section.

16.4 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

16.5 Further Assurances

The Parties shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary to effect the purpose of this Agreement and carry out its provisions.

16.6 Counterparts; Electronic Execution

This Agreement may be executed in any number of counterparts, including by PDF or other scanned copy by electronic mail, and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Delivery of an executed counterpart of a signature page of this Agreement by PDF or by otherwise sending a scanned copy by electronic mail shall be effective as delivery of manually executed counterpart of this Agreement.

The words “execution,” “execute,” “executed”, “signed,” “signature,” and words of like import in this Agreement, or in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby, shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, 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 record keeping system, as the case may be, to the extent and as provided for in (a) Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario), the *Electronic Transactions Acts* (British Columbia), the *Electronic Transactions Act* (Alberta), or any other similar laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada or (b) any other Applicable Law. The Administrative Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

16.7 Entire Agreement; Credit Agreement Governs

There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and the other Credit Documents. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the other Credit Documents, the provisions of this Agreement, to the extent of the conflict or inconsistency, shall govern and prevail.

16.8 Judgment Currency

If for the purpose of obtaining judgment in any court it is necessary to convert any amount owing or payable to the Administrative Agent or the Lenders under this Agreement from the currency in which it is due (the “**Agreed Currency**”) into a particular currency (the “**Judgment Currency**”), the rate of exchange applied

in that conversion shall be that at which the Administrative Agent in accordance with its normal procedures, could purchase the Agreed Currency with the Judgment Currency at or about noon on the Business Day immediately preceding the date on which judgment is given. The obligation of the Borrower in respect of any amount owing or payable under this Agreement to the Administrative Agent or Lenders in the Agreed Currency shall, notwithstanding any judgment and payment in the Judgment Currency, be satisfied only to the extent that the Administrative Agent in accordance with its normal procedures, could purchase the Agreed Currency with the amount of the Judgment Currency so paid at or about noon on the next Business Day following that payment; and if the amount of the Agreed Currency which the Administrative Agent could so purchase is (a) less than the amount originally due in the Agreed Currency, the Borrower shall, as a separate obligation and notwithstanding the judgment or payment, indemnify the Administrative Agent and the Lenders against any loss, or (b) more than the amount originally due in the Agreed Currency, the Lenders shall promptly refund the excess to the Borrower.

16.9 Confidentiality

The Borrower agrees that the Administrative Agent and each Lender may provide any assignee or participant to whom a Commitment would be permitted to be assigned pursuant to Section 15.3 or any *bona fide* such prospective assignee or participant with any information concerning the Borrower, provided such party agrees in writing with the Administrative Agent or such Lender for the benefit of the Borrower to be bound by a like duty of confidentiality to that contained in this Section.

Each of the Administrative Agent and the Lenders acknowledges the confidential nature of the financial, operational and other information and data provided and to be provided to them by the Borrower pursuant to the Credit Documents (the “**Information**”) and agrees to use all reasonable efforts to prevent the disclosure thereof; *provided, however*, that:

- (a) the Administrative Agent and the Lenders may disclose all or any part of the Information if, in their reasonable opinion, such disclosure is required (i) to their respective auditors on a like duty of confidentiality to that contained in this Section 16.9 or (ii) in connection with any actual or threatened judicial, administrative or governmental proceedings including proceedings initiated under or in respect of this Agreement or upon the request of its independent auditors or a Governmental Authority having jurisdiction over it;
- (b) the Administrative Agent and the Lenders shall incur no liability in respect of any Information required to be disclosed by any Applicable Law or regulation, or by applicable treaty, order, policy or directive having the force of law, to the extent of such requirement;
- (c) the Administrative Agent and each Lender may disclose the Information to any Governmental Authority (including any self-regulatory agency or authority) having jurisdiction over it (i) upon the request thereof or (ii) where it considers such disclosure to be advisable or appropriate, acting reasonably;
- (d) the Administrative Agent and each Lender may provide any Affiliate thereof with the Information to the extent reasonably required to be disclosed thereto; *provided* that each such Affiliate shall be under a like duty of confidentiality to that contained in this Section 16.9 and *further provided* that the Administrative Agent or the Lender, as the case may be, providing the Information shall be responsible for any breach by its Affiliate of the aforementioned like duty of confidentiality;
- (e) the Administrative Agent and the Lenders may provide Lenders’ Counsel and their other agents and professional advisors with any Information; *provided* that such Persons shall be under a like duty of confidentiality to that contained in this Section 16.9;
- (f) the Administrative Agent and each Lender may disclose Information to any insurance or reinsurance company thereof for the purpose of maintaining insurance, to any Person providing administration and settlement services in respect of this Agreement and to any actual or

prospective counterparty to any securitization, swap or derivative transaction relating to any Loan Party; provided that, such counterparty, insurance or reinsurance company or other Person agrees in writing to be under a like duty of confidentiality to that contained in this Section 16.9;

- (g) the Administrative Agent and each of the Lenders shall incur no liability in respect of any Information: (i) which is or becomes readily available to the public (other than by a breach hereof, including, for certainty, by a breach by the applicable Lender, the Administrative Agent or any of their respective Affiliates) or which has been made readily available to the public by the Borrower or any of the Sponsors, (ii) which the Administrative Agent or the relevant Lender can show was, prior to receipt thereof from the Borrower, lawfully in the Administrative Agent's or Lender's possession from a source other than a Borrower, the Administrative Agent, a Lender, a Sponsor or any of their respective representatives and not then subject to any obligation on its part to the Borrower to maintain confidentiality, or (iii) which the Administrative Agent or the relevant Lender received from a third party who was not, to the knowledge of the Administrative Agent or such Lender, under a duty of confidentiality to the Borrower at the time the information was so received;
- (h) the Administrative Agent and each of the Lenders may disclose the Information to (i) any of their respective Affiliates and (ii) other financial institutions and other Persons in connection with the syndication by the Administrative Agent or Lenders of the Credit Facilities, the assignment by a Lender of the Credit Facilities or the granting by a Lender of a participation in the Credit Facilities, in each case, where such Affiliate or financial institution or other Person would be permitted to be assigned a Commitment pursuant to Section 15.3 and agrees to be under a like duty of confidentiality to that contained in this Section 16.9; and
- (i) the Administrative Agent and the Lenders may disclose all or any part of the Information so as to enable the Administrative Agent and the Lenders to initiate any lawsuit against the Borrower or to defend any lawsuit commenced by the Borrower or any other Person, the issues of which touch on the Information, but only to the extent such disclosure is necessary to the initiation or defense of such lawsuit.

16.10 Anti-Terrorism Laws

- (a) The Borrower acknowledges that, pursuant to Anti-Terrorism Laws and "know your client" laws (collectively, including any guidelines or orders thereunder, "**AML/KYC Legislation**"), the Lenders and the Administrative Agent may be required to obtain, verify and record information regarding the Borrower, its directors, authorized signing officers, the Sponsors, or other direct or indirect shareholders or other Persons in control of the Borrower, and the transactions contemplated hereby. The Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Administrative Agent, or any prospective assignee or participant of a Lender or the Administrative Agent, in order to comply with any applicable AML/KYC Legislation, whether now or hereafter in existence.
- (b) If, upon the written request of any Lender, the Administrative Agent has ascertained the identity of the Borrower or any Subsidiary or any authorized signatories of such person for the purposes of applicable AML/KYC Legislation on such Lender's behalf, then the Administrative Agent:
 - (i) shall be deemed to have done so as an agent for such Lender, and this Agreement shall constitute a "written agreement" in such regard between such Lender and the Administrative Agent within the meaning of applicable AML/KYC Legislation; and
 - (ii) shall provide to such Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

- (c) Each of the Lenders agrees that the Administrative Agent has no obligation to ascertain the identity of the Borrower or any authorized signatories of the Borrower on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any such authorized signatory in doing so.
- (d) The Borrower shall use the proceeds of any Advance for its own benefit and not for the benefit of any third party. The Borrower shall use its bank accounts and cash management arrangements in a manner consistent with the representation and warranty provided in Section 8.1 (aa).

16.11 CDOR Discontinuation

- (a) If the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or the Required Lenders notify the Administrative Agent that the Borrower or Required Lenders (as applicable) have determined that:
 - (i) adequate and reasonable means do not exist for ascertaining the CDOR Rate, including because the Refinitiv Screen Canadian Dollar Offered Rate (CDOR) Page (or any display substituted therefor) is not available or published on a current basis for the applicable period and such circumstances are unlikely to be temporary;
 - (ii) the administrator of the CDOR Rate or a Governmental Authority having jurisdiction has made a public statement identifying a specific date after which the CDOR Rate will permanently or indefinitely cease to be made available or permitted to be used for determining the interest rate of loans;
 - (iii) a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the CDOR Rate shall no longer be permitted to be used for determining the interest rate of loans (each such specific date in clause (ii) above and in this clause (iii) a “**CDOR Scheduled Unavailability Date**”); or
 - (iv) syndicated loans currently being executed, or that include language similar to that contained in this Section 16.11, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace the CDOR Rate;

then reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Borrower may mutually agree upon a successor rate to the CDOR Rate, and the Administrative Agent and the Borrower may amend this Agreement to replace the CDOR Rate with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar Canadian Dollars denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a “**CDOR Successor Rate**”), together with any proposed CDOR Successor Rate conforming changes and any such amendment shall become effective at 5:00 p.m. (Toronto time) on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders do not accept such amendment.

- (b) If no CDOR Successor Rate has been determined and the circumstances under clause 16.11(a)(i) above exist or a CDOR Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain BA Advances, shall be suspended (to the extent of the affected BA Advances, or applicable periods). Upon receipt of such notice,


the Borrower may revoke any pending request for an Advance of, Conversion to or Rollover of a BA Advance, (to the extent of the affected BA Advance, or applicable periods) or, failing that, will be deemed to have converted such request into a request for a Prime Rate Advance (subject to the foregoing clause (b)) in the amount specified therein.

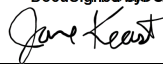
- (c) Notwithstanding anything else herein, any definition of the CDOR Successor Rate (exclusive of any margin) shall provide that in no event shall such CDOR Successor Rate be less than zero for the purposes of this Agreement. In addition, CDOR Rate shall not be included or referenced in the definition of Prime Rate.

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IN WITNESS OF WHICH the Parties have duly executed this Agreement.

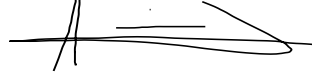
TRANS-NORTHERN PIPELINES INC.

DocuSigned by:
By: 
Name: Michael Speagle
Title: Director, Business Services & Secretary-
Treasurer

DocuSigned by:
By: 
Name: Jane Keast
Title: President & CEO

ROYAL BANK OF CANADA, in its capacity as
Administrative Agent

By:



Name: Annie Lee

Title: Manager, Agency Services

By:

Name:

Title:

ROYAL BANK OF CANADA, in its capacity as
Lender

By:



Name: Mike Gaudet

Title: Authorized Signatory

By:

Name:

Title:

BANK OF MONTREAL, in its capacity as Lender

By:  _____

Name: Jason Lang
Title: Director

By: _____

Name:
Title:

SCHEDULE A
COMMITMENTS

Lenders	Tranche A Facility	Individual LC Sublimit	Tranche B Facility	Tranche C Facility	Total
Royal Bank of Canada	\$27,500,000	\$12,500,000	\$30,000,000	\$7,500,000	\$65,000,000
Bank of Montreal	\$27,500,000	\$12,500,000	\$30,000,000	\$7,500,000	\$65,000,000
Total	\$55,000,000	\$25,000,000	\$60,000,000	\$15,000,000	

SCHEDULE B
BORROWING NOTICE

[Date]

Royal Bank of Canada
155 Wellington Street West, 8th Floor
Toronto, Ontario
M5V 3K7

Attention: Manager, Agency Services Group
E-mail: rbcmagnt@rbccm.com

Dear Sirs & Mesdames:

This undersigned, Trans-Northern Pipelines Inc. (the "**Borrower**"), refers to the Credit Agreement dated as of August 12, 2022 (as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), the terms defined therein being used herein as therein defined, among the Borrower, Royal Bank of Canada, as Administrative Agent, and financial institutions party thereto as Lenders, and hereby gives you notice pursuant to Sections 7.2 and 2.7 of the Credit Agreement that the Borrower hereby requests an Advance under the Credit Agreement and in that connection sets forth the information relating to such Advance (the "**Proposed Advance**") as required by Section 2.7:

- (i) The Business Day of the Proposed Advance is [insert date].
- (ii) The Type of Advance is a [Prime Rate Advance, BA Advance or the Issuance of a Letter of Credit],
- (iii) The proposed Advance is to be made under the [specify the Facility]
- (iv) The aggregate amount of the proposed Advance is [insert currency and amount]
- (v) The BA Advance will have a term of [specify the term 1/2/3 months' duration] maturing on [specify date]

The undersigned hereby designates the below account as the Designated Account for the purposes of the Proposed Advance¹:

Beneficiary Name	Trans-Northern Pipelines Inc.
Beneficiary Address	45 Vogell Road, Suite 310 Richmond Hill, Ontario L4B 3P6
Beneficiary Bank	
Beneficiary Account Number	
ABA	
Institution Number	
Transit Number	
Beneficiary Bank SWIFT Code	

¹ NTD: Borrower to specify Designated Account information (which shall be an account with the Agent or a Lender).

The undersigned certifies that the conditions precedent contained in Article 7 of the Credit Agreement to the giving of the Borrowing Notice and the making of the Advance contemplated hereby have been fulfilled.

Without limiting the foregoing, the undersigned hereby confirms and certifies to the Administrative Agent and each Lender that as of the date of this Borrowing Notice, (i) all representations and warranties contained in the Credit Agreement are true and correct, (ii) no event or condition has occurred and is continuing or would result from such Advance or giving effect to this Borrowing Notice, which constitutes a Default or Event of Default, (iii) such Advance, or otherwise giving effect to this Borrowing Notice, will not violate any applicable order, judgment or decree of any court, arbitrator or Governmental Authority or any Applicable Law now in effect, and (iv) since the date of the Financial Statements for the immediately prior Fiscal Year, no circumstance exists and no event has occurred that has or could be expected to result in a Material Adverse Effect.

The undersigned further confirms and certifies to the Administrative Agent and each Lender that the proceeds of the proposed Advance (if any) will be used solely for the purposes specified and permitted by Section 2.3 of the Credit Agreement.

TRANS-NORTHERN PIPELINES INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE C

COMPLIANCE AND REPORTING CERTIFICATE

[Date]

Royal Bank of Canada
155 Wellington Street West, 8th Floor
Toronto, Ontario
M5V 3K7

Attention: Manager, Agency Services Group
E-mail: rbcmagnt@rbccm.com

Dear Sirs & Mesdames:

This undersigned, Trans-Northern Pipelines Inc. (the “**Borrower**”), refers to the Credit Agreement dated as of August 12, 2022 (as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), the terms defined therein being used herein as therein defined, among the Borrower, Royal Bank of Canada, as Administrative Agent, and financial institutions party thereto as Lenders.

This certificate is delivered pursuant to Section 9.3(c) of the Credit Agreement.

The undersigned certifies on behalf of the Borrower that:

- (i) The Funded Debt to EBITDA Ratio in respect of the Fiscal Quarter ending **[insert date]** was ●. This figure represents the Funded Debt of the Borrower as of the last day of such fiscal quarter and the EBITDA of the Borrower for such Fiscal Quarter and the three immediately preceding Fiscal Quarters, which was ●, the calculation of which is set out in Appendix A.
- (ii) It has not entered into any Hedge Agreement except for Lender Hedge Agreements that are part of its hedging program approved by the Administrative Agent, acting reasonably, and have not been entered into for speculative purposes of any kind.
- (iii) The Funded Debt/Cap Ratio in respect of the fiscal quarter ending **[insert date]** was ●, the calculation of which is set out in Appendix B.

Without limiting the foregoing, the undersigned hereby confirms and certifies to the Administrative Agent and each Lender that [**except as set out in Appendix C hereto,**] as of the date of this Compliance and Reporting Certificate, (i) all representations and warranties contained in the Credit Agreement are true and correct, (ii) no event or condition has occurred and is continuing which constitutes a Default or Event of Default; and (iii) since the date of the Financial Statements for the immediately prior Fiscal Year, no circumstance exists and no event has occurred that has or could be expected to result in a Material Adverse Effect.

TRANS-NORTHERN PIPELINES INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

APPENDIX A

Funded Debt to EBITDA

APPENDIX B

Funded Debt/Cap Ratio

[APPENDIX C]

[Exceptions]

[Nil.]

SCHEDULE D
CONVERSION NOTICE

[Date]

Royal Bank of Canada
155 Wellington Street West, 8th Floor
Toronto, Ontario
M5V 3K7

Attention: Manager, Agency Services Group
E-mail: rbcmagnt@rbccm.com

Dear Sirs & Mesdames:

This Conversion Notice is delivered to you pursuant to Section 2.8 of the Credit Agreement dated as of August 12, 2022 (as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), the terms defined therein being used herein as therein defined, among the Borrower, Royal Bank of Canada, as Administrative Agent, and financial institutions party thereto as Lenders.

The undersigned hereby requests that on [insert date conversion requested],

C\$ of the presently outstanding principal amount of the Advance originally made on [insert date],

and presently being maintained as a [Prime Rate Advance]/[Letter of Credit]/[BA Advance having a term of 1/2/3 months' duration and maturing on , 20]

be converted into

[a Prime Rate Advance]/[an Issuance of a Letter of Credit]/[a BA Advance in the form of a Bankers' Acceptance having a term of 30/60/90/180 days and maturing on , 20]/[a BA Advance in the form of a BA Discount Note having an interest period of 1/2/3 months' duration as agreed to by the Administrative Agent and maturing on , 20] in accordance with the provisions of the Credit Agreement.

The undersigned certifies that the conditions precedent contained in Article 7 of the Credit Agreement to the giving of the Conversion Notice and the making of the Advance contemplated hereby have been fulfilled.

Without limiting the foregoing, and except for any conversion to a Prime Rate Advance, the undersigned hereby confirms and certifies to the Administrative Agent and each Lender that as of the date of this Conversion Notice, (i) all representations and warranties contained in the Credit Agreement are true and correct, (ii) no event or condition has occurred and is continuing or would result from such Advance or giving effect to this Conversion Notice, which constitutes a Default or Event of Default, (iii) such Advance, or otherwise giving effect to this Conversion Notice, will not violate any applicable order, judgment or decree of any court, arbitrator or Governmental Authority or any Applicable Law now in effect, and (iv) since the date of the Financial Statements for the immediately prior Fiscal Year, no circumstance exists and no event has occurred that has or could be expected to result in a Material Adverse Effect.

The undersigned has caused this Conversion Notice to be executed and delivered, and the certification and warranties contained herein to be made, by its authorized officer this ____ day of _____, 20____.

TRANS-NORTHERN PIPELINES INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE E

DESCRIPTION OF PIPELINE

Trans-Northern Pipelines Inc. (TNP1) is a federally regulated pipeline company operating a refined petroleum products pipeline between Nanticoke, Ontario and Montreal, Quebec.

The Borrower has been in business since 1952 and is owned equally by three major shareholders:

Shell Canada Limited
Suncor Energy Inc
Imperial Oil Limited

The Borrower system transports approximately -10,000,000m³ of refined petroleum products a year. The Borrower is a common carrier regulated as a Group 1 pipeline company under the Canadian Energy Act.

The Borrower receives refined petroleum products from shippers at five different receipt points at

Nanticoke, Ontario
Oakville, Ontario
Mississauga, Ontario
Toronto, Ontario
Montreal, Quebec

and delivers these products to eleven shipper terminals at

Oakville, Ontario
Mississauga, Ontario
Pearson International Airport in Toronto, Ontario
North Toronto tank farms located at Keele St. and Finch Avenue
Belleville, Ontario
Kingston, Ontario
Maitland, Ontario
Ottawa, Ontario
Pierre Trudeau Airport, Dorval, Quebec

SCHEDULE F
ROLLOVER NOTICE

[Date]

Royal Bank of Canada
155 Wellington Street West, 8th Floor
Toronto, Ontario
M5V 3K7

Attention: Manager, Agency Services Group
E-mail: rbcmagnt@rbccm.com

Dear Sirs & Mesdames:

This Rollover Notice is delivered to you pursuant to Section 2.8 of the Credit Agreement dated as of August 12, 2022 (as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), the terms defined therein being used herein as therein defined, among the Borrower, Royal Bank of Canada, as Administrative Agent, and financial institutions party thereto as Lenders.

The undersigned hereby requests that on **[insert date when rollover requested]**,

C\$_____ of the presently outstanding principal amount of the Advance originally made on **[inert date]**,

and presently being maintained as a BA Advance having a term of **[1/2/3 months' duration and maturing on _____, 20__]**

be rolled over into **[a BA Advance in the form of a Bankers' Acceptance having a term of 30/60/90/180 days and maturing on _____, 20__]/[a BA Advance in the form of a BA Discount Note having an interest period of 1/2/3 months' duration as agreed to by the Administrative Agent and maturing on _____, 20__]** in accordance with the provisions of the Credit Agreement.

The undersigned certifies that the conditions precedent contained in Article 7 of the Credit Agreement to the giving of the Rollover Notice and the making of the Advance contemplated hereby have been fulfilled.

Without limiting the foregoing, the undersigned hereby confirms and certifies to the Administrative Agent and each Lender that as of the date of this Rollover Notice, (i) all representations and warranties contained in the Credit Agreement are true and correct, (ii) no event or condition has occurred and is continuing or would result from such Advance or giving effect to this Rollover Notice, which constitutes a Default or Event of Default, (iii) such Advance, or otherwise giving effect to this Rollover Notice, will not violate any applicable order, judgment or decree of any court, arbitrator or Governmental Authority or any Applicable Law now in effect, and (iv) since the date of the Financial Statements for the immediately prior Fiscal Year, no circumstance exists and no event has occurred that has or could be expected to result in a Material Adverse Effect.

The undersigned has caused this Rollover Notice to be executed and delivered, and the certification and warranties contained herein to be made, by its authorized officer this ____, day of _____ 20____.

TRANS-NORTHERN PIPELINES INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE 8.1(Q)

DEFINED BENEFIT PENSION PLANS

Employees Pension Plan of Trans-Northern Pipelines Inc./Pipelines Trans-Nord Inc.

CRA registration number: 0318881

Office of the Superintendent of Financial Institutions registration number: 55300

**SCHEDULE 8.1(w)
INSURANCE**

See attached.

ATTACHMENT 1

SUMMARY OF INSURANCE IN FORCE

As of March 2022

INDEX

	<u>Page</u>
Property	1
Comprehensive General Liability	2-3
Umbrella and Excess Liability	4-5
Fixed Site Pollution Legal Liability	6
Automobile Insurance	7
Equipment Breakdown	8
Non-owned Aircraft	9
Directors & Officers Liability	10
Crime	11

Name of Insured: Trans-Northern Pipelines Inc. and Alberta Products Pipe Line Ltd

Policy: Property

Insurer: Royal & Sun Alliance Insurance Company, SSRU and Zurich Insurance Company

Property/Risk Insured: All risks of physical loss or damage to: buildings, storage tanks, equipment and contents located above ground; river crossings; office contents and tenant's improvements at 45 Vogell Road, Suite 310; all refined petroleum products in custody; valuable papers and records; electronic data processing media. New facilities must be added to list of insured property as commissioned, and additional premiums will apply.

Loss Settlement: Replacement cost without deduction for depreciation for property; posted market price for refined products; cost to replace for electronic data processing media.

Loss Limit: \$28,500,000 - each occurrence
Sub-limits apply such as \$14,000,000 water crossings, \$2,500,000 debris removal, extra expense, new location, and \$500,000 for fire fighting expenses, valuable papers, employee personal effects, etc.

Deductible: \$250,000 - product in pipeline, all other property damage
\$100,000 - minimum deductible on earthquakes, or
5% in Quebec and 3% in Ontario & Alberta

Expiry Date: April 01, 2023

Name of Insured: Trans-Northern Pipelines Inc.

Policy: Commercial General Liability

Insurer: Berkshire Hathaway Specialty Insurance

Property/Risk Insured: Liability imposed by law or assumed under contract for damages due to: personal injury; injury to or destruction of property; tenant's legal liability

Loss Limit: \$5,000,000 - Inclusive limit, bodily injury and property damage.
\$5,000,000 - Non-owned automobile
\$5,000,000 - Employee Benefits liability
\$5,000,000 - Annual aggregate products and completed operations
\$5,000,000 - Time element pollution/aggregate
\$100,000 - Damage to hired auto

Deductibles: \$50,000 for each property damage occurrence
\$5,000 employee benefits liability deductible, each employee
\$5,000 damage to non-owned/hired auto
\$13,500,000 SIR time element pollution liability

Expiry Date: December 1, 2022

Name of Insured: Alberta Products Pipe Line Ltd.

Policy: Commercial General Liability

Insurer: Berkshire Hathaway Specialty Insurance

Property/Risk Insured: Liability imposed by law or assumed under contract for damages due to: personal injury; injury to or destruction of property; tenant's legal liability

Loss Limit: \$5,000,000 - Inclusive limit, bodily injury and property damage.
\$5,000,000 - Non-owned automobile
\$5,000,000 - Employee Benefits liability
\$5,000,000 - Annual aggregate with respect to products and completed operations
\$5,000,000 - Time element pollution/aggregate
\$100,000 - Damage to hired auto

Deductibles: \$50,000 for each property damage occurrence
\$10,000 tenants' legal liability
\$5,000 damage to non-owned/hired auto
\$1,000,000 SIR time element pollution liability

Expiry Date: December 1, 2022

Name of Insured: Trans-Northern Pipelines Inc.

Policy: Umbrella Liability - Excess Liability

Primary Umbrella Insurer: Axis
First to twelfth Excess Layer Insurers: HDI, AIG, Starr, SSRU, Certain Underwriters at Lloyds, Liberty, Swiss Re, AXA, Chubb, Markel

Property/Risk Insured: Similar to Comprehensive General Liability. Primary Policy will cover amounts in excess of first loss insurance including Property (\$5M), Automobile (\$2M), CGL (\$5M) and Non-owned Aircraft (\$5M) policies. Excess layers will cover amounts in excess of Primary Umbrella

Loss Settlement: Sums in excess of underlying insurance, follow form

	<u>Each Occurrence</u>	<u>Aggregate</u>
Loss Limit:		
Primary Umbrella	\$5,000,000	\$5,000,000
1 st to 12 th excess	various	\$275,000,000

Self-Insured Retention: \$50,000 non-pollution
\$13,500,000 Pollution – 30 days detection & 90 days reporting

Expiry Date: December 1, 2022

Name of Insured: Alberta Products Pipe Line Ltd.

Policy: Umbrella Liability

Umbrella Liability
Insurer: Certain Underwriters at Lloyds

Axis (33.33%)
DLP/ACT (33.33%)
Kiln Syndicates (33.33%)

Property/Risk Insured: Similar to Comprehensive General Liability.
Primary Policy will cover amounts in excess of first loss insurance including Property (\$5M), Automobile (\$2M), CGL (\$5M) and Non-owned Aircraft (\$5M) policies.

Loss Settlement: Sums in excess of underlying insurance, follow form

	<u>Each Occurrence</u>	<u>Aggregate</u>
Loss Limit:		
Excess	\$20,000,000	\$20,000,000

Self-Insured Retention: \$50,000 non-pollution
\$1,000,000 Pollution – 30 days detection & 90 days reporting

Expiry Date: December 1, 2022

Name of Insured: Trans-Northern Pipelines Inc.

Policy: Fixed Site Pollution Liability

Insurer: Liberty (70%) and Beazley (30%)

Property/Risk Insured: -On-Site and Off-Site remediation costs –New Conditions
-On-Site and Off-Site Third Party Bodily Injury and Property Damage- New Conditions
-Transportation and Waste Disposal – New Conditions
- Emergency response costs incurred within 7 days of pollution incident

Insured locations include pipeline right-of-way, safety zone, station and valve sites as identified by Trans-Northern

Loss Settlement: (as above)

Loss Limit: \$10,000,000 - each incident
\$10,000,000 - policy aggregate
(Defence cost included in limit)

Self Insured Retention: \$3,500,000 per incident
30% Co-pay Provision on First \$1 million of Losses

Expiry Date: December 1, 2022

Name of Insured: Trans-Northern Pipelines Inc.

Policy: Automobile Insurance

Insurer: Aviva Insurance Company of Canada

Property/Risk Insured: Provides Fleet coverage for legal responsibility to others arising from an automobile accident causing death or injury to persons or damage to their property. For fleet vehicles, provides all peril coverage for damage caused by collision with another car or by upset, etc. Includes trailers.

Loss Settlement: According to limits and amounts in Policy

Loss Limit: \$2,000,000
\$50,000 damage to non-owned limit per occurrence

Deductible: \$500 - all perils

Expiry Date: June 1, 2022

Name of Insured: Trans-Northern Pipelines Inc. and Alberta Products Pipe Line Ltd

Policy: Equipment Breakdown

Insurer: Royal & Sun Alliance Insurance Company of Canada

Property/Risk Insured: Insures against sudden & accidental loss or damage to property caused by the breakdown of machinery; or the explosion, rupture or accident involving pressure vessels and pipes, engines and machinery connected therewith or operated thereby. (Such losses excluded from Property Policy)

Loss Settlement: Insurer will pay the costs of repair or replacement of damaged property

Loss Limit: \$10,000,000
\$250,000 sub-limit for professional fees, hazardous substances, water damage, ammonia contamination, mould and extra expense
\$10,000 sub-limit for data media

Deductible: Property damage: \$1,000
Extra expense 30 day waiting period

Expiry Date: April 1, 2023

Name of Insured: Trans-Northern Pipelines Inc. & Alberta Products Pipe Line Ltd.

Policy: Non-owned Aircraft

Insurer: Global Aerospace Underwriting Managers (Canada) Limited
Temple Insurance Company (49.96%)
Northbridge General Insurance Corporation (22.37 %)National
Liability & Fire Insurance Company (18.39%)
Mitsui Sumitomo Insurance Company Limited (9.28%)

Property/Risk Insured: Covers legal liability arising out of the operation of non-owned aircraft. Special coverage includes operations involving deliberate low flying for pipeline patrol

Loss Settlement: Combined single limit for bodily injury and property damage

Loss Limit: \$5,000,000 combined limit - each occurrence.
\$1,000 medical expense per passenger

Deductible: No deductible

Expiry Date: June 1, 2022

Name of Insured: Trans-Northern Pipelines Inc. & Alberta Products Pipe Line Ltd.

Policy: Private Company Directors & Officers Liability Insurance
Employment Practices Liability
Fiduciary Liability

Insurer: Liberty Insurance Company of Canada

Property/Risk Insured: Private Company Directors & Officers, Employment Practices, and Fiduciary Liability.
The Corporation indemnifies directors and officers when they have acted honestly, in good faith and in the best interests of the Corporation. The Policy provides coverage for claims for “Wrongful Acts” involving alleged breach of duty, neglect, error, misstatement, misleading statement, omission or act by the Directors or Officers in their capacity as such, or any matter claimed against them solely by reason of their status as Directors and Officers of the Company.

Loss Settlement: Insurer will be liable for actual defence and settlement costs

Loss Limit: \$5,000,000 shared limit of insurance. Sublimits:
\$1,000,000 Employed Lawyers
\$250,000 Workplace Violence expense
\$250,000 Public Relations Costs

Deductible: \$50,000 all losses

Expiry Date: July 12, 2022

Name of Insured: Trans-Northern Pipelines Inc. & Alberta Products Pipe Line Ltd

Policy: Crime

Insurer: Travelers Insurance Company of Canada

Property/Risk Crime, including employee theft, ERISA plan coverage, forgery or alteration, money orders and counterfeit money, computer fraud, funds transfer fraud, social engineering fraud and claims expense coverage.

Loss Settlement: According to limits and amounts in Policy

Loss Limit: \$1,000,000 - Employee Theft
\$1,000,000 – Sponsored Plan Coverage
\$1,000,000 - Computer Fraud
\$1,000,000 - Depositors Forgery.
\$1,000,000 – Money Orders & Counterfeit
\$1,000,000 – Funds Transfer Fraud
\$25,000 – Claims Expense

Deductible: \$25,000

Expiry Date: July 13, 2022

Insurance Summary

Trans-Northern Pipelines Inc. (TNPI) and Alberta Products Pipe Line Ltd (APPL)

Company	Policy	Limit (\$000s)	SIR (\$000s)	Expiry Date
TNPI & APPL	Property	\$28,500	\$250	01-Apr-23
TNPI & APPL	Equipment Breakdown	\$10,000	\$1	01-Apr-23
TNPI & APPL	Directors & Officers, Fiduciary	\$5,000	\$50	12-Jul-22
TNPI & APPL	Crime	\$1,000	\$25	13-Jul-22
TNPI	Automobile	\$2,000	\$0.5	01-Jun-22
TNPI & APPL	Non-Owned Aircraft Liability	\$5,000	nil	01-Jun-22
APPL	Commercial General Liability	\$5,000	\$50 / \$1,000 Pollution	01-Dec-22
APPL	Umbrella Liability	\$20,000	follow form	01-Dec-22
TNPI	Fixed Site Environmental	\$10,000	\$3,500	01-Dec-22
TNPI	Commercial General Liability	\$5,000	\$50 / \$13,500 Pollution	01-Dec-22
TNPI	Umbrella Liability	\$5,000	follow form	01-Dec-22
TNPI	Excess Liability Layers	\$275,000	Above CGL/Umbrella \$10M	01-Dec-22

SCHEDULE 8.1(y)

ENVIRONMENTAL MATTERS

1. The Borrower has had three fines related to the environment.

A pipeline leak occurred in a farmer's field south of Ottawa on February 10, 1997. A build-up of ice on a temporary repair caused a failure resulting in the discharge of 11,000 liters of petroleum products to the environment. The Borrower was convicted under Section 30(1) of the Ontario Water Resources Act and paid a fine of \$60,000.

Temporary repair work conducted on an exposed pipe in Saint Lazare in March 2017, included excavation of an area larger than permitted and use of rocks inconsistent with the description in the permit. MDDELCC issued a fine under article 115.24 (1) and 123.1 and the Borrower paid a \$2,500 fine.

A CER administrative monetary penalty was issued in 2021 related to a March 2019 inspection officer notice for failure to demonstrate having an adequate environmental protection program related to contaminated sites per S.48 of the OPR. The CER issued an administrative monetary penalty and the Borrower paid a fine of \$40,000.

2. Trace amounts of asbestos may be present in historical coating materials used in older sections of the pipeline. No asbestos has been used for coating of pipelines in the past 30 years.

SCHEDULE 14.3
FINANCIAL INSTITUTIONS

Nil.

SCHEDULE 15.3

NOTICES FOR LENDERS

RBC Capital Markets
3900 Bankers Hall West
888 - 3rd Street S.W.
Calgary, Alberta
T2P 5C5

Attention: Managing Director
Email: michael.gaudet@rbccm.com

BMO Capital Markets
4th Floor
1 First Canadian Place
Toronto, ON M5X 1H3

Attention: Vice President, Corporate Banking
Fax: 416-359-7796
E-mail: steven.Patchet@bmo.com