

SEVENTH AMENDED AND RESTATED CREDIT AGREEMENT

AMONG:

**ROCKY MOUNTAIN DEALERSHIPS INC., ROCKY MOUNTAIN EQUIPMENT
CANADA LTD. and ROCKY MOUNTAIN DEALER ACQUISITION CORP.,**
as Borrowers

and

**CANADIAN IMPERIAL BANK OF COMMERCE, HSBC BANK CANADA, THE
BANK OF NOVA SCOTIA, RABOBANK CANADA, ALBERTA TREASURY
BRANCHES, DE LAGE LANDEN FINANCIAL SERVICES CANADA INC. and
the other banks and financial institutions from time to time party hereto,**
as Lenders

and

CANADIAN IMPERIAL BANK OF COMMERCE,
as Agent for the Lenders and the Swap Lenders

with

CANADIAN IMPERIAL BANK OF COMMERCE,
as Sole Lead Arranger and Bookrunner

and

HSBC BANK CANADA AND THE BANK OF NOVA SCOTIA,
as Co-Syndication Agents

and

RABOBANK CANADA,
as Documentation Agent

DATED AS OF November 9, 2017

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THIS SEVENTH AMENDED AND RESTATED CREDIT AGREEMENT is made as of the 9th day of November, 2017.

AMONG:

ROCKY MOUNTAIN DEALERSHIPS INC., ROCKY MOUNTAIN EQUIPMENT CANADA LTD. and ROCKY MOUNTAIN DEALER ACQUISITION CORP.

(collectively, the "**Borrowers**", and each, a "**Borrower**")

- and -

CANADIAN IMPERIAL BANK OF COMMERCE, HSBC BANK CANADA, THE BANK OF NOVA SCOTIA, RABOBANK CANADA, ALBERTA TREASURY BRANCHES, DE LAGE LANDEN FINANCIAL SERVICES CANADA INC. and the other banks and financial institutions from time to time parties to this Agreement, as lenders

(collectively, the "**Lenders**")

- and -

CANADIAN IMPERIAL BANK OF COMMERCE,
as agent for and on behalf of itself, the Lenders and the Swap Lenders

(in such capacity, the "**Agent**")

WHEREAS the Borrowers, the Lenders and the Agent are parties to a sixth amended and restated credit agreement dated as of December 19, 2016, as amended by a first amending agreement made effective as of April 27, 2017 and a second amending agreement made effective as of June 23, 2017 (as amended, the "**Prior Credit Agreement**"), pursuant to which the Lenders made certain credit facilities available to the Borrowers (the "**Prior Credit Facilities**");

AND WHEREAS the Borrowers, the Lenders and the Agent have agreed to amend and restate the Prior Credit Agreement on the terms and conditions set forth in this Agreement;

AND WHEREAS the Lenders wish the Agent to continue to act on their behalf in respect to certain matters contemplated by this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties to this Agreement hereby agree as follows:

ARTICLE 1 DEFINED TERMS

1.1 Defined Terms

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"Acceleration Notice" means a written notice delivered by the Agent to the Borrowers pursuant to Section 10.2 declaring all Obligations of the Borrowers (and each of them) outstanding to the Lenders hereunder to be due and payable.

"Accounting Change" has the meaning ascribed thereto in Section 1.6.

"Accounting Change Notice" has the meaning ascribed thereto in Section 1.6.

"Accounts Receivable" means, whether now existing or hereafter arising, any accounts, accounts receivable, other receivables, choses in action, general intangibles, chattel paper, instruments, documents, notes and contract rights related to or evidencing the obligations or the receivables arising under any sales or services transactions from the Business provided by the Loan Parties to any Person in the ordinary course of business.

"Acquisition" means, with respect to any Loan Party: (a) the acquisition for value of any existing cash flow generating assets (other than under Operating Leases or any real property assets) used or useful in the Business of the Borrowers, and (b) any Investment in a Person if, as a result thereof, (i) such Person, on a consensual basis, is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into any Loan Party, or (ii) such Person becomes a Loan Party.

"Additional Compensation" has the meaning ascribed thereto in Section 13.12(a).

"Advance" means a borrowing by any Borrower by way of a Prime Rate Advance (including by way of Overdraft under the Swingline Facility), a US Base Rate Advance (including by way of Overdraft under the Swingline Facility), a BA Advance or the issuance of a Letter of Credit, and includes deemed Advances and Conversions, renewals and Rollovers of existing Advances, and any reference relating to the amount of Advances shall mean the sum of the principal amount of all outstanding Prime Rate Advances and US Base Rate Advances plus the Face Amount of all outstanding Bankers' Acceptances and Letters of Credit.

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

"Agent" means CIBC, in its capacity as agent for and on behalf itself, the Lenders and the Swap Lenders, and includes any successor agent appointed pursuant to Section 11.15.

"Agent's Account" means the account at the Agent's branch in Toronto, Ontario, as advised by the Agent from time to time to the Lenders in writing.

"**Agent's Counsel**" means Blake, Cassels & Graydon LLP, and/or such other legal counsel as the Agent may from time to time designate.

"**Agreed Currency**" has the meaning ascribed thereto in Section 13.22.

"**Agreeing Lender**" has the meaning ascribed thereto in Section 3.6(b).

"**Agreement**", "**hereof**", "**herein**", "**hereto**", "**hereunder**" or similar expressions mean this Agreement and any Schedules hereto, as amended, supplemented, restated, replaced or otherwise modified from time to time in accordance with the terms hereof.

"**AML Legislation**" has the meaning ascribed thereto in Section 13.6.

"**Anti-Corruption Laws**" means all laws, rules and regulations of any jurisdiction applicable to any Loan Party, any Lender or the Agent from time to time concerning or relating to bribery or corruption, including the *Corruption of Foreign Public Officials Act (Canada)*, the *United Kingdom Bribery Act 2010* and the *United States Foreign Corrupt Practices Act of 1977* and any similar laws currently in force or hereafter enacted (and including any regulations, rules, guidelines or orders thereunder).

"**Applicable Laws**" means, in relation to any Person, transaction or event:

- (a) all applicable rules of common law and equity, and all applicable provisions of laws, statutes, rules, policies and regulations of any Governmental or Judicial Body in effect from time to time having the force of law; and
- (b) all judgments, orders, awards, decrees, official directives, writs and injunctions all having the force of law from time to time in effect of any Governmental or Judicial Body in an action, proceeding or matter in which the Person is a party or by which it or its property is bound or having application to the transaction or event.

"**Applicable Lenders**" means, (a) in the context of the Swingline Facility, the Swingline Lender; and (b) in the context of all other Facilities, all Lenders who have a Proportionate Share of any such Facilities.

"Applicable Margin" means for any period set forth below, the percentage set forth under such period in the table below for the applicable type of Advance or fee¹:

	Total Debt to Tangible Net Worth Ratio ("X")	Prime Rate Advances	US Base Rate Advances	BA Stamping Fee Rate and Issuance Fees for Letters of Credit	Standby Fee Rate
Level 1	$X < 2.75:1.00$	[] bps	[] bps	[] bps	[] bps
Level 2	$2.75:1.00 \leq X < 3.25:1.00$	[] bps	[] bps	[] bps	[] bps
Level 3	$3.25:1.00 \leq X < 3.75:1.00$	[] bps	[] bps	[] bps	[] bps
Level 4	$3.75:1.00 \leq X < 4.25:1.00$	[] bps	[] bps	[] bps	[] bps
Level 5	$4.25:1.00 \leq X < 4.75:1.00$	[] bps	[] bps	[] bps	[] bps
Level 6	$X \geq 4.75:1.00$	[] bps	[] bps	[] bps	[] bps

provided that:

- (a) issuance fees for Non-Financial LCs shall be []%² of the rate specified above for Letters of Credit; provided that, if any such Non-Financial LC is determined by OSFI to not be a Non-Financial LC after the issuance thereof, the foregoing rate for such Non-Financial LC shall be adjusted back to []%³ of the rate specified above with retroactive effect to the date of issuance and the incremental issuance fee payable for the period from the date of issuance to the date of such determination by OSFI shall be payable on the first Business Day following the end of the Fiscal Quarter in which OSFI makes such determination;
- (b) upon the occurrence and during the continuation of an Event of Default or any Borrowing Base Shortfall hereunder, each of the rates in the above table shall increase by an

¹ Fee information redacted from chart.

² Fee information redacted.

³ Fee information redacted.

additional []¹ bps if and for so long as the Event of Default continues or the Borrowing Base Shortfall subsists; and

- (c) for the purposes of this definition, the Total Debt to Tangible Net Worth Ratio shall be calculated by RMDI, for and on behalf of itself and the other Borrowers, and reported to the Agent in the Compliance Certificate provided by RMDI from time to time in accordance with Section 9.2(h). The Agent shall be entitled to rely on such calculation and the Applicable Margin so determined shall be applied from and after the first day of the Fiscal Quarter of RMDI following the date that the Compliance Certificate was required to be delivered. In the event that RMDI fails to deliver a Compliance Certificate for any Fiscal Quarter in accordance with Section 9.2(h), the applicable Level shall be deemed to be Level 6 until such Compliance Certificate is delivered confirming that a different Level is applicable. The Bankers' Acceptance Stamping Fee for BA Advances outstanding prior to and continuing after the date of a change in applicable Level shall be re-calculated as provided for in Section 4.3. The Agent and Borrowers acknowledge that Level 1 applies as of the date hereof.

"**Appraisal**" means an appraisal report by a licensed, independent and arm's length appraiser acceptable to the Agent, acting reasonably, confirming the appraised value of the Property subject to such appraisal, including transmittal letters as required, all reasonably satisfactory to the Lenders.

"**Assignment Agreement**" means an agreement in the form of Schedule "F" attached hereto.

"**BA Advance**" means the portion of an Advance effected by an acceptance by a Lender of a Bankers' Acceptance.

"**BA Discount Proceeds**" means, in respect of any Bankers' Acceptance, an amount (rounded to the nearest whole cent with one-half of one cent being rounded-up) determined as of the applicable Drawdown Date, which is equal to the Face Amount multiplied by the Price, where "**Face Amount**" is the face amount of such Bankers' Acceptance and "**Price**" is equal to:

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

where the "**Rate**" is the applicable BA Discount Rate expressed as a decimal on the Drawdown Date; the "**Term**" is the term of such Bankers' Acceptance expressed as a number of days; and the Price as so determined is rounded up or down to the fifth decimal place with .000005 being rounded-up.

"**BA Discount Rate**" means:

- (a) with respect to Bankers' Acceptances accepted by a BA Lender that is a bank under Schedule I of the *Bank Act* (Canada), the CDOR Rate;

¹ Fee information redacted.

- (b) with respect to Bankers' Acceptances accepted by a BA Lender that is not a bank under Schedule I of the *Bank Act* (Canada), the lesser of (i) the CDOR Rate plus [] bps¹, and (ii) such BA Lender's quoted discount rate for the purchase of a bankers' acceptance on such day for the proposed term; provided that if such BA Lender (as at approximately 10:00 a.m. (Toronto time) on such day) does not furnish a timely quotation, the BA Discount Rate shall be the CDOR Rate plus [] bps²; and
- (c) with respect to Notional Bankers' Acceptances accepted by a Non BA Lender, the CDOR Rate.

"**BA Equivalent Loan**" shall have the meaning associated thereto in Section 6.9.

"**BA Lender**" means any Lender which is a bank chartered under the *Bank Act* (Canada) and which stamps and accepts Bankers' Acceptances.

"**BA Stamping Fee Rate**" means, from time to time, in respect of an acceptance of a Bankers' Acceptance or a BA Equivalent Loan, the applicable percentage rate per annum indicated beside the reference to "**BA Stamping Fee Rate**" in the definition of "**Applicable Margin**".

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

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

"**Bankers' Acceptance**" means a non-interest bearing draft in Canadian Dollars drawn by any Borrower and accepted by a BA Lender pursuant to this Agreement.

"**Bankers' Acceptance Stamping Fee**" means the amount calculated by multiplying the Face Amount of a Bankers' Acceptance by the BA Stamping Fee Rate, and then multiplying the result by a fraction, the numerator of which is the number of days to elapse from and including the date of acceptance of such Bankers' Acceptance by a BA Lender up to but excluding the maturity date of such Bankers' Acceptance, and the denominator of which is 365.

"**Book Value**" means the lower of: (a) depreciated cost, and (b) net realizable value, all as calculated in accordance with GAAP.

"**Borrower's Account**" means the account of a Borrower at the Swingline Lender's main branch in Calgary, Alberta as advised by the Swingline Lender from time to time to such Borrower.

"**Borrowers**" means RMDI, RMEL and RMDA, and "**Borrower**" means any one of them.

"**Borrowers' Counsel**" means Dentons Canada LLP, and/or such other counsel qualified to practice law in each applicable Relevant Jurisdiction, acceptable to the Agent, acting reasonably, as the Borrowers may from time to time designate.

¹ Fee information redacted.

² Fee information redacted.

"Borrowing Base Shortfall" means:

- (a) with respect to the Operating Facility, a positive amount by which the aggregate amount of Advances under the Operating Facility (including, without limitation, under the Swingline Facility) exceeds the Operating Facility Borrowing Base at any time; or
- (b) with respect to the Flooring Facility, a positive amount by which the aggregate amount of Advances under the Flooring Facility exceeds the Flooring Facility Borrowing Base at any time.

"bps" means 1/100 of 1%.

"Business" means the sale, lease, rental and servicing of agriculture and construction equipment, parts and accessories by the Loan Parties, and, in all cases, without limitation, the dealership businesses relating thereto.

"Business Day" means:

- (a) in respect of any Advances or other payments made in Canadian Dollars, a day of the year, other than Saturday or Sunday or statutory holiday, on which the Agent is open for business at its main branch or office in Calgary, Alberta, and Toronto, Ontario; and
- (b) in respect of any Advances or other payments made in US Dollars or any other foreign currency, a day of the year, other than Saturday or Sunday or statutory holiday, on which the Agent is open for business at its main branch or office in Calgary, Alberta, and Toronto, Ontario and on which banking institutions are also open for business in New York, New York.

"Canadian Dollars", "Cdn. Dollars", "Cdn. \$", "Cdn Dollars", "Cdn. \$" and "\$" means lawful money of Canada.

"Capital Assets" means Property that would, in accordance with GAAP, be determined to be fixed or capital Property.

"Capital Adequacy Requirements" means Guideline A, dated January 2012, entitled "Capital Adequacy Requirement (CAR) – Simpler Approaches" and Guideline A-I, dated January 2013, entitled "Capital Adequacy Requirements (CAR)" each issued by OSFI and all other guidelines or requirements relating to capital adequacy issued by OSFI or any other Governmental or Judicial Body regulating or having jurisdiction with respect to any Lender, as amended, modified, supplemented, reissued or replaced from time to time.

"Capital Expenditure" means, with respect to any Loan Party, an expenditure (other than one relating to an Acquisition) made directly or indirectly in respect of the acquisition of Capital Assets, or relating to the financing of Capital Assets by way of a Capital Lease, including the acquisition or the improvement of land, plant, machinery or equipment, whether fixed or movable.

"Capital Lease" means any lease, license or similar transaction determined as a capital lease in accordance with GAAP.

"Cash Management Arrangements" means any arrangement entered into or to be entered into by any Loan Party and any of their respective Affiliates or subsidiaries with the Cash Manager for or in relation to cash management and centralized operating accounts, including mirror

accounting arrangements, account positioning arrangements, electronic funds transfers, commercial credit card and merchant card services or pooled accounts and netting arrangements across accounts for such Loan Party or its Affiliates or subsidiaries.

"Cash Management Documents" means, collectively, all agreements, instruments and other documents which evidence, establish, govern or relate to any or all of the Cash Management Arrangements.

"Cash Management Obligations" means, at any time and from time to time, all of the obligations, indebtedness and liabilities (present or future, absolute or contingent, matured or not) of any Loan Party and any of their respective Affiliates or subsidiaries to the Cash Manager under, pursuant or relating to the Cash Management Arrangements or Cash Management Documents and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and including all principal, interest, fees, legal and other costs, charges and expenses, and other amounts payable by such Loan Party or any of its Affiliates or subsidiaries under the Cash Management Arrangements or Cash Management Documents, in any event, and notwithstanding anything herein to the contrary, Cash Management Obligations shall include the obligations, indebtedness and liabilities of such Loan Party or any of its Affiliates or subsidiaries to the Cash Manager for or in relation to each of the following:

- (a) daylight credit associated with wire transfers;
- (b) daylight credit associated with inter-account transfers; and
- (c) daylight credit for foreign exchange settlement.

"Cash Manager" means the Lender which is the provider of Cash Management Arrangements to any Borrower or other Loan Party or any of their respective Affiliates or subsidiaries, and its successors in such capacity.

"Cash Taxes" means for any Person for any period, the amount of all Taxes (including federal and provincial income taxes) paid in cash by such Person on its net taxable income for such period minus income Tax refunds collected in cash for such period, provided that if the aggregate amount of income Tax refunds collected during such period is greater than the income Taxes paid, the amount of Cash Taxes is to be deemed nil; for greater clarity, Cash Taxes refers to Cash Taxes paid and reported as a note to a consolidated statement of cash flow.

"CDOR Rate" means, on any day, the arithmetical average of the percentage discount rates (expressed to five decimal places, calculated on the basis of a year of 365 days) for Canadian Dollar bankers' acceptances in comparable amounts having an identical issue date and a comparable maturity date to the Bankers' Acceptances proposed to be issued by any Borrower which is quoted on the "Reuters' Screen CDOR Page" for acceptances of Schedule I banks under the *Bank Act* (Canada) (or if such screen shall not be available any successor or similar service selected by the Agent) as at approximately 10:00 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 Agent in good faith after 10:00 a.m. (Toronto time) or as soon thereafter as practicable to reflect any error in a posted rate of interest or in the posted average annual rate of interest); provided, however, that if such rates are not available, then the CDOR Rate for any day shall be the bankers' acceptance rate of the Agent for the applicable period as of 10:00 a.m. (Toronto time) on such day, or if such day is not a Business Day, then on the immediately preceding Business Day; provided further that, if the CDOR Rate determined as hereinabove contemplated shall ever be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

Notwithstanding the foregoing proviso deeming the CDOR Rate to be zero for the purposes of this Agreement, the CDOR Rate will float freely (including less than zero) with respect only to any interest obligations that are subject to the Hedge Agreements attached hereto collectively as Schedule "M".

"**CIBC**" means Canadian Imperial Bank of Commerce, and its successors.

"**CNH**" means, collectively, CNH Canada, Ltd. and CNH Capital Canada Ltd, and their respective successors.

"**CNH Agreement**" means any master dealership agreement or wholesale and retail finance and security agreement between CNH and a Loan Party, as the same may be amended, modified, supplemented, renewed, restated or replaced from time to time in accordance with the provisions of this Agreement.

"**CNH Audit Report**" means the report delivered from time to time by the Service Provider to the Agent and RMDI with respect to the results of the audit conducted to determine that Eligible Equipment Inventory financed under the Flooring Facility is not also financed by CNH, all in accordance with the Service Agreement.

"**Collateral**" means cash, a bank draft or a letter of credit issued by a chartered bank referred to in Schedule I of the *Bank Act* (Canada), all in a form satisfactory to the Agent, acting reasonably.

"**Commitment**" means, in respect of each Lender from time to time, the maximum amount of each of the Facilities that such Lender has committed to make available under this Agreement as set forth in Schedule "A" attached hereto (or as otherwise reduced or amended, from time to time, pursuant to this Agreement or an Assignment Agreement).

"**Common Shares**" means any common share of RMDI, or any other Share publicly issued by a Loan Party.

"**Compliance Certificate**" means the certificate of a Responsible Officer of RMDI, for and on behalf of itself and the other Borrowers, required pursuant to Section 9.2(h), the form of which is attached hereto as Schedule "B".

"**Constating Documents**" means, with respect to a corporation, its articles of incorporation, amalgamation or continuance or other similar document, its by-laws and, if applicable, its unanimous shareholder agreement; with respect to a partnership, its partnership agreement and its certificate of registration, or other similar document; and with respect to a trust, its declaration of trust or trust indenture, or other similar document, all as amended, supplemented or otherwise modified from time to time.

"**Contributing Lender**" and "**Contributing Lenders**" have the meanings ascribed thereto in Section 11.7(b).

"**Conversion**" means a conversion or deemed conversion of one type of Advance into another type of Advance within the same Facility pursuant to this Agreement and "**Converted**" and "**Convert**" have corresponding meanings.

"**Conversion Notice**" means a notice by a Borrower requesting a Conversion hereunder substantially in the form annexed hereto as Schedule "C".

"Convertible Debenture" means any convertible, unsecured subordinated debenture or note created, issued or assumed by a Loan Party which have all of the following characteristics:

- (a) such note or debenture is unsecured;
- (b) an initial maturity or due date in respect of repayment of principal extending beyond the Maturity Date in effect at the time such debentures or notes are created, issued or assumed;
- (c) such debenture or note is redeemable at the option of the applicable Loan Party on or before maturity;
- (d) at the time of creation, issuance or assumption of such note or debenture, (i) no Default or Event of Default has occurred and is continuing or will result therefrom and (ii) all representations and warranties of the Loan Parties (or any of them) hereunder or any other Credit Document are true and accurate in all material respects as at such time;
- (e) no scheduled or mandatory payment or repurchase of principal thereunder prior to the Maturity Date in effect at the time such debenture or note is created, issued or assumed;
- (f) upon and during the continuance of a Default, an Event of Default or acceleration of the time for repayment of any Obligations which has not been rescinded, (i) all amounts payable in respect of principal, premium (if any) or interest under such debentures or notes are subordinate and junior in right of payment to all such Obligations, and (ii) no enforcement steps or enforcement proceedings may be commenced in respect of such debenture or note;
- (g) upon distribution of the assets of the applicable Loan Party on any dissolution, winding up, total liquidation or reorganization of the applicable Loan Party (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of such person, or otherwise), all Obligations shall first be paid in full, or provisions made for such payment, before any payment is made on account of principal, premium (if any) or interest payable in regard to such debenture or note;
- (h) the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any Obligations or enforcement of the rights and remedies of the Agent and the Lenders hereunder or under any other Credit Document shall not in and of themselves:
 - (i) cause a default or event of default (with the passage of time or otherwise) under such debenture or note or the indenture governing the same; or
 - (ii) cause or permit the obligations under such debenture or note to be due and payable prior to the stated maturity thereof; and
- (i) payments of interest or principal due and payable under such debenture or note can be satisfied, at the option of the applicable Loan Party by delivering Common Shares in accordance with the indenture or agreement governing such debenture or note (whether such Common Shares are received by the holder of such debenture or note as payment or are sold by a trustee or representative under such indenture or agreement to provide cash for payment to the holder of such debenture or note).

"Credit Documents" means, collectively, this Agreement, the Security, each Bankers' Acceptance, each Letter of Credit, the Cash Management Documents and the agreements, guarantees, certificates, instruments, Drawdown Notices, Conversion Notices, Rollover Notices, notices of repayment and all other documents, instruments and other agreements (excluding Eligible Hedge Agreements) delivered or to be delivered to or for the benefit of the Agent or Lenders pursuant hereto or thereto, all as the same may be amended, modified, varied, restated or replaced from time to time.

"Currency Hedge Agreement" means an agreement, whether in the form of an ISDA Master Agreement, a futures contract, a swap, a forward rate, currency exchange contract or otherwise, entered into for or in connection with a forward rate, currency swap or currency exchange and other similar currency-related transactions, designed to manage, mitigate or eliminate currency exchange rate risk.

"Current Assets" means, as of any date, the aggregate amount shown as current assets of RMDI in the Financial Statements for such date, calculated in accordance with GAAP, on a consolidated basis.

"Current Assets to Current Liabilities Ratio" means at any time, the ratio of Current Assets to Current Liabilities.

"Current Liabilities" means, as of any date, the aggregate amount shown as current liabilities of RMDI in the Financial Statements for such date, excluding the current principal portion of each of Long Term Debt and Capital Leases outstanding, calculated in accordance with GAAP on a consolidated basis.

"DBNA" means the *Depository Bills and Notes Act (Canada)*, as amended, and all regulations thereunder.

"Debt" means, with respect to any Person, all obligations, liabilities and indebtedness of such Person and its subsidiaries which would, in accordance with GAAP, be classified upon a consolidated balance sheet of such Person as indebtedness for borrowed money of such Person and its subsidiaries and, whether or not so classified, shall include (without duplication):

- (a) indebtedness for money borrowed (including, without limitation, by way of overdraft and purchase money obligations) or indebtedness represented by notes payable and Drafts accepted representing extensions of credit;
- (b) bankers' acceptances and similar instruments;
- (c) letters of credit and letters of guarantee;
- (d) all obligations (whether or not with respect to the borrowing of money) that are evidenced by bonds, debentures, notes or other similar instruments, whether or not any such instruments are convertible into capital but including without limitation, any indebtedness or liabilities of such Person that may be satisfied by the delivery of Shares of such Person to the holder thereof or to another Person on behalf of the holder, or that are not so evidenced but that would be considered by GAAP to be indebtedness for borrowed money;
- (e) all obligations as lessee under Capital Leases;

- (f) all obligations of such Person in respect of the deferred purchase or acquisition price of property or services (including, without limitation, obligations secured by any Purchase Money Security Interests) in excess of 90 days;
- (g) all obligations of such Person for or in respect of the purchase price from such Person of any of its property, assets or undertaking, the purchase price in respect of which has been prepaid by the purchaser; and
- (h) any Guarantee in any manner of any part or all of an obligation included in items (a) to (g) above,

but excluding trade payables, future Taxes, shareholders loans subordinated and postponed to the Obligations on terms acceptable to the Lenders in their sole discretion, Convertible Debentures, accrued liabilities that are current liabilities incurred in the ordinary course of business, unrealized obligations or liabilities under any Hedge Agreement, accounts payable and deferred revenue incurred in the ordinary course of business.

"Debt Service Obligation" means, with respect to any Person for any period, without duplication, the aggregate principal payments of such Person during such period made or required to have been made in respect of Debt together with the Interest Expense of such Person related thereto, in each case calculated on a consolidated basis and in accordance with GAAP and as such interest expense would be set forth or reflected in a consolidated statement of earnings of such Person, and, in any event and without limitation, shall include (without duplication):

- (a) all principal payments (whether the same are regularly scheduled payments or have become due because of demand, default or otherwise) due and payable in respect of Debt during such period, including without limitation, the current portion of Long Term Debt;
- (b) all interest paid, accrued or payable in respect of such period;
- (c) all fees (including standby, letter of credit, guarantee, commitment (but only to the extent thereof amortized in such period) and bankers' acceptances fees) paid, accrued or payable in respect of such period and which relate to any Debt, prorated (as required) over such period;
- (d) any difference between the Face Amount and the discount proceeds of any bankers' acceptances, commercial paper and other obligations issued at a discount, prorated (as required) over such period;
- (e) all principal, interest or other payment obligations in respect of Capital Leases paid, accrued or payable; and
- (f) all net amounts charged or credited to Interest Expense under any Interest Hedge Agreements in respect of such period.

"Decision Date" has the meaning ascribed thereto in Section 3.6(a).

"Default" means any event or condition which with the giving of notice, lapse of time or both, or upon a declaration or determination being made in accordance with Section 10.1 (or any combination thereof) would constitute an **"Event of Default"**.

"Defaulting Lender" means any Lender or, in the case of paragraph (e) below, a Lender's parent (being any person that directly or indirectly controls a Lender where "control" has the same meaning as in the definition of "Affiliate"):

- (a) that is a Non-Advancing Lender;
- (b) that has failed to fund any payment or its portion of any Advances required to be made by it hereunder;
- (c) that has notified the Borrowers (verbally or in writing) that it does not intend to or is unable to comply with any of its funding obligations under this Agreement or has made a public statement to that effect or to the effect that it does not intend to or is unable to fund advances generally under credit arrangements to which it is a party;
- (d) that has failed, within 3 Business Days after request by a Borrower (made on a reasonable belief that such Lender will not honour its obligations hereunder), to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Advances;
- (e) that becomes insolvent or bankrupt, has been deemed or adjudged to be insolvent or bankrupt by a Court of competent jurisdiction, or becomes the subject of bankruptcy or Insolvency Proceeding;
- (f) that is generally in default of its obligations under other existing credit or loan documentation under which it has commitments to extend credit; or
- (g) becomes the subject of a Bail-In Action.

"Defaulting Lender Exposure" has the meaning ascribed thereto in Section 11.7(d).

"Deficit Lender" has the meaning ascribed thereto in Section 3.1(b).

"Departing Lenders" has the meaning ascribed thereto in Section 12.4.

"Distribution" means, without duplication:

- (a) any declaration or payment of dividends, royalties, distributions, fees or management fees (other than fees or management fees payable in the ordinary course of business) of any kind directly or indirectly to any holder of Shares of any Person (other than another Loan Party) otherwise having the right or ability directly or indirectly to vote for the election of directors of a corporation or the management or operation of a partnership or other Person;
- (b) any repurchase, retraction or redemption of Shares of any Loan Party (other than by another Loan Party);
- (c) any repayment by any Loan Party of any amount of principal, interest or other amounts in respect of any Debt owed to any Affiliate of such Loan Party (other than another Loan Party);

- (d) any loan or advance that is made by a Person to or in favour of a holder of Shares in such Person or an Affiliate of such holder, other than any loan or advance that is made to or in favour of another Loan Party; or
- (e) the transfer by a Person of any of its property or assets for consideration of less than fair market value thereof, to any of its Affiliates (other than a Loan Party).

"**DLL**" means De Lage Landen Financial Services Canada Inc. and its successors.

"**DLL Agreement**" means any agreement (other than the Service Agreement) between DLL (or any of its Affiliates) and a Loan Party including, without limitation, any financing agreement, as the same may be amended, modified, supplemented, renewed, restated or replaced from time to time in accordance with the provisions of this Agreement.

"**Drafts**" means drafts, bills of exchange, receipts, acceptances, demands and other requests for payment drawn or issued under a Letter of Credit or a Banker's Acceptance, as applicable and as the context requires, and "**Draft**" means any of them.

"**Drawdown**" means an Advance, other than a Rollover or a Conversion.

"**Drawdown Date**" means the date, which shall be a Business Day, of any Drawdown.

"**Drawdown Notice**" means a notice by a Borrower requesting a Drawdown hereunder from the Lenders substantially in the form annexed hereto as Schedule "C".

"**EBITDA**" means, with respect to any Person for any period, the consolidated net earnings of such Person for the Trailing Fiscal Quarters ending on the last day of such period determined in accordance with GAAP from consolidated statements of net earnings for such period plus the following amounts (without duplication, and irrespective of whether any expense, loss or gain falls into one or more of the following categories) deducted in determining such net earnings:

- (a) Interest Expense;
- (b) income Taxes (including, without limitation, current and deferred income Taxes so long as such income Taxes are an expense);
- (c) depreciation and amortization expense (as shown under the cash flow from operating activities in consolidated statements of cash flow)
- (d) non-cash expenses (including stock-based compensation and other similar expenses) and other non-recurring expenses that are non-cash in nature;
- (e) unrealized losses resulting from Mark-to-Market accounting for hedging activities;
- (f) equity loss in the financial results of any non-Subsidiary Affiliates;
- (g) cash dividends received from any non-Subsidiary Affiliates; and
- (h) extraordinary items, which are subject to prior approval by the Majority Lenders, and such approval shall be obtained by the Borrowers in advance of submission of the Borrowers' Compliance Certificate and the calculation of the financial covenants included therein;

minus (without duplication), to the extent included in determining consolidated net earnings:

- (i) income Tax credits (for greater clarity, a Tax credit is the sum of current and deferred income taxes, so long as such sum is income);
- (j) non-cash charges previously added back to net income in determining EBITDA, to the extent such non-cash charges have become cash expenditures during such period;
- (k) unrealized gains resulting from Mark-to-Market accounting for hedging activities;
- (l) any other non-cash, non-recurring items increasing net income (other than non-cash items which will result in the receipt of cash payments in any future period); and
- (m) equity income in the financial results of non-Subsidiary Affiliates.

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

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means the date on which all of the conditions listed in Section 5.1 are satisfied or otherwise waived by the Majority Lenders, in their discretion.

“Eligible Accounts Receivable” means, at any time, the value of Canadian Dollar and US Dollar Accounts Receivable (net of all goods and services Tax, harmonized sales Taxes and other sales Taxes and net of any credit balance, returns, trade discounts, unapplied cash, unbilled amount or retention or finance charges) owing to the Loan Parties (or any of them), which value shall be periodically reported to the Agent in the form of Schedule "H" pursuant to Section 9.2; provided that no Account Receivable shall be deemed an Eligible Account Receivable unless each of the following statements is accurate and complete (and by including such Account Receivable in any calculation of the Operating Facility Borrowing Base, the Borrowers shall be deemed to represent and warrant to the Agent, the Lenders and the Swap Lenders the accuracy and completeness of such statements):

- (a) it is genuine and in all respects is what it purports to be;
- (b) with respect to any Account Receivable arising from the sale of goods: (i) the subject goods have been completed, sold and shipped, on a true sale basis on an open account, or subject to contract, and not on consignment, on approval, or a "sale or return" basis, or on a "bill and hold" or "pre-sale" basis or subject to any other repurchase or return agreement, and (ii) no material part of the subject goods has been returned, rejected, lost or damaged;

- (c) it is not evidenced by chattel paper or a promissory note or an instrument of any kind which has not been provided to and endorsed in favour of the Agent;
- (d) it is in the amount represented to the Agent and is owed to the applicable Loan Party by the account debtor represented to the Agent;
- (e) it is owned by the applicable Loan Party, the applicable Loan Party has the right to subject it to, and it is subject to, a first-ranking Encumbrance in favour of the Agent;
- (f) it is evidenced by an invoice or statement rendered to the account debtor thereunder in the ordinary course of business arising out of the sale of goods or provision of services, is due and payable within a maximum of 30 days after the stated invoice date thereof and does not remain unpaid for more than 90 days past the stated invoice date thereof;
- (g) it is not subject to any actual or deemed trust or prior Encumbrance whatsoever;
- (h) there is no obligation to hold any portion of the Account Receivable in trust or as agent for any other Person;
- (i) it is a valid, legally enforceable and unconditional obligation of the account debtor thereunder, and is (i) net of any dispute, set off, counterclaim, deduction, holdback, credit, contras, chargebacks or adjustment by such account debtor, (ii) not subject to recession, cancellation or any other claim by such account debtor denying liability thereunder whether by reason of prepayment, previous credit or otherwise, and (iii) not subject to any agreement between such account debtor and the applicable Loan Party that in any way could reasonably be expected to adversely affect the payment of such Account Receivable;
- (j) it does not fail in any material respect to comply with the requirements of Applicable Law;
- (k) all Permits required to be obtained have been obtained, effected or given in connection with the payment of such Account Receivable by the account debtor or in connection with the enforcement and collection of such Account Receivable by the applicable Loan Party and the Agent have been duly obtained, effected or given and are all in full force and effect, or the Agent, acting reasonably, is satisfied that the Loan Party to which such Account Receivable is owed does not have any other indebtedness, Encumbrance or obligation other than payment of employee payroll and commissions and rent payments incurred in the ordinary course of business;
- (l) the account debtor thereunder is not an Affiliate or Subsidiary of any Loan Party, or a director, officer, employee or partner of any Loan Party, any Affiliate of any Loan Party or any Subsidiary of any Loan Party;
- (m) it is not an Account Receivable with respect to which the account debtor is Her Majesty the Queen in Right of Canada or Her Majesty the Queen in Right of any Province or any department, agency or instrumentality thereof or any Governmental or Judicial Body;
- (n) it is not a Receivable that the Agent has, in its sole discretion, designated as ineligible or subject to undue credit risk;
- (o) the account debtor of such Account Receivable is not insolvent or bankrupt or the subject of any bankruptcy or Insolvency Proceedings, does not have a trustee or receiver

appointed for all or a substantial part of its Property, has not made an assignment for the benefit of creditors, admitted its inability to pay its debts as they mature or suspended its business, and the Agent is otherwise satisfied with the credit standing of such account debtor;

- (p) it is not an Account Receivable with respect to which the account debtor's obligation to pay is conditional;
- (q) it is not an Account Receivable which is an intercorporate account;
- (r) it is not a holdback Account Receivable (being any amount subject to builder's liens or related legislation);
- (s) it is not an Account Receivable in dispute;
- (t) it is not an amount billed for services not as yet completed; and
- (u) it is not an Account Receivable (i) with respect to which any representation or warranty contained in this Agreement or any other Credit Document is untrue, or (ii) which violates any of the covenants of the Loan Parties (or any of them) contained in this Agreement or any other Credit Document;

but, in each case, shall not include any amounts included in the calculation of either "Eligible Equipment Inventory" or "Eligible Parts Inventory".

"Eligible Equipment Inventory" means at any time, Equipment Inventory for which each of the following statements is accurate and complete (and by including such Equipment Inventory in the Operating Facility Borrowing Base, the Borrower shall be deemed to represent and warrant to the Agent, the Lenders and the Swap Lenders the accuracy and completeness of such statements):

- (a) such Equipment Inventory falls under the definition of "Equipment Inventory" hereunder;
- (b) such Equipment Inventory is subject to a first-ranking Encumbrance held by the Agent pursuant to the Security and is not subject to any other Encumbrance (including any Purchase Money Security Interest);
- (c) such Equipment Inventory is not subject to any Priority Payable;
- (d) such Equipment Inventory is not subject to any factory payable;
- (e) the Borrower has not received any notice from a party claiming an Encumbrance, Priority Payable or factory payable in respect of such Equipment Inventory;
- (f) such Equipment Inventory is not work in progress;
- (g) such Equipment Inventory is not fully or partially financed under the terms of any other agreement;
- (h) such Equipment Inventory is not subject to any prior claims or consignments;
- (i) such Equipment Inventory is not Equipment Inventory in respect of which a payable is due; and

- (j) such Equipment Inventory is not Equipment Inventory that the Agent has designated from time to time, in its sole discretion, as being ineligible,

but Eligible Equipment Inventory shall not form part of "Eligible Parts Inventory", or be included in the calculation of "Eligible Parts Inventory" or "Eligible Accounts Receivable".

"Eligible Equity Hedge Agreement" means, an Eligible Hedge Agreement which is an Equity Hedge Agreement.

"Eligible Hedge Agreements" means those Hedge Agreements entered into by any Loan Party with a Swap Lender which comply with the provisions of Section 2.7(a), and **"Eligible Hedge Agreement"** means any one of them.

"Eligible Parts Inventory" means at any time, the Parts Inventory for which each of the following statements is accurate and complete (and by including such Parts Inventory in any computation of the Operating Facility Borrowing Base, the Borrower shall be deemed to represent and warrant to the Agent, the Lenders and the Swap Lenders the accuracy and completeness of such statements):

- (a) such Parts Inventory falls under the definition of "Parts Inventory" hereunder;
- (b) such Parts Inventory is subject to a first-ranking Encumbrance held by the Agent pursuant to the Security and is not subject to any other Encumbrance (including any Purchase Money Security Interest);
- (c) such Parts Inventory is not subject to any Priority Payable;
- (d) such Parts Inventory is not subject to any factory payable;
- (e) the Borrower has not received any notice from a party claiming an Encumbrance, Priority Payable or factory payable in respect of such Parts Inventory;
- (f) such Parts Inventory is not work in progress;
- (g) such Parts Inventory is not subject to any prior claims or consignments;
- (h) such Parts Inventory is not fully or partially financed under the terms of any other agreement;
- (i) such Parts Inventory is not manufactured by CNH;
- (j) such Parts Inventory is not Parts Inventory in respect of which a payable is due; and
- (k) such Parts Inventory is not Parts Inventory that the Agent has designated from time to time, in its sole discretion, as being ineligible,

but any Eligible Parts Inventory shall not form part of "Eligible Equipment Inventory", or be included in the calculation of "Eligible Equipment Inventory" or "Eligible Accounts Receivable".

"Encumbrance" means any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, title retention, consignment, lease, hypothecation, security interest or other security agreement or trust, right of set-off or other arrangement having the effect of security for

the payment of any debt, liability or obligation, and "**Encumbrances**", "**Encumbrancer**", "**Encumber**" and "**Encumbered**" shall have corresponding meanings.

"**Environmental Claims**" has the meaning ascribed thereto in Section 13.10.

"**Environmental Law**" means all Applicable Law which pertains to public health or safety, the protection or enhancement of the environment or pursuant to which Environmental Liabilities would arise or have arisen, including relating to a Release or threatened Release of any Hazardous Material or the generation, use, storage or transportation of any Hazardous Material, and including any condition, restriction, prohibition or requirement contained in an approval, permit, licence, consent, certificate or qualification or other authorization issued pursuant to Applicable Law.

"**Environmental Liabilities**" means any and all liabilities and obligations for any Release of Hazardous Material, any environmental damage, any contamination or any other environmental problem caused or alleged to have been caused to any Person, property or the environment as a result of any Release of Hazardous Material or the condition of any property or asset, whether or not caused by a breach of Environmental Law, including, without limitation, all liabilities and obligations arising from or related to any surface, underground, air, groundwater or surface water contamination; the abandonment or plugging of any well; restorations and reclamations; the removal of or failure to remove any foundations, structures or equipment; the cleaning up or reclamation of storage sites; any Release of Hazardous Material; the violation of pollution standards; and personal injury (including sickness, disease or death) and property damage arising from any of the foregoing.

"**Equipment Inventory**" means Serial Number Goods and other equipment used in the agriculture or construction industry, including, without limitation, any accessions, parts and accessories installed in or affixed thereto, owned by a Loan Party that form part of its floor inventory or rental fleet, whether manufactured by CNH, Dynapac, Bourgault or another manufacturer, that it sells, rents or leases to arm's length third parties in the ordinary course of business; provided that equipment classified as Parts Inventory cannot also be classified as Equipment Inventory.

"**Equity**" means the total, without duplication, of stated capital of Shares, contributed surplus, non-controlling interest, retained earnings (net of Distributions), subordinated and postponed shareholders loans and Convertible Debentures, less investments in or advances to Affiliates or Subsidiaries who are not Loan Parties, as determined on a consolidated basis in accordance with GAAP.

"**Equity Hedge Agreement**" means an agreement entered into for or in connection with RMDI's cash-settled, share based payment programs and designed to manage, mitigate or limit RMDI's risk in relation thereto.

"**Equivalent Amount**" means, where any amount expressed in any currency has to be converted or expressed in another currency, or where its equivalent in another currency has to be determined (or *vice versa*), the spot rate of exchange for such conversion as quoted by the Bank of Canada at the close of business on the immediately preceding Business Day, and, if no such rate is quoted, the noon day spot rate of exchange quoted for wholesale transactions by the Agent in Toronto, Ontario in accordance with its normal practice.

"**EU Bail-In Legislation Schedule**" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" has the meaning defined in Section 10.1.

"Exchange Rate" means, on any day, with respect to the exchange of Canadian Dollars or U.S. Dollars (the **"First Currency"**) into another currency (the **"Other Currency"**), the spot rate of exchange of the Bank of Canada on the immediately preceding Business Day at the close of business, and, if such rate is not or has not yet been quoted on such day, the last noon day spot rate of the Agent. For the purposes of Section 13.22 hereof, "Exchange Rate" means, on any day, with respect to exchange of the First Currency into the Other Currency, the spot rate of exchange of the Bank of Canada on the immediately preceding Business Day at the close of business, and, if such rate is not or has not yet been quoted on such day, the last preceding noon day spot rate of the Agent.

"Excluded Taxes" has the meaning ascribed thereto in Section 13.11.

"Executive Order" means the executive order No. 13224 of 23 September 2001, entitled "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism."

"Existing BAs" means those Bankers' Acceptances previously accepted by the Lenders at the request of a Borrower pursuant to the Prior Credit Agreement and outstanding as at the Effective Date.

"Face Amount" means:

- (a) in respect of a Bankers' Acceptance, the amount payable to the holder thereof on its maturity;
- (b) in respect of a Notional Bankers' Acceptance, the amount payable to the Non BA Lender on the maturity thereof; and
- (c) in respect of Letters of Credit, the maximum amount payable to the beneficiary specified therein or any other Person to whom payments may be required to be made pursuant to such Letter of Credit.

"Facilities" means the Swingline Facility, the Operating Facility, the Flooring Facility and the Revolving Term Facility, and **"Facility"** means any one of such Facilities.

"Federal Funds Effective Rate" means, for any day, an annual interest rate equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average quotations for the day of such transactions received by the Agent from three (3) federal funds brokers of recognized standing selected by the Agent.

"Fee Letter" means the fee letter dated the date hereof between Canadian Imperial Bank of Commerce, as Agent, sole lead arranger and bookrunner, and RMDI, as the same may be amended, modified, supplemented, restated or replaced from time to time.

"Financial Statements" means the consolidated financial statements of RMDI as at a specified date and for the period then ended and shall include a balance sheet, statement of net earnings (or loss, as applicable) and comprehensive income (or loss, as applicable) and consolidated statement of cash flows, together with comparative figures in each case (where a comparative

period on an earlier statement exists), all prepared, maintained and stated on a consolidated basis, in accordance with GAAP applied consistently.

"Fiscal Quarter" means (a) the 3 month period commencing on the first day of each Fiscal Year, and (b) each successive 3 month period thereafter during each such Fiscal Year.

"Fiscal Year" means the fiscal year of RMDI commencing on January 1 of each year and ending on December 31 of each year, or such other fiscal year of RMDI as agreed to by the Lenders.

"Fixed Charge Coverage Ratio" means, at any time, in respect of RMDI on a consolidated basis, tested for the Trailing Fiscal Quarters, the ratio of, in each case without duplication, (a) EBITDA minus Cash Taxes, minus Unfunded Capex, minus all Distributions to the Shareholders, if any, paid in such period to (b) the aggregate of all Interest Expense, plus the aggregate of all scheduled principal payments (excluding curtailments) in respect of Debt for such period.

If, prior to the end of any Fiscal Quarter (the **"Relevant Fiscal Quarter"**), the Loan Parties have consummated an Acquisition permitted hereunder, then either RMDI may submit, or the Agent may request that RMDI submit to the Agent, a *pro forma* Compliance Certificate, together with a management analysis (including supporting financial information) respecting the *pro forma* Compliance Certificate, certified by a Responsible Officer, setting forth what would have been the Fixed Charge Coverage Ratio at the end of such Relevant Fiscal Quarter, had such Acquisition closed at the beginning of the period in respect of which Fixed Charge Coverage Ratio is calculated (the **"Relevant Period"**), and if in the opinion of the Agent, acting reasonably, the *pro forma* Compliance Certificate accurately represents what would have been the Fixed Charge Coverage Ratio at the end of the Relevant Fiscal Quarter had such Acquisition closed at the beginning of the Relevant Period, the Fixed Charge Coverage Ratio for the Relevant Period shall be the value as disclosed in such *pro forma* Compliance Certificate.

"Fleet Vehicles" means Serial Number Goods and other equipment used by employees of RMDI (including, without limitation, equipment used for the purpose of sales and services and by key management of RMDI, as determined by RMDI), including, without limitation, any accessions, parts and accessories installed in or affixed thereto, owned by a Loan Party which is acquired (or otherwise financed) by an Advance under the Operating Facility; for greater certainty, equipment classified as either Equipment Inventory or Parts Inventory cannot also be classified as Fleet Vehicles.

"Flooring Facility" means the extendible revolving loan facility more particularly described in Section 2.3.

"Flooring Facility Audit" has the meaning given thereto in the Service Agreement.

"Flooring Facility Auditor" has the meaning given thereto in the Service Agreement.

"Flooring Facility Borrowing Base" means the sum of, without duplication, calculated monthly:

- (a) 75% of the aggregate Book Value of Eligible Equipment Inventory manufactured in the current calendar year or the two calendar years immediately prior to the then current calendar year (and that is not included in the calculation of the Operating Facility Borrowing Base);

- (b) 50% of the aggregate Book Value of Eligible Equipment Inventory manufactured in the third, fourth or fifth calendar years prior to the then current calendar year (and that is not included in the calculation of the Operating Facility Borrowing Base),

in each case, whose individual Book Value is \$75,000 or greater; provided, however, that:

- (i) the total Book Value of Eligible Equipment Inventory to be included in the Flooring Facility Borrowing Base that has been leased or rented to any Person that is not a Loan Party (as verified and confirmed by the Service Provider in an updated Inventory Report and reported to the Agent and the Borrower in accordance with the Service Agreement) shall not exceed \$5,000,000;
- (ii) Eligible Equipment Inventory that has been leased or rented to any Person that is not a Loan Party and has been verified and confirmed by the Flooring Facility Auditor as such in two consecutive Flooring Facility Audits and reported to the Agent and the Borrower in accordance with the Service Agreement shall be excluded from the Flooring Facility Borrowing Base;
- (iii) no Flooring Facility Borrowing Base shall be set or reset (as the case may be) until the relevant input is verified and confirmed by the Service Provider in an updated Inventory Report and reported to the Agent and the Borrower in accordance with the Service Agreement;
- (iv) any determination of the Flooring Facility Borrowing Base by the Agent based upon the reporting provided to it by the Service Provider shall be conclusive and binding on the Borrowers, absent manifest error; and
- (v) any Property that forms part of the Flooring Facility Borrowing Base cannot also form part of the Operating Facility Borrowing Base.

"Flooring Facility Commitment" means the aggregate Commitments of the Flooring Facility Lenders in respect of the Flooring Facility set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"Flooring Facility Lenders" means the Applicable Lenders having a Commitment in respect of the Flooring Facility as set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"Flooring Facility Limit" means, at any time and from time to time, the lesser of (i) the Flooring Facility Commitment at that time, and (ii) the Flooring Facility Borrowing Base at that time.

"Flooring Facility Monthly Curtailment" has the meaning ascribed thereto in Section 3.10.

"Flooring Facility Six-Month Payment" has the meaning ascribed thereto in Section 3.10.

"Fronted LC" means a Letter of Credit issued by the Fronting Lender for the account of the applicable Borrower.

"Fronting Lender" means, to a maximum of its Fronting Limit, (a) initially, CIBC, and (b) such other Lender as is selected by the Agent and the Borrower, which assumes in writing with the Borrower, the Lenders and the Agent, the obligation of issuing Letters of Credit for the account of the applicable Borrower under the Operating Facility.

"Fronting Limit" means, with respect to the Fronting Lender, the maximum Outstanding Principal of Letters of Credit for which such Lender is obligated to be the Fronting Lender hereunder, which limit is set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"Funding Report" means the listing of Eligible Equipment Inventory the Borrower wishes to have financed under the Flooring Facility from time to time as more particularly set out in the Service Agreement and substantially in the form of Schedule "J" attached hereto.

"GAAP" means generally accepted accounting principles which are in effect from time to time in Canada, as adopted and modified (if applicable) by the Canadian Institute of Chartered Accountants from time to time, applied on a consistent basis, which as of the date of this Agreement are IFRS; provided, however, that if there occurs after the date hereof any change in GAAP (or any change in the rules, regulations, pronouncements, opinions or other requirements of the Canadian Institute of Chartered Accountants) from that used in the preparation of the financial statements referred to in this Agreement or that affects in any respect the calculation of any covenants and such related terms with the intent of having the respective positions of the Lenders and the Loan Parties after such change in GAAP (or in the requirements of the Canadian Institute of Chartered Accountants) preserve the original intent of the respective provisions as of the date of this Agreement and, until any such amendments have been agreed upon, the covenants in this Agreement shall be calculated as of no such change in GAAP (or in the requirements of the Canadian Institute of Chartered Accountants) has occurred.

"GE" means, collectively, General Electric Canada Equipment Finance G.P. and GE Commercial Distribution Finance Canada Inc., and their respective successors.

"GE Agreement" means any agreement between GE (or any of its affiliates) and a Loan Party, including, without limitation, any financing agreement, as the same may be amended, modified, supplemented, renewed, restated or replaced from time to time in accordance with the provisions of this Agreement.

"Governmental or Judicial Body" means:

- (a) any government, parliament or legislature, any regulatory or administrative authority, agency, commission or board and any other statute, rule or regulation making entity having jurisdiction in the relevant circumstances;
- (b) any Person acting within and under the authority of any of the foregoing or under a statute, rule or regulation thereof; and
- (c) any judicial, administrative or arbitral Court, authority, tribunal or commission having jurisdiction in the relevant circumstances.

"Guarantee" means any guarantee, undertaking to assume, endorsement (other than the routine endorsement of cheques in the ordinary course of business), contingent agreement to purchase, repurchase or to provide funds for the payment of any obligation of any other person or any other agreement, instrument or document under which a person otherwise directly or indirectly becomes liable: (a) in respect of any obligation of any other person, (b) to maintain the solvency or any balance sheet or other financial condition of any other person (including keep-well covenants), or (c) to make payment for any products, materials or supplies of any other person, or for any transportation or services of any other person regardless of the non-delivery or non-furnishing thereof, in any case, if the purpose or intent of such agreement is to provide assurance

that such obligations will be paid or performed, or that agreements relating thereto will be complied with, or that the holder of such obligations will be protected against non-payment or non-performance in respect thereof; provided that the amount of each Guarantee shall be deemed to be the amount of the obligation guaranteed thereby unless the Guarantee is limited to a determinable amount, in which case the amount of such Guarantee shall be deemed to be the lesser of such determinable amount and the amount of such obligation.

"Guarantor" means each Material Subsidiary (including a Material Subsidiary that is a Borrower) which has provided to the Agent the following (in each case in form and substance satisfactory to the Agent, acting reasonably): (a) a Guarantee, pursuant to which such Person guarantees to the Agent and the Lenders, the payment and performance of all present and future indebtedness, liabilities and obligations of the Borrowers (and each of them) to the Agent, the Lenders and the Swap Lenders, direct or indirect, absolute or contingent, joint or several, matured or unmatured, (b) a security agreement pursuant to which such Person grants to the Agent and the Lenders an Encumbrance over all of such Person's present and after-acquired real and personal property, assets and undertakings, and (c) such other certificates, documents and legal opinions that the Agent may require, acting reasonably.

"Hazardous Materials" means any hazardous substance or any pollutant or contaminant, toxic or dangerous waste, substance or material, as defined in or regulated by any Applicable Law, regulation or Governmental or Judicial Body from time to time, including, without limitation, asbestos and polychlorinated biphenyls.

"Hedge Agreement" means an Equity Hedge Agreement, a Currency Hedge Agreement or an Interest Hedge Agreement.

"HSBC" means HSBC Bank Canada, and its successors.

"IFRS" means International Financial Reporting Standards including International Accounting Standards and Interpretations together with their accompanying documents which are set by the IASC Foundation, and the International Financial Reporting Interpretations Committee, the interpretative body of the IASC Foundation but only to the extent the same are adopted by the Canadian Institute of Chartered Accountants as Generally Accepted Accounting Principles in Canada and then subject to such modifications thereto as are agreed by the Canadian Institute of Chartered Accountants.

"Indemnified Parties" has the meaning ascribed thereto in Section 13.9.

"Insolvency Proceedings" means any receivership, interim receivership, insolvency, proposal bankruptcy, compromise, arrangement, winding-up, dissolution or other similar proceedings, applications or claims, whether or not any of the foregoing is judicial in nature.

"Intellectual Property" has the meaning ascribed thereto in Section 8.1(y).

"Interest Expense" means, with respect to any Person for any period, without duplication, interest expense of such Person calculated on a consolidated basis and in accordance with GAAP as the same would be set forth or reflected in a consolidated statement of earnings of such Person and, in any event and without limitation, shall include:

- (a) all interest accrued or payable in respect of such period;

- (b) all fees (including standby, letter of credit, guarantee, commitment (but only to the extent thereof amortized in such period) and bankers' acceptances fees) accrued or payable in respect of such period and which relate to any Debt, prorated (as required) over such period;
- (c) any difference between the Face Amount and the discount proceeds of any bankers' acceptances, commercial paper and other obligations issued at a discount, prorated (as required) over such period;
- (d) the interest component of Capital Lease obligations; and
- (e) all net amounts charged or credited to interest expense under any Interest Hedge Agreements in respect of such period.

"Interest Hedge Agreement" means an agreement, whether in the form of an ISDA Master Agreement, a futures contract, a swap transaction, an interest rate option, a cap transaction, floor transaction, collar transaction or otherwise, designed for the managing, mitigating or eliminating risks relating to interest rate fluctuations.

"Interest Payment Date" means, with respect to Prime Rate Advances and US Base Rate Advances, the 1st day of each month (or if the 1st day of the month is not a Business Day, the next following Business Day); provided that any earlier date on which all or any of the Facilities are fully cancelled or permanently reduced in full, shall be an Interest Payment Date with respect to all Obligations then outstanding under the applicable Facilities.

"Inventory Report" shall have the meaning ascribed thereto in the Service Agreement.

"Investment" means (a) any loan or other extension of credit (including the delivery of Guarantees, indemnities or other financial assistance) or capital contribution (including a transfer of property) to, or acquisition of any Shares, bonds, notes, debentures or other securities of, any Person, and (b) any purchase of any assets constituting all or substantially all of a business unit from any Person (excluding any real estate assets or any deposit, advance, loan or extension of credit having a term not exceeding 90 days representing a purchase price of inventory or supplies sold by such Person in the ordinary course of business); and **"Invest"** and **"Invested"** shall be construed accordingly.

"ISDA Master Agreement" means the 1992 International Swap and Derivatives Association, Inc. Master Agreement (Multi Currency – Cross-Border) as from time to time amended, restated or replaced by the International Swap and Derivatives Association, Inc., including the schedule thereto and any confirmation thereunder and as used in this Agreement in relation to the Eligible Hedge Agreements means the form of such agreement as entered into by any Loan Party with any Swap Lender.

"Judgment Currency" has the meaning ascribed thereto in Section 13.22.

"Lenders" means collectively, the banks and other financial institutions listed on the signature pages hereof as Lenders, any Person who may become a Lender pursuant to Article 12 and includes, without limitation, the Swingline Lender and the Fronting Lender, and their respective successors and permitted assigns, and, in the singular, any one of them.

"Letter of Credit" or **"LC"** means a letter of credit in form satisfactory to and issued by the Fronting Lender for the account of the applicable Borrower acting at the request of and in accordance with

the instructions of the Borrowers, to make payment in accordance with the terms and conditions thereof of an amount to or to the order of a third party in Canadian Dollars or United States Dollars, as required, and for certainty includes any Non-Financial LCs.

"Loan Parties" means, collectively, the Borrowers and the Guarantors, and **"Loan Party"** means any one of them.

"Long Term Debt" means with respect to any Person, at any particular time, Debt of such Person, which does not mature within 1 year.

"Majority Lenders" means:

- (a) where there are less than 3 Lenders, all of the Lenders; and
- (b) where there are 3 or more Lenders, Lenders whose Commitments, taken together, are at least 66.67% of the Total Commitment in effect at such time.

"Mark-to-Market" means, in respect of any Hedge Agreement and for any day on which the Mark-to-Market is calculated, the amount, if any, that would be payable by any Loan Party to a Swap Lender (expressed as a positive number, a **"Positive Mark-to-Market"**) or by such Swap Lender to any Loan Party (expressed as a negative number, a **"Negative Mark-to-Market"**), estimated by making at mid-market the calculations required by Section 6(e)(ii)(2)(A) of the ISDA Master Agreement between such Swap Lender, on the one hand, and the Loan Party, on the other hand, as if such ISDA Master Agreement were being terminated as a result of a Termination Event with two Affected Parties on that day of calculation. For purposes of this definition, capitalized terms used in this definition and not defined in this Agreement shall have the meanings ascribed to them in such ISDA Master Agreement.

"Material Adverse Effect" means any such matter, event or circumstance that individually or in the aggregate could reasonably be expected to have a material adverse effect on:

- (a) the business, financial condition, operations, property, assets or undertaking of any Loan Party or of the Loan Parties taken as a whole;
- (b) the ability of any Loan Party to perform its material obligations under any Material Contract or Permit;
- (c) the ability of the Loan Parties on a consolidated basis to pay any of the Obligations of the Loan Parties in accordance with this Agreement or as they become due;
- (d) the validity or enforceability of this Agreement, the Security, the Service Agreement or any other material Credit Document;
- (e) the rights and remedies of the Agent, the Lenders or any of them, under the Credit Documents; or
- (f) the priority ranking of any of the Encumbrances granted by the Security, other than in respect of Permitted Encumbrances.

"Material Contracts" means those contracts, franchises, licenses and other agreements entered into or assumed by a Loan Party with an agriculture or construction equipment manufacturer or

distributor which, if breached or terminated, could reasonably be expected to have a Material Adverse Effect and, for greater certainty, including, without limitation, all CNH Agreements.

"Material Disposition" means, at any time, a disposition (including a disposition which comprised of a series of transactions) of the Shares in any Loan Party or of all or substantially all of the Properties of any Loan Party, in each case which is completed in the immediately preceding twelve months.

"Material Subsidiary" means, at any time, any wholly-owned (whether owned directly or indirectly) Subsidiary of RMDI whose total assets constitute more than 5% of the Net Tangible Total Assets, whose total revenue (calculated on its preceding consecutive twelve month period) constitutes more than 5% of the consolidated revenue of RMDI for the then preceding consecutive twelve month period, or who has provided Security to the Agent.

"Maturity Date" means September 24, 2020, as the same may be extended from time to time pursuant to Section 3.6.

"Net Tangible Total Assets" means, without duplication, the total accounting value of the consolidated assets of the Loan Parties (net of depreciation and amortization), less the value attributed to intangible assets (including without limitation, goodwill, patents, trademarks, intellectual property, organization expenses, trade names, deferred costs, deferred charges and other similar intangible assets) as determined on a consolidated basis, in accordance with GAAP.

"Non BA Lender" means a Lender which does not stamp, for purposes of subsequent sale, or accept, a Bankers' Acceptance.

"Non-Advancing Lender" has the meaning ascribed thereto in Section 11.7(b).

"Non-Agreeing Lender" has the meaning ascribed thereto in Section 3.6(b).

"Non-Financial LCs" means Letters of Credit which are not "direct credit substitutes" (as determined by the Fronting Lender acting reasonably) within the meaning of the Capital Adequacy Requirements.

"Non-Real Estate Capital Expenditure" means a Capital Expenditure on a Capital Asset which does not relate to real property.

"Non-Real Estate Capital Expenditure Budget" means the budget prepared by the Borrowers and presented to the Agent in accordance with Section 9.2(d) detailing the amount of Non-Real Estate Capital Expenditures the Borrowers expect to make in the next Fiscal Year as amended from time to time as a result of Acquisitions.

"Notification Date" has the meaning ascribed thereto in Section 3.6(a).

"Notional Bankers' Acceptance" shall have the meaning associated thereto in Section 6.9(b).

"Obligations" means all of the present and future indebtedness, liabilities and obligations, direct or indirect, absolute or contingent, matured or unmatured of the Loan Parties (or any of them) owing to the Agent, the Lenders, the Swap Lenders or any of them, under, pursuant to or in connection with the Credit Documents and the Eligible Hedge Agreements including, without limitation, all Cash Management Obligations, principal, interest, fees, indemnities, costs and expenses owing by the Loan Parties (or any of them) thereunder and all actual and other

contingent amounts, fees and interest in respect of any unexpired Letter of Credit and outstanding Bankers' Acceptances, but subject to Section 2.7(e) in the case of Eligible Equity Hedge Agreements.

"**OFAC**" means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

"**Operating Facility**" means the extendible revolving loan facility more particularly described in Section 2.2.

"**Operating Facility Borrowing Base**" means the sum of, without duplication, calculated monthly:

- (a) 50% of the aggregate Book Value of Eligible Equipment Inventory manufactured in the then current calendar year or in the 5 calendar years prior to the then current calendar year (and that is not included in the calculation of the Flooring Facility Borrowing Base) plus 50% of the aggregate Book Value of Eligible Parts Inventory;
- (b) 50% of the aggregate Book value of Parts Inventory which, but for being manufactured by CNH, would otherwise be Eligible Parts Inventory hereunder; provided at all times that such Parts Inventory is secured by the Security;
- (c) 75% of the aggregate Book Value of Eligible Accounts Receivable;
- (d) 100% of the aggregate net Book Value of Fleet Vehicles; and
- (e) 60% of the appraised value of real property (including construction thereon) based on an Appraisal,

in each case, less Priority Payables, provided that:

- (i) the amount calculated in paragraph (e) may not contribute more than Cdn. \$15,000,000 toward the Operating Facility Borrowing Base; and
- (ii) any Property that forms part of the Operating Facility Borrowing Base cannot also form part of the Flooring Facility Borrowing Base.

"**Operating Facility Borrowing Base Certificate**" means a certificate of a Responsible Officer of RMDI, for and on behalf of RMDI and the other Borrowers, required from time to time pursuant to Section 9.2, the form of which is attached hereto as Schedule "H".

"**Operating Facility Commitment**" means the aggregate Commitments of the Operating Facility Lenders in respect of the Operating Facility set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"**Operating Facility Lenders**" means the Applicable Lenders having a Commitment in respect of the Operating Facility as set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"**Operating Facility Limit**" means, at any time and from time to time, the lesser of (i) the Operating Facility Commitment at that time and (ii) the Operating Facility Borrowing Base at that time.

"Operating Leases" means any lease or similar arrangement that, in accordance with GAAP, is not required to be classified and accounted for as a capital lease, but excluding, however, all real property leases used in the Business.

"OSFI" means the Office of the Superintendent of Financial Institutions Canada (or any successor thereto).

"Outstanding Principal" means, at any time, with respect to a Facility or the Facilities (as applicable), the aggregate of: (a) the principal amount of all outstanding Prime Rate Advances, plus the Equivalent Amount in Cdn. Dollars of the principal amounts outstanding of all US Base Rate Advances; and (b) the Face Amount of all outstanding BA Advances, Notional Bankers' Acceptances and Letters of Credit.

"Overdraft" means an amount owing by a Borrower to the Swingline Lender from time to time as a result of clearance of cheques or Drafts drawn on, or transfer of funds from, accounts of the Borrowers maintained with the Swingline Lender at its branch of account in Cdn. Dollars or U.S. Dollars for such purpose.

"Participant" shall have the meaning ascribed thereto in Section 12.3.

"Participation" shall have the meaning ascribed thereto in Section 12.3.

"Parts Inventory" means parts and accessories used to maintain, improve or accessorize Serial Number Goods and other equipment used in the agriculture or construction industry (other than accessions, parts and accessories installed in or affixed to Equipment Inventory), and which are owned by a Loan Party and form part of such Loan Party's non-floor inventory that it sells to arm's length third parties in the ordinary course of business; provided that goods classified as Equipment Inventory cannot also be classified as Parts Inventory.

"Payment Report" means the listing of Eligible Equipment Inventory financed under the Flooring Facility that has been sold during the applicable time period or is otherwise being repaid hereunder, substantially in the form of Schedule "K" attached hereto.

"Permits" means governmental licenses, authorizations, consents, registrations, exemptions, permits and other approvals required by Applicable Law.

"Permitted Debt" means:

- (a) all Obligations of the Borrowers (and each of them) to the Agent and the Lenders under this Agreement or under or secured by any other Credit Document;
- (b) Debt of the Loan Parties related to floor plan financing of agriculture or construction equipment; provided that (i) such Debt does not exceed an aggregate principal amount of Cdn. \$500,000,000 at any time, and (ii) the holder of such Debt has entered into a priority agreement with the Agent in form and substance satisfactory to the Agent;
- (c) Debt of the Loan Parties pursuant to a term loan made available by CNH, provided that (i) such Debt does not exceed an aggregate principal amount of Cdn. \$5,000,000 at any time, and (ii) CNH, as lender under such term loan, has entered into a subordination and postponement agreement with the Agent in form and substance satisfactory to the Agent;
- (d) all Debt of a Loan Party to another Loan Party;

- (e) Debt of the Loan Parties related to a corporate credit card facility, provided that such Debt does not exceed an aggregate principal amount of Cdn \$500,000 at any time;
- (f) all Debt of the Loan Parties (or any of them) secured by the Permitted Encumbrances; provided that Debt with respect to Purchase Money Security Interests, Operating Leases and Capital Leases (including, without limitation, any such Debt otherwise permitted under paragraphs (b), (c), (d) or (e) above) shall not exceed the aggregate amounts indicated in paragraphs (b) and (c) (as applicable) of the definition of "Permitted Encumbrances";
- (g) Subordinated Debt; and
- (h) such other Debt of any Loan Party which the Agent, acting on the instructions of the Majority Lenders, has consented to in writing.

"Permitted Disposition" means, in respect of any Loan Party:

- (a) any sale, trade or other disposition of any tools, implements, equipment, parts or machinery in the ordinary course of business;
- (b) the sale or other disposition of any Property, rights or interests by a Loan Party to another Loan Party; or
- (c) any sale, trade or other disposition of any tools, implements, equipment, parts or machinery (other in the ordinary course of business or by a Loan Party to another Loan Party); provided that the aggregate Book Value of such Property disposed of in any one Fiscal Year does not exceed 10% of the Book Value of the Net Tangible Total Assets in such Fiscal Year, as calculated based on the most recent Financial Statements delivered to the Agent in accordance with Section 9.2(g).

"Permitted Encumbrances" means, in respect of any Loan Party, any of the following:

- (a) liens for taxes, rates, assessments or other governmental charges or levies not yet due (or if overdue are being contested by such Person diligently and in good faith by appropriate proceedings and then, only for so long as such contestation effectively postpones the rights of the holders thereof to enforce such liens);
- (b) Purchase Money Security Interests with respect to which the holder of such Purchase Money Security Interest has entered into a priority agreement with the Agent in form and substance satisfactory to the Agent, and which do not at any time secure obligations exceeding the principal amount of Cdn. \$500,000,000 in the aggregate;
- (c) Purchase Money Security Interests (other than those described in paragraph (b)), Operating Leases and Capital Leases; provided such Purchase Money Security Interests, Operating Leases and Capital Leases do not at any time secure obligations exceeding the principal amount of Cdn. \$15,000,000;
- (d) inchoate liens, charges or encumbrances imposed or permitted by laws such as garagemens' liens, carriers' liens, builders' liens, materialmens' liens and other liens, privileges or other charges of a similar nature which relate to obligations not due or delinquent or if due or delinquent are being contested by such Person diligently and in good faith by appropriate proceedings;

- (e) liens to secure its assessments or current obligations which are not at the time overdue or otherwise dischargeable by the payment of money, and which are incurred in the ordinary course of business under workers' compensation laws, unemployment insurance or other social security legislation or similar legislation; provided that such liens are in amounts commensurate with such current obligations;
- (f) liens or any rights of distress reserved in or exercisable under any lease or sublease to which it is a lessee which secure the payment of rent or compliance with the terms of such lease or sublease; provided that such rent is not then overdue and it is then in compliance in all material respects with such terms;
- (g) the right reserved to or vested in any Governmental or Judicial Body by the terms of any lease, license, grant or Permit or by any statutory or regulatory provision to terminate any such lease, license, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;
- (h) any mortgage, charge, lien or security interest in respect of any deposits in connection with bids or tenders;
- (i) the Security;
- (j) all reservations in the original grant from the Crown of any lands or interests therein and all statutory exceptions, qualifications and reservations in respect of title;
- (k) easements, rights-of-way, servitudes or other similar rights in and (including, without limitation, rights-of-way and servitudes for railways, sewers, drains, pipe lines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved or taken by other Persons which either alone or in the aggregate do not detract from the value of such land or materially impair its use in the operation of any Loan Party's Business;
- (l) security given by any Loan Party to a public utility or any municipality or governmental or other public authority when required by such public utility or municipality or other Governmental or Judicial Body in the ordinary course of business of any Loan Party in connection with such Loan Party's operations; provided such security does not either alone or in the aggregate materially detract from the value of the property or assets affected thereby or materially impair its use in the conduct of such Loan Party's Business;
- (m) the mortgage granted to Canadian Western Bank with respect to the real property legally described as []¹, provided that the Debt secured thereby shall not exceed \$875,000;
- (n) Encumbrances postponed and subordinated to the Security on terms and conditions satisfactory to the Agent; and
- (o) other Encumbrances agreed to in writing by the Majority Lenders.

"Permitted Hedge Agreement" means a Hedge Agreement entered into by a Loan Party with a counterparty which is not a Swap Lender in the ordinary course of business and for the purpose

¹ Legal description of mortgaged land redacted.

of managing currency risk, interest rate risk or equity risk of such Loan Party, and not for speculative purposes, and which has a term not exceeding seven years.

"**Person**" or "**person**" means any individual, sole proprietorship, corporation, company, partnership, unincorporated association, association, institution, entity, party, trust, joint venture, estate or other judicial entity or any governmental body.

"**PPSA**" means the *Personal Property Security Act* (Alberta), as amended, and all regulations thereunder.

"**Prime Rate**"¹ means, for any day with respect to Prime Rate Advances, the greater of:

- (a) the floating annual rate of interest announced from time to time by the Agent as being its reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans made by it in Canada; and
- (b) a rate of interest per 365 day period equal to the CDOR Rate for one month Canadian Dollar bankers' acceptances plus [] bps.

"**Prime Rate Advance**" means an Advance in Canadian Dollars (including all amounts advanced to any Borrower by way of Overdraft) bearing interest based on the Prime Rate and includes deemed Prime Rate Advances provided for in Section 6.11.

"**Prior Credit Agreement**" has the meaning ascribed thereto in the Recitals in this Agreement.

"**Priority Payable**" means, at any time, any amount due and payable or accrued at such time by an obligor which is secured by an Encumbrance or statutory right or claim in favour of any Governmental or Judicial Body which ranks or is capable of ranking prior to or *pari passu* with the Encumbrances created by the Security including, without limitation, amounts due and payable for wages, vacation pay, termination and severance pay, employee deductions (including income, withholding, social security and other employment taxes), sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of GST input credits), workers compensation premiums, municipal taxes, government royalties, pension fund obligations (including deemed trusts, employee and employer pension plan contributions (including "normal cost", "special payments" and any other payments in respect of any funding deficiencies or shortfalls)), overdue rents or Taxes, other claims in arrears and secured by statutory Encumbrances or deemed trusts, including, without limitation, warehousing liens and storage liens, and claims in respect of arrears of rent or other amounts payable under a lease or rental agreement for real property at which the subject inventory of the obligor is located.

"**Proceeds**" means the aggregate proceeds (including, without limitation, any deposit with respect to any sale, transfer or other disposition where the same is actually completed) received by or on behalf of a Loan Party resulting from the sale, transfer or other disposition of any Property, net of reasonable commission, underwriting fees, brokerage and investment banking fees and legal and other out-of-pocket expenses, and taxes paid or expected to be payable as a result of such sale, transfer or disposition (including GST and PST).

¹ Fee information redacted.

"Property" means, with respect to any Person, all or any portion of its undertaking, property and assets.

"Proportionate Share" means, at any time, as nearly as practical in the determination of the Agent:

- (a) with respect to the amount of any Advance to be made available by any Lender under any Facility or any repayments of any Facility to be distributed to any Lender, the proportion that the limit of the Commitment of such Lender (less the Swingline Facility Commitment in the case of the Swingline Lender) is of the limit of the Commitments of all Lenders (less the Swingline Facility Commitment) at such time;
- (b) after the giving of an Acceleration Notice under Section 10.2 and subject in respect of the Lenders to the provisions of Section 11.10, with respect to the Obligations then outstanding by the Loan Parties to all of the Lenders and the Swap Lenders, the percentage of the then outstanding Obligations of the Loan Parties to each Lender or Swap Lender (not including uncrystallized obligations and liabilities under Eligible Hedge Agreements) determined by dividing the amount of the then outstanding Obligations of the Loan Parties to each Lender or Swap Lender by the aggregate of all of the then outstanding Obligations owed by the Loan Parties to all of the Lenders and Swap Lenders;
- (c) upon the occurrence of a Default or Event of Default that is continuing, with respect to the Obligations then outstanding by the Loan Parties to all of the Lenders (other than the Swap Lenders), the percentage of the then outstanding Obligations of the Loan Parties to each such Lender determined by dividing the amount of the then outstanding Obligations of the Loan Parties to each such Lender by the aggregate of all of the then outstanding Obligations owed by the Loan Parties to all of the Lenders (other than the Swap Lenders); and
- (d) for any other purpose, the proportion that the limit of the Commitment of such Lender is of the limit of the Commitments of all Lenders at such time.

Notwithstanding any other provision of this Agreement, with respect to the Flooring Facility only, at all times prior to the giving of an Acceleration Notice under Section 10.2, if the aggregate Outstanding Principal advanced or to be advanced is less than or equal to the Total Commitment under the Flooring Facility less DLL's Commitment under the Flooring Facility, DLL's Proportionate Share shall be 0% and the Proportionate Shares of the other Lenders shall be adjusted accordingly; provided, however, that the foregoing exception shall not apply to Proportionate Shares in respect of standby fees payable pursuant to Section 4.5.

"Purchase Money Security Interest" means an Encumbrance created by any Loan Party securing indebtedness incurred to finance the acquisition of Property; provided that (a) such Encumbrance is created within 15 days with the acquisition of such assets, (b) such Encumbrance does not at any time encumber any Property of any Loan Party other than the Property financed by such indebtedness and the proceeds thereof, (c) the amount of indebtedness secured thereby is not materially increased subsequent to such acquisition, and (d) the principal amount of indebtedness secured by any such Encumbrance at no time exceeds 100% of the original purchase price of such asset at the time it was acquired.

"**Purchasing Lender**" has the meaning ascribed thereto in Section 3.6(e).

"**Real Estate Budget**" has the meaning ascribed thereto in Section 5.3(b).

"**Receiving Lender**" has the meaning ascribed thereto in Section 11.10.

"**Register**" has the meaning ascribed thereto in Section 12.2(c).

"**Release**" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, leeching or migration of any element or compound in or into the indoor or outdoor environment (including the abandonment or disposal of any barrels, tanks, containers or receptacles containing any contaminant), or in, into or out of any vessel or facility, including the movement of any contaminant through the air, soil, subsoil, surface, water, groundwater, rock formation or otherwise.

"**Relevant Amount**" has the meaning ascribed thereto in Section 1.6.

"**Relevant Jurisdiction**" means, with respect to any Loan Party, any province or territory in Canada, any state or district of the United States of America or any relevant political subdivision in any other country in which such Loan Party (a) has its registered office, chief executive office or principal place of business, (b) is incorporated or otherwise organized, (c) is registered to carry on business, (d) carries on material business or (e) owns material Property.

"**Request Date**" has the meaning ascribed thereto in Section 3.6(a).

"**Request for Extension**" means a request by RMDI, for and on behalf of itself and the other Borrowers, for the Lenders to extend the Maturity Date pursuant to Section 3.6, in the form attached hereto as Schedule "D", executed by a Responsible Officer of RMDI.

"**Requested Lender**" has the meaning ascribed thereto in Section 3.6(a).

"**Responsible Officer**" means the chief executive officer, the president, the chief operating officer or the chief financial officer of the applicable Loan Party.

"**Revolving Term Facility**" means the extendible revolving term loan facility more particularly described in Section 2.4.

"**Revolving Term Facility Commitment**" means the aggregate Commitments of the Revolving Term Facility Lenders in respect of the Revolving Term Facility set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"**Revolving Term Facility Lenders**" means the Applicable Lenders having a Commitment in respect of the Revolving Term Facility as set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"**Revolving Term Facility Limit**" means, at any time and from time to time, the Revolving Term Facility Commitment at that time.

"**RMDA**" means Rocky Mountain Dealer Acquisition Corp.

"**RMDI**" means Rocky Mountain Dealerships Inc.

"**RMEL**" means Rocky Mountain Equipment Canada Ltd.

"**Rollover**" means (a) with respect to any BA Advance, a rollover of a BA Advance into another BA Advance within the same Facility as permitted hereby, and (b) with respect to Letters of Credit, the extension or replacement of an existing Letter of Credit, provided the beneficiary thereof (including any successors or permitted assigns thereof) remains the same, the Face Amount is not increased, the currency in which the same is denominated remains the same and the terms upon which the same may be drawn remain the same, and "**Rolled Over**" has a corresponding meaning.

"**Rollover Notice**" means a notice by a Borrower requesting a Rollover hereunder substantially in the form annexed hereto as Schedule "C".

"**Sanctions**" means the economic sanctions laws, regulations, orders, embargoes or restrictive measures administered, enacted or enforced by any Sanctions Authority, including any sanctions or requirements imposed by, or based upon the obligations or authorities set forth in, the *Special Economic Measures Act* (Canada), the *United Nations Act* (Canada), the *Criminal Code* (Canada), the *Freezing of Assets of Corrupt Foreign Officials Act* (Canada), the *Foreign Extraterritorial Measures Act* (Canada), the *Export and Import Permits Act* (Canada), the Executive Order, the *U.S. Bank Secrecy Act* (31 U.S.C. §§ 5311 et seq.), the *U.S. Money Laundering Control Act of 1986* (18 U.S.C. §§ 1956 et seq.), the *USA Patriot Act of 2001*, the *U.S. International Emergency Economic Powers Act* (50 U.S.C. §§ 1701 et seq.), the *U.S. Trading with the Enemy Act* (50 U.S.C. App. §§ 1 et seq.), the *U.S. United Nations Participation Act*, the *U.S. Syria Accountability and Lebanese Sovereignty Act*, the *U.S. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010* or the *Iran Sanctions Act* (United States), or any of the foreign assets control regulations of the U.S. Department of the Treasury (including but not limited to 31 CFR, Subtitle B, Chapter V) or any other law or executive order relating thereto or regulation administered by OFAC, in all cases, only to the extent such economic sanctions laws, regulations, orders, embargoes or restrictive measures would not violate Applicable Laws in Canada.

"**Sanctions Authority**" means any of: (a) the Canadian government, (b) the United States government, (c) the United Nations, (d) the European Union, (e) the United Kingdom, or (f) the respective governmental institutions, departments and agencies of any of the foregoing, including Global Affairs Canada, Public Safety Canada, OFAC, the United States Department of State, and Her Majesty's Treasury of the United Kingdom; and "**Sanctions Authorities**" means all of the foregoing Sanctions Authorities, collectively.

"**Sanctions List**" means the "Specially Designated Nationals and Blocked Persons" list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury of the United Kingdom, or any substantially similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities.

"**Sanctioned Person**" means:

- (a) a person that is designated under, listed on, or owned or controlled by a person designated under or listed on, or acting on behalf of a person designated under or listed on, any Sanctions List;
- (b) a person that is located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organized under the laws of a country or territory that is the target of country-wide or territory-wide Sanctions;
- (c) a person that is otherwise a target of Sanctions ("**target of Sanctions**" signifying a person with whom a person or other national of a Sanctions Authority would be prohibited or restricted by Applicable Laws from engaging in trade, business or other activities); or
- (d) any other person to which one or more Lenders would not be permitted to make a loan, or provide funding, in accordance with the Sanctions, or otherwise deal with pursuant to the Sanctions.

"**Section**" means the designated section of this Agreement.

"**Security**" means the guarantees and security documents held from time to time by the Agent on behalf of itself, the Lenders and the Swap Lenders, securing or intended to secure payment and performance of the Obligations of the Loan Parties to the Agent, the Lenders and the Swap Lenders (and to each of them), including, without limitation, the guarantees and security documents described in Section 4.6, any amendments thereto, any agreements supplemental to or in implementation of the security documents, and any and all other documents, instruments or agreements held from time to time by the Agent for such purposes.

"**Serial Number Goods**" has the meaning ascribed thereto in the PPSA.

"**Service Agreement**" means the First Amended and Restated Service Agreement dated October 19, 2012 entered into by and between HSBC, the Service Provider and RMDI, as assigned by HSBC to the Agent, as further amended, modified, supplemented, restated or replaced from time to time in accordance with the provisions thereof.

"**Service Provider**" means DLL, in its capacity as service provider under, and signatory to, the Service Agreement, and includes any successor service provider appointed pursuant to the terms of the Service Agreement.

"**Shareholders**" means the registered holders from time to time of the Common Shares.

"**Shares**" means:

- (a) in respect of a corporation, shares of any class of a corporation:
 - (i) carrying voting rights in all circumstances, or
 - (ii) which carry the right to vote conditional on the happening of an event if such event shall have occurred and be continuing,

provided that subparagraph (ii) above shall not include voting rights created solely by statute, such as those rights created pursuant to section 183(4) of the *Business Corporations Act* (Alberta) as in effect on the date hereof;

- (b) in respect to a trust, trust units of such trust and shares exchangeable into trust units of such trust:
 - (i) carrying voting rights in all circumstances, or
 - (ii) which carry the right to vote conditional on the happening of an event if such event shall have occurred and be continuing,
- (c) in respect to a partnership, the partnership interests or partnership units:
 - (i) carrying voting rights in all circumstances, or
 - (ii) which carry the right to vote conditional on the happening of an event if such event shall have occurred and be continuing.

"Subordinated Debt" means Debt which is approved by the Majority Lenders and is subordinated to all the Obligations in favour of the Lenders on terms acceptable to the Majority Lenders, in their sole discretion.

"Subsidiary" means:

- (a) a Person of which another Person alone or in conjunction with its other Subsidiaries owns an aggregate number of Shares sufficient to enable the election of a majority of the directors regardless of the manner in which other Shares are voted by any Loan Party or one or more of their respective Subsidiaries, or by a combination thereof;
- (b) a Person of which another Person alone or in conjunction with its other Subsidiaries has, through the operation of any agreement or otherwise, the ability to elect or cause the election of a majority of the directors or otherwise exercise control over the management and policies of such Person by any Loan Party or one or more of their respective Subsidiaries, or by a combination thereof;
- (c) any trust of which 50% or more of the equity or beneficial interests therein are owned or controlled by any Loan Party or one or more of their respective Subsidiaries, or by a combination thereof;
- (d) any partnership or joint venture of which any Loan Party:
 - (i) is the general or managing partner, or
 - (ii) directly or indirectly, owns more than 50% of the equity or beneficial interest thereof,

and shall include any Person in like relation to a Subsidiary. Unless otherwise specified herein, Subsidiary means a Subsidiary of RMDI.

"Successor Agent" has the meaning ascribed thereto in Section 11.15.

"Surplus Lender" has the meaning ascribed thereto in Section 3.1(b).

"Swap Lender" means a Person which, at the time that it entered into any Hedge Agreement with any Loan Party, was a Lender or an Affiliate of a Lender.

"Swingline Facility" means the extendible revolving swingline facility made available by the Swingline Lender more particularly described in Section 2.1.

"Swingline Facility Commitment" means the Commitment of the Swingline Lender in respect of the Swingline Facility set out in Schedule "A" hereto, as such Schedule may hereafter be amended from time to time.

"Swingline Lender" means CIBC, and its successors and permitted assigns.

"Swingline Facility Limit" means, at any time and from time to time, the lesser of (i) the Swingline Facility Commitment and (ii) the Operating Facility Limit.

"Takeover" has the meaning ascribed thereto in Section 2.6.

"Tangible Net Worth" means, in respect of RMDI, on a consolidated basis, the total (without duplication) of Equity of such Borrower, plus the amount of all Convertible Debentures, less, to the extent otherwise included, (a) any value attributed to intangible assets as such term is defined in GAAP (such as but not limited to goodwill, patents, trademarks, intellectual property, organization expenses, trade names, deferred costs and deferred charges), (b) receivables owed by any Affiliate of a Loan Party, or any director, officer, employee or partner of a Loan Party or an Affiliate of a Loan Party, (c) any Debt Service Obligation owed from any Affiliate of any Loan Party, or any holder of Shares in any Loan Party, to a Loan Party, and (d) the net book value of Shares in any Affiliate of any Loan Party.

"Target" has the meaning ascribed thereto in Section 2.6.

"Taxes" means all taxes, levies, imposts, stamp taxes, duties, deductions, withholdings and similar impositions payable, levied, collected, withheld or assessed as of the date of this Agreement or at any time in the future under the laws of Canada or any political subdivision thereof, and "Tax" shall have a corresponding meaning.

"Total Commitment" means the aggregate of the Commitments of the Lenders under the Facilities, or such lesser amount after giving effect to the reductions of the Facilities referred to in Sections 3.1, 3.2, 3.3, 3.4, 3.6 and 3.7.

"Total Debt" means, in respect of any Loan Party, on a consolidated basis, Debt, but excluding, without duplication and to the extent otherwise included in Debt, (a) any future income Taxes, (b) Debt under the Convertible Debentures, and (c) Subordinated Debt.

"Total Debt to Tangible Net Worth Ratio" means, at any time, the ratio of:

- (a) Total Debt of RMDI at the end of its most recently completed Fiscal Quarter, determined on a consolidated basis; to
- (b) Tangible Net Worth of RMDI at the end of its most recently completed Fiscal Quarter, determined on a consolidated basis,

provided, however, that for the purpose of calculation of Total Debt to Tangible Net Worth Ratio, Total Debt shall be calculated net of cash and cash equivalents.

"Trailing Fiscal Quarters" means the most recently completed consecutive 4 Fiscal Quarters.

"Undrawn Operating Facility Availability" means the Operating Facility Limit less the Outstanding Principal under the Operating Facility and Swingline Facility.

"Unfunded Capex" means for any period, the sum (without duplication) of the aggregate amount of all Capital Expenditures of the Loan Parties made during such period, less:

- (a) any such Capital Expenditures that are specifically funded by:
 - (i) Capital Leases and other Drawdowns under the Revolving Term Facility during such period;
 - (ii) Advances under the Operating Facility used to finance real property (including construction thereon) during such period;
 - (iii) new Investments in the Borrowers, by way of equity issuance or capital contributions or Subordinated Debt or Convertible Debentures, in each case as permitted hereunder; and
- (b) the Undrawn Operating Facility Availability; and
- (c) plus the cash on hand of the Loan Parties at the date of determination,

provided that the amount of Unfunded Capex shall at no time be less than zero.

"US Base Rate"¹ means, on any day, the floating annual rate of interest equal to the greater of:

- (a) the rate quoted from time to time by the Agent for floating rate advances in US Dollars with respect to a US Base Rate Advance; and
- (b) the Federal Funds Effective Rate (360 days) and []%.

"US Base Rate Advance" means an Advance in US Dollars (including all amounts advanced to any Borrower by way of Overdraft) bearing interest based on the US Base Rate.

"U.S. Dollars", **"US Dollars"**, **"U.S. \$"** and **"US \$"** mean lawful money of the United States of America.

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

1.2 Knowledge

Where any representation, warranty or other provision of this Agreement is qualified by reference to the knowledge of any Loan Party, after reasonable inquiry, it shall be deemed to refer to the actual knowledge of the senior management of any Loan Party after having made such inquiries of its Responsible Officers, and, if as a result of the actual knowledge of such Responsible Officers after having made such inquiries, there is an issue or matter known that

¹ Fee information redacted.

would reasonably require advice from professional advisors, the professional advisors of any Loan Party likely to have knowledge of the relevant subject matter.

1.3 Headings and Table of Contents

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

1.4 References

Unless something in the subject matter or context is inconsistent therewith, all references to Sections, Articles and Schedules are to Sections, Articles of and Schedules to this Agreement.

1.5 Rules of Interpretation

Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, words importing any gender include all genders, references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto, and "in writing" or "written" includes printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception, including by facsimile.

1.6 Generally Accepted Accounting Principles

All financial statements required to be furnished by the Borrowers (or any of them) to the Agent hereunder shall be prepared in accordance with GAAP. Each accounting term used in this Agreement, unless otherwise defined herein, has the meaning assigned to it under GAAP and, except as otherwise provided herein, reference to any balance sheet item, statement of net earnings and comprehensive income item or statement of cash flows item means such item as computed from the applicable financial statement prepared in accordance with GAAP.

If there occurs a change in GAAP and such change would require disclosure under GAAP in the Financial Statements and would cause any amount required to be determined hereunder (a "**Relevant Amount**") to be different than the amount that would be determined without giving effect to such change, the Borrowers shall notify the Agent of such change (an "**Accounting Change**"). Such notice (an "**Accounting Change Notice**") shall describe the nature of the Accounting Change, its effect on the current and immediately prior year's Financial Statements in accordance with GAAP and state whether the Borrowers desire to revise the method of calculating one or more of the Relevant Amounts (including the revision of any of the defined terms used in the determination of such Relevant Amount) in order that amounts determined after giving effect to such Accounting Change and the revised method of calculating such Relevant Amount will approximate the amount that would be determined without giving effect to such Accounting Change and without giving effect to the revised method of calculating such Relevant Amount. The Accounting Change Notice shall be delivered to the Agent within 45 days of the end of the Fiscal Quarter in which the Accounting Change is implemented or, if such Accounting Change is implemented in the fourth Fiscal Quarter or in respect of an entire Fiscal Year, within 90 days of the end of such period. Promptly after receipt from the Borrowers of an Accounting Change Notice, the Agent shall deliver to each Lender a copy of such Accounting Change Notice.

If, pursuant to the Accounting Change Notice, the Borrowers do not indicate that they desire to revise the method of calculating one or more of the Relevant Amounts, the Lenders may,

within 30 days of their receipt of the Accounting Change Notice, notify the Agent that they wish to revise the method of calculating one or more of the Relevant Amounts in the manner described above. If the Majority Lenders so notify the Agent, the Agent shall promptly notify the Borrowers.

If either the Borrowers or the Majority Lenders so indicate that they wish to revise the method of calculating one or more of the Relevant Amounts, the Borrowers, the Agent and the Majority Lenders shall in good faith attempt to agree on a revised method of calculating such Relevant Amounts. If, however, within 30 days of the foregoing notice by the Borrowers or the Agent (on behalf of the Majority Lenders) of the desire to revise the method of calculating one or more of the Relevant Amounts, the Borrowers, the Agent and the Majority Lenders have not reached agreement in writing on such revised method of calculation, such method of calculation shall not be revised and all amounts to be determined hereunder shall be determined without giving effect to the Accounting Change. For greater certainty, if no notice of a desire to revise the method of calculating the Relevant Amounts in respect of an Accounting Change is given by either the Borrowers or the Majority Lenders within the applicable time period described above, the method of calculating a Relevant Amount shall not be revised in response to such Accounting Change and all amounts to be determined pursuant to such Relevant Amounts shall be determined after giving effect to such Accounting Change.

If a Compliance Certificate is delivered in respect of a Fiscal Quarter or Fiscal Year in which an Accounting Change is implemented without giving effect to any revised method of calculating any Relevant Amount, and subsequently, as provided above, the method of calculating one or more of the Relevant Amounts is revised in response to such Accounting Change, or the amounts to be determined pursuant to any Relevant Amount are to be determined without giving effect to such Accounting Change, the Borrowers shall deliver a revised Compliance Certificate. Any Event of Default arising as a result of the Accounting Change and which is cured by this Section 1.6 shall be deemed to be of no effect *ab initio*.

1.7 Time

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

1.8 Monetary References

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

1.9 Payment for Value

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

1.10 Schedules

Schedule "A"	-	Commitments of Lenders
Schedule "B"	-	Form of Compliance Certificate
Schedule "C"	-	Form of Drawdown Notice
Schedule "D"	-	Request for Extension
Schedule "E"	-	Disclosure Schedule
Schedule "F"	-	Assignment Agreement
Schedule "G"	-	Material Contracts

Schedule "H"	-	Operating Facility Borrowing Base Certificate
Schedule "I"	-	Repayment Notice
Schedule "J"	-	Funding Report
Schedule "K"	-	Payment Report
Schedule "L"	-	Request for Increase
Schedule "M"	-	Grandfathered Hedges

ARTICLE 2 THE FACILITIES

2.1 Swingline Facility

- (a) Subject to the provisions of this Agreement, the Swingline Lender agrees to provide a revolving credit facility (the "**Swingline Facility**") under which the Borrowers may borrow, repay and reborrow an aggregate principal amount up to the Swingline Facility Limit, as a sublimit of the Operating Facility. At the option of the Borrower, the Swingline Facility may be used by requesting Prime Rate Advances and US Base Rate Advances from the Swingline Lender; in each case by way of Overdraft without notice. Each Advance under the Swingline Facility by way of Overdraft in Canadian Dollars shall automatically be deemed to be a Prime Rate Advance. Each Advance under the Swingline Facility by way of Overdraft in US Dollars shall automatically be deemed to be a US Base Rate Advance. The Borrowers covenant and agree not to effect any Overdraft hereunder which would cause the Outstanding Principal under the Swingline Facility to exceed the Swingline Facility Limit or cause the Outstanding Principal under the Operating Facility to exceed the Operating Facility Limit at any time, and acknowledges that the Swingline Lender reserves the right to refuse to honour any Overdraft hereunder which, in the opinion of the Swingline Lender, would have the effect of causing the Swingline Facility Limit or the Operating Facility Limit to be so exceeded.
- (b) Upon execution by the Borrowers of the applicable "pooled accounts agreements" reasonably required by the Swingline Lender, the Swingline Lender shall notionally combine and consolidate the individual accounts of the Borrowers for the purpose of determining the amount outstanding under the Swingline Facility in accordance with such pooled accounts agreements.

2.2 Operating Facility

- (a) Subject to the provisions of this Agreement, the Operating Facility Lenders agree to provide a revolving credit facility (the "**Operating Facility**") under which the Borrowers may borrow, repay and reborrow an aggregate principal amount up to the Operating Facility Limit; provided that the obligation of each Operating Facility Lender to make Advances under the Operating Facility shall be several and shall not exceed its Proportionate Share of the Operating Facility Commitment.
- (b) At the option of the Borrowers, the Operating Facility may be used by requesting Prime Rate Advances, US Base Rate Advances, BA Advances from the Operating Facility Lenders. In addition, the Borrowers may make Drawdowns and Rollovers under the Operating Facility by way of Letters of Credit denominated in Canadian Dollars or United States Dollars; provided that, the Face Amount of all unexpired

Letters of Credit under and as a sublimit of the Operating Facility (determined at the time each Letter of Credit is issued, subject to Section 3.5) shall not exceed Cdn. \$10,000,000.

- (c) The Operating Facility shall only be used by the Borrowers to assist with financing their general corporate operating requirements and to finance Capital Expenditures.

2.3 Flooring Facility

- (a) Subject to the provisions of this Agreement, the Flooring Facility Lenders agree to provide a revolving credit facility (the "**Flooring Facility**") under which the Borrowers may borrow, repay and reborrow an aggregate principal amount up to the Flooring Facility Limit; provided that the obligation of each Flooring Facility Lender to make Advances under the Flooring Facility shall be several and shall not exceed its Proportionate Share of the Flooring Facility Commitment.
- (b) At the option of the Borrowers, the Flooring Facility may be used by requesting Prime Rate Advances, BA Advances or US Base Rate Advances from the Flooring Facility Lenders.
- (c) The Flooring Facility shall only be used by the Borrowers to finance the purchase of Eligible Equipment Inventory (to the extent such Eligible Equipment Inventory will contribute to the Flooring Facility Borrowing Base).
- (d) Notwithstanding any other provision of this Agreement, Advances under the Flooring Facility shall only be made:
 - (i) semi-monthly within 3 Business Days after the 15th day of each calendar month or within 3 Business Days after the last day of each calendar month (subject to provision by the applicable Borrower(s) of notice required under Section 6.5); or
 - (ii) at any time when the principal amount of the requested Advance exceeds Cdn. \$2,000,000 (subject to provision by the applicable Borrower(s) of notice required under Section 6.5); or
 - (iii) concurrently with any repayment of the Flooring Facility pursuant to Section 3.9 or Section 3.10, with the amount of the Advance being the amount by which the payments under Section 3.9 and Section 3.10 which would otherwise be required are reduced and provided the other conditions precedent to Advances under the Flooring Facility are satisfied.

2.4 Revolving Term Facility

- (a) Subject to the provisions of this Agreement, the Revolving Term Facility Lenders agree to provide a revolving credit facility (the "**Revolving Term Facility**") under which the Borrowers may borrow, repay and reborrow an aggregate principal amount up to the Revolving Term Facility Limit; provided that the obligation of each Revolving Term Facility Lender to make Advances under the Revolving Term Facility shall be several and shall not exceed its Proportionate Share of the Revolving Term Facility Commitment.

- (b) At the option of the Borrowers, the Revolving Term Facility may be used by requesting Prime Rate Advances, BA Advances or US Base Rate Advances from the Revolving Term Facility Lenders.
- (c) The Revolving Term Facility shall only be used by the Borrowers to:
 - (i) finance up to 60% of the cost of any Acquisitions; and
 - (ii) finance up to 75% of completed real property, based on the lower of: (A) the appraised value of the real property being financed, and (B) the purchase price of the real property being financed.

2.5 Revolvement – Facilities

- (a) The principal amount of any Advance under the Swingline Facility that is repaid may be re-borrowed from time to time, subject to the restrictions set out in Section 2.1, until the Maturity Date.
- (b) The principal amount of any Advance under the Operating Facility that is repaid may be re-borrowed from time to time, subject to the restrictions set out in Section 2.2, until the Maturity Date.
- (c) The principal amount of any Advance under the Flooring Facility that is repaid may be re-borrowed from time to time, subject to the restrictions set out in Section 2.3, until the Maturity Date.
- (d) The principal amount of any Advance under the Revolving Term Facility that is repaid may be re-borrowed from time to time, subject to the restrictions set out in Section 2.4, until the Maturity Date.

2.6 Takeover Notification

In the event any Borrower wishes to utilize Advances to offer to, or to provide funds to any other Loan Party to, acquire or offer to acquire directly or indirectly (which shall include an offer to purchase securities, solicitation of an offer to sell securities, or an acceptance of an offer to sell securities, whether or not the offer to sell was solicited, or any combination of the foregoing) outstanding Shares or other securities of any Person (other than (i) a private issuer as defined under the *Securities Act* (Alberta), or (ii) a corporation, limited partnership or trust whose Shares are directly or indirectly held by one Person) (for the purposes of this Section 2.6, the "**Target**") where, as of the date of the offer to acquire, the Shares or other securities that are subject to the offer to acquire, together with the Shares or other securities of the Target that are beneficially owned, or over which control or direction is exercised, by any Loan Party and any Person acting jointly or in concert with any thereof on the date that the offer to acquire is made, constitute in the aggregate such percentage of outstanding Shares or other securities as would result in the offer to acquire being considered to be a "takeover bid" under any law or regulation applicable to the Target (a "**Takeover**"), then prior to or concurrently with delivery to the Agent of any Drawdown Notice pursuant to Section 6.5 requesting one or more Advances, the proceeds of which are to be utilized to finance such Takeover, such Borrower shall provide to the Agent evidence satisfactory to the Agent (acting reasonably) that the board of directors or like body of the Target, or the holders all of the Shares or other securities of the Target, has or have approved, accepted or recommended to securityholders acceptance of the Takeover.

2.7 Eligible Hedge Agreements

- (a) In addition to the Facilities, at a Loan Party's request, a Swap Lender may agree, but is not obligated, to enter into Hedge Agreements with such Loan Party from time to time subject to the following:
- (i) each such Hedge Agreement is a Currency Hedge Agreement, an Interest Hedge Agreement or an Equity Hedge Agreement entered into by a Loan Party in the ordinary course of business and for the purpose of managing currency risk, interest rate risk or equity risk of such Loan Party, and not for speculative purposes; and
 - (ii) the Borrower shall enter into an ISDA Master Agreement with the applicable Swap Lender, along with such other documentation required by such Swap Lender, in the forms required by the applicable Swap Lender, the terms of which are not to be inconsistent with this Agreement and which provide for cross-default hereto; and
 - (iii) each such Hedge Agreement has a term not exceeding seven years.
- (b) Upon a Default or Event of Default hereunder, a Swap Lender may terminate all or any Eligible Hedge Agreements in accordance with their terms. Such Swap Lender shall apply any amount owing by such Swap Lender to the Loan Parties (or any of them) on termination of such Eligible Hedge Agreements against the obligations of the Loan Parties (and each of them) to such Swap Lender thereunder and any amount owing to such Swap Lender by the Loan Parties (or any of them) on such termination shall be added to the Obligations of the Loan Parties (and each of them) under this Agreement.
- (c) In the event that there is any inconsistency at any time between the terms of this Agreement and any particular Eligible Hedge Agreement, the terms of such Eligible Hedge Agreement shall prevail for the purposes of the relevant Eligible Hedge Agreement.
- (d) Subject to Section 2.7(e), the parties agree that all indebtedness, liabilities and obligations under Eligible Hedge Agreements shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with all Debt under the Facilities.
- (e) Notwithstanding anything contained herein to the contrary, the parties agree that all indebtedness, liabilities and obligations under Eligible Equity Hedge Agreements shall be secured by the Security on a *pari passu* basis and shall rank *pari passu* with all Debt under the Facilities; provided that the aggregate indebtedness, liabilities and obligations under all such Eligible Equity Hedge Agreements secured by the Security shall be limited to Cdn. \$10,000,000 after the termination thereof, less the total amount of issued Letters of Credit which secure Equity Hedge Agreements which are not Eligible Equity Hedge Agreements.

2.8 Previous Advances and Obligations Under the Prior Credit Agreement

- (a) Existing BAs: The Borrowers, Agent and Lenders hereby acknowledge that the Existing BAs may be outstanding on the Effective Date. Notwithstanding any provision hereof or in any other Credit Document to the contrary, it is

acknowledged and agreed that all rights and interests of the Lenders in respect of, and any obligation of the Borrowers (or any of them) to pay or reimburse the Lenders in respect of, the Existing BAs are solely a risk and for the account of the Lenders based upon their respective Proportionate Shares as in effect prior to and without regard to the increases Commitments contemplated by this Agreement. Notwithstanding the foregoing, from time to time, as the Existing BAs mature and Rollovers and Conversions are made by the Borrowers (or any of them) in respect thereof, each of the Lenders shall participate in the Advances effecting such Rollovers and Conversions to the full extent of its Proportionate Share therein after giving effect to the increase in Commitments contemplated by this Agreement.

- (b) Other Existing Advances: The Borrowers, Agent and Lenders agree that all Obligations under the Prior Credit Facilities will be deemed to be outstanding hereunder and under the applicable Facilities.

ARTICLE 3 EXTENSION AND REPAYMENT

3.1 Reduction and Repayment of Advances – Swingline Facility

On the earlier of the Maturity Date (for the Swingline Lender) and any demand for repayment of the Obligations pursuant to Article 10:

- (a) the Swingline Facility shall be cancelled as a sublimit of the Operating Facility and any outstanding Obligations under the Swingline Facility shall be deemed to be outstanding under the Operating Facility in accordance with the Proportionate Share of each Operating Facility Lender; and
- (b) the Agent shall allocate Advances under the Swingline Facility among the Lenders so that the total Advances under all of the Facilities matches the Proportionate Share of each Lender. If required, any Lender whose allocated Advances are greater than its Proportionate Share (the “**Surplus Lender**”) shall sell to any Lender whose allocated Advances are less than its Proportionate Share (the “**Deficit Lender**”) and the Deficit Lender shall purchase from the Surplus Lender, for cash, at par, without representation or warranty from or recourse to the Surplus Lender, an interest in the entire amount for which the Surplus Lender's allocation of Advances is greater than its Proportionate Share. The intention of this Section 3.1(b) is that when any and all purchases and sales required hereby have been completed, the outstanding Advances under the Facilities will be outstanding rateably from the Lenders according to their respective Proportionate Shares. If necessary to implement the foregoing, the Lenders shall take participations in outstanding Letters of Credit. The Borrowers expressly consent to the foregoing arrangements among the Lenders.

3.2 Reduction of Commitment and Repayment of Borrowings – Operating Facility

On the earlier of the Maturity Date (for the Operating Facility Lenders) and any demand for repayment of the Obligations pursuant to Article 10:

- (a) any undrawn portion of the Operating Facility (after including any Obligations under the Swingline Facility deemed to be outstanding under the Operating Facility) shall automatically be cancelled;

- (b) the Borrowers shall pay the balance of all Outstanding Principal and all accrued and unpaid interest and any other amounts owing under the Operating Facility; and
- (c) the Borrowers shall fund in full of the repayment of unexpired Letters of Credit by paying to and depositing with the Agent cash Collateral for each such unexpired Letter of Credit equal to the Face Amount thereof plus all fees and expenses which could accrue until expiry of each such Letter of Credit, in each case, in the respective currency in which the relevant Letter of Credit is denominated.

Notwithstanding anything to the contrary in this Section 3.2, any payments in respect of amounts outstanding of any Prime Rate Advances shall be made in Cdn. Dollars and any payments in respect of amounts outstanding of any US Base Rate Advances shall be made in US Dollars. The Borrowers shall ensure that all Bankers' Acceptances under the Operating Facility mature in sufficient amounts to reduce the Advances under the Operating Facility accordingly.

3.3 Reduction of Commitment and Repayment of Borrowings – Flooring Facility

On the earlier of the Maturity Date (for the Flooring Facility Lenders) and any demand for repayment of the Obligations pursuant to Article 10:

- (a) any undrawn portion of the Flooring Facility shall automatically be cancelled; and
- (b) the Borrowers shall pay the balance of all Outstanding Principal and all accrued and unpaid interest and any other amounts owing under the Flooring Facility.

Notwithstanding anything to the contrary in this Section 3.3, any payments in respect of amounts outstanding of any Prime Rate Advances shall be made in Cdn. Dollars and any payments in respect of amounts outstanding of any US Base Rate Advances shall be made in US. Dollars. The Borrowers shall ensure that all Bankers' Acceptances under the Flooring Facility mature in sufficient amounts to reduce the Advances under the Flooring Facility accordingly.

3.4 Reduction of Commitment and Repayment of Borrowings – Revolving Term Facility

On the earlier of the Maturity Date (for the Revolving Term Facility Lenders) and any demand for repayment of the Obligations pursuant to Article 10:

- (a) any undrawn portion of the Revolving Term Facility shall automatically be cancelled; and
- (b) the Borrowers shall pay the balance of all Outstanding Principal and all accrued and unpaid interest and any other amounts owing under the Revolving Term Facility.

Notwithstanding anything to the contrary in this Section 3.4, any payments in respect of amounts outstanding of any Prime Rate Advances shall be made in Cdn. Dollars and any payments in respect of amounts outstanding of any US Base Rate Advances shall be made in US. Dollars. The Borrowers shall ensure that all Bankers' Acceptances under the Revolving Term Facility mature in sufficient amounts to reduce the Advances under the Revolving Term Facility accordingly.

3.5 Currency Excess

- (a) If the Agent shall determine that the aggregate Outstanding Principal under a particular Facility owing to any Lender exceeds the maximum amount of such Facility due to currency exchange rate fluctuations (the amount of such excess is herein called the "**Currency Excess**"), then, upon written request by the Agent (which request shall detail the applicable Currency Excess), the Borrowers shall repay such Currency Excess within 5 Business Days of receipt of any such request, such that, except as otherwise contemplated in Section 3.5(b), the Equivalent Amount in Canadian Dollars of such repayments is, in the aggregate, at least equal to the Currency Excess.
- (b) If, in respect of any Currency Excess, the repayments made by the Borrowers have not completely removed such Currency Excess because Bankers' Acceptances or Letters of Credit are outstanding (the remainder thereof being herein called the "**Currency Excess Deficiency**"), the Borrowers shall (i) within 1 Business Day, if the Currency Excess exceeds 3% of the amount of such Facility, or (ii) in all other cases, on the earlier of the next Drawdown Date and 30 days, as the case may be, after receipt of the aforementioned request of the Agent, deposit cash Collateral equal to the Currency Excess Deficiency with the Agent in an interest bearing account with interest at rates prevailing at the time of deposit for the account of the Borrowers, to be assigned to the Agent on behalf of the Lenders by instrument satisfactory to the Agent and, if applicable, to be applied to maturing Bankers' Acceptances (converted if necessary at the Exchange Rate for determining the Equivalent Amount on the date of such application or held to provide for the funding of unexpired Letters of Credit in accordance with Section 10.3 which shall apply *mutatis mutandis*). The Agent is hereby irrevocably directed by the Borrowers to apply any such sums on deposit to maturing Bankers' Acceptances or to satisfy obligations of the Borrowers for such Letters of Credit as payments are made thereunder, as the case may be, as provided in the preceding sentence. In lieu of providing funds for the Currency Excess Deficiency, as provided in the preceding provisions of this Section 3.5(b), the Borrower may within the said period provide to the Agent an irrevocable standby letter of credit in an amount equal to the Currency Excess Deficiency and for a term which expires not sooner than 10 Business Days after the date of maturity or expiry, as the case may be, of the relevant Bankers' Acceptances or Letters of Credit, as the case may be; such letter of credit for the Currency Excess Deficiency shall be issued by a financial institution satisfactory to the Agent and shall be on terms and conditions acceptable to the Agent. The Agent is hereby authorized and directed to draw upon such letter of credit and apply the proceeds of the same to Bankers' Acceptances as they mature or to satisfy obligations of the Borrower for Letters of Credit as payments are made thereunder. Upon the Currency Excess Deficiency being eliminated as aforesaid or by virtue of subsequent changes in the Exchange Rate for determining the Equivalent Amount, then, provided no Default or Event of Default is then continuing, such funds on deposit, together with interest thereon, shall be returned to the Borrowers, in the case of funds on deposit, or such letters of credit shall be cancelled or reduced in amount, in the case of letters of credit.

3.6 Extension of the Maturity Date

- (a) Request for Extension. Once in each Fiscal Year but no later than 6 months after receipt by the Agent of the annual consolidated Financial Statements referred to

in Section 9.2(g), the Borrowers may but are not obligated to request an extension (the date of such request, the "**Request Date**") in respect of all of the Facilities from each Lender (each, a "**Requested Lender**") for a further period by delivering to the Agent an executed Request for Extension, together with all required reports specified in Sections 9.2(g), (h), (i) and (k), provided that the requested Maturity Date (if extended) does not exceed 3 years from the Request Date and is equal with respect to each Requested Lender. The Agent shall forthwith, and in any event within 2 Business Days, notify the Requested Lenders of such request by the Borrowers (such date being the "**Notification Date**"). Each Requested Lender shall advise the Agent not later than 30 days after the Notification Date as to whether or not it agrees to such request, and any terms and conditions to which its approval (if applicable) is subject, provided that in the event any Requested Lender (including the Swingline Lender) does not so advise the Agent within such 30 day period, such Requested Lender shall be deemed to have elected not to agree to such request. For greater certainty, each Requested Lender must either agree or not agree to such request with respect to its Commitments under all of the Facilities. Within 2 Business Days of the Agent having received from all Requested Lenders their respective decision or deemed decision with regard to the Request for Extension (the "**Decision Date**"), the Agent shall, unless the provisions of Section 3.6(d) are applicable at that time, advise the Borrowers which Lenders have agreed to extend the Maturity Date pursuant to such Request for Extension, and subject to Sections 3.6(c) and 3.6(f), the then current Maturity Date shall be extended accordingly.

- (b) Agreeing Lenders and Non-Agreeing Lenders. For the purposes of this Section 3.6:
- (i) a "**Non-Agreeing Lender**" means any Requested Lender which does not agree (or is deemed not to have agreed) to extend the Maturity Date pursuant to Section 3.6(a); and
 - (ii) an "**Agreeing Lender**" means any Requested Lender which agrees to extend the Maturity Date pursuant to Section 3.6(a).
- (c) Non-Extension. If, in respect of any Request for Extension, one or more Non-Agreeing Lenders hold in aggregate more than 33 $\frac{1}{3}$ % of the Commitments of all Requested Lenders, then:
- (i) the Maturity Date for all Requested Lenders shall not be extended; and
 - (ii) the Borrowers shall not be entitled to request any further extensions of the Maturity Date.
- (d) Extension of All Requested Lenders. If all Requested Lenders agree to the Request for Extension pursuant to Section 3.6(a), then the Maturity Date for all Requested Lenders shall be extended to the New Maturity Date pursuant to such Request for Extension.

- (e) Payment or Replacement. If, with respect to any Request for Extension, the provisions of Section 3.6(c) or 3.6(d) are not applicable, then:
- (i) each of the Agreeing Lenders shall have the right, but not the obligation, to purchase the Commitment of any Non-Agreeing Lender, and each of the Agreeing Lenders wishing to exercise its rights to purchase the Commitment of a Non-Agreeing Lender (each, a "**Purchasing Lender**") shall forthwith so notify the Borrowers, the Agent and the other Lenders, and such Purchasing Lender shall thereupon be obligated to purchase not less than the 30th day after the Decision Date an amount of such Commitment equal to the Commitment of the Non-Agreeing Lender multiplied by such Purchasing Lender's Proportionate Share of the applicable Facilities as the case may be, over the aggregate of all Purchasing Lenders' Proportionate Share of the applicable Facilities, or as otherwise agreed to by the Borrowers and all Purchasing Lenders. If the Swingline Lender is a Non-Agreeing Lender and there is more than one Purchasing Lender, the Borrowers shall choose which Purchasing Lender shall acquire the Swingline Facility Commitment of the Swingline Lender. The Non-Agreeing Lender, the Purchasing Lender(s), the Agent, the Borrowers 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-Agreeing Lender shall, as of the effective date thereof, be released from its obligations to the Borrowers hereunder and under the other Credit Documents arising subsequent to such date; or
 - (ii) if none of the Agreeing Lenders exercises its rights under Section 3.6(e)(i), the Borrowers may, but are not obligated to:
 - (A) so long as there exists no Event of Default, repay all Obligations owing hereunder to any such Non-Agreeing Lender on or prior to the 30th day after the Decision Date, and upon such payment any such Non-Agreeing Lender shall cease to be a Lender hereunder and each such Non-Agreeing Lender's Commitment shall be terminated and the Total Commitment reduced accordingly; or
 - (B) arrange for a replacement lender (or lenders) (which may be one or more Lenders) to replace each Non-Agreeing Lender's Advances and its Commitment; provided that any such replacement lender (or lenders) (if not already a Lender hereunder) shall qualify as a permitted assignee pursuant to Section 12.2 and all other requirements hereunder shall have been satisfied on or prior to the 30th day after the Decision Date, and in respect of which the Lenders shall do all things and make all such adjustments as are reasonably necessary to give effect to any such replacement.
- (f) Partial Extension. If, with respect to any Request for Extension, the provisions of Sections 3.6(c) or 3.6(d) are not applicable, and if after any replacements or repayments under Section 3.6(e) there are remaining Non-Agreeing Lenders, then:
- (i) the Maturity Date for the Agreeing Lenders shall be extended pursuant to the Request for Extension; and

- (ii) for the Non-Agreeing Lenders, the Maturity Date of all such Lenders shall not be extended and the Borrowers shall repay all outstanding Obligations owing to such Non-Agreeing Lenders on the non-extended Maturity Date.
- (g) Independent Decision. The Borrowers understand that consideration of any Request for Extension constitutes an independent credit decision which each Lender retains the absolute and unfettered discretion to make, and that no commitment in this regard is hereby given by any Lender.
- (h) Default or Event of Default. Notwithstanding the foregoing, the Borrowers shall not be entitled to accept any offer made by the Agent on behalf of the Agreeing Lenders to extend the Maturity Date if a Default or Event of Default has occurred and is continuing, unless such Default or Event of Default is waived by all of the Agreeing Lenders; provided that any such waiver shall be effective only for the purposes of this Section 3.6.
- (i) Successive Extensions. This Section 3.6 shall apply from time to time to permit successive extensions of the Maturity Date, if and for so long as the Agreeing Lenders have agreed to all prior extensions in accordance with the foregoing, as applicable.
- (j) Different Maturity Dates. If, at any time, there are Lenders under a Facility with different Maturity Dates, all Lenders under the applicable Facility will share in Advances made under such Facility based on their Proportionate Share except to the extent the particular Advance requested has a maturity date after the Maturity Date of a Lender under such Facility, in which case only those Lenders under such Facility with a Maturity Date later than the maturity date of the requested Advance will be required to participate in providing such Advance and the Borrowers may request a similar Advance, to the extent permitted hereunder, from the other Lenders under such Facility with a maturity date occurring on or before the Maturity Date of such Lenders. Each such determination by the Agent shall be *prima facie* evidence of such Lender's Proportionate Share.

3.7 Cancellation

The Borrowers (or any of them) may, at any time, upon giving at least 3 Business Days prior written notice in the form of Schedule "I" to the Agent (to be accompanied by, in the case of the Flooring Facility, a Payment Report to be delivered concurrently to the Agent and the Service Provider) and paying all accrued and unpaid fees, as applicable, to the effective date of cancellation or reduction, permanently reduce, in whole or in part, any unused portion of the Facilities (or any of them). Any such reduction will be in a minimum amount of \$1,000,000 with respect to any one Facility and reductions in excess thereof shall be in integral multiples of \$1,000,000. The Commitments of the Lenders shall be reduced by an amount equal to the Proportionate Share of each Lender of the amount of the Facilities cancelled or reduced. Any such reduction of the Facilities shall only be effective if on or prior to the last day of such 3 Business Day notice period, the Borrowers have prepaid or otherwise reduced Advances outstanding to the Lenders in an amount equal to the amount by which Advances outstanding to the Lenders exceeds the amount of the Lenders' Commitments under the Facilities immediately after the reduction of the Facilities provided for in such notice.

Any such notice of cancellation is irrevocable and the amount of the Total Commitment so cancelled and reduced may not be reinstated hereunder. For clarity, the Borrowers may not by

reason of any such reduction or cancellation contemplated by this Section 3.7 pay any Bankers' Acceptances or BA Equivalent Loans prior to their respective maturity dates, other than by the Borrowers depositing cash Collateral in a cash collateral account established with the Agent, for and on behalf of the Applicable Lenders, on terms and conditions satisfactory to the Agent, an amount equal to the aggregate Face Amount of such Bankers Acceptances and BA Equivalent Loans, which amount shall be held by the Agent as security to fund such Bankers Acceptances and BA Equivalent Loans upon their respective maturity dates.

Any payment in respect of a cancellation of any portion of the Flooring Facility shall be applied to repay Advances in respect of Equipment Inventory based on date of manufacture, with Advances in respect of the oldest Equipment Inventory repaid first.

3.8 Voluntary Prepayment – Operating Facility

The Borrowers (or any of them) may, upon written notice in the form of Schedule "I", from time to time prepay Debt outstanding under the Operating Facility by making deposits to a Borrower's Account or, in the case of Letters of Credit, return the same to the Fronting Lender for cancellation, provided that:

- (a) Bankers' Acceptances and BA Equivalent Loans may not be prepaid prior to their respective maturity dates;
- (b) repayments of Prime Rate Advances (by way of Overdraft) and US Base Rate Advances (by way of Overdraft) under the Swingline Facility may be made at any time without notice and shall not be subject to any minimum repayment amounts;
- (c) except as otherwise provided in this Section 3.8, notice of an intended prepayment of any Advance under the Operating Facility shall be given with the same number of Business Days prior notice as matches the Drawdown Notice period under Section 6.5 for that kind of Advance;
- (d) except as otherwise provided in this Section 3.8, prepayments shall be in a minimum amount of \$1,000,000 and in whole multiples of \$1,000,000 thereafter; and
- (e) unexpired Letters of Credit may only be prepaid by the return thereof to the Fronting Lender for cancellation.

Principal prepaid under this Section 3.8 may be re-drawn under the Operating Facility until the Maturity Date, subject to the other terms and provisions of this Agreement.

3.9 Voluntary Prepayment – Flooring Facility

The Borrowers (or any of them) may, upon written notice to the Agent and the Service Provider in the form of Schedule "I", to be accompanied by a Payment Report delivered concurrently therewith, from time to time prepay Debt outstanding under the Flooring Facility by making deposits to a Borrower's Account, provided that:

- (a) Bankers' Acceptances and BA Equivalent Loans may not be prepaid prior to their respective maturity dates;

- (b) notice of an intended prepayment of any Advance under the Flooring Facility shall be given with the same number of Business Days prior notice as matches the Drawdown Notice period under Section 6.5 for that kind of Advance; and
- (c) prepayments shall be in a minimum amount of \$1,000,000 and in whole multiples of \$1,000,000 thereafter.

Principal prepaid under this Section 3.9 may be re-drawn under the Flooring Facility until the Maturity Date, subject to the terms and provisions of this Agreement. Any payment pursuant to this Section 3.9 shall be applied to repay Advances in respect of Equipment Inventory based on date of manufacture, with Advances in respect of the oldest Equipment Inventory repaid first.

3.10 Mandatory Repayments – Flooring Facility

- (a) In addition to interest payable in accordance with the other provisions of this Agreement, the principal of each Advance (or portion thereof) under the Flooring Facility that is used to finance used Equipment Inventory and that has not otherwise been repaid shall be repaid by:
 - (i) a one-time principal payment with respect to each such Advance, equal to 10% of the principal amount of such Advance or the applicable portion thereof (each, a "**Flooring Facility Six-Month Payment**") as reported by the Service Provider in its Inventory Report to the Agent and the Borrower in accordance with the Service Agreement, payable on the third Business Day of the month following the month in which the six-month anniversary of such Advance occurs; and
 - (ii) equal monthly installments, each equal to 1/24th of the original principal amount of such Advance or the applicable portion thereof remaining after the applicable Flooring Facility Six-Month Payment (each, as applicable, a "**Flooring Facility Monthly Curtailment**"), as reported by the Service Provider in its month ending billing statement to the Agent and the Borrowers in accordance with the Service Agreement, payable for each month starting with the month in which the seventh-month anniversary of such Advance occurs, until such Outstanding Principal is fully repaid. The aggregate of all Flooring Facility Monthly Curtailments for each month shall be paid by the Borrowers on the third Business Day of the following month.

Principal repaid under this Section 3.10(a) may be redrawn under the Flooring Facility until the Maturity Date, subject to the other terms and conditions of this Agreement.

- (b) The Borrowers shall pay to the Agent, for the benefit of the Flooring Facility Lenders, all Proceeds from the sale, transfer or other disposition of Equipment Inventory financed under the Flooring Facility and, if such Proceeds are not sufficient to repay all Advances used to finance such Equipment Inventory and all costs and expenses incurred by the Agent in connection with the release and discharge of any specific serial numbered security registrations made in connection with such Equipment Inventory, all other amounts as are necessary to fully repay such shortfall, costs and expenses:
 - (i) on a weekly basis; and

- (ii) in addition to the payment under Section 3.10(b)(i), within 2 Business Days of the date on which the sum of the Proceeds of any new sales, transfers and other dispositions of such Equipment Inventory since the last payment under this Section 3.10(b) exceeds Cdn. \$2,000,000.

Principal repaid under this Section 3.10(b) may be re-borrowed under the Flooring Facility until the Maturity Date. The Borrowers shall provide the Agent and the Service Provider written notice in the form of Schedule "I", together with a Payment Report, with respect to any such payment.

- (c) If, based on an Inventory Report, Flooring Facility Audit or CNH Audit Report, any piece of Equipment Inventory financed under the Flooring Facility does not meet the definition of "Eligible Equipment Inventory" hereunder, causes the threshold contained in paragraph (i) of the definition of "Flooring Facility Borrowing Base" with respect to Eligible Equipment Inventory which has been leased or rented to any Person that is not a Loan Party to be exceeded, or does not otherwise qualify to be financed under the Flooring Facility and such discrepancy cannot be remedied by the Borrowers to the Agent's satisfaction, acting reasonably, the Borrowers shall, within 3 Business Days of notice thereof from the Agent, repay to the Agent, for the benefit of the Flooring Facility Lenders, all Outstanding Principal owed in connection with such Equipment Inventory. Principal repaid under this Section 3.10(c) may be re-borrowed under the Flooring Facility until the Maturity Date. The Borrower shall provide the Agent and the Service Provider written notice in the form of Schedule "I", together with a Payment Report, with respect to any such payment.

3.11 Voluntary Prepayment – Revolving Term Facility

- (a) The Borrowers (or any of them) may, upon written notice to the Agent in the form of Schedule "I", from time to time prepay Debt outstanding under the Revolving Term Facility by making deposits to a Borrower's Account, provided that:
 - (i) Bankers' Acceptances and BA Equivalent Loans may not be prepaid prior to their respective maturity dates;
 - (ii) notice of an intended prepayment of any Advance under the Revolving Term Facility shall be given with the same number of Business Days prior notice as matches the Drawdown Notice period under Section 6.5 for that kind of Advance; and
 - (iii) prepayments shall be in a minimum amount of \$1,000,000 and in whole multiples of \$1,000,000 thereafter.

Principal prepaid under this Section 3.11 may be re-drawn under the Revolving Term Facility until the Maturity Date, subject to the terms and provisions of this Agreement.

- (b) If any prepayment of \$2,000,000 or more of the initial Advance under the Revolving Term Facility is made in accordance with Section 3.11(a), then the Outstanding Principal of such initial Advance under the Revolving Term Facility shall be reduced by the amount of such prepayment on a *pro rata* basis over the remaining amortization period specified in Section 3.12(a).

3.12 Mandatory Repayments – Revolving Term Facility

In addition to interest payable in accordance with the other provisions of this Agreement and subject to Section 3.11:

- (a) the principal amounts outstanding under the Revolving Term Facility (which, for certainty, is \$37,243,000 as of the date hereof) shall be repaid in quarterly installments in accordance with, and on the dates specified in, Exhibit 1 attached hereto;
- (b) commencing on the first Business Day of the Fiscal Quarter following the Fiscal Quarter in which each Advance (other than the initial Advance described in Section 3.12(a)) under the Revolving Term Facility that is used to finance some or all of any Acquisition occurs and on the first Business Day of each subsequent Fiscal Quarter, each such Advance under the Revolving Term Facility shall be repaid in equal quarterly installments of principal payments based on a 7 year straight-line amortization period; and
- (c) commencing on the first Business Day of the Fiscal Quarter following the Fiscal Quarter in which each Advance (other than the initial Advance described in Section 3.12(a) and any Advance used to finance some or all of any Acquisition described in Section 3.12(b)) under the Revolving Term Facility that is used to finance some or all of any real property (including, for certainty, any real property financed partially or wholly by an Advance under the Operating Facility) occurs and on the first Business Day of each subsequent Fiscal Quarter, each such Advance under the Revolving Term Facility shall be repaid in equal quarterly installments of principal payments based on a 15 year straight-line amortization period.

Principal repaid under this Section 3.12 may be re-borrowed under the Revolving Term Facility until the Maturity Date. The Borrower shall provide the Agent written notice in the form of Schedule "I" with respect to any such payment.

3.13 Mandatory Repayments

The Borrowers shall repay outstanding Obligations as follows:

- (a) within 3 Business Days of the receipt thereof, all Proceeds from the sale, transfer or other disposition of Property (other than Proceeds from Permitted Dispositions and Proceeds from the sale, transfer or other disposition of Equipment Inventory financed by the Flooring Facility which is subject to Section 3.10(b));
- (b) within 3 Business Days of the receipt thereof, all proceeds received by the Loan Parties (or any of them) in excess of \$500,000 in the aggregate in any twelve consecutive months from all property insurance claims with respect to tangible personal Property of the Loan Parties over which the Agent has an Encumbrance; provided that such repayment shall not be required if such proceeds are deposited with the Agent in a cash collateral account within 3 days of receipt thereof and are subsequently reinvested (including through repairs or replacements) in the Business of the Loan Parties within 12 months of receipt thereof in the ordinary course of business or otherwise on terms and conditions satisfactory to the Lenders, acting reasonably; and

- (c) within 3 Business Days of the receipt thereof, all Proceeds of any sales or issuances by any Loan Party of equity or debt securities (excluding intercompany debt, any Permitted Debt and Advances hereunder), including, without limitation, any capital contributions (other the sales or issuances from one Loan Party to another Loan Party, issuances in connection with any dividend reinvestment plan and issuances to any officers or directors of the Loan Parties in the ordinary course of business in connection with any stock-based compensation), provided that such repayment shall not be required with respect to Equity issued by the Loan Parties in order to fund an Acquisition if such Acquisition is approved in advance by the Lenders in writing.

Notwithstanding any other provision of this Agreement, prior to delivery of an Acceleration Notice pursuant to Section 10.2, all repayments of Obligations required under this Section 3.13 shall be distributed in the following order:

- (i) first, in respect of any sale or disposition of any Property of any Loan Party, against the Obligations under the Facility for which such Property forms part of the applicable borrowing base; and
- (ii) second, against Obligations as allocated by the Borrower in writing to the Agent.

The Borrowers shall provide at least 3 Business Days prior written notice in the form of Schedule "I" to the Agent of any repayment pursuant to this Section 3.13.

3.14 Repayment

Prior to the occurrence and continuance of an Event of Default, any repayment pursuant to the terms of this Agreement shall be applied to the Facility designated by the applicable Borrower and the amount of such repayment shall be distributed to the Applicable Lenders under such Facility; provided that any designation by the applicable Borrower of an application of repayment to the Flooring Facility shall be accompanied by a Payment Report delivered to the Agent and the Service Provider. After an Acceleration Notice is made pursuant to Section 10.2, the amount of a repayment of outstanding Obligations received by the Agent shall be distributed to the Lenders and the Swap Lenders in accordance with each Lender's and Swap Lenders' Proportionate Share of the then outstanding Obligations owing to all of the Lenders and Swap Lenders. If prior to the giving of an Acceleration Notice under Section 10.2, no designation is made by the applicable Borrower with respect to such repayment, the amount shall be distributed in accordance with each Lender's Proportionate Share of the Facilities.

The Borrowers shall repay in full all remaining Obligations pursuant to this Agreement and the other Credit Documents which are then outstanding on the earliest to occur of (i) the Maturity Date and (ii) the due date of all outstanding Obligations pursuant to this Agreement and the other Credit Documents resulting from the giving of an Acceleration Notice.

3.15 Total Commitment

The principal amount of all Advances shall be repaid such that the Canadian Dollar Equivalent Amount of the Outstanding Principal:

- (a) under the Operating Facility does not at any time exceed the Operating Facility Limit;

- (b) under the Flooring Facility does not at any time exceed the Flooring Facility Limit; and
- (c) under the Revolving Term Facility does not at any time exceed the Revolving Term Facility Limit.

Subject to Section 3.5, if the Outstanding Principal under a Facility exceeds the Operating Facility Limit, the Flooring Facility Limit or the Revolving Term Facility Limit (as applicable), the Borrowers shall within 2 Business Days after notice from the Agent repay, provide cash Collateral to be held by the Agent on behalf of the Lenders or otherwise reduce a portion of the Advances under the applicable Facility to the extent of the amount of such excess. Any payment under this Section 10.3 in respect of the Flooring Facility shall be applied to repay Advances in respect of Equipment Inventory based on date of manufacture, with Advances in respect of the oldest Equipment Inventory repaid first.

3.16 Account Debit Authorization

Each Borrower authorizes and directs the Agent, in its sole discretion, acting reasonably, to automatically debit, deposit or credit, as applicable, by mechanical, electronic or manual means, the bank accounts of such Borrower maintained with the Agent (for so long as CIBC is the Agent hereunder) for all amounts deemed payable under this Agreement including, without limitation, the Swingline Facility, and for the repayment of principal and the payment of interest, fees, and all charges for the keeping of such bank accounts.

3.17 Acceleration under Article 10

Nothing in this Article 3 shall limit the Lenders' right to cause the Agent to demand repayment of the Obligations pursuant to Article 10.

3.18 Accordion Feature

- (a) Once in each Fiscal Year prior to the Maturity Date of the Facilities and so long as no Default or Event of Default has occurred and is continuing, the Borrowers may apply to increase availability under any one or more of the Facilities by an aggregate minimum amount of \$10,000,000 and up to a maximum aggregate increase of \$50,000,000, such that the Total Commitment shall not exceed \$310,000,000 or such lesser amount after giving effect to the reductions of the Facilities referred to in Sections 3.1, 3.3, 3.4 and 3.7. The Borrowers may request an increase in one or more of the Facilities by delivering to the Agent an executed request for increase (the "**Request for Increase**") by RMDI, for and on behalf of itself and the other Borrowers, executed by a Responsible Officer of RMDI, in the form set forth in Schedule "L" attached hereto. The Request for Increase shall specify the details for the requested increase, together with all requested reports specified in Sections 9.2(g), 9.2(h), 9.2(i) and 9.2(k). The Agent shall forthwith, and in any event within 2 Business Days, notify the Lenders of such Request for Increase by the Borrowers (such date being the "**Increase Notification Date**"). Each Lender shall advise the Agent as to whether or not it agrees to such Request for Increase, and any terms and conditions to which its approval (if applicable) is subject, not later than 10 Business Days after the Increase Notification Date; provided that in the event any Lender does not advise the Agent within such 10 Business Day period, such Lender shall be deemed to have elected not to agree to such Request for Increase. Within 2 Business Days of the Agent having

received from all of the Lenders their respective decision or deemed decision with regard to the Request for Increase, the Agent shall advise the Borrowers which Lenders (if any) have agreed to such increase. For greater certainty, no Lender shall be obligated to participate in the Request for Increase.

- (b) If, pursuant to Section 3.18(a) hereof, one or more Lenders elect not to participate in the Request for Increase, the Borrowers may, with and subject to the prior written approval of the Agent and Swingline Lender, in each case acting reasonably, include additional lenders (who may be a Lender(s) who has elected to participate in the Request for Increase) to assist with funding the increase in the Facilities. The parties hereto shall enter into a further amending agreement to this Agreement to incorporate the new lenders who participate in funding the increase in the Accordion Facilities, along with the terms and provisions relating thereto. For clarification, the lenders who participate in the increase in the Facilities shall have the same rights and obligations as currently contained in this Agreement, but subject to their respective Proportionate Share after giving effect to the increase in the Facilities.

ARTICLE 4 INTEREST RATES, FEES AND SECURITY

4.1 Interest on Prime Rate Advances

The Borrowers shall pay to the Swingline Lender (in the case of Prime Rate Advances under the Swingline Facility) or to the Agent on behalf of each Applicable Lender (in the case of Prime Rate Advances under each of the Operating Facility (other than under the Swingline Facility), the Flooring Facility and the Revolving Term Facility, as the case may be, interest on each Prime Rate Advance at a rate per three 365 day period equal to the Prime Rate plus the Applicable Margin. A change in the Prime Rate will simultaneously cause a corresponding change in the interest payable for a Prime Rate Advance, and a change in the Applicable Margin will cause a change in the interest payable as provided for in the definition of "Applicable Margin". Such interest shall be calculated daily and be payable in arrears on each Interest Payment Date for the period from and including the last Interest Payment Date to but excluding the current Interest Payment Date and shall be calculated on the basis of the actual number of days elapsed in a year of 365 days. The annual rates of interest to which the rates determined in accordance with the foregoing provisions of this Section 4.1 are equivalent are the rates so determined multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 365.

Interest on each Prime Rate Advance shall be payable both before and after demand, maturity, default and judgment, with interest on overdue interest at the same rate payable on demand.

4.2 Interest on US Base Rate Advances

The Borrowers shall pay to the Swingline Lender (in the case of US Base Rate Advances under the Swingline Facility) or to the Agent on behalf of each Applicable Lender in the case of US Base Rate Advances under each of the Operating Facility (other than under the Swingline Facility), the Flooring Facility and the Revolving Term Facility, as the case may be, interest on each US Base Rate Advance at a rate per 365 day period equal to the US Base Rate plus the Applicable Margin. A change in the US Base Rate will simultaneously cause a corresponding change in the interest payable for a US Base Rate Advance, and a change in the Applicable

Margin will cause a change in the interest payable as provided for in the definition of "Applicable Margin". Such interest shall be calculated daily and be payable in arrears on each Interest Payment Date for the period from and including the last Interest Payment Date to but excluding the current Interest Payment Date and shall be calculated on the basis of the actual number of days elapsed in a year of 365 days. The annual rates of interest to which the rates determined in accordance with the foregoing provisions of this Section 4.2 are equivalent are the rates so determined multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 365.

Interest on each US Base Rate Advance shall be payable both before and after demand, maturity, default and judgment, with interest on overdue interest at the same rate payable on demand.

4.3 BA Fees

The Borrowers shall pay to the Agent on behalf of each Applicable Lender, Bankers' Acceptance Stamping Fees in Canadian Dollars forthwith upon the acceptance by each BA Lender of each Bankers' Acceptance, or by each Non BA Lender of each BA Equivalent Loan, issued by the applicable Borrower at a rate per 365 day period equal to the Applicable Margin, calculated on the Face Amount of each such Bankers' Acceptance or BA Equivalent Loan and on the basis of the number of days in the term of such Bankers' Acceptance or BA Equivalent Loan divided by 365. All fees payable pursuant to this Section 4.3 on any date in respect of any issuance of Bankers' Acceptances or BA Equivalent Loans shall be calculated by the Agent and be payable by the Borrowers based on the Applicable Margin in effect on such date; provided that if during the term of any such Bankers' Acceptance or BA Equivalent Loan a change in the Applicable Margin occurs, the fees paid by the Borrowers in respect of such Bankers' Acceptance or BA Equivalent Loan shall be adjusted, effective at the beginning of the Fiscal Quarter next following the Fiscal Quarter in which the change in the Applicable Margin occurs pursuant to the definition of "Applicable Margin", to reflect the Applicable Margin for the remaining term of the Bankers' Acceptance or BA Equivalent Loan, and the Borrowers, in the case of an increase in the Applicable Margin, shall forthwith after receipt of a notice from the Agent make such payments as are necessary to reflect such change, and the BA Lenders or Non BA Lenders, as the case may be, in the case of a decrease in the Applicable Margin, shall credit any amount which would otherwise be refundable to the Borrowers against amounts in respect of interest or fees accruing hereunder in relation to the Borrowers.

4.4 Interest on Overdue Amounts

Notwithstanding any other provision of this Agreement, in the event that any amount due hereunder (including, without limitation, any interest payment) is not paid when due (whether by acceleration or otherwise), the Borrowers shall and hereby agree to pay to the Swingline Lender or the Agent for the benefit of itself and the Applicable Lenders, as applicable, interest on such unpaid amount (including, without limitation, interest on interest), if and to the fullest extent permitted by Applicable Law, from the date that such amount is due until the date that such amount is paid in full (but excluding the date of such payment if the payment is made before 10:00 a.m. at the place of payment on the date of such payment), and such interest shall accrue daily, be calculated and compounded on the last Business Day of each calendar month and be payable in the currency of the relevant Advance on demand, as well after as before maturity, default and judgment, at a rate per annum that is equal to:

- (a) the Prime Rate, plus the then-applicable Applicable Margin, plus []%¹ per annum for overdue amounts in Canadian Dollars; and
- (b) the US Base Rate, plus the then-applicable Applicable Margin, plus []%² per annum for overdue amounts in US Dollars.

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

4.5 Standby Fees

The Borrowers shall pay standby fees to the Agent on behalf of each Lender (based on its Proportionate Share) at a Borrower's Account, which standby fees shall be calculated monthly in arrears and be payable, with respect to each month (or portion thereof) commencing with the month in which this Credit Agreement is dated, on the earliest to occur of:

- (a) the first Business Day of the following month;
- (b) the date for payment specified in any Acceleration Notice;
- (c) the occurrence of any Event of Default; and
- (d) the Maturity Date,

and shall be calculated at a rate per annum equal to the applicable "Standby Fee Rate" set forth in the definition of "Applicable Margin" for the applicable Level multiplied by the sum of daily excess of the applicable Total Commitments available for each such day for such period of the Facilities over the amount of the Advances under the Facilities for each day in the period of determination, divided by 365. Each payment of standby fees shall be calculated for the period commencing on the Effective Date or the last date on which such standby fees were payable hereunder, as the case may be, up to the last day of the month for which such standby fees are to be paid.

4.6 Security

To secure due repayment and satisfaction in full of all Obligations to the Agent, the Lenders and the Swap Lenders from time to time, including due performance, payment and satisfaction of all Obligations under this Agreement, the other Credit Documents and the Eligible Hedge Agreements, each of the Loan Parties has executed or shall execute and deliver to the Agent for and on behalf of the Lenders and the Swap Lenders, as the case may be:

- (a) general security agreements made by each of the Loan Parties in favour of the Agent, for and on behalf of itself, the Lenders and the Swap Lenders, creating a fixed and floating first-ranking Encumbrance (subject only to Permitted Encumbrances) over all present and after-acquired personal Property and a first floating Encumbrance over all present and after-acquired real property of the applicable Loan Party;

¹ Fee information redacted.

² Fee information redacted.

- (b) unlimited Guarantees made by each of the Borrowers in favour of the Agent, for and on behalf of itself, the Lenders and the Swap Lenders, pursuant to which such Borrower guarantees all Obligations of the other Borrowers;
- (c) unlimited Guarantees made by each Loan Party that is not a Borrower in favour of the Agent, the Lenders and the Swap Lenders, pursuant to which such Loan Party guarantees all the Obligations of the Borrowers (and each of them);
- (d) an assignment of insurance granted by the Loan Parties, as applicable, in favour of the Agent as first-loss payee, for and on behalf of itself, the Lenders and the Swap Lenders, with respect to the insurance described in Section 9.1(c);
- (e) security over cash, credit balances and deposit instruments in favour of the Agent, for and on behalf of itself, the Lenders and the Swap Lenders, executed by each Loan Party;
- (f) priority agreements among the Agent, the Loan Parties and such other parties as are deemed necessary by Agent's Counsel;
- (g) first-ranking secured mortgages on all real property of the Loan Parties that is financed in whole or in part by Advances under the Operating Facility and/or the Revolving Term Facility under the Applicable Laws of the province or territory in Canada where such real property is located;
- (h) pooled accounts agreement(s) in the Swingline Lender's standard form;
- (i) such additional mortgages, Encumbrances, and other security agreements (including, without limitation, acknowledgements, waivers, no-interest letters and negative pledges) that the Lenders may reasonably require from time to time to effectively mortgage, charge and subject to a security interest all of the present and future real and personal Property of the Loan Parties (or any of them).

The Security listed above, and all supporting certificates and opinions, shall be in form satisfactory to the Agent and the Lenders, acting reasonably.

The Agent shall, at the Borrowers' expense, register, file or record the Security in all offices where such registration, filing or recording is necessary or of advantage to the creation, perfection and preserving of the Encumbrances created by the Security including, without limitation, specific registrations against Serial Number Goods that are subject to an Encumbrance created by the Security.

4.7 Subsidiary Guarantees and Security

Within 45 days of a Subsidiary becoming a Material Subsidiary, the Borrowers shall cause to be executed and delivered to the Agent by each such new Material Subsidiary the documents described in Section 4.6 above (which are applicable to a Loan Party which is not a Borrower), together with such other documents, certificates and opinions as the Agent may reasonably request. Additionally, in the event that the total Property, on a consolidated basis, of the Loan Parties does not constitute at least 95% of the Net Tangible Total Assets, on a consolidated basis, of RMDI, or the total revenue, on a consolidated basis, (calculated on the preceding consecutive twelve month period) of the Loan Parties does not constitute at least 95% of the consolidated revenue of RMDI for the preceding consecutive twelve month period, the Borrowers shall advise

the Agent of such facts and shall, within 30 days of notice thereof from the Agent, designate further Material Subsidiaries and cause to be executed and delivered to the Agent by such new Material Subsidiaries the documents described in Section 4.6 above (which are applicable to a Loan Party which is not a Borrower), together with such other documents, certificates and opinions as the Agent may reasonably request. For greater certainty, all Guarantees and security documents granted pursuant to this Section 4.7 shall be considered as part of the "Security".

4.8 Continuing Guarantees and Security

The Security shall for all purposes be treated as separate and continuing guarantees and security and shall be deemed to have been given in addition to and not in place of any other guarantee or any security given by the Loan Parties (or any of them) which are now held or hereafter acquired by the Agent, any Lender or any Swap Lender. No item or part of any Security shall be merged or be deemed to have been merged in or by any simple contract debt or any judgment, and any realization of or steps taken or pursuant to any Security shall be independent of and not create a merger with any other right available to the Agent, any Lender or any Swap Lender under this Agreement, any other Security, any other Credit Document or any Eligible Hedge Agreement held by it or them or at law or in equity.

4.9 Dealing with Credit Documents

The Agent and the Lenders may grant extensions of time or other indulgences, take and give up securities, accept compositions, grant releases and discharges and otherwise deal with any Loan Party and other Persons (including other guarantors), sureties or securities as the Agent and the Lenders may in their sole discretion see fit, and the Lenders may, subject to the provisions hereof, apply all moneys received from any Loan Party and other Persons, or from sureties or securities, to such part of the Obligations as the Lenders may think best, all without prejudice to or in any way limiting the liability of the Loan Parties under any of the Credit Documents.

4.10 Effectiveness and Survival for Eligible Hedge Agreements

The Security contemplated or required to be created hereby shall be effective upon execution and delivery thereof, and the undertakings as to the Security by the Borrowers and the other Loan Parties herein or in any other Credit Document hereunder shall be continuing, whether the monies hereby or thereby secured or any part thereof shall be advanced before or after or at the same time as the creation of any such Credit Document or before or after or upon the date of execution of any amendments to or restatements of this Agreement, and shall not be affected by the Obligations fluctuating from time to time. Notwithstanding the cancellation of all of the Total Commitment and the full and final payment of all Obligations outstanding under this Agreement or any termination of this Agreement, the Security shall survive and continue until all Obligations owing under the Eligible Hedge Agreements are also indefeasibly, fully and finally paid, except to the extent that the Eligible Hedge Agreements provide otherwise; provided however, upon the cancellation of all of the Total Commitment and the indefeasible, full and final payment of all Obligations under this Agreement and, if applicable, the assignment provided for in the next paragraph, the Agent shall be fully, finally and absolutely released from all liabilities and obligations arising under, out of or in connection with the Security and shall have no obligation, liability or duty to any Swap Lender arising under, out of or in connection with the Security.

In the event the Obligations (other than the Obligations under Eligible Hedge Agreements) have been indefeasibly fully paid and satisfied and the Facilities have been cancelled, but one or more Eligible Hedge Agreements remains in full force and effect, then the Agent may assign, transfer and convey to such the Swap Lender or Swap Lenders who are a party to any existing

Eligible Hedge Agreements (or a nominee thereof) all of its rights, benefits and entitlements under this Agreement and the Security as Agent for the purpose of securing the Obligations under such Eligible Hedge Agreements. Any such assignment, transfer or conveyance under this Section 4.10 shall be without recourse to the Agent. For greater certainty, the assignee of an assignment made under of this Section 4.10 shall be substituted in place and instead of the assignor as the Agent for the purposes of this Agreement and the Security.

4.11 Undertaking to Grant Additional Security

Subject to Section 4.12, if the Agent, on behalf of the Lenders, reasonably requests, the Borrowers (or any of them) shall forthwith grant or cause to be granted to the Agent, for and on behalf of itself, the Lenders and the Swap Lenders, such additional Encumbrances and security agreements (including, without limitation, acknowledgements and negative pledges) that the Lenders may reasonably require to effectively mortgage, charge and subject to a security interest all of the present and future real and personal Property of the Loan Parties (or any of them), including, without limitation, a first-fixed Encumbrance (subject only to Permitted Encumbrances which under Applicable Law rank in priority thereto) in such Property of a Loan Party not previously subject to a fixed Encumbrance as the Agent shall determine, as security for all present and future Obligations of the Borrowers (and each of them), together with such supporting certificates and opinions that the Lenders may reasonably require from time to time.

4.12 Limitation

The rights of the Agent and the Lenders under Section 4.11 shall be subject to, where applicable, the receipt of any consents that may be required pursuant to Applicable Law prior to any Loan Party granting an Encumbrance referred to therein. The Loan Parties shall use all reasonable commercial efforts (which shall include the expenditure of funds) to obtain such consents.

4.13 Release and Amendment of Security

During the term of this Agreement, the Agent shall not discharge, surrender, amend or otherwise modify any Security without the prior written consent of all of the Lenders; provided that the Agent may discharge Security provided hereunder at the discretion of the Agent with respect to any Permitted Dispositions upon the applicable Loan Party having first certified to the Agent in writing that any such disposition is a Permitted Disposition as contemplated by this Agreement.

4.14 Registration and Renewals

The Borrowers shall, and shall cause each Material Subsidiary to, at the Borrowers' sole cost and expense, do all such commercially reasonable acts, execute all such instruments, provide such further assurances as the Agent may reasonably request and otherwise cooperate with the Agent and its counsel to ensure that the priority of the Encumbrances created by all of the Security executed and delivered to the Agent as contemplated hereby is duly protected and perfected by registration, filing or recordation of such Security or a caution, caveat, security notice or other appropriate instrument at all offices where necessary or of material advantage to the protection or perfection thereof, including in the Relevant Jurisdictions; and to so cooperate with the Agent and Agent's Counsel in renewing or refiling any registration, filing or recordation required hereby in order to preserve, protect and maintain the priority of such Encumbrances, from time to time.

4.15 Permitted Encumbrances and Permitted Debt

None of the facts that:

- (a) any Loan Party is permitted to create or suffer to exist any Permitted Encumbrance or Permitted Debt;
- (b) any representation, warranty or covenant contained herein may make an exception for the existence of Permitted Encumbrances or Permitted Debt; or
- (c) the Encumbrances created pursuant to the Credit Documents are stated to be subject to, or are not required to rank in priority to, Permitted Encumbrances,

shall in any manner, nor in any claim, application or proceeding, directly or indirectly, be taken to constitute a subordination of any Encumbrance created pursuant to the Credit Documents to any Permitted Encumbrance or to any other Encumbrance or other obligation whatsoever, or that the Obligations under the Credit Documents are in any way subordinate or junior in right of payment to any Permitted Debt, it being the intention of the parties that all Encumbrances created pursuant to the Credit Documents shall at all times, to the maximum extent permitted by Applicable Law, rank as first-priority Encumbrances in priority to Permitted Encumbrances and all other Encumbrances or other obligations whatsoever and that the Obligations under the Credit Documents will rank in right of payment at all times at least equally with such Permitted Debt.

ARTICLE 5 DISBURSEMENT CONDITIONS

5.1 Conditions Precedent to the Effectiveness and Drawdown of the Facilities

The effectiveness of this Agreement and the obligation of the Lenders under this Agreement to make the initial Advance under the Facilities is subject to and conditional upon the following:

- (a) Receipt of Documents: the Agent shall have received, for and on behalf of the Lenders, the following documents, each in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably:
 - (i) this Agreement, duly executed and delivered by the Loan Parties;
 - (ii) a certificate issued by a Senior Officer of the Borrowers confirming that, as at the Effective Date, no Default or Event of Default exists, each of the representations and warranties of the Loan Parties contained herein and in the other Credit Documents is true and correct, and no Material Adverse Effect exists or could reasonably be expected to exist;
 - (iii) a certificate of status, compliance or good standing in respect of each of the Loan Parties that is a corporation, from each Relevant Jurisdiction for such Loan Party;
 - (iv) a certified copy of the Constatting Documents of each of the Loan Parties;
 - (v) a certificate of incumbency of each of the Loan Parties;

- (vi) a certified copy of a directors' and/or shareholders' resolution, as applicable, of each Loan Party with respect to its authorization, execution and delivery of the Credit Documents to which it is a party being delivered in connection herewith;
 - (vii) letter of opinion of Borrowers' Counsel (and each of them, if applicable), addressed to the Agent, each Lender and Agent's Counsel relating to, among other things, the subsistence of each of the Loan Parties, the due authorization, execution, delivery and enforceability of this Agreement and the creation, perfection and recording of the Encumbrances created by the Security;
 - (viii) certificates in respect of policies of insurance in such amounts issued by insurers of recognized standing insuring the Properties and operations of the Loan Parties and listing the Agent as first loss payee and/or additional insured, as applicable, in form and substance satisfactory to the Agent and Agent's Counsel; and
 - (ix) such other documentation and information as the Agent or the Lenders may reasonably request;
- (b) Due Diligence: the Lenders and Agent's Counsel shall have completed all legal, accounting, business, tax, insurance, governance, customer and environmental due diligence as required by the Lender; for greater certainty, all documentation from the Loan Parties with respect to such due diligence shall be addressed to the Agent for and on behalf of itself and the Lenders;
 - (c) Other Information: the Agent and the Lenders shall have received all other documentation and information reasonably requested from the Loan Parties, including, without limitation, all documents and information requested in connection with any "know your customer" legislation or any other AML Legislation, as may be required in accordance with Section 13.6 hereof;
 - (d) Payment of Fees: the Borrowers have paid all fees and expenses due pursuant to this Agreement and the Fee Letter, including all reasonable fees of Agent's Counsel;
 - (e) Registration of Security: all Encumbrances created by the Security shall have been duly perfected, registered and assigned to the Agent (as applicable) in each Relevant Jurisdiction as required by the Agent and Agent's Counsel;
 - (f) No Default: no Default or Event of Default shall have occurred and be continuing;
 - (g) Representations and Warranties: the representations and warranties contained in Article 8 and in any other Credit Document shall be true and correct in all material respects as if made on and as of the Drawdown Date of the initial Advance under the Facilities; and
 - (h) No Material Adverse Effect: since December 31, 2016, there shall not have occurred any matter, event or circumstance which could reasonably be expected to have a Material Adverse Effect.

5.2 Conditions Precedent to Advances

The obligation of the Lenders to make any Advance is subject to the conditions precedent that:

- (a) No Default: no Event of Default or Default has occurred and is continuing on the Drawdown Date, Rollover Date or Conversion Date, as applicable, or would result from making such Advance;
- (b) Representations and Warranties: the representations and warranties in this Agreement and in any of the other Credit Documents shall be true and correct as if made on and as of the Drawdown Date (except those stated to made as of a specific date);
- (c) Delivery of Notice: the Agent has received a duly completed Drawdown Notice, Rollover Notice or Conversion Notice (as applicable) as required under Section 6.5; and
- (d) Other: all other terms and conditions of this Agreement upon which the Borrowers may obtain an Advance are fulfilled including, without limitation, the aggregate amount of any proposed Advance when added to the then Outstanding Principal under the applicable Facility shall not exceed the Operating Facility Limit, the Flooring Facility Limit or the Revolving Term Facility Limit, as applicable.

The foregoing conditions precedent shall not apply to any deemed Advance contemplated pursuant to Section 6.11.

5.3 Additional Conditions Precedent to Drawdown – Operating Facility (real property)

The obligation of the Operating Facility Lenders under this Agreement to make any Advance under the Operating Facility that will be used wholly or in part to finance real property is subject to and conditional upon the following conditions precedent (unless otherwise waived by the Majority Lenders), in addition to those conditions precedent listed in Section 5.2:

- (a) the Agent, for and on behalf of itself and the Lenders, shall have received, a Drawdown Notice required hereunder;
- (b) the Agent shall have received a comprehensive construction budget in form and substance reasonably satisfactory to the Agent and the Lenders (a "**Real Estate Budget**") in respect of such real property and either:
 - (i) a duly executed copy of a fixed-price contract regarding the construction of such real property substantiating the Real Estate Budget; or
 - (ii) an engineering or quantity surveyor report in respect of such real property prepared by an independent third party reasonably satisfactory to the Agent and the Lenders substantiating the Real Estate Budget;
- (c) the Security required pursuant to Section 4.6(g) and the Encumbrances constituted thereby shall have been established, along with evidence of registration at the applicable land titles registry office in first-priority position (subject to Permitted Encumbrances);

- (d) receipt by the Agent of an environmental site assessment/certification prepared by an independent third party in respect of such real property in form and substance reasonably satisfactory to the Agent and the Lenders; and
- (e) receipt by the Agent of such other documents, agreements, certificates and other instruments as it, the Lenders or Agent's Counsel reasonably requests.

5.4 Additional Conditions Precedent to Drawdown – Revolving Term Facility (Acquisitions)

The obligation of the Revolving Term Facility Lenders under this Agreement to make any Advance under the Revolving Term Facility to finance in whole or in part any Acquisition is subject to and conditional upon the following conditions precedent (unless otherwise waived by the Majority Lenders), in addition to those conditions precedent listed in Section 5.2:

- (a) the Agent, for and on behalf of itself and the Lenders, shall have received, the Drawdown Notice required hereunder;
- (b) the Agent shall have received evidence reasonably satisfactory to it that not less than 40% of the aggregate cost of such Acquisition is being financed through cash equity or subordinated Debt or Shares and, if requested by the Agent or the Lenders, copies of any agreements and subscriptions evidencing the same;
- (c) with respect to any such Acquisition with an aggregate cost of Cdn. \$10,000,000 or more, the Agent shall have received:
 - (i) a business plan in respect of such Acquisition in form and substance reasonably satisfactory to the Agent and the Lenders;
 - (ii) to the extent available, the audited financial statements of the Person(s) that is the target of such Acquisition for the 3 year period prior to the date of the Drawdown Notice described in Section 5.4(a) or, if such financial statements are not available after due inquiry and commercially reasonable efforts have been made by the Loan Parties to obtain the same, all financial statements (audited and unaudited) of such Person(s) that are available after due inquiry and commercially reasonable efforts have been made by the Loan Parties to obtain the same;
 - (iii) *pro forma* financial projections giving effect to such Acquisition in form and substance reasonably satisfactory to the Agent and the Lenders; and
 - (iv) such other documents, agreements, certificates and other instruments as it, the Lenders or Agent's Counsel reasonably requests.

5.5 Additional Conditions Precedent to Drawdown – Revolving Term Facility (real property)

The obligation of the Revolving Term Facility Lenders under this Agreement to make any Advance under the Revolving Term Facility to finance in whole or in part any real property is subject to and conditional upon the following conditions precedent (unless otherwise waived by the Majority Lenders), in addition to those conditions precedent listed in Section 5.2:

- (a) the Agent, for and on behalf of itself and the other Lenders, shall have received the following:
- (i) an Appraisal report by a licensed appraiser acceptable to the Agent, acting reasonably confirming the appraised value of the real property being financed, including transmittal letters as required, all satisfactory to the Lenders, acting reasonably;
 - (ii) the Security required pursuant to Section 4.6(g) and the Encumbrances constituted thereby shall have been established, along with evidence of registration at the applicable land titles registry office in first-priority position (subject to Permitted Encumbrances);
 - (iii) a copy of the purchase agreement for the real property being financed, in form and content satisfactory to the Agent and the Lenders, acting reasonably;
 - (iv) a certificate of substantial completion for the real property being financed if newly constructed; and
 - (v) an environmental certification for the real property being financed prepared by an independent third party in form and substance satisfactory to the Agent and the Lenders, acting reasonably; and
- (b) the amount of the Advance requested shall be no more than 75% of the lesser of (i) the appraised value of the real property being financed, and (ii) the purchase price of the real property being financed.

5.6 Waiver

The conditions in Sections 5.1, 5.2, 5.3, 5.4 and 5.5 are inserted for the sole benefit of the Agent and the Lenders and may be waived by the Agent on the instructions of the Majority Lenders, in whole or in part (with or without terms or conditions) in respect of any Advance.

ARTICLE 6 ADVANCES

6.1 Prime Rate Advances

Subject to the other provisions of this Agreement, upon fulfillment of all applicable conditions as set forth in this Agreement, the Applicable Lenders (in the case of the Facilities, other than the Swingline Facility) or the Swingline Lender (in the case of the Swingline Facility) will make the requested amount of a Prime Rate Advance available to the applicable Borrower on the Drawdown Date requested by the such Borrower, by crediting such amount to the Agent's Account (in the case of the Facilities, other than the Swingline Facility) or the applicable Borrower's Account (in the case of the Swingline Facility), as applicable. Each Prime Rate Advance (other than by way of Overdraft under the Swingline Facility) shall be in a minimum amount of \$1,000,000 and in whole multiples of \$100,000 thereafter.

6.2 US Base Rate Advances

Subject to the other provisions of this Agreement, upon timely fulfillment of all applicable conditions as set forth in this Agreement, the Applicable Lenders (in the case of the Facilities, other than the Swingline Facility) or the Swingline Lender (in the case of the Swingline Facility) will make the requested amount of a US Base Rate Advance available to the applicable Borrower on the Drawdown Date requested by such Borrower by crediting such amount to the Agent's Account (in the case of the Facilities, other than the Swingline Facility) or the applicable Borrower's Account (in the case of the Swingline Facility), as applicable. Each US Base Rate Advance (other than by way of Overdraft under the Swingline Facility) shall be in a minimum amount of US\$1,000,000 and in whole multiples of US\$100,000 thereafter.

6.3 Evidence of Obligations

The Obligations of the Borrowers (and each of them) resulting from Advances made by the Lenders and the Swingline Lender shall be evidenced by records maintained by the Agent and by each Lender (in the case of the Facilities other than the Swingline Facility) and by the Swingline Lender (in the case of the Swingline Facility) concerning those Advances made hereunder. The Agent shall also maintain records of the Obligations resulting from Advances by way of Bankers' Acceptances and Letters of Credit, and each BA Lender and the Fronting Lender, as applicable, shall also maintain records relating to the Bankers' Acceptances and Letters of Credit, respectively, that it has accepted. The records maintained by the Agent, the Swingline Lender, a BA Lender or the Fronting Lender, as applicable, shall constitute, in the absence of manifest error, *prima facie* evidence of the Obligations and all details relating thereto. The failure of the Agent, any Lender, the Swingline Lender, any BA Lender or the Fronting Lender to correctly record any such amount or date shall not, however, adversely affect the obligation of the Borrowers (and each of them) to pay amounts due hereunder to the Agent and the Lenders in accordance with this Agreement.

6.4 Conversions

Subject to the other terms of this Agreement, a Borrower may from time to time Convert all or any part of the outstanding amount of any Advance made to such Borrower under a Facility into another form of Advance to such Borrower under the same Facility.

6.5 Notice of Advances, Rollovers and Conversions

- (a) A Borrower shall give the irrevocable written notice, in the form of a Drawdown Notice of any request for any Drawdown (to be accompanied by a Funding Report and to be delivered concurrently to the Service Provider, in the case of any Drawdown under the Flooring Facility), in the form of a Conversion Notice for any Conversion, and in the form of a Rollover Notice for any Rollover made under a Facility (other than under the Swingline Facility).
- (b) No Drawdown Notice shall be required for any Prime Rate Advance (made by way of Overdraft) or any US Base Rate Advance (made by way of Overdraft) made under the Swingline Facility.
- (c) Drawdown Notices relating to a Prime Rate Advance or a US Base Rate Advance under the Operating Facility (other than the Swingline Facility) shall be provided by the applicable Borrower to the Agent at least 1 Business Day in advance of the intended Drawdown Date.

- (d) Drawdown Notices and Rollover Notices relating to a Letter of Credit under the Operating Facility (other than the Swingline Facility) shall be provided by the applicable Borrower to the Agent at least 3 Business Days in advance of the intended Drawdown Date or date of Rollover, unless the terms of such Letter of Credit provide for automatic renewal, in which case no Rollover Notice shall be required.
- (e) Drawdown Notices relating to a Prime Rate Advance or a US Base Rate Advance under the Flooring Facility, accompanied by Funding Reports, shall be provided by the applicable Borrower to the Agent and the Service Provider at least 3 Business Days in advance of the intended Drawdown Date.
- (f) Drawdown Notices relating to a Prime Rate Advance or a US Base Rate Advance under the Revolving Term Facility shall be provided by the applicable Borrower to the Agent at least 1 Business Day in advance of the intended Drawdown Date.
- (g) Conversion Notices shall be provided by the applicable Borrower at least (i) 2 Business Days in advance of the intended date for such Conversion, if such Conversion involves a BA Advance, or (ii) 1 Business Day if such Conversion does not involve a BA Advance.
- (h) Drawdown Notices and Rollover Notices relating to BA Advances and BA Equivalent Loans under each of the Facilities (other than the Swingline Facility and the Flooring Facility) shall be provided by the applicable Borrower to the Agent at least 2 Business Days prior to the intended Drawdown Date or date of Rollover.
- (i) Drawdown Notices and Rollover Notices relating to BA Advances and BA Equivalent Loans under the Flooring Facility, accompanied by Funding Reports, shall be provided by the applicable Borrower to the Agent and the Service Provider at least 3 Business Days prior to the intended Drawdown Date or date of Rollover.
- (j) Any notices by a Borrower pursuant to this Section 6.5, Section 3.7, Section 3.8, Section 3.9, Section 3.10 and Section 3.11 shall be given not later than 10:00 a.m. (Calgary time) on a Business Day to be effective for such day. Payments (other than those being made solely from the proceeds of Rollovers and Conversions) must be made prior to 10:00 a.m. (Calgary time) on the date for payment. If a notice or payment is not given or made by those times, it shall be deemed to have been given or made on the next Business Day, unless all Lenders affected by the late notice or payment agree, in their sole discretion, to accept a notice or payment at a later time as being effective on the date it is given or made.

6.6 Co-ordination of Prime Rate Advances and US Base Rate Advances

Each Lender shall advance its Proportionate Share of each Prime Rate Advance or US Base Rate Advance, as applicable, under the applicable Facility (other than the Swingline Facility) in accordance with the following provisions:

- (a) with respect to the Operating Facility, the Agent shall advise each Lender of its receipt of a notice from any Borrower pursuant to Section 6.5, on the day such notice is received and shall, as soon as possible, advise each Lender of such Lender's Proportionate Share of any Advance requested by the notice;

- (b) with respect to the Flooring Facility, the Agent shall advise each Lender of its receipt of a notice and Funding Report from any Borrower pursuant to Section 6.5 promptly following receipt from the Service Provider of its updated Inventory Report pursuant to the Service Agreement, and shall, as soon as possible, advise each Lender of such Lender's Proportionate Share of any Advance requested by the notice;
- (c) with respect to the Revolving Term Facility, the Agent shall advise each Lender of its receipt of a notice from any Borrower pursuant to Section 6.5, on the day such notice is received and shall, as soon as possible, advise each Lender of such Lender's Proportionate Share of any Advance requested by the notice;
- (d) each Lender shall deliver its Proportionate Share of the Advance to the Agent not later than 9:00 a.m. (Calgary time) on the Drawdown Date;
- (e) the Agent shall advance to the applicable Borrower the amount delivered by each Lender by crediting the applicable Borrower's Account, but if the conditions precedent to the Advance are not met by 12:00 p.m. (Calgary time) on the Drawdown Date, the Agent shall return the funds to the Lenders or invest them in an overnight investment (for the account of the Lenders who have so funded) in the Agent's discretion until such time as the Advance is made; and
- (f) if the Agent determines that a Lender's Proportionate Share of an Advance would not be a whole multiple of Cdn. \$1,000 or U.S. \$1,000 (as applicable) as required hereunder, the amount to be advanced by that Lender may be increased or reduced by the Agent in its sole discretion to the nearest required whole multiple of Cdn. \$1,000 or U.S. \$1,000 (as applicable), provided that if an Event of Default shall occur, the Proportionate Shares of the Lenders shall be readjusted by the Agent to the extent that any previous adjustment has been made to the Proportionate Shares under this Section 6.6(f).

6.7 Bankers' Acceptances – Power of Attorney

- (a) To facilitate the acceptance of Drafts hereunder, each Borrower hereby appoints each BA Lender, acting by the commercial paper clerk or other designated securities officer for the time being of each BA Lender, the attorney of such Borrower:
 - (i) to complete and sign (by handwritten, facsimile or mechanical signature) for and on behalf and in the name of such Borrower, as drawer, Drafts in each BA Lender's standard form which are "depository bills" under and as defined in the DBNA drawn on the BA Lender payable to a "clearing house" under the DBNA or its nominee for deposit by the BA Lender with the "clearing house" after acceptance thereof by the BA Lender, and
 - (ii) to fill in the amount, date and maturity date of such Drafts,

and Drafts so completed, signed and endorsed on behalf of such Borrower by any BA Lender shall bind such Borrower as fully and effectively as if so performed by duly authorized officers of such Borrower; provided that such acts in each case are to be undertaken by the BA Lender in accordance with instructions given to the BA Lender by such Borrower as provided in this Section 6.7. The Agent is also

authorized to make the necessary arrangements for the negotiation and delivery of Bankers' Acceptances intended to be sold on the money market.

- (b) Instructions to the BA Lender relating to the execution, completion, discount and/or deposit by the BA Lender on behalf of a Borrower of Drafts which such Borrower wishes to submit to the BA Lender for acceptance by the BA Lender shall be communicated by the Agent and/or such Borrower to the BA Lender in writing at its applicable branch of account following delivery by such Borrower of a Drawdown Notice, Conversion Notice or Rollover Notice pursuant to this Agreement (and in the case of a Drawdown under the Flooring Facility, following receipt of a Funding Report from the Borrower and an updated Inventory Report from the Service Provider pursuant to the Service Agreement), and shall specify the following information:
 - (i) reference to this power of attorney;
 - (ii) a Canadian Dollar amount, which shall be the aggregate Face Amount of the Drafts to be accepted by the BA Lender in respect of a particular Advance;
 - (iii) a specified period of time as provided in this Agreement which shall be the number of days after the date of acceptance of such Drafts that such Drafts are to be payable, and the dates of issue and maturity of such Drafts; and
 - (iv) payment instructions specifying the account number of such Borrower and the financial institution at which the BA Discount Proceeds are to be credited.
- (c) The communication in writing by a Borrower to the BA Lender of the instructions referred to above shall constitute the authorization and instruction of such Borrower to the BA Lender to complete and execute Drafts in accordance with such information as set out above and the request of such Borrower to the BA Lender to accept such Drafts and deposit the same with the "clearing house" against payment as set out in the instructions. Each Borrower acknowledges that the BA Lender shall not be obligated to accept any such Drafts except in accordance with the provisions of this Agreement. The BA Lender shall be and it is hereby authorized to act on behalf of such Borrower upon and in compliance with instructions communicated to the BA Lender as provided herein if the BA Lender reasonably believes them to be genuine.
- (d) Each Borrower agrees to indemnify the BA Lender and its directors, officers, employees, affiliates and agents and to hold it and them harmless from and against any loss, liability, expense or claim of any legal or equitable kind or nature whatsoever incurred by any of them as a result of any action or inaction in any way relating to or arising out of this power of attorney or the acts contemplated hereby, including the deposit of any draft with the "clearing house"; provided that this indemnity shall not apply to any such loss, liability, expense or claim which results from a breach of Section 6.13 or from the gross negligence or willful misconduct of the BA Lender or any of its directors, officers, employees, affiliates or agents.
- (e) This power of attorney may be revoked by the applicable Borrower at any time upon not less than 5 Business Days' written notice served upon the BA Lender at

the address set out in this Agreement; provided that (i) it may be replaced with another power of attorney forthwith in accordance with the requirements of this Agreement; and (ii) no such revocation shall reduce, limit or otherwise affect the obligations of the Borrowers in respect of any Draft executed, completed, discounted and/or deposited in accordance herewith prior to the time at which such revocation becomes effective. This power of attorney may be terminated by the BA Lender at any time not less than 5 Business Days' written notice to the applicable Borrower. Any revocation or termination of this power of attorney shall not affect the rights of the BA Lender and the obligations of the Borrowers with respect to the indemnities of the Borrowers stated above.

- (f) This power of attorney is in addition to and not in substitution for any agreement to which the BA Lender and any Borrower are parties.
- (g) A Borrower may, at its option, execute any Draft by the facsimile or other electronic signatures of any two authorized signing officers of such Borrower, and the Agent and each BA Lender is hereby authorized to accept or pay, as the case may be, any Draft of such Borrower which has been completed pursuant to a power of attorney or which purports to bear such facsimile or other electronic signatures notwithstanding that subsequent to the issuance of the Bankers' Acceptance the power of attorney has been revoked or any such individual has ceased to be an authorized signing officer of such Borrower. Any such Draft or Bankers' Acceptance so executed and completed or executed and completed pursuant to the power of attorney shall be as valid as if it has been signed by an authorized signing officer of such Borrower at the date of issue of such Bankers' Acceptance. Any such Draft or Bankers' Acceptance may be dealt with by the Agent or any BA Lender to all intents and purposes and shall bind such Borrower as if duly signed in each signing officer's own handwriting and issued by such Borrower, and such Borrower hereby agrees to hold the Agent and each BA Lender harmless and indemnified against all loss, costs, damages and expenses arising out of the payment or negotiation of any such Draft or Bankers' Acceptance resulting from such Drafts not having been duly signed. No BA Lender shall be liable for its failure to accept a Bankers' Acceptance as required hereunder if the cause of such failure, in whole or in part, is due to the revocation or termination of the power of attorney or the failure of any Borrower to provide the power of attorney or executed Drafts to the Agent on a timely basis.
- (h) The receipt by the Agent of a request for an Advance by way of Bankers' Acceptances shall be each BA Lender's sufficient authority to complete and sign (as applicable), and each BA Lender shall, subject to the terms and conditions of this Agreement, complete and sign (as applicable) such Drafts in accordance with such request and the advice of the Agent given pursuant to Section 6.5, and the Drafts so completed and signed (as applicable) shall thereupon be deemed to have been presented for acceptance.

6.8 Size and Maturity of Bankers' Acceptances, Rollovers and Conversions

Each Advance of Bankers' Acceptances shall be in a minimum amount of not less than \$1,000,000 and in a whole multiple of \$100,000 (which minimum amounts shall include BA Equivalent Loans, if applicable). Subject to availability, each Bankers' Acceptance and BA Equivalent Loan shall have a term of 1, 2, 3 or 6 months, subject to availability; but no Bankers' Acceptance or BA Equivalent Loan may mature on a date which is not a Business Day or on a

date which is later than the Maturity Date. The Face Amount at maturity of a Bankers' Acceptance or BA Equivalent Loan may be Rolled Over as a Bankers' Acceptance or Converted into another form of Advance permitted by this Agreement.

6.9 BA Advances

Each Applicable Lender shall advance its Proportionate Share of each Advance by way of Bankers' Acceptances and BA Equivalent Loans in accordance with the provisions set forth below.

- (a) The Agent, promptly following receipt of a notice from the a Borrower pursuant to Section 6.5 requesting an Advance by way of Bankers' Acceptances (in the case of the Operating Facility (other than the Swingline Facility) and the Revolving Term Facility) or promptly following receipt of a notice from the a Borrower pursuant to Section 6.5 requesting an Advance by way of Bankers' Acceptances, a Funding Report and an updated Inventory Report pursuant to the Service Agreement (in the case of the Flooring Facility), shall (i) advise each BA Lender of the Face Amount of the Bankers' Acceptances to be accepted by it, and (ii) advise each Non BA Lender of the Face Amount of its Notional Bankers' Acceptance. The aggregate Face Amount of Bankers' Acceptances to be accepted by a BA Lender and the Face Amount of the Notional Bankers' Acceptance for each Non BA Lender shall be determined by the Agent by reference to the respective Commitments of the Applicable Lenders; provided that, if the Face Amount of a Bankers' Acceptance in the case of a BA Lender or the Face Amount of the Notional Bankers' Acceptance used to determine the amount of a BA Equivalent Loan in the case of a Non BA Lender would not be Cdn. \$1,000 or a whole multiple thereof, the Face Amount shall be increased or reduced by the Agent in its sole discretion, to the nearest whole multiple of Cdn. \$1,000.
- (b) Whenever a Borrower requests an Advance that includes Bankers' Acceptances, each Non BA Lender shall, in lieu of accepting its *pro rata* amount of such Bankers' Acceptances, make available to the applicable Borrower on the Drawdown Date a loan (a "**BA Equivalent Loan**") in Canadian Dollars and in an amount which would be equal to the BA Discount Proceeds of the Bankers' Acceptances (which Bankers' Acceptances are referred to herein collectively as "**Notional Bankers' Acceptances**") that such Non BA Lender would have been required to accept on the Drawdown Date if it were a BA Lender. Each Non BA Lender shall also be entitled to deduct from the BA Equivalent Loan an amount equal to the applicable Bankers' Acceptance Stamping Fee that would have been applicable to the Notional Bankers' Acceptance had it been a Bankers' Acceptance. Unless expressly provided herein or as otherwise required by context, all references to Bankers' Acceptances shall be deemed to include Notional Bankers' Acceptances and BA Equivalent Loans, and references to BA Lenders shall be deemed to include Non BA Lenders.
- (c) Subject to the terms and conditions of this Agreement, each BA Lender agrees to accept Drafts issued by a Borrower pursuant to this Section 6.9 and purchase such Bankers' Acceptances discounted at the applicable BA Discount Rate. Each BA Lender shall provide the BA Discount Proceeds thereof to the Agent in accordance with Section 6.9(d), less the Bankers' Acceptance Stamping Fee payable to such BA Lender pursuant to Section 4.3. Each such BA Lender shall

be entitled to sell, assign or otherwise transfer such Bankers' Acceptances to any third party without any notice to or the consent of any of the Borrowers.

- (d) Each BA Lender and Non BA Lender, as applicable, shall transfer to the Agent at the Agent's Account for value on each Drawdown Date immediately available Cdn. Dollars in an aggregate amount equal to (i) in the case of a BA Lender, the BA Discount Proceeds (net of the applicable Bankers' Acceptance Stamping Fee in respect of such Bankers' Acceptances) of all Bankers' Acceptances accepted by it on such Drawdown Date, and (ii) in the case of Non BA Lenders, the amount of each BA Equivalent Loan (net of the applicable Bankers' Acceptance Stamping Fee in respect of such BA Equivalent Loan) to be made by it on such Drawdown Date. The Agent may designate such other offices in Toronto or Calgary as it may see fit for the purposes referred to in the preceding sentence. The Agent shall make such amounts received by it from the Lenders as aforesaid available to the applicable Borrower by depositing the same for value on the applicable Drawdown Date to the applicable Borrower's Account.
- (e) Each Borrower hereby authorizes each Lender to complete, stamp, hold, sell, re-discount or otherwise dispose of all Bankers' Acceptances or promissory notes, as applicable, accepted by it in accordance with the instructions provided by such Borrower hereunder or pursuant to the power of attorney referred to in Section 6.7.
- (f) If any Borrower requests that a BA Lender complete incomplete Drafts pursuant to telephone instructions, such instructions are at the sole risk of the Borrowers until confirmed in writing and the BA Lender shall not have any liability for any failure to carry out the same, in whole or in part, or for any error or omission in such instructions or the interpretation or execution thereof by such BA Lender.

6.10 Payment of Bankers' Acceptances and BA Equivalent Loans

The Borrowers shall provide for the payment to the Agent at a Borrower's Account for the account of the applicable BA Lenders or Non BA Lenders (in the case of the Facilities other than the Swingline Facility) of the full Face Amount of each Bankers' Acceptance and each Notional Bankers' Acceptance on the earlier of (i) its date of maturity, and (ii) the date on which an Acceleration Notice is given to the Borrowers pursuant to Section 10.2. If the Borrowers fail to make such payments on maturity, the Agent shall effect a Conversion into a Prime Rate Advance under the applicable Facility of the entire amount of such maturing Bankers' Acceptances as if a Conversion Notice had been given by the Borrowers to the Agent to that effect.

6.11 Deemed Advance – Bankers' Acceptances

Except for amounts which are paid from the proceeds of Rollovers of a Bankers' Acceptance and BA Equivalent Loans or other Advance or Conversion hereunder, any amount which a Lender pays to any third party on or after the date of maturity of a Bankers' Acceptance in satisfaction thereof or which is owing to the Lender by the Borrowers (and each of them) in respect of such a Bankers' Acceptance or BA Equivalent Loan on or after the date of maturity of such Bankers' Acceptance or BA Equivalent Loan shall be deemed to be a Prime Rate Advance to the applicable Borrower under this Agreement. If such Borrower fails to give notice to the Agent upon a Rollover of a maturing Bankers' Acceptance or BA Equivalent Loan, the Agent will be entitled to assume that such amounts are deemed to be a Prime Rate Advance made to the applicable Borrower and give notice thereof to the Applicable Lenders. Interest shall be payable on such Prime Rate Advances in accordance with the terms applicable to Prime Rate Advances.

6.12 Waiver

No Borrower shall claim from a Lender or any other Person any days of grace for the payment at maturity of any Notional Bankers' Acceptance or any Bankers' Acceptances presented and accepted by a Lender pursuant to this Agreement. Each Borrower waives any defence to payment which might otherwise exist if for any reason a Bankers' Acceptance shall be held by a Lender in its own right at the maturity thereof, and the doctrine of merger shall not apply to any Bankers' Acceptance that is at any time held by a Lender in its own right.

6.13 Degree of Care

Any executed Drafts to be used as Bankers' Acceptances or promissory notes, as applicable, which are delivered to a Lender shall be held safely with the same degree of care as if they were such Lender's own property, and shall be kept at the place at which such Drafts are ordinarily held by such Lender.

6.14 Indemnity

Each Borrower hereby indemnifies and holds each Lender harmless from any reasonable loss or expense with respect to any Bankers' Acceptance or promissory notes, as applicable, dealt with by the Lenders, or any of them, in accordance with the provisions hereof, but shall not be obliged to indemnify a Lender for any such loss or expense caused by a breach of Section 6.13 or by the gross negligence or willful misconduct of that Lender.

6.15 Obligations Absolute

The obligations of the Borrowers (and each of them) with respect to Bankers' Acceptances or promissory notes, as applicable, under this Agreement shall be unconditional and irrevocable, 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 Draft accepted by a Lender as a Bankers' Acceptance or promissory notes, as applicable; or
- (b) the existence of any claim, set-off, defense or other right which any Borrower may have at any time against the holder of a Bankers' Acceptance or promissory note, as applicable, the Lenders, (or any of them) or any other Person or entity, whether in connection with this Agreement or otherwise.

6.16 Termination of BA Advances

If at any time the Agent determines, acting reasonably, (which determination shall be conclusive and binding on the Borrowers) that:

- (a) adequate and reasonable means do not exist for ascertaining the BA Discount Rate applicable to a BA Advance; or
- (b) the BA Discount Rate does not adequately reflect the cost to the Lenders of accepting or maintaining a Bankers' Acceptance,

then the Agent shall inform the Borrowers and thereafter, the right of the Borrowers to request BA Advances (and BA Equivalent Loans) from the Lenders shall be and remain suspended until

the Agent notifies the Borrowers that the conditions causing such determination no longer exist. In the event the Agent so notifies the Borrowers that the right to request BA Advances is suspended, each outstanding Advance of Banker's Acceptances and BA Equivalent Loans, as the case may be, shall be payable in full on their respective maturity dates in accordance with the provisions hereof or Rolled Over or Converted into any other form of Advance permitted by this Agreement.

ARTICLE 7 LETTERS OF CREDIT

7.1 Availability

Subject to the provisions hereof, a Borrower may require that Letters of Credit be issued under and as a sublimit of the Operating Facility in accordance with the Drawdown Notices and Rollover Notices of such Borrower; provided that the aggregate Face Amount of all unexpired Letters of Credit under the Operating Facility shall not exceed Cdn. \$10,000,000 at any time. The issuance of Letters of Credit shall constitute Drawdowns or Rollovers (as applicable) hereunder and shall reduce the availability of the Operating Facility by the aggregate Outstanding Principal of Letters of Credit under the Operating Facility but, for certainty, such reductions to the availability of the Operating Facility shall not be subject to the Operating Facility Borrowing Base.

7.2 Currency, Type, Form and Expiry

Letters of Credit issued pursuant hereto shall be denominated in Canadian Dollars or United States Dollars and amounts payable thereunder shall be paid in the currency in which the Letter of Credit is denominated. Letters of Credit issued hereunder shall be issued by the Fronting Lender as a Fronted LC. Letters of Credit shall be in a form satisfactory to the Fronting Lender, acting reasonably, and shall have an expiration date not in excess of one year from the date of issue and, in any event, not later than the then current Maturity Date. Such cash Collateral and letters of credit shall be held by the Agent and be applied in accordance with Section 10.3 in satisfaction of and security for the Obligations of the Borrower for such unexpired Letters of Credit.

7.3 No Conversion

Except as provided in Section 7.5, the Borrower may not effect a Conversion of a Letter of Credit.

7.4 Letter of Credit Provisions

- (a) The Fronting Lender will exercise and give the same care and attention to each Letter of Credit issued by it hereunder as it gives to its other letters of credit and similar obligations. The Fronting Lender's sole liability to each Lender shall be to promptly return to the Agent, for the account of the Lenders, each Lender's Proportionate Share of any payments made to the Fronting Lender by the Borrower hereunder (other than the fees and amounts payable to the Fronting Lender for its own account) if the Borrower has made a payment to the Fronting Lender hereunder. Each Lender agrees that, in paying any drawing under a Letter of Credit, the Fronting Lender shall not have any responsibility to obtain any document (other than as expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of any person delivering any such document. The Fronting Lender and its representatives, officers, employees or agents shall not be liable to any Lender for:

- (i) any action taken or omitted to be taken in connection herewith at the request or with the approval of the Lenders;
- (ii) any action taken or omitted to be taken in connection with any Letter of Credit in the absence of gross negligence or wilful misconduct; or
- (iii) the execution, effectiveness, genuineness, validity, or enforceability of any Letter of Credit, or any other document contemplated thereby.

The Fronting Lender shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement or other writing (which may be a bank wire, telex or similar writing) believed by it to be genuine or to be signed by the proper person or persons.

- (b) Each of the Borrowers and the Lenders hereby authorizes the Fronting Lender to review on behalf of each Lender each Draft and other document presented under each Letter of Credit. The determination of the Fronting Lender as to the conformity of any documents presented under a Letter of Credit to the requirements of such Letter of Credit shall, in the absence of the Fronting Lender's gross negligence or wilful misconduct, be conclusive and binding on each of the Borrowers and Lenders. The Fronting Lender shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under any Letter of Credit. The Fronting Lender shall promptly after such examination:
 - (i) notify the Agent and the applicable Borrower by telephone (confirmed in writing) of such demand for payment;
 - (ii) deliver to the Agent a copy of each document purporting to represent a demand for payment under such Letter of Credit; and
 - (iii) notify the Agent and the applicable Borrower whether said demand for payment was properly made under such Letter of Credit.

7.5 Reimbursement or Conversion on Presentation

On presentation of a Letter of Credit and payment thereunder by the Fronting Lender, the Borrowers shall forthwith pay to and reimburse the Fronting Lender for all amounts paid pursuant to such Letter of Credit. Failing such payment, the Borrowers shall be deemed to have effected a Conversion of such Letter of Credit into: (i) a Prime Rate Advance, in the case of a Letter of Credit denominated in Canadian Dollars, and (ii) a US Base Rate Advance, in the case of a Letter of Credit denominated in United States Dollars, in each case, under the Operating Facility and to the extent of the payment by the Lenders or the Fronting Lender (as applicable) thereunder.

7.6 Fronting Lender Indemnity

- (a) If the Fronting Lender makes payment under any Fronted LC and the Borrowers do not fully reimburse the Fronting Lender on or before the date of payment, then Section 7.5 shall apply to deem an Advance to be outstanding under this Agreement in the manner herein set out. Each Lender shall, on request by the Fronting Lender, immediately pay to the Fronting Lender an amount equal to such Lender's Proportionate Share of the amount paid by the Fronting Lender such that

each Lender is participating in the deemed Advance in accordance with its Proportionate Share and, for certainty, regardless of whether any Default or Event of Default is then outstanding or whether any other condition to the making of an Advance has been satisfied or not.

- (b) Without limiting the obligations of the Borrowers under Section 7.5, each Lender shall immediately on demand indemnify the Fronting Lender to the extent of such Lender's Proportionate Share of any amount paid or liability incurred by the Fronting Lender under each Fronted LC issued by it to the extent that the Borrowers do not fully reimburse the Fronting Lender therefor.
- (c) The obligations in this Section 7.6 shall continue as obligations of those Lenders who were Lenders at the time when each such Fronted LC was issued notwithstanding that such Lender may assign its rights and obligations hereunder, unless the Fronting Lender specifically releases such Lender from such obligations in writing.

7.7 Fees and Expenses

- (a) The Borrowers shall pay to the Agent for the account of all Lenders in respect of Fronted LCs issued hereunder, an issuance fee monthly in arrears (on the first Business Day of each month) calculated at a rate per annum equal to the Applicable Margin and on the Face Amount of each such Letter of Credit for the number of days which such Letter of Credit will be outstanding in the year of 365 days in which the Letter of Credit is issued.
- (b) The Borrowers shall pay to the Agent for the account of the Fronting Lender, as consideration for the issuance of any Fronted LC, a fronting fee monthly in arrears (on the first Business Day of each month) calculated at a rate per annum equal to []%¹ (or as may be otherwise agreed to in writing between the Borrower and the Fronting Lender) multiplied by the Face Amount of each such Letter of Credit for the number of days which such Letter of Credit will be outstanding in the year of 365 days in which the Letter of Credit is issued
- (c) In addition, with respect to all Letters of Credit, the Borrowers shall from time to time pay to the Fronting Lender its usual and customary fees and charges (at the then prevailing rates) for the amendment, delivery and administration of letters of credit such as the Letters of Credit and shall pay and reimburse the Agent and the Fronting Lender for any costs and expenses incurred in connection with any Letter of Credit, including in connection with any payment or drawing thereunder.

7.8 Additional Provisions

- (a) The Borrowers shall indemnify and save harmless the Lenders, the Fronting Lender and the Agent against all claims, losses, costs, expenses or damages to the Lenders, the Fronting Lender or the Agent arising out of or in connection with any Letter of Credit, the issuance thereof, any payment or drawing thereunder or any action taken by the Lenders, the Fronting Lender or the Agent or any other Person in connection therewith, including all costs relating to any legal process or proceeding instituted by any Person restraining or seeking to restrain the issuer of

¹ Fee information redacted.

a Letter of Credit or the Agent from accepting or paying any Draft or any amount under any such Letter of Credit, except as a result of the Agent's, Lenders' or Fronting Lender's (as applicable) gross negligence or wilful misconduct. The Borrowers also agree that the Lenders, the Fronting Lender and the Agent shall have no liability to it for any reason in respect of or in connection with any Letter of Credit, the issuance thereof, any payment thereunder or any other action taken by the Lenders, the Fronting Lender or the Agent or any other person in connection therewith, except as a result of the Agent's, Lenders' or Fronting Lender's (as applicable) gross negligence or wilful misconduct.

- (b) The Borrowers hereby acknowledge and confirm to the Fronting Lender, the Agent and the Lenders that the Fronting Lender, the Agent and the Lenders shall not be obliged to make any inquiry or investigation as to the right of any beneficiary to make any claim or Draft or request any payment under a Letter of Credit and payment pursuant to a Letter of Credit shall not be withheld by reason of any matters in dispute between the beneficiary thereof and the Borrowers. The sole obligation of the Fronting Lender, the Agent and the Lenders with respect to Letters of Credit is to cause to be paid a Draft drawn or purporting to be drawn in accordance with the terms of the applicable Letter of Credit and for such purpose the Fronting Lender or Agent, as the case may be, is only obliged to determine that the Draft purports to comply with the express terms and conditions of the relevant Letter of Credit.
- (c) The Fronting Lender, the Agent and the Lenders shall not have any responsibility or liability for or any duty to inquire into the form, sufficiency (other than to the extent provided in the preceding paragraph), authorization, execution, signature, endorsement, correctness, genuineness or legal effect of any Draft, certificate or other document presented to it pursuant to a Letter of Credit and the Borrowers unconditionally assume all risks with respect to the same. The Borrowers assume all risks of the acts or omissions of the beneficiary of any Letter of Credit with respect to the use by such beneficiary of the relevant Letter of Credit and proceeds thereof. The Borrowers further agree that neither the Agent nor any Lender, including the Fronting Lender, nor any of their respective officers, directors or correspondents will assume liability for, or be responsible for:
 - (i) the validity, correctness, genuineness or legal effect of any document or instrument relating to any Letter of Credit, even if such document or instrument should in fact prove to be in any respect invalid, insufficient, inaccurate, fraudulent or forged;
 - (ii) the failure of any document or instrument to bear any reference or adequate reference to any Letter of Credit;
 - (iii) any failure to note the amount of any Draft on any Letter of Credit or on any related document or instrument;
 - (iv) any failure of the beneficiary of any Letter of Credit to meet the obligations of such beneficiary to the Borrowers or any other Person;
 - (v) any errors, inaccuracies, omissions, interruptions or delays in transmission or delivery of any messages, directions or correspondence by mail,

facsimile or otherwise, whether or not they are in cipher or otherwise encrypted;

- (vi) any inaccuracies in the translation of any messages, directions or correspondence or for errors in the interpretation of any technical terms; or
- (vii) any failure by the Agent or any Lender, including the Fronting Lender, to make payment under any Letter of Credit as a result of any Applicable Law, control or restriction rightfully or wrongfully exercised or imposed by any domestic or foreign Court or government or Governmental or Judicial Body or as a result of any other cause beyond the control of the Agent or any Lender, including the Fronting Lender, or their respective officers, directors, agents, employees or correspondents.

The obligations of the Borrowers hereunder with respect to all Letters of Credit shall be joint and several, absolute, unconditional and irrevocable and shall not be reduced by any event, circumstance or occurrence, including any lack of validity or enforceability of a Letter of Credit, or any Draft paid or acted upon by the Fronting Lender, the Agent, the Lenders or any of their respective correspondents being fraudulent, forged, invalid or insufficient in any respect (except with respect to their gross negligence or wilful misconduct or payment under a Letter of Credit other than in substantial compliance therewith), or any set-off, defenses, rights or claims which the Borrowers (or any of them) may have against any beneficiary or transferee of any Letter of Credit. The obligations of the Borrowers hereunder shall remain in full force and effect and shall apply to any alteration to or extension of the expiration date of any Letter of Credit or any Letter of Credit issued to replace, extend or alter any Letter of Credit.

- (d) Any action, inaction or omission taken or suffered by the Fronting Lender, the Agent or any Lender or by any of their respective correspondents under or in connection with a Letter of Credit or any Draft made thereunder, if in good faith and in conformity with foreign or domestic Applicable Laws, regulation or customs applicable thereto shall be binding upon the Borrowers and shall not place the Fronting Lender, the Agent, any Lender or any of their respective correspondents under any resulting liability to the Borrowers (or any of them). Without limiting the generality of the foregoing, the Fronting Lender, the Agent, any Lender and their respective correspondents may receive, accept or pay as complying with the terms of a Letter of Credit, any Draft thereunder, otherwise in order which may be signed by, or issued to, the administrator or any executor of, or the trustee in bankruptcy of, or the receiver for any property of, or any person or entity acting as a representative, officer of the Court or in the place of, such beneficiary or its successors and assigns. The Borrowers (and each of them) covenant that they will not take any steps, issue any instructions to the Fronting Lender, the Agent, any Lender or any of their respective correspondents or institute any proceedings intended to derogate from the right or ability of the Fronting Lender, the Agent, any Lender or their respective correspondents to honour and pay any Letter of Credit or any Drafts.
- (e) The Borrower shall pay to the Agent an amount equal to the Face Amount of any unexpired Letter of Credit together plus all fees, interest and expenses which have or could accrue until the expiry of each such Letter of Credit which becomes the subject of any order, judgment, injunction or other such determination (an "**Order**"),

or any petition, proceeding or other application for any Order by the Borrowers (or any of them) or any other Person, restricting payment under and in accordance with such Letter of Credit or extending the Fronting Lender's or a Lender's liability, as the case may be, under such Letter of Credit beyond the expiration date stated therein; payment in respect of each such Letter of Credit shall be due forthwith upon demand in the currency in which such Letter of Credit is denominated.

Any amount paid to the Agent pursuant to the preceding paragraph shall be held by the Agent in interest bearing cash collateral accounts (with interest payable for the account of the Borrowers at the rates and in accordance with the then prevailing practices of the Agent for accounts of such type) as continuing collateral security for the Obligations and shall, prior to an Event of Default, be applied by the Agent against the Obligations for, or (at the option of the Agent) be applied in payment of, such Letter of Credit if payment is required thereunder; After the occurrence of an Event of Default, the Agent may apply such amounts, first, against any Obligations in respect of the relevant Letter of Credit, and, after satisfaction of such Obligations or expiry of such Letter of Credit, second, against any other Obligations as it sees fit or as is directed by the Lenders. The Agent shall release to the Borrower any amount remaining in the cash collateral accounts after applying the amounts necessary to discharge the Obligations relating to such Letter of Credit, upon the later of:

- (i) the date on which any final and non-appealable order, judgment or other determination has been rendered or issued by a Court of competent jurisdiction either terminating any applicable Order or permanently enjoining the Fronting Lender or the Lenders, as the case may be, from paying under such Letter of Credit;
 - (ii) the earlier of:
 - (A) the date on which either the original counterpart of such Letter of Credit is returned to the Fronting Lender for cancellation or the Fronting Lender is released by the beneficiary thereof from any other obligation in respect of such Letter of Credit; and
 - (B) the expiry of such Letter of Credit; and
 - (iii) if an Event of Default has occurred, the indefeasible payment and satisfaction of all Obligations in full and the cancellation or termination of the Facilities.
- (f) Notwithstanding any other provision of the Credit Documents to the contrary, the Fronting Lender, the Agent and the Lenders shall not be liable to the Borrowers (or any of them) for any consequential, indirect, punitive or exemplary damages with respect to action taken or omitted to be taken by any of them under or in respect of any Letter of Credit.
- (g) The Uniform Customs and Practice for Documentary Credits or Standby Credits, as applicable, as most recently published by the International Chamber of Commerce or its successor (the "**Uniform Customs for Letters of Credit**") shall in all respects apply to each Letter of Credit that is a letter of credit unless expressly provided to the contrary therein and shall be deemed for such purpose to be part

of this Agreement as if fully incorporated herein. The Uniform Rules for demand guarantees as most recently published by the International Chamber of Commerce or its successor (the "**Uniform Customs for Letters of Guarantee**") shall in all respects apply to each Letter of Credit that is a letter of guarantee unless expressly provided to the contrary therein and shall be deemed for such purpose to be a part of this Agreement as if fully incorporated herein. In the event of any conflict or inconsistency between the Uniform Customs and the governing law of this Agreement, the Uniform Customs for Letters of Credit or Uniform Customs for Letters of Guarantee, as applicable, shall, to the extent permitted by Applicable Law, prevail to the extent necessary to remove the conflict or inconsistency.

- (h) The Fronting Lender (if other than the Agent) shall forthwith advise the Agent of any payment under, or cancellation of (whether full or partial), any Letter of Credit issued by the Fronting Lender pursuant hereto.

For certainty, all Rollover Notices requesting a Rollover of a Letter of Credit shall be delivered to the Agent (rather than directly to the Fronting Lender) and, in addition to the other provisions hereof applicable to such a Rollover, no Rollover of a Letter of Credit shall be made unless a Rollover Notice is given to the Agent in accordance with Section 6.5(d).

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties

Each Borrower represents and warrants to the Agent and the Lenders on its own behalf and, in the case of RMDI, for and on behalf of each other Loan Party that:

- (a) Existence: each corporate Loan Party is duly incorporated, amalgamated or continued, and each Loan Party which is a partnership is duly formed and recognized, and each is duly organized, validly subsisting and in good standing under the laws of its jurisdiction of incorporation, amalgamation, continuance or formation, as the case may be, and is duly registered and qualified as an extra-provincial corporation or partnership under the laws of each other jurisdiction in which the nature of any business transacted by it or the character of any properties and assets owned or leased by it requires such registration and qualification, except to the extent that failure to maintain such registration or qualification does not have a Material Adverse Effect;
- (b) Power and Capacity: each Loan Party has full corporate or partnership power and capacity, as the case may be, to own its properties and assets and conduct its business as presently conducted, and to grant security over its Property, and to enter into and perform its obligations under each Credit Document to which it is a party;
- (c) Authorization: the execution, delivery and performance by each Loan Party of each of the Credit Documents to which it is a party has been duly authorized by all necessary corporate, partnership or trust action, as applicable, and are within its corporate, partnership or trust power and capacity, as applicable;

- (d) Execution and Delivery: each Credit Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party;
- (e) Binding Obligations: each Credit Document to which any Loan Party is a party is a legal, valid and binding obligation enforceable against such Loan Party in accordance with its respective terms, except as enforceability may be limited by general principles of equity and by bankruptcy, insolvency, reorganization or similar laws affecting creditors' rights generally;
- (f) No Legal Bar or Resultant Lien: the execution, delivery and performance by each Loan Party of each of the Credit Documents to which it is a party will not violate any provision of its respective Constating Documents, and will not result in a breach of or constitute a default or require any consent under, or result in the creation of any Encumbrance (other than Permitted Encumbrances) upon any of its Property pursuant to any indenture or other agreement or instrument to which it is a party or by which it or its Property may be bound or affected. The execution, delivery and performance by each Loan Party of each of the Credit Documents to which it is a party does not require any governmental action, license, consent or approval of or notice to or filing with any Governmental or Judicial Body which has not been obtained and does not and will not contravene any provision of Applicable Law or any governmental action applicable to any Loan Party or any of their respective assets, except to the extent any failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (g) Conduct of Business: each Loan Party is conducting its business in accordance with good industry standards, all Permits issued to it and all Applicable Laws (including, without limitation, all Environmental Laws), except to the extent failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (h) Title to Property: each Loan Party has good and marketable title to all of its Property free and clear of all claims and Encumbrances, other than Permitted Encumbrances;
- (i) Default of Other Contracts: no Loan Party is in material breach or material default of, nor has any event or circumstance occurred which, but for the passage of time or the giving of notice, or both, would constitute a breach or default under, any material agreement or instrument by which any Loan Party or any of its respective properties, assets or undertakings are bound, except to the extent any failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (j) RMDI as a "reporting issuer": RMDI is a "reporting issuer" whose voting shares are listed for trading on the TSX;
- (k) Ownership of Material Subsidiaries: RMDI is the direct or indirect legal and beneficial owner of all of the issued and outstanding Shares of every Loan Party (other than RMDI);
- (l) Material Subsidiaries: except as otherwise disclosed to the Agent and the Lenders, there are no Material Subsidiaries;

- (m) Subsidiaries: Schedule "E" (as the same may be updated from time to time) includes a complete list of all of the Subsidiaries and Material Subsidiaries of RMDI;
- (n) Relevant Jurisdictions: the jurisdiction of organization and the location of the principal place of business of each of the Loan Parties or, if it has more than one principal place of business, its chief executive office, along with all other Relevant Jurisdictions of each Loan Party, is set forth in Schedule "E";
- (o) Litigation: Except as disclosed in the Financial Statements, there are no material actions, applications, suits or proceedings (whether or not purportedly on behalf of any Loan Party) pending or, to the knowledge of the Loan Party, having made due inquiry, threatened against any Loan Party at law or in equity by or before any Governmental or Judicial Body and no Loan Party is in default with respect to any judgment, order, writ, injunction, decree, award, rule or regulation of any Governmental or Judicial Body, except in each case to the extent it could not reasonably be expected to have a Material Adverse Effect;
- (p) Property Information: all cash flow projections and other data provided to the Agent by the Loan Parties (or any of them) in respect of the Property of the Loan Parties were in the case of financial projections prepared in good faith based upon reasonable assumptions at the date of preparation and, in all other cases, fairly and properly reflect in all material respects the interests of the Loan Parties therein and thereto as of the date thereof;
- (q) Financial Condition: all Financial Statements submitted to the Agent fairly reflect, as of the dates thereof, the consolidated financial condition of RMDI, and the results of operations for the periods covered thereby, have been prepared in accordance with GAAP and, from the date of the latest such Financial Statements submitted to the Agent, there has been no material adverse change in the consolidated financial condition of RMDI or its consolidated Property or condition which has not been disclosed in writing to the Agent;
- (r) Hedge Agreements: the Loan Parties (or any of them) are not party to any Hedge Agreements, other than Eligible Hedge Agreements and Permitted Hedge Agreements;
- (s) Taxes: each of the Loan Parties has duly filed on a timely basis all Tax returns required to be filed by it, and it has paid all Taxes and remittances which are due and payable by it, and has paid all assessments and reassessments, and all other Taxes, governmental charges, governmental royalties, penalties, interest and fines claimed against it (except where it is contesting the payment of same in good faith, and it has established such reserves therefor as required by GAAP); all employee source deductions (including income taxes, unemployment insurance and Canada Pension Plan), sales taxes (both federal and provincial), payroll taxes and workers compensation payments are currently paid and up to date; each of the Loan Parties has made adequate provision for, and all required installment payments have been made in respect of, Taxes and remittances payable for the current period for which returns are not yet required to be filed; there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any Tax return or the payment of any Taxes or remittances described above; there are no actions or proceedings being taken by Canada Revenue

Agency or any other Governmental or Judicial Body to enforce the payment of any Taxes or remittances described above and it has no knowledge of any such actions or proceedings being contemplated by such authorities;

- (t) Insurance: the Loan Parties have in full force and effect such policies of insurance in such amounts issued by insurers of recognized standing insuring its Properties and operations, including business interruption insurance and replacement cost insurance, and providing such coverage as would be maintained by a prudent Person engaged in the same or similar business in the Relevant Jurisdictions where their Property and operations are located;
- (u) Material Contracts: all Material Contracts entered into by any Loan Party are set forth in Schedule "G", and in respect of each such Material Contract:
 - (i) none of the Loan Parties has defaulted in any respect in the performance or observance of any of the terms or conditions contained or referenced therein; and
 - (ii) to the knowledge of the Borrowers (or any of them), no other party thereto is in default thereunder in any respect, nor has any such party taken any action to terminate the same (including by non-renewal thereof),

except, in each case, to the extent any such default or termination could not reasonably be expected to have a Material Adverse Effect;

- (v) Compliance with Laws: each Loan Party is in compliance with all Applicable Laws (including, without limitation, all Environmental Laws), except to the extent failure to comply could not reasonably be expected to have a Material Adverse Effect;
- (w) Permits: each of the Loan Parties has obtained and maintained all Permits necessary or desirable to the ownership of its Property and to the conduct of its business in each jurisdiction where it carries on business or owns material Property, including, without limitation, all Permits required under Environmental Law, except to the extent failure to do so could not reasonably be expected to have a Material Adverse Effect, and, with respect of each:
 - (i) none of the Loan Parties has defaulted in any respect in the performance or observance of any of the terms or conditions contained or referenced therein; and
 - (ii) to the knowledge of the Borrowers (or any of them), no other party thereto is in default thereunder in any respect, nor has any such party taken any action to terminate the same,

except, in each case, to the extent any such default or termination could not reasonably be expected to have a Material Adverse Effect;

- (x) Environmental Condition of Property: the Property of the each Loan Party:
 - (i) is not the subject of any outstanding orders or similar pronouncements from a Governmental or Judicial Body or otherwise alleging violation of any Environmental Law; and

- (ii) complies, with respect to its use and condition and in all respects, with Environmental Law and all terms and conditions of all permits, licenses and other authorizations which are required under Environmental Law,

except, in each case, with respect to any orders or failure to comply which could not reasonably be expected to have a Material Adverse Effect;
- (y) Intellectual Property: each Loan Party owns or licenses or otherwise has the right to use all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade name applications, copyrights, copyright applications, franchises, authorization and other intellectual property and licenses and permits in respect thereof (collectively, the "**Intellectual Property**") that are necessary for the operations of its Property and business in each jurisdiction where it carries on business or owns material Property, without infringement upon or conflict with the rights of any other Person with respect thereto, including, without limitation, all trade names associated with any private label brands of such Loan Party, except to the extent failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (z) No Infringement: to the best knowledge of the Loan Parties, having made due inquiry, no slogan or other advertising, device, product, process, method, substance or part or component or other material now employed, or now contemplated by any Loan Party be employed, by any Loan Party infringes upon or conflicts with any rights owned by any other Person, and no claim or litigation regarding any of the foregoing is pending or threatened, which, in any case, could reasonably be expected to have a Material Adverse Effect;
- (aa) Permitted Encumbrances: no Loan Party is in default under any of the Permitted Encumbrances relating to it;
- (bb) Events of Default: no Event of Default and no Default has occurred and is continuing hereunder; and
- (cc) Disclosure: the Loan Parties have given to the Lenders or the Agent all material information in the possession of or available to them and relevant to the assessment of the Facilities and, in addition, all information necessary to make any statements contained herein not misleading in the light of the circumstances in which they were given, and no Borrower is aware of any fact or event, the occurrence of which could reasonably be expected to have a Material Adverse Effect.
- (dd) No Bail-In Action: none of the Loan Parties is an EEA Financial Institution that is subject to Bail-In Action.
- (ee) Sanctions; Anti-Corruption:
 - (i) No part of the proceeds of any Drawdown nor drawings under any Letter of Credit will be used, directly or, to the knowledge of any of the Loan Parties after due inquiry, indirectly, to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person in any manner that would result in any violation by any person (including any Lender and the Agent) of (1) any Sanctions, or (2) applicable

regulations, rules and executive orders administered by any Sanctions Authority.

- (ii) None of the Loan Parties (1) is, or will become a Sanctioned Person or (2) knowingly, after due inquiry, engages or will engage in any dealings or transactions, or is or will be otherwise knowingly, after due inquiry, associated, with any Sanctioned Person that would result in any violation of (x) any Sanctions or (y) applicable regulations, rules and executive orders administered by any Sanctions Authority.
- (iii) To its knowledge, after due inquiry, each Loan Party is, and has conducted its business, in compliance in all respects with all Sanctions and all applicable regulations, rules and executive orders administered by any Sanctions Authority.
- (iv) Each Loan Party has implemented and maintains in effect policies and procedures designed to ensure compliance by it and its directors, officers, employees and agents with Anti-Corruption Laws. Each Loan Party is in compliance with all Anti-Corruption Laws. No Loan Party nor any of their respective directors, officers, employees or (to such Loan Party's knowledge after due inquiry) agents is in violation of Anti-Corruption Laws.
- (v) None of Loan Parties is the subject of any investigation, inquiry or enforcement proceedings by any Governmental or Judicial Body regarding any offense or alleged offense under any Anti-Corruption Laws.

8.2 Survival of Representations and Warranties

Unless expressly stated to be made as of a specific date, the representations and warranties made in this Agreement shall survive 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 deemed Advance) and as of the date of delivery of each Compliance Certificate, subject to modifications made by a Borrower to the Agent and the Lenders in writing and accepted by the Agent and the Lenders. The Agent and the Lenders shall be deemed to have relied upon such representations and warranties at each such time as a condition of making an Advance hereunder or continuing to extend the Facilities hereunder.

ARTICLE 9 COVENANTS

9.1 Positive Covenants

During the term of this Agreement, each Borrower covenants and agrees with the Agent and the Lenders for and on behalf of itself and, in the case of RMDI, each other Loan Party that each Loan Party shall:

- (a) duly and punctually pay the Obligations (including, without limitation, all fees payable pursuant to the Fee Letter) due and payable by it at the times and places and in the manner required by the terms thereof;
- (b) promptly provide the Agent with all information reasonably requested by the Agent from time to time concerning its financial condition, business and Property and at

all reasonable times and from time to time upon reasonable notice, permit representatives of the Agent to, subject to the Borrowers' health and safety rules and regulations, inspect any of its Property, and to examine and take extracts from its financial books, accounts and records, including but not limited to 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, the reasonable expense of all of which shall be paid by the Borrowers; provided that the exercise of the rights of the Agent under this paragraph (b) is not more frequent than is reasonably necessary;

- (c) (i) maintain insurance, as applicable, on all its Property with financially sound and reputable insurance companies or associations acceptable to the Agent, including all-risk property insurance (including extended coverage endorsement), comprehensive general liability insurance and business interruption insurance (with the Agent shown as first mortgagee and loss payee for property insurance and as an additional insured for comprehensive general liability insurance), in amounts with terms and against risks that are determined to be appropriate by such Loan Party acting in accordance with prudent industry practice and to the extent available on commercially reasonable terms, (ii) furnish to the Agent, on written request, but in any event annually, satisfactory evidence of the insurance carried, and (iii) notify the Agent of any material claims, cancellations or terminations it or any other Person made or intends or threatens to make under the foregoing insurance policies.
- (d) maintain and preserve its existence, organization and status in each jurisdiction of organization and in each other Relevant Jurisdiction and make all corporate, partnership and other filings and registrations necessary or advisable in connection therewith, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (e) conduct its Business in an efficient, diligent and sound manner and in accordance with good industry practices;
- (f) operate and maintain all of its Property in good repair and working condition and in accordance with good industry practices and all insurance policies applicable to such Property, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (g) maintain in good standing all of its trade names, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (h) obtain and maintain all Permits necessary or desirable to the ownership of its Property and to the conduct of its Business in each Relevant Jurisdiction, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (i) make all regulatory filings required by Governmental or Judicial Bodies, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;

- (j) comply with Applicable Laws including, without limitation, all Environmental Laws, except where failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (k) comply in all material respects with the terms, provisions and obligations of each such Material Contract;
- (l) notify the Agent if any other party to any Material Contract to which it is a party is in default thereunder (other than in respect of a minor default) or has taken any action to terminate (including by non-renewal thereof) such Material Contract;
- (m) notify the Agent if any party to any DLL Agreement, CNH Agreement or GE Agreement to which it is a party is in default thereunder or has taken any action to terminate (including by non-renewal thereof) such DLL Agreement, CNH Agreement or GE Agreement;
- (n) maintain proper books and records in accordance with GAAP;
- (o) duly file on a timely basis all tax returns required to be filed by it, and duly and punctually pay all Taxes and other governmental charges levied or assessed against it or its Property (including, without limitation, all preferred claims and source withholdings);
- (p) use the proceeds of any Advance hereunder, only for the purposes set out in Section 2.2 (in the case of Advances under the Operating Facility, including the Swingline Facility), Section 2.3 (in the case of Advances under the Flooring Facility) or Section 2.4 (in case of Advances under the Revolving Term Facility), as the case may be;
- (q) subject to the 45 day period referenced in Section 4.7, ensure that the total assets of the Loan Parties constitute more than 95% of the Net Tangible Total Assets and that the total revenue (calculated on its preceding consecutive twelve month period) of the Loan Parties constitutes more than 95% of the consolidated revenue of RMDI;
- (r) execute and deliver to the Agent the Security required by Section 4.6;
- (s) cause each Material Subsidiary (that is not a Borrower) to become a Guarantor by executing and delivering to the Agent and the Lenders an unlimited guarantee of the Obligations of the Borrowers (or any of them) together with other Security required pursuant to Section 4.7;
- (t) ensure that the Security granted by it to the Agent and the Lenders and the Encumbrances created thereby remains legal, valid, binding, perfected and enforceable, in accordance with its terms (subject to Applicable Laws affecting the rights of creditors generally and rules of equity of general application);
- (u) promptly notify the Agent of any Event of Default or Default of which it becomes aware;

- (v) promptly notify the Agent of any material change in or the occurrence of a default under any agreement entered into by it with respect to Debt, where the aggregate amount of Debt outstanding thereunder exceeds \$2,500,000;
- (w) promptly notify the Agent of:
 - (i) any proposed change in the name of any Loan Party, at least 20 days prior to any action being taken to effect such name change, and thereafter within 10 days provide certified copies of the certificate and supporting documents effecting such name change;
 - (ii) any proposed change in any Responsible Officer of any Loan Party, at least 20 days prior to the anticipated occurrence of such change (or forthwith in the case where such change will occur in less than 20 days of any Loan Party having knowledge thereof); and
 - (iii) any proposed change to any of its Relevant Jurisdictions, at least 20 days prior to such change, together with particulars of the new address in compliance with the *Personal Property Security Act* or *Uniform Commercial Code* applicable to such Loan Party,

and, with respect to any proposed change described in paragraph (i) or (iii) above, promptly take such other steps, if any, as the Agent may, in its discretion, reasonably request to permit the Agent to perfect, register and maintain enforceable the Encumbrances created by the Security with respect such change;

- (x) if any Loan Party is contemplating moving any of its material tangible personal Property to, or commencing to carry on material business in, any jurisdiction in Canada, the United States or elsewhere in which the Agent has not registered or perfected the Encumbrances constituted by the Security, ensure that any required Security with respect to such Property and such jurisdiction, in a form acceptable to the Agent and the Lenders, is provided to the Agent and the Encumbrances constituted by such Security are registered and perfected prior to moving such Property or commencing such business;
- (y) promptly notify the Agent on becoming aware of the occurrence of any litigation, arbitration or other proceeding against or affecting any Loan Party, the magnitude of which is greater than Cdn. \$2,500,000 or which could reasonably be expected to have a Material Adverse Effect, and from time to time provide the Agent with all reasonable information requested by the Agent concerning the status thereof;
- (z) promptly notify the Agent upon learning of any charges, orders, citations, demands, complaints or similar types of claim pursuant to any Environmental Law, in respect of which the liability of the Loan Parties (or any of them) could reasonably be expected to exceed, in the aggregate, Cdn. \$2,500,000 in any one Fiscal Year or could reasonably be expected to have a Material Adverse Effect, and from time to time provide the Agent with all reasonable information requested by the Agent concerning the status thereof;
- (aa) promptly notify the Agent upon (i) learning of the existence of Hazardous Materials located on, above or below the surface of any land which it controls or contained in the soil or water constituting such land (except those Hazardous Materials being

stored, used or otherwise handled in substantial compliance with Applicable Law and good industry standards), and (ii) the occurrence of any reportable Release of Hazardous Materials that has occurred on or from such land, unless such existence or occurrence could not reasonably be expected to have a Material Adverse Effect;

- (bb) cooperate with, and provide information to, the Service Provider to allow the Service Provider to render its services in accordance with the Service Agreement;
- (cc) pay all payments owed to the Service Provider as compensation for the Service Provider rendering its services in accordance with the Service Agreement, except where such amounts are in dispute and the Service Provider is continuing to render its services under the Service Agreement;
- (dd) cooperate with, and provide information to, the Flooring Facility Auditor to allow the Flooring Facility Auditor to prepare and complete its Flooring Facility Audit each Fiscal Quarter; and
- (ee) provide the Agent with such other documents, opinions, consents, acknowledgments and agreements as are reasonably necessary to implement this Agreement and the Security from time to time.

9.2 Reporting Requirements

During the term of this Agreement, the Borrowers shall prepare and deliver, or cause to be prepared and delivered to the Agent:

- (a) as soon as practicable and in any event within 30 days after the end of each calendar month:
 - (i) an Operating Facility Borrowing Base Certificate, signed by a Responsible Officer of RMDI on behalf of the Borrowers; and
 - (ii) an Inventory Report detailing each item of Equipment Inventory financed under the Flooring Facility, in accordance with the Service Agreement;
- (b) within the times prescribed in the Service Agreement, a Flooring Facility Audit in final form in accordance with the Service Agreement;
- (c) within 15 days of the end of each Fiscal Quarter of each Fiscal Year, a CNH Audit Report, in accordance with the Service Agreement;
- (d) as soon as practical and in any event within 90 days of the start of each Fiscal Year, the Non-Real Estate Capital Expenditure Budget for such Fiscal Year, which is subject to the approval of the Majority Lenders, such approval not to be unreasonably withheld or delayed;
- (e) as soon as practical and in any event within 90 days of the start of each Fiscal Year, the Real Estate Capital Expenditure Budget for such Fiscal Year, which is subject to the approval of the Majority Lenders, such approval not to be unreasonably withheld or delayed;

- (f) as soon as practicable and in any event within 45 days of the end of the first, second and third Fiscal Quarters of each Fiscal Year, unaudited consolidated Financial Statements as at the end of such Fiscal Quarter;
- (g) as soon as practicable and in any event within 90 days after the end of each Fiscal Year, annual consolidated Financial Statements which shall be audited by a nationally recognized accounting firm (and for the purpose herein, the accounting firms of Collins Barrow, Grant Thornton and Meyers Norris Penny shall be considered acceptable) and shall include a copy of the auditor's management letter to the board of directors of RMDI;
- (h) concurrently with the delivery of its Financial Statements referred to in Section 9.2(f) and Section 9.2(g) above, a Compliance Certificate, signed by a Responsible Officer of RMDI on behalf of the Borrowers;
- (i) within 90 days of the commencement of each Fiscal Year, *pro forma* Financial Statements for such Fiscal Year, together with an annual business plan for such Fiscal Year, and containing such other information and detail as the Agent may reasonably request;
- (j) promptly provide the Agent with copies of (i) all financial statements, proxy statements, information circulars, notices and reports sent to the shareholders of RMDI, and (ii) final prospectuses and other similar offering documents such as private placement memorandums, registration statements and material change reports, unless, in each case, such copies are posted on www.SEDAR.com (provided that if the Agent advises RMDI that it is unable to access www.SEDAR.com, RMDI will promptly provide paper copies thereof to the Agent);
- (k) within 90 days after the end of each Fiscal Year, provide the Agent with an updated organizational chart for all Loan Parties and Subsidiaries;
- (l) such other information as the Agent may reasonably request respecting any Loan Party; and
- (m) prompt notice of any change (financial or otherwise) in the Business, affairs, operations, Property, liabilities (contingent or otherwise) or capital of any Loan Party, or the Loan Parties taken as a whole, that has or could reasonably be expected to have a Material Adverse Effect;

provided, however, if the Borrower shall not, or shall not cause, any or all of the reports set forth in Sections 9.2(a)(ii), 9.2(b) and 9.2(c) to be prepared and delivered to the Agent due solely to the failure of the Service Provider, the Borrower shall be afforded a further period of 30 days to prepare and deliver such reports.

9.3 Negative Covenants

During the term of this Agreement, each Borrower covenants and agrees with the Agent and the Lenders for and on behalf of itself and, in the case of RMDI, each other Loan Party that such Borrower shall not, and shall not permit any other Loan Party to:

- (a) other than as provided in Section 9.3(c), cease to carry on its Business currently being carried on by it or operate its business in a manner that could reasonably be expected to have a Material Adverse Effect,
- (b) engage in any material activities or business or enter into ventures other than the Business or any activities, business or ventures reasonably incidental thereto;
- (c) merge, amalgamate or consolidate with any other Person or Persons other than a Loan Party, or enter into any corporate reorganization or other transaction intended to effect a consolidation, amalgamation or merger, or become party to any transaction whereby, directly or indirectly, all or any substantial part of its Property would become the property of any other Person other than a Loan Party, whether by way of reorganization, dissolution, winding-up, liquidation, amalgamation, arrangement, transfer, lease or otherwise;
- (d) do or permit anything to adversely affect the ranking or validity of the Security or of the Encumbrances constituted thereby, except by incurring a Permitted Encumbrance;
- (e) create, incur, assume or permit to exist any Encumbrance upon any of the Property of the Loan Parties, except Permitted Encumbrances;
- (f) create, incur, assume or permit to exist any Debt, other than Permitted Debt;
- (g) make any payment on any Debt Service Obligation or any Convertible Debenture unless:
 - (i) such Debt Service Obligation constitutes Permitted Debt or Convertible Debentures, approved by the Majority Lenders, as required; and
 - (ii) no Default or Event of Default has occurred and is continuing, and no Default or Event of Default would result from such payment;
- (h) issue any Convertible Debentures without the prior written approval of the Agent and the Majority Lenders;
- (i) materially amend the terms of any Convertible Debenture (including, without limitation, repayment terms thereof) without the prior written approval of the Agent and the Majority Lenders;
- (j) incur any expenditures (and for the purposes herein, "expenditures" means monies relating to the purchase price including any deposit paid) for any Acquisition without the prior written approval of the Majority Lenders, unless:

- (i) the cost of such Acquisition, when added to the aggregate cost of all Acquisitions completed by the Loan Parties (or any of them) in the then-current Fiscal Year, does not exceed Cdn. \$20,000,000;
 - (ii) the Agent, on behalf of itself and the Lenders, shall have received and reviewed a purchase and sale agreement with respect to such Acquisition in advance of such Acquisition, which agreement shall be in form and substance satisfactory to the Agent and Agent's Counsel, acting reasonably;
 - (iii) such Acquisition shall be completed in substantial compliance with the purchase and sale agreement delivered pursuant to paragraph (ii) above; and
 - (iv) no Default or Event of Default has occurred and is occurring, and no Default or Event of Default would result from such Acquisition;
- (k) make any Investment without the prior written approval of the Majority Lenders, except:
- (i) Investments in or in respect of a wholly-owned Subsidiary;
 - (ii) Investments in the nature of money market investments with Canadian chartered banks;
 - (iii) Acquisitions permitted pursuant to Section 9.3(j); and
 - (iv) Investments which do not, when added to the aggregate of all Investments made by all Loan Parties (or any of them) in the then-current Fiscal Year, exceed Cdn. \$7,500,000;
- (l) make any sale, transfer or other disposition of Property, other than a Permitted Disposition;
- (m) use the proceeds of Advances to, whether directly or indirectly, facilitate, assist or participate in any Takeover, other than in accordance with Section 2.6 and, for greater certainty, no Loan Party shall use any Advance to, directly or indirectly, facilitate, assist or participate any hostile takeover of any other Person or entity;
- (n) if such Borrower or other Loan Party is a partnership, limited partnership, limited liability company or other similar entity, amend its Constating Document or documents which create interests in such Borrower or other Loan Party so as to designate such interests as a "security" for the purposes of the *Securities Transfer Act* (Alberta) or an analogous designation under any other Applicable Law, in each case without the prior written approval of the Majority Lenders;
- (o) enter into or otherwise become a party to or obligated under any Hedge Agreement or other similar agreement ordinarily used for the purpose of hedging risk, unless such Hedge Agreement is an Eligible Hedge Agreement or a Permitted Hedge Agreement;

- (p) modify, alter, amend (except amendments to Material Contracts which are made to correct or rectify ambiguities or inconsistent provisions (that do not cause any material substantive modification), clerical omissions or manifest errors; provided that in each case such amendment is not prejudicial to the interest of any of the Loan Parties or the Lenders), extend, replace, knowingly waive strict and timely performance of any compliance with, or waive any default under any Material Contract or any material term, agreement, provision, item, obligation or covenant contained in any Material Contract, except, in each case, to the extent such action could not reasonably be expected to have a Material Adverse Effect;
- (q) permit at any time Non-Real Estate Capital Expenditures to exceed 115.0% of the Non-Real Estate Capital Expenditure Budget, without first obtaining the written approval of the Majority Lenders;
- (r) permit at any time Real Estate Capital Expenditures to exceed 110.0% of the Real Estate Capital Expenditure Budget, without first obtaining the written approval of the Majority Lenders;
- (s) declare, pay or make any Distribution unless:
 - (i) no Default or Event of Default shall have occurred and be continuing or shall reasonably be expected to occur as a result of making any such Distribution; and
 - (ii) no Borrowing Base Shortfall shall have occurred and be continuing or shall reasonably be expected to occur as a result of making any such Distribution; or
- (t) use or make available, directly or indirectly, the proceeds of any Advance to any person in furtherance of any offer, promise or authorization to pay or give money or anything else of value, in each case, in violation of any Anti-Corruption Laws.

9.4 Financial Covenants

During the term of this Agreement, each Borrower covenants and agrees with the Agent and the Lenders that:

- (a) as at the end of each Fiscal Quarter, its Current Assets to Current Liabilities Ratio shall not be less than 1.20:1.00;
- (b) as at the end of each Fiscal Quarter, its Total Debt to Tangible Net Worth Ratio shall not exceed 5.00:1.00;
- (c) as at the end of each Fiscal Quarter, its Fixed Charge Coverage Ratio shall be at least 1.20:1.00;
- (d) subject to Section 3.5, ensure that the Outstanding Principal, in aggregate, under the Operating Facility (including in respect of the Swingline Facility and all unexpired Letters of Credit) does not exceed, at any time, the Operating Facility Limit;

- (e) subject to Section 3.5, ensure that the Outstanding Principal, in aggregate, under the Flooring Facility does not exceed, at any time, the Flooring Facility Limit; and
- (f) subject to Section 3.5, ensure that the Outstanding Principal, in aggregate, under the Revolving Term Facility does not exceed, at any time, the Revolving Term Facility Limit.

9.5 Property

Each Borrower covenants and agrees with the Agent and the Lenders that, during the term of this Agreement, unless the Agent acting on the instructions of the Majority Lenders (each to be acting reasonably) otherwise provides its prior written approval, it shall and, in the case of RMDI, it shall cause each other Loan Party to:

- (a) defend its Property against any Person claiming, attempting to claim or otherwise asserting any interest adverse to its interests therein which, if successful, would have a Material Adverse Effect, and keep at an appropriate, accurate and complete records of its Property;
- (b) permit (upon request of the Agent, acting reasonably) properly qualified representatives of such Loan Party or the Agent (at the option of the Agent) to conduct tests, inspections and appraisals of, in or on any of its Property, including environmental audits and soil tests, and to remove soil and other samples from such Property from time to time; provided that the results of any such tests shall also be delivered to the Borrowers, and the Borrowers shall be responsible for the costs thereof and shall indemnify the Agent and the Lenders for any such costs incurred by any of them in connection therewith; and
- (c) pay or cause to be paid all material rents, royalties and other payment obligations validly imposed upon it, or upon its Property or any part thereof, as and when the same become due and payable or provide adequate reserves (in accordance with GAAP) for payment of any such obligations, the payment of which is being contested diligently and in good faith by appropriate proceedings, except in each case to the extent that any failure to do so could not reasonably be expected to have a Material Adverse Effect.

ARTICLE 10 DEFAULT

10.1 Events of Default

Each of the following events shall constitute an Event of Default under this Agreement:

- (a) any Borrower fails to pay any amount of principal (including, without limitation, any Flooring Facility Six-Month Payment, Flooring Facility Monthly Curtailment, or the payments required in respect of the Revolving Term Facility under Section 3.12), any repayment required pursuant to Section 3.15 or any mandatory repayment pursuant to Section 3.10 when the same becomes due and payable hereunder, whether at maturity or otherwise;
- (b) any Borrower or any other Loan Party fails to pay any amount of interest, fees or other Obligations (other than principal and any mandatory repayment pursuant to

Section 3.10(c)) when due hereunder and such default remains unremedied for a period of 3 Business Days after written notice from the Agent to such Borrower or other Loan Party that such amount is due or overdue;

- (c) any Borrower or any other Loan Party does not observe or perform any covenant or obligation contained herein or in any other Credit Document or Eligible Hedge Agreement to which it is a party in any material respect (not otherwise specifically dealt with in this Section 10.1) and such breach or omission continues unremedied for more than 20 Business Days after the earlier of such Borrower's or other Loan Party's actual knowledge thereof and such Borrower or other Loan Party receiving written notice from the Agent of such breach or omission;
- (d) any Borrower or any other Loan Party makes any representation or warranty under any of the Credit Documents to which it is a party which is incorrect or incomplete in any material respect when made or deemed to be made and (i) the incorrect or incomplete representation or warranty is not capable of being remedied by such Borrower or other Loan Party, or (ii) if the matter is capable of being remedied by such Borrower or other Loan Party, the same continues unremedied for more than 20 Business Days after such Borrower or Loan Party receiving written notice from the Agent of such incorrect or misleading representation or warranty;
- (e) any event or circumstance (including non-payment) occurs under any agreement or instrument relating to Debt of any Loan Party (other than Debt owing to any Loan Party) where the aggregate Debt outstanding thereunder exceeds \$5,000,000, including, without limitation, under a Hedge Agreement, which would permit a Person to declare (whether immediately or with lapse of time, or both) any amount to become due prior to the stipulated date for repayment thereof, or maturity (or in the case of Debt payable on demand or a Guarantee, if any demand is made at all); or
- (f) any Borrower or any other Loan Party:
 - (i) becomes insolvent or bankrupt, or generally does not pay its debts or meet its liabilities as the same become due, or suspends or threatens to suspend the conduct of its business, or admits in writing its inability to pay its debts generally, or declares any general moratorium on payment of its indebtedness or interest thereon, or proposes a compromise or arrangement between it and any one or more of its creditors;
 - (ii) makes an assignment of its Property for the general benefit of its creditors whether or not under the *Bankruptcy and Insolvency Act* (Canada), or makes a proposal (or files a notice of its intention to do so) whether or not under such Act;
 - (iii) institutes any proceeding, application or other action seeking to adjudicate it insolvent or bankrupt, or seeks liquidation, dissolution, winding-up, reorganization, administration, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts under any other statute, rule or regulation relating to bankruptcy, winding-up, insolvency, reorganization, administration, plans of arrangement, relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the

Companies' Creditors Arrangement Act (Canada) and any applicable *Business Corporations Act* or *Company Act*);

- (iv) applies for the appointment of, or the taking of possession by, a receiver, interim receiver, administrative receiver, receiver/manager, custodian, administrator, trustee, monitor, liquidator or other similar official for it or any material part of its Property; or
 - (v) takes any action to approve, consent to or authorize any of the actions described in this paragraph 10.1(f) or in paragraph 10.1(g) below;
- (g) if any petition is filed, application made or other proceeding instituted by a third party against or in respect of any Borrower or any other Loan Party:
- (i) seeking to adjudicate it an insolvent or bankrupt, or a declaration that an act of bankruptcy has occurred;
 - (ii) seeking a receiving order against it including under the *Bankruptcy and Insolvency Act* (Canada);
 - (iii) seeking liquidation, dissolution, winding-up, reorganization, administration, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of it or its debts under any statute, rule or regulation relating to bankruptcy, winding-up, insolvency, reorganization, administration, plans of arrangement, relief or protection of debtors (including the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and any applicable *Business Corporations Act* or *Company Act*);
 - (iv) applying or seeking the entry of an order for relief or the appointment of a receiver, interim receiver, administrative receiver, receiver/manager, custodian, administrator, trustee, monitor, liquidator or other similar official for it or any material part of its Property,

and such petition, application or proceeding continues undismissed, or unstayed and in effect, for a period of 15 Business Days after the institution thereof; provided that if an order, decree or judgment which is not stayed has been granted (whether or not entered or subject to appeal) against any Borrower or any other Loan Party thereunder in the interim, such grace period shall cease to apply;

- (h) if Property of the Loan Parties or any Loan Party having a fair market value in excess of \$5,000,000 in aggregate is seized (including by way of execution, attachment, garnishment or distraint) or any Encumbrance thereon is enforced, or such Property shall become subject to any receivership, or any charging order or equitable execution of a Court, or any writ of enforcement, writ of execution or distress warrant with respect to obligations in excess of \$5,000,000 in aggregate exists in respect of the Loan Parties or any Loan Party or such Property, or any receiver, sheriff, civil enforcement agent or other Person becomes lawfully entitled to seize or distrain upon any such Property under the *Civil Enforcement Act* (Alberta), the *Workers' Compensation Act* (Alberta), the *Personal Property Security Act* (Alberta) or any other Applicable Laws whereunder similar remedies

are provided and, in any case, such seizure, execution, attachment, garnishment, distraint, receivership, charging order or equitable execution, or other seizure or right, continues in effect and not released or discharged for more than 30 days;

- (i) if one or more judgments for the payment of money in the aggregate in excess of \$5,000,000 from time to time, and not substantially covered by insurance, is rendered by a Court of competent jurisdiction against the Loan Parties or any Loan Party and the applicable Loan Party has not (i) provided for its discharge in accordance with its terms within 15 Business Days from the date of entry thereof, or (ii) procured a stay of execution thereof within 15 Business Days from the date of entry thereof and within such period, or such longer period during which execution of such judgment has been stayed, appealed such judgment and caused the execution thereof to be stayed during such appeal;
- (j) if any material provision of any Credit Document any time ceases to be in full force and effect, is declared or adjudicated to be void or voidable or is repudiated, or the validity or enforceability thereof is at any time contested by any Loan Party, or any Loan Party denies that it has any or any further liability or obligation thereunder;
- (k) if any Material Contract is not renewed or is otherwise cancelled, suspended, assigned or terminated and is not replaced with a contract or other arrangement satisfactory to the Lenders, acting reasonably, within 30 days;
- (l) if RMDI or the Service Provider is unable to perform its obligations under the Service Agreement;
- (m) if there is, in the opinion of the Agent and the Lenders, acting reasonably, an event or circumstance which has not been approved by the Lenders in writing and which, with respect to any Loan Party or the Loan Parties as a whole, could reasonably be expected to have a Material Adverse Effect; or
- (n) if there occurs a Change of Control in respect of RMDI and the Majority Lenders have not consented to such Change of Control. In this Section 10.1(n), "**Change of Control**" means in respect of RMDI, the occurrence of any of the following events:
 - (i) a Person or group of Persons, acting jointly or in concert, acquires, directly or indirectly (other than by way of security for a *bona fide* debt), Shares of RMDI to which are attached more than 50% of the votes that may be cast to elect the directors (or similar representatives) of RMDI;
 - (ii) a Person or group of Persons, acting jointly or in concert, acquires, directly or indirectly (other than by way of security for a *bona fide* debt), a sufficient number of Shares of RMDI that the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors (or similar representatives) of RMDI; or
 - (iii) RMDI amalgamates or otherwise merges its business and Property with or into any other Person if that amalgamation or merger is not otherwise expressly permitted by the other provisions of this Agreement.

10.2 Acceleration and Termination of Rights

If any Default or Event of Default occurs and is continuing, the Lenders shall not be under any further obligation to make Advances or to accept Drafts or bills of exchange as Bankers' Acceptances, and the Fronting Lender shall not be under any further obligation to issue Letters of Credit, unless such Default is cured to the satisfaction of the Lenders and upon the occurrence and during the continuance of an Event of Default, the Agent may give notice to the Borrowers declaring all or any of the Obligations to be forthwith due and payable (the "**Acceleration Notice**"), whereupon they shall become and be forthwith due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrowers and each of them; provided, however, the Agent shall be deemed to give such notice to the Borrowers immediately upon the occurrence of an Event of Default described in Section 10.1(f) or Section 10.1(g).

10.3 Payment of Bankers' Acceptances and Letters of Credit

Immediately upon the making of a declaration by the Agent referred to in Section 10.2, the Borrowers shall, without necessity of further act or evidence, be and become thereby unconditionally obligated to deposit forthwith with the Agent for the Lenders' benefit cash Collateral equal to the full principal amount at maturity of all Bankers' Acceptances, Notional Bankers' Acceptances and Letters of Credit (including, in the case of Letters of Credit and without limitation, the Face Amount thereof plus all fees, interest and expenses which have or could accrue until the expiry of each such Letter of Credit, in each case, in the respective currency in which the relevant Letter of Credit is denominated) then outstanding and issued by each Lender and the Fronting Lender and the Borrowers hereby unconditionally promise and agree to deposit with the Agent immediately upon such declaration cash Collateral in the amount so demanded. Each Borrower authorizes the Agent to debit its account with the amount required to pay such Bankers' Acceptances, Notional Bankers' Acceptances and Letters of Credit, notwithstanding that such Bankers' Acceptances and Notional Bankers' Acceptances may be held by a Lender in its own right at maturity. Any amounts deposited hereunder shall bear interest for the applicable Borrower's account at the rates of the Agent as may be applicable in respect of other deposits of similar amounts for similar terms. Amounts paid to the Agent pursuant to such a declaration in respect of Bankers' Acceptances and Notional Bankers' Acceptances shall be applied against, and in respect of a demand by the Agent, shall reduce *pro rata* among the applicable BA Lenders and Non BA Lenders, the obligation of the Borrowers to pay amounts then or thereafter payable under Bankers' Acceptances or Notional Bankers' Acceptances at the times amounts become payable under or in respect thereof, as the case may be. Such cash Collateral account shall be assigned to the Agent as security for the Obligations of the Borrowers in relation to such Bankers' Acceptances, Notional Bankers' Acceptances and Letters of Credit and Encumbrances of the Agent thereby created in such cash Collateral shall rank in priority to all other Encumbrances and adverse claims against such cash Collateral. Such cash Collateral shall be applied to satisfy the Obligations of the Borrowers for such Bankers' Acceptances, Notional Bankers' Acceptances and Letters of Credit as payments are made thereunder and the Agent is hereby irrevocably directed by the Borrowers to so apply any such cash Collateral. If any excess remains after expiry of such Bankers' Acceptances, Notional Bankers' Acceptances and Letters of Credit for which such funds are held and application by the Agent of the amounts in such cash Collateral account to satisfy the Obligations of the Borrowers hereunder being repaid, such excess shall be promptly paid by the Agent to the Borrowers so long as no Default or Event of Default is then continuing.

10.4 Remedies

Upon the making of a declaration contemplated by Section 10.2, the Security shall become immediately enforceable and the Agent may take such action or proceedings as the Lenders in their sole discretion deem expedient to enforce the same, all without any additional notice, presentment, demand, protest or other formality, all of which are hereby expressly waived by the Borrowers and each of them.

10.5 Waivers

Subject to Section 11.11(b), the Majority Lenders may from time to time waive an Event of Default, absolutely or for a limited time and subject to such terms and conditions as such Majority Lenders may specify. No such waiver shall be construed to extend to the occurrence of any other Default or Event of Default. Any such waiver may be given prospectively or retrospectively. No failure of the Agent or the Lenders to exercise, or delay by the Agent or the Lenders in exercising, any of its rights or remedies shall be construed as a waiver of any Event of Default.

10.6 Saving

None of the Lenders or (except at the direction of the Majority Lenders or all of the Lenders, if and as required) the Agent shall be under any obligation to any Borrower or any other Person to realize any collateral or enforce the Security or any part thereof or to allow any of the collateral to be sold, dealt with or otherwise disposed of. None of the Lenders or the Agent shall be responsible or liable to any Borrower or any other Person for any loss or damage upon the realization or enforcement of, the failure to realize or enforce the collateral or any part thereof or the failure to allow any of the collateral to be sold, dealt with or otherwise disposed of or for any act or omission on their respective parts or on the part of any director, officer, agent, employee, servant or adviser in connection with any of the foregoing, except that a Lender or the Agent will be responsible or liable for any loss or damage arising from the willful misconduct or gross negligence of that Lender or the Agent, respectively.

10.7 Perform Obligations

If an Event of Default has occurred and is continuing or if any Loan Party has failed to perform any of its covenants or agreements in the Credit Documents, the Lenders may, but shall be under no obligation to, instruct the Agent on behalf of the Lenders to perform any action or any such covenants or agreements in any manner deemed fit by the Lenders without thereby waiving any rights to enforce the Credit Documents. The reasonable expenses (including any legal costs on a solicitor-client, full-indemnity basis) paid by the Agent and/or the Lenders in respect of the foregoing shall be added to and become part of the Obligations and shall be secured by the Security.

10.8 Third Parties

No Person dealing with the Agent, any Lender or any agent of any Lender shall be concerned to inquire whether the Security has become enforceable, or whether the powers which the Agent or such Lender is purporting to exercise have been exercisable, or whether any Obligations remain outstanding upon the security thereof, or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall be made, or otherwise as to the propriety or regularity of any sale or other disposition or any other dealing with the collateral charged by such Security or any part thereof.

10.9 Remedies Cumulative

The rights and remedies of the Agent and the Lenders (or any of them) under the Credit Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by Applicable Law, whether at law or equity. Any single or partial exercise by the Agent and the Lenders (or any of them) of any right or remedy for a default or breach of any term, covenant, condition or agreement herein contained shall not be deemed to be a waiver of or to alter, affect, or prejudice any other right or remedy or other rights or remedies to which the Agent and the Lenders (or any of them) may be lawfully entitled for the same default or breach. Any waiver by the Agent or the Lenders (or any of them) of the strict observance, performance or compliance with any term, covenant, condition, timing or agreement herein contained, and any indulgence granted by the Agent or the Lenders (or any of them) shall not be, and shall not be deemed to be, a waiver of any subsequent default.

10.10 Notices of Events of Default

Each Lender agrees to promptly notify the Agent and the other Lenders of the occurrence of any Event of Default that it from time to time has actual notice of.

10.11 Set-Off or Compensation

In addition to and not in limitation of any rights now or hereafter granted under Applicable Law, the Lenders, or any of them, may at any time and from time to time after the occurrence of an Event of Default and for so long as such Event of Default is continuing, upon notice to the applicable Borrower or Borrowers, set-off, combine accounts and compensate and apply any and all deposits, general or special, time or demand, provisional or final, matured or unmatured, in any currency, and any other indebtedness at any time owing by the Lenders, the Swap Lenders or any of them, to or for the credit of or the account of the Borrowers (or any of them), against and on account of the Obligations notwithstanding that any of them are contingent or unmatured. When applying a deposit or other amount owing to a Lender in a currency that is different than the currency of the Obligations, such Lender will convert the deposit or other amount using the Exchange Rate in effect at the time of such conversion.

ARTICLE 11 THE AGENT AND THE LENDERS

11.1 Authorization of Agent and Relationship

Each Lender hereby irrevocably appoints and authorizes the Agent to be its agent in its name and on its behalf to exercise such rights or powers granted to the Agent or the Lenders under this Agreement, the other Credit Documents and the Service Agreement to the extent specifically provided herein and on the terms hereof, together with such powers as are reasonably incidental thereto and the Agent hereby accepts such appointment and authorization. As to any matters not expressly provided for by this Agreement, the other Credit Documents and the Service Agreement, the Agent shall not be required to exercise any discretion or take any action, but, subject to Section 13.3, shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Majority Lenders or the Lenders, as applicable, and such instructions shall be binding upon all Lenders; provided, however, that the Agent shall not be required to take any action which exposes the Agent to liability in such capacity or which could result in the Agent's incurring any costs and expenses, without provision being made for indemnity of the Agent by the Lenders against any loss, liability, cost or expense incurred, or to be incurred or which is contrary to this Agreement, the other Credit

Documents, the Service Agreement or Applicable Law. The Agent is authorized to execute and deliver the Security to which it is a party and perform its obligations under or in respect thereof.

The Lenders agree that all decisions as to actions to be or not to be taken, as to consents or waivers to be given or not to be given, as to determinations to be made and otherwise in connection with this Agreement, the other Credit Documents and the Service Agreement, shall be made upon the decision of the Majority Lenders except in respect of a decision or determination where it is specifically provided in this Agreement that "all of the Lenders", "all Lenders" or "each of the Lenders" or words to similar effect, or the Agent alone, is to be responsible for same. Each of the Lenders shall be bound by and agrees to abide by and adopt all decisions made as aforesaid and covenants in all communications with the Borrowers to act in concert and to join in the action, consent, waiver, determination or other matter decided as aforesaid.

11.2 Disclaimer of Agent

Neither the Agent nor any of its directors, officers, agents or employees (and, for purposes hereof, the Agent shall be deemed to be contracting as agent and trustee for and on behalf of such Persons) shall be liable to the Lenders for any action taken or omitted to be taken by it or them under or in connection with this Agreement except for its or their own gross negligence or wilful misconduct. Without limiting the generality of the foregoing, the Agent:

- (a) may assume that there has been no assignment or transfer by any means by the Lenders of their rights hereunder, unless and until the Agent receives written notice of the assignment thereof from such Lender and the Agent receives from the assignee an executed Assignment Agreement providing, *inter alia*, that such assignee is bound hereby as it would have been if it had been an original Lender party hereto;
- (b) may consult with legal counsel (including receiving the opinions of Borrowers' counsel and Lenders' Counsel required hereunder), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts;
- (c) shall incur no liability under or in respect of this Agreement by acting upon any notice, consent, certificate or other instrument or writing (which may be by telegram, cable, telecopy, electronic mail or other electronic means of communication which may generate a written record thereof) believed by it to be genuine and signed or sent by the proper party or parties or by acting upon any representation or warranty of the Borrowers made or deemed to be made hereunder;
- (d) may assume that no Default or Event of Default has occurred and is continuing unless it has actual knowledge to the contrary;
- (e) may rely as to any matters of fact which might reasonably be expected to be within the knowledge of any person upon a certificate signed by or on behalf of such person;
- (f) shall not be bound to disclose to any other Person any information relating to the Borrowers, any of its Affiliates or any other Person if such disclosure would or

might in its opinion constitute a breach of any Applicable Law, be in default of the provisions hereof or be otherwise actionable at the suit of any other person; and

- (g) may refrain from exercising any right, power or discretion vested in it which would or might in its reasonable opinion be contrary to any Applicable Law or any directive or otherwise render it liable to any person, and may do anything which is in its reasonable opinion necessary to comply with such Applicable Law.

Further, the Agent (i) does not make any warranty or representation to any Lender nor shall it be responsible to any Lender for the accuracy or completeness of the representations and warranties of the Borrowers or any other Loan Party herein or the data made available to any of the Lenders in connection with the negotiation of this Agreement, or for any statements, warranties or representations (whether written or oral) made in or in connection with this Agreement; (ii) shall not have any duty to ascertain or to enquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement on the part of the Borrower any other Loan Party or to inspect the property (including the books and records) of the Borrower, any other Loan Party or any of their respective Affiliates; and (iii) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any instrument or document furnished pursuant hereto. Neither the Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as Agent under or in connection with the Agreement except for its or their own gross negligence or willful misconduct.

With respect to its Commitment and the Drawdowns, Rollovers, Conversions and Advances made by it as a Lender, the Agent shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Agent. Subject to the express provisions hereof relating to the rights and obligations of the Agent and the Lenders in such capacities, the Agent and each Lender may accept deposits from, lend money to, and generally engage in any kind of business with the Borrowers and their respective Affiliates or any corporation or other entity owned or controlled by any of them and any Person which may do business with any of them without any duties to account therefor to the Agent or the other Lenders and, in the case of the Agent, all as if it was not the Agent hereunder.

11.3 Procedure for Making Advances

The Agent shall make Loans available to the Borrowers as required hereunder by debiting the account of the Agent to which the Lenders' Proportionate Share of such Advances have been credited in accordance with Article 6 (or causing such account to be debited) and, in the absence of other arrangements agreed to by the Agent and the Borrowers in writing, by crediting the account of the Borrowers or, at the expense of the Borrowers, transferring (or causing to be transferred) like funds in accordance with the instructions of the Borrowers as set forth in the Drawdown Notice, Rollover Notice or Conversion Notice, as the case may be, in respect of each Advance; provided that the obligation of the Agent hereunder to effect such a transfer shall be limited to taking such steps as are commercially reasonable to implement such instructions, which steps once taken shall constitute conclusive and binding evidence that such funds were advanced hereunder in accordance with the provisions relating thereto and the Agent shall not be liable for any damages, claims or costs which may be suffered by the Borrower and occasioned by the failure of such Loan to reach the designated destination.

Unless the Agent has been notified by a Lender at least 1 Business Day prior to the Drawdown Date, Rollover Date or Conversion Date, as the case may be, requested by the Borrower that such Lender will not make available to the Agent its Proportionate Share of such

Advance, the Agent may assume that such Lender has made or will make such portion of the Advance available to the Agent on the Drawdown Date, Rollover Date or Conversion Date, as the case may be, in accordance with the provisions hereof and the Agent may, but shall be in no way obligated to, in reliance upon such assumption, make available to the Borrowers on such date a corresponding amount. If and to the extent such Lender shall not have so made its Proportionate Share of an Advance available to the Agent, such Lender agrees to pay to the Agent forthwith on demand such Lender's Proportionate Share of the Advance and all reasonable costs and expenses incurred by the Agent in connection therewith together with interest thereon (at the rate payable hereunder by the Borrowers in respect of such Advance or, in the case of funds made available in anticipation of a Lender remitting proceeds of a Bankers' Acceptance, at the rate of interest per annum applicable to Prime Rate Advances) for each day from the date such amount is made available to the Borrowers until the date such amount is paid to the Agent; provided, however, that notwithstanding such obligation if such Lender fails to so pay, the Borrowers covenant and agree that, without prejudice to any rights the Borrowers may have against such Lender, they shall repay such amount to the Agent forthwith after demand therefor by the Agent. The amount payable to the Agent pursuant hereto shall be set forth in a certificate delivered by the Agent to such Lender and the Borrowers (which certificate shall contain reasonable details of how the amount payable is calculated) and shall be *prima facie* evidence thereof, in the absence of manifest error. If such Lender makes the payment to the Agent required herein, the amount so paid shall constitute such Lender's Proportionate Share of the Advance for purposes of this Agreement. The failure of any Lender to make its Proportionate Share of any Advance shall not relieve any other Lender of its obligation, if any, hereunder to make its Proportionate Share of such Advance on the Drawdown Date, Rollover Date or Conversion Date, as the case may be, but no Lender shall be responsible for the failure of any other Lender to make the Proportionate Share of any Advance to be made by such other Lender on the date of any Drawdown, Rollover or Conversion, as the case may be.

11.4 Remittance of Payments

Except for amounts payable to the Agent for its own account, forthwith after receipt of any repayment pursuant hereto or payment of interest or fees pursuant to Article 4, the Agent shall remit to each Lender its Proportionate Share of such payment; provided that, if the Agent, on the assumption that it will receive on any particular date a payment of principal, interest or fees hereunder, remits to a Lender its Proportionate Share of such payment and the Borrowers fail to make such payment, each of the Lenders on receipt of such remittance from the Agent agrees to repay to the Agent forthwith on demand an amount equal to the remittance together with all reasonable costs and expenses incurred by the Agent in connection therewith and interest thereon at the rate and calculated in the manner applicable to the Advance in respect of which such payment is made, or, in the case of a remittance in respect of Bankers' Acceptances, at the rate of interest applicable to Prime Rate Advances for each day from the date such amount is remitted to the Lenders without prejudice to any right such Lender may have against the Borrowers. The exact amount of the repayment required to be made by the Lenders pursuant hereto shall be as set forth in a certificate delivered by the Agent to each Lender, which certificate shall be conclusive and binding for all purposes in the absence of manifest error.

11.5 Redistribution of Payment

Each Lender agrees that:

- (a) if the Lender exercises any security against or right of counter claim, set-off or banker's lien or similar right with respect to the Property of the Borrowers or the other Loan Parties (or any of them) or if under any applicable bankruptcy,

insolvency or other similar law it receives a secured claim and collateral for which it is, or is entitled to exercise any set-off against, a debt owed by it to the any of the Borrowers or the other Loan Parties, the Lender shall apportion the amount thereof proportionately between:

- (i) such Lender's Proportionate Share of all outstanding Obligations owing by the Borrowers (including the Face Amounts at maturity of Bankers' Acceptances accepted by the Lenders), which amounts shall be applied in accordance with Section 11.5(b); and
- (ii) amounts otherwise owed to such Lender by the Borrowers and the other Loan Parties (or any of them),

provided that:

- (A) any cash collateral account held by such Lender as collateral for a letter of credit or bankers' acceptance issued or accepted by such Lender on behalf of any of the Borrowers or other Loan Parties which is Permitted Debt may be applied by such Lender to such amounts owed by the applicable Borrowers or other Loan Parties to such Lender pursuant to such letter of credit or in respect of any such bankers' acceptance without apportionment, and
- (B) these provisions do not apply to:
 - (I) a right or claim which arises or exists in respect of a loan or other debt in respect of which the relevant Lender holds an Encumbrance which is a Permitted Encumbrance;
 - (II) cash collateral provided, or the exercise of rights of counterclaim, set-off or banker's lien or similar rights, in respect of account positioning arrangements for the Borrowers or other Loan Parties (or any of them) provided by a Lender in the ordinary course of business or in respect of other Cash Management Arrangements provided by a Lender in the ordinary course of business;
 - (III) any reduction in amounts owing by a Swap Lender to the Borrowers or other Loan Parties (or any of them) upon the termination of Hedge Agreements entered into with the relevant Swap Lender; or
 - (IV) any payment to which a Lender is entitled as a result of any credit default swap, credit derivative or other form of credit protection obtained by such Lender;
- (b) if, in the aforementioned circumstances, a Lender, through the exercise of a right, or the receipt of a secured claim described in Section 11.5(a) or otherwise, receives payment of a proportion of the aggregate amount of Obligations due to it hereunder which is greater than the proportion received by any other Lender in

respect of the aggregate Obligations due to the Lenders (having regard to the respective Proportionate Shares of the Lenders), the Lender receiving such proportionately greater payment shall purchase, on a non-recourse basis at par, and make payment for a participation (which shall be deemed to have been done simultaneously with receipt of such payment) in the outstanding Advances of the other Lender or Lenders so that their respective receipts shall be *pro rata* to their respective Proportionate Share; provided, however, that if all or part of such proportionately greater payment received by such purchasing Lender shall be recovered by or on behalf of the Borrowers (or any of them) or any trustee, liquidator, receiver or receiver manager or person with analogous powers from the purchasing Lender, such purchase shall be rescinded and the purchase price paid for such participation shall be returned to the extent of such recovery, but without interest unless the purchasing Lender is required to pay interest on such amount, in which case each selling Lender shall reimburse the purchasing Lender *pro rata* in relation to the amounts received by it. Such Lender shall exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 11.5 to share in the benefits of any recovery on such secured claims; and

- (c) if the Lender does, or is required to do, any act or thing permitted by Section 11.5(a) or 11.5(b), it shall promptly provide full particulars thereof to the Agent.

11.6 Prompt Notice to the Lenders

Notwithstanding any other provision herein, the Agent agrees to provide to the Lenders, with copies where appropriate, all information, notices and reports required to be given to the Agent by the Borrowers or any other Loan Party, promptly upon receipt of same, excepting therefrom information and notices relating solely to the role of Agent hereunder.

11.7 Defaulting Lenders

- (a) Unless the Agent has actual knowledge that a Lender has not made or will not make available to the Agent for value on a Drawdown Date the applicable amount required from such Lender pursuant to Section 6.6 or 6.9, the Agent shall be entitled to assume that such amount has been or will be received from such Lender when so due and the Agent may (but shall not be obliged to), in reliance upon such assumption, make available to the applicable Borrower a corresponding amount (except that no such amount shall be made available to such Borrower in the case of a deemed Advance). If such amount is not in fact received by the Agent from such Lender on such Drawdown Date and the Agent has made available a corresponding amount to the applicable Borrower on such Drawdown Date as aforesaid (or is deemed to have made an Advance to the applicable Borrower in such amount), such Lender shall pay to the Agent on demand an amount equal to the aggregate of the applicable amount required from such Lender pursuant to Section 6.6 or 6.9 plus an amount equal to the product of:
 - (i) the rate per annum applicable to overnight deposits made with the Agent for amounts approximately equal to the amount required from such Lender, multiplied by
 - (ii) the amount that should have been paid to the Agent by such Lender on such Drawdown Date and was not, multiplied by

- (iii) a fraction, the numerator of which is:
 - (A) the number of days that have elapsed from and including such Drawdown Date to but excluding the date on which the amount is received by the Agent from such Lender, and the denominator of which is:
 - (B) 365 or 366 (as applicable) in the case of all Advances.

A certificate of the Agent containing details of the amount owing by a Lender under this Section 11.7(a) shall be binding and conclusive in the absence of manifest error. If any such amount is not in fact received by the Agent from such Lender on such Drawdown Date, the Agent shall be entitled to recover from the Borrowers (or any of them), on demand, the related amount made available by the Agent to the applicable Borrower(s) as aforesaid together with interest thereon at the applicable rate per annum payable by the Borrowers hereunder, provided, however, that nothing in this Section 11.7(a) shall impair the rights the Borrower may have in respect of the Lender that has not complied with its funding obligations hereunder.

- (b) Notwithstanding the provisions of Section 11.7(a), if any Lender fails to make available to the Agent its Proportionate Share of any Advance, which for greater certainty includes a deemed Advance (such Lender being herein called the "**Non-Advancing Lender**"), the Agent shall forthwith give notice of such failure by the Non-Advancing Lender to the applicable Borrower (except where such failure relates to a deemed Advance) and to the other Lenders. The Agent shall then forthwith give notice to the other Lenders that any Lender may make available to the Agent all or any portion of the Non-Advancing Lender's Proportionate Share of such Advance (but in no way shall any other Lender or the Agent be obliged to do so) in the place of the Non-Advancing Lender. If more than one Lender gives notice that it is prepared to make funds available in the place of a Non-Advancing Lender in such circumstances and the aggregate of the funds which such Lenders (herein collectively called the "**Contributing Lenders**" and individually called the "**Contributing Lender**") are prepared to make available exceeds the amount of the Advance which the Non-Advancing Lender failed to make, then each Contributing Lender shall be deemed to have given notice that it is prepared to make available its Proportionate Share of such Advance based on the Contributing Lenders' relative commitments to advance in such circumstances. If any Contributing Lender makes funds available in the place of a Non-Advancing Lender in such circumstances, then the Non-Advancing Lender shall pay to the Agent on behalf of any Contributing Lender making the funds available in its place, forthwith on demand, any amount advanced on its behalf together with interest thereon at the rate applicable to such Advance from the date of advance to the date of payment, against payment by the Contributing Lender making the funds available of all interest received in respect of the Advance from the Borrowers. The failure of any Lender to make available to the Agent its Proportionate Share of any Advance as required herein shall not relieve any other Lender of its obligations to make available to the Agent its Proportionate Share of any Advance as required herein.
- (c) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, either as a result of being a Non-Advancing Lender

or otherwise, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

- (i) the standby fees payable pursuant to Section 4.5 shall cease to accrue on the undrawn portion of such Defaulting Lender's Commitments under the Facilities and such Defaulting Lender shall receive no such standby fees;
 - (ii) a Defaulting Lender shall not be included in determining whether, and the Commitment and Proportionate Share of such Defaulting Lender under the Facilities or any of them shall not be included in determining whether, all Lenders or the Majority Lenders (as applicable), have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 11.11), provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that affects such Defaulting Lender differently than other affected Lenders shall require the consent of such Defaulting Lender;
 - (iii) subject to Section 11.7(b), for the purposes of any Advance requested hereunder while there is a Defaulting Lender, each Lender's Proportionate Share thereof shall be calculated based on such Lender's Commitment under the applicable Facility relative to the Total Commitment under the applicable Facility reduced by the Commitment under the applicable Facility of the Defaulting Lender; provided that, for greater certainty, no Lender shall be required to exceed its Commitment under the applicable Facility and the Defaulting Lender shall not receive any fees, interest or other compensation with respect to such Advances;
 - (iv) the Agent, the Swingline Lender or the Fronting Lender may require such Defaulting Lender to pay to the Agent for deposit into an escrow account maintained by and in the name of the Agent an amount equal to such Defaulting Lender's maximum contingent obligations hereunder to the Agent, the Swingline Lender or the Fronting Lender, as applicable;
 - (v) the Agent may withhold any payments owing to such Defaulting Lender for set-off against such Defaulting Lender's existing or reasonably foreseeable future obligations hereunder; and
 - (vi) for the avoidance of doubt, the Borrowers shall retain and reserve its other rights and remedies respecting each Defaulting Lender.
- (d) If any Advances under the Swingline Facility or Letters of Credit are outstanding (the Defaulting Lender's potential or contingent Proportionate Share of the Outstanding Principal of such Advances or Letters of Credit, as applicable, is the "**Defaulting Lender Exposure**") at the time a Lender becomes a Defaulting Lender, then:
- (i) to the extent the Defaulting Lender has not provided cash Collateral for its Defaulting Lender Exposure pursuant to Section 11.7(c)(iv) above, such Defaulting Lender Exposure shall be reallocated among the non-Defaulting Lenders in accordance with their respective Proportionate Shares (disregarding any Defaulting Lender's Commitment) under the Operating

Facility, but only to the extent, with respect to each non-Defaulting Lender, that the sum of:

- (A) the aggregate Outstanding Principal of all Advances under the Operating Facility made by any non-Defaulting Lender and outstanding at such time; plus
- (B) such non-Defaulting Lender's Proportionate Share (after giving effect to the reallocation contemplated herein) of the Defaulting Lender Exposure under the Operating Facility,

does not exceed such non-Defaulting Lender's Commitment under the Operating Facility; and

- (ii) if and only to the extent the reallocation described in Section 11.7(d)(i) above cannot, or can only partially, be effected, the Borrowers shall within 3 Business Days following notice by the Swingline Lender or the Fronting Lenders, as applicable, prepay all outstanding Advances under the Swingline Facility hereunder or provide cash Collateral for the Face Amount and all other fees, interest and other obligations under unexpired Letters of Credit.
- (e) So long as any Lender is a Defaulting Lender, neither the Swingline Lender nor the Fronting Lender shall be required to fund any Advances under the Swingline Facility or issue Letters of Credit, as applicable, unless it is satisfied that the related exposure will be 100% covered by the Commitments of the non-Defaulting Lenders in accordance with Section 11.7(d), and participating interests in any such newly made Advance under the Swingline Facility or newly issued Letters of Credit, as applicable, shall be allocated among non-Defaulting Lenders in a manner consistent with Section 11.7(d)(i).

11.8 Payments by the Loan Parties

All payments made by or on behalf of the Loan Parties (or any of them) pursuant to this Agreement or the other Credit Documents shall be made to and received by the Agent, for itself and on behalf of the Lenders, and shall be distributed by the Agent to the Lenders as soon as possible upon receipt by the Agent, provided that, prior to the delivery of an Acceleration Notice pursuant to Section 10.2, all payments made by a Loan Party under the Swingline Facility shall be made to and received by the Swingline Lender for its own account and all payments made by a Loan Party to the Fronting Lender shall be made to and received by the Fronting Lender for its own account. Subject to the provisions of Section 11.9 hereof, the Agent shall distribute amounts received by it in the following order:

- (a) unpaid fees, costs and expenses of the Agent;
- (b) payments of interest and fees: (i) prior to a declaration being made pursuant to Section 10.2, in accordance with each Lender's Proportionate Share of the applicable Facilities, or (ii) after a declaration is made pursuant to Section 10.2, the Agent shall distribute payments of interest, fees and any normally scheduled payments to a Swap Lender on account of Eligible Hedge Agreements (including without limitation any such payment as a result of the enforcement of the Security) in accordance with each Lender's and Swap Lender's Proportionate Share of the

then outstanding Obligations owing to all of the Lenders at the time of such declaration;

- (c) repayments of principal: (i) prior to a declaration being made pursuant to Section 10.2, in accordance with each Lender's Proportionate Share of the applicable Facilities, or (ii) after a declaration is made pursuant to Section 10.2, the Agent shall distribute repayments of principal and amounts due on termination of Eligible Hedge Agreements with a Swap Lender (including without limitation any such payments obtained by the Agent as a result of the enforcement of the Security) in accordance with each Lender's and Swap Lender's Proportionate Share of the aggregate of all of the then outstanding Obligations owed to all of the Lenders and Swap Lenders at the time of such declaration;
- (d) amounts received (net of all relevant costs and expenses of the Agent) by the Agent as a result of the operation of Sections 11.5 and 11.10, in accordance with each Lender's and Swap Lender's Proportionate Share of the then outstanding Obligations owing to all of the Lenders and Swap Lenders at the time of receipt of such amounts; and
- (e) all other payments received by the Agent under this Agreement, in accordance with what would otherwise be each Lender's Proportionate Share of the Facilities.

Notwithstanding the foregoing, any such distribution that would otherwise be made pursuant to Sections 11.8(b), 11.8(c) or 11.8(d) on account of any outstanding Bankers' Acceptances, Notional Bankers' Acceptances or Letters of Credit shall be set aside in a separate collateral account for the primary benefit of the Lenders who have issued such Bankers' Acceptances, Notional Bankers' Acceptances or Letters of Credit (and for the secondary benefit of the Lenders in respect of other Obligations owing by the Borrowers to the Lenders) until and to the extent that such Obligations become matured or are drawn upon and not contingent, at which time such distributions shall be made to the Lenders for whose primary benefit such amounts are held.

Subject to Section 11.9, if the Agent does not distribute a Lender's or a Swap Lender's Proportionate Share of a payment made by the Borrowers (or any of them) to or for the benefit of that Lender or Swap Lender for value on the day that payment is made or deemed to have been made (or on the next Business Day, if such payment is made or deemed to be made on a day that is not a Business Day or after 10:00 a.m. (Calgary time) on a Business Day) to the Agent, the Agent shall pay to such Lender or Swap Lender on demand an amount equal to the product of: (i) the Agent's rate per annum applicable to overnight deposits for amounts approximately equal to the amount of the payment, multiplied by (ii) such Lender's or Swap Lender's Proportionate Share of the amount received by the Agent from such Borrower or Borrowers and not so distributed, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the date of receipt of the payment by the Agent to but excluding the date on which the payment is made by the Agent to such Lender or Swap Lender and the denominator of which is 365 or 366 (as applicable).

Each of the Parties hereto acknowledges and agrees that if during the time that a Swap Lender or its Affiliate is a Lender hereunder, such Swap Lender enters into Eligible Hedge Agreements, and thereafter such Swap Lender or its Affiliate ceases to be a Lender hereunder, the Obligations owing to such Swap Lender under the Eligible Hedge Agreements to which it is a party shall be continue to be secured by the Security and any amounts received by the Agent in respect of the Obligations after a declaration has been made pursuant to Section 10.2 shall be

distributed by the Agent to the Lenders and to the Swap Lender holding Obligations under the Eligible Hedge Agreements in accordance with their Proportionate Shares. Except for the right of such Swap Lender to receive its Proportionate Share of the amounts received by the Agent, as set out in Sections 11.8(b), (c) and (d), any such Swap Lender shall not have any rights under this Agreement, the Security or under any other Credit Document. Without limiting the generality of the foregoing, without notice to or the consent of any Swap Lender, the Lenders hereunder may:

- (a) permit any increase or decrease, however significant, of the Facilities or the Obligations or otherwise supplement, amend, restate, substitute, in whole or in part, however significant, the Obligations, this Agreement, the Security, any other Credit Document or the Service Agreement, or in whole or in part, terminate the availability of Facilities or demand payment or performance of all or any of the Obligations;
- (b) enforce or take any action under or abstain from enforcing or taking action under this Agreement, any other Credit Document or the Service Agreement;
- (c) take, give up, subordinate, release or discharge any Security or any Encumbrances constituted thereby, supplement, amend, restate, substitute, renew, abstain from receiving, perfect or abstain from perfecting or maintaining the perfection of any Security or any Encumbrances constituted thereby, enforce, take action under or realize in any manner or abstain from enforcing, taking action under or realizing any Security or any Encumbrances constituted thereby, deal with or abstain from dealing with all or any part of the Property subject to the Security or any Encumbrances constituted thereby or allow any Loan Party to deal with any or all of such Property;
- (d) renew all or any part of the Facilities or the Obligations or grant extensions of time or any other indulgences to any Loan Party or any other Person;
- (e) accept or make compromises or arrangements with or release, discharge or otherwise deal with or abstain from dealing with any Loan Party or any other Person;
- (f) in whole or in part prove or abstain from proving a claim in any Insolvency Proceeding of or affecting any Loan Party or any other Person; and
- (g) agree with any Loan Party or any other Person to do anything described in paragraphs (a) to (f) above.

Each Swap Lender which holds Obligations under Eligible Hedge Agreements at the time a declaration is made pursuant to Section 10.2, but is not at such time a Lender or an Affiliate of a Lender hereunder, acknowledges and agrees that the Agent on the instructions of the Majority Lenders shall be entitled to vote the claims of such Swap Lender in respect of the Obligations owed to it under all of the Eligible Hedge Agreements in an Insolvency Proceeding relating to the Loan Parties (or any of them). Such Swap Lender shall do, execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered, every such further act, deed or document that the Agent may reasonably request, to give effect to the foregoing.

11.9 Payments by Agent

- (a) The following provisions shall apply to any and all payments made by the Agent to the Lenders and the Swap Lenders, as applicable, hereunder:
- (i) the Agent shall be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender or Swap Lender until an amount in respect of such payment has been received by the Agent from the Borrowers (or any of them);
 - (ii) if the Agent receives less than the full amount of any payment of principal, interest, fees or other amount owing by the Borrowers (and each of them) under this Agreement, the Agent shall have no obligation to remit to each Lender or Swap Lender any amount other than such Lender's or Swap Lender's Proportionate Share (based on the then outstanding Obligations of the Borrowers hereunder) of that amount which is the amount actually received by the Agent;
 - (iii) if any Lender advances more or less than its Proportionate Share of the Facilities, such Lender's entitlement to such payment shall be increased or reduced, as the case may be, in proportion to the amount actually advanced by such Lender and the Agent may, from time to time, and shall, upon the request of the Swingline Lender, make adjustments among the Lenders so that all Advances under the Operating Facility be approximately in the Lenders' Proportionate Share of the Operating Facility Commitment;
 - (iv) if a Lender's Proportionate Share of an Advance has been advanced for less than the full period to which any payment by the Borrowers (or any of them) relates, such Lender's entitlement to such payment shall be reduced in proportion to the length of time such Lender's Proportionate Share of the applicable Advance has actually been outstanding;
 - (v) the Agent shall, acting reasonably and in good faith, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender and Swap Lender is entitled and such determination shall, in the absence of manifest error, be binding and conclusive;
 - (vi) upon request, the Agent shall deliver a statement detailing any of the payments to the Lenders and the Swap Lenders referred to herein;
 - (vii) all payments by the Agent to a Lender hereunder shall be made to such Lender at its address set forth opposite such Lender's name on the signature pages hereto unless notice to the contrary is received by the Agent from such Lender; and
 - (viii) all payments, including *pro rata* amortization payments, by the Agent to a Lender hereunder shall be rounded to the nearest \$1,000;
- (b) Unless the Agent has actual knowledge that the Borrowers (or any of them) have (or has) not made or will not make a payment to the Agent for value on the date in respect of which the Borrowers (or any of them) has notified the Agent that the

payment will be made, the Agent shall be entitled to assume that such payment has been or will be received from the Borrowers (or any of them) when due and the Agent may (but shall not be obliged to), in reliance upon such assumption, pay the Lenders' and Swap Lenders' (as applicable) corresponding amounts. If the payment by the Borrowers (or any of them) is in fact not received by the Agent on the required date and the Agent has made available corresponding amounts to the Lenders and the Swap Lenders, as applicable, the Borrowers (and each of them) shall, without limiting their other obligations under this Agreement, hold harmless and indemnify the Agent against any and all liabilities, obligations, losses (other than loss of profit), damages, penalties, and all reasonable costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on or incurred by the Agent as a result of such non-payment. A certificate of the Agent with respect to any amount owing under this Section 11.9 shall be *prima facie* evidence of the amount owing in the absence of manifest error. If a payment is not in fact received by the Agent from the Borrowers (or any of them) and the Agent has paid to a Lender or a Swap Lender a corresponding amount, such Lender or Swap Lender shall pay to the Agent on demand an amount equal to the aggregate of the amount of such payment made to the Lender or Swap Lender, plus the product of:

- (i) the Lender's or Swap Lender's (or its Affiliate's) rate per annum applicable to overnight deposits for amounts approximately equal to the amount paid by the Agent to such Lender or Swap Lender and not so received from the Borrowers (or any of them), multiplied by
- (ii) the amount paid by the Agent to such Lender or Swap Lender and not so received from the Borrowers (or any of them), multiplied by
- (iii) a fraction, the numerator of which is:
 - (A) the number of days that have elapsed from and including the date of payment by the Agent to the Lender or Swap Lender to but excluding the date on which payment is made by such Lender or Swap Lender to the Agent, and the denominator of which is
 - (B) 365 or 366 (as applicable).

11.10 Direct Payments

The Lenders agree among themselves that, except as otherwise provided for in this Agreement and except as necessary to adjust for Advances that are not in each Lender's Proportionate Share under the Facilities, all sums received by a Lender relating to this Agreement, by virtue of the other Credit Documents, whether received by voluntary payment, by the enforcement of the Security, the exercise of the right of set-off, combination or consolidation of accounts, or compensation or by counterclaim, cross-action or otherwise, shall be shared by each Lender and Swap Lender, as applicable, in its Proportionate Share of the Facilities or the Obligations then outstanding, as applicable, in accordance with Section 11.3 and each Lender and Swap Lender undertakes and agrees to do all such things as may be reasonably required to give full effect to this Section 11.10, including, without limitation, the purchase (i) from other Lenders of a portion of any Advances (with respect to Lenders only), and (ii) outstanding Obligations then due to other Swap Lenders (with respect to Swap Lenders only), in each case, by any Lender or Swap Lender who has received an amount in excess of its Proportionate Share

as shall be necessary to cause such purchasing Lender or Swap Lender to share the excess amount rateably in its Proportionate Share with the other Lenders and Swap Lenders. If any sum which is so shared is later recovered from the Lenders and Swap Lenders (as applicable) who originally received it, the Lender or Swap Lender shall restore its Proportionate Share of such sum to such Lenders and Swap Lenders, without interest. If any Lender or Swap Lender (a "**Receiving Lender**") shall obtain any payment of the Obligations as referred to above, the Receiving Lender shall forthwith remit such payment to the Agent and, upon receipt, the Agent shall distribute such payment in accordance with the provisions of Section 11.3.

11.11 Administration of the Facilities

- (a) Unless otherwise specified herein, the Agent shall perform the following duties under this Agreement:
 - (i) take delivery of each Lender's Proportionate Share of an Advance and make all Advances hereunder in accordance with the procedures set forth in Sections 6.6, 6.9 and 7.1;
 - (ii) use reasonable efforts to promptly collect all sums due and payable by the Borrowers pursuant to this Agreement;
 - (iii) make all payments to the Lenders and Swap Lenders in accordance with the provisions hereof and make, from time to time, all necessary adjustments to the Lenders' respective Proportionate Shares of outstanding Obligations in compliance with this Agreement and the Facilities, including, without limitation, to ensure availability of funds under the Swingline Facility;
 - (iv) hold all legal documents relating to the Facilities, maintain complete and accurate records showing all Advances made by the Lenders, all remittances and payments made by the Borrowers (or any of them) to the Agent, all remittances and payments made by the Agent to the Lenders and allow each Lender and their respective advisors to examine such accounts, records and documents at their own expense, and provide any Lender, upon reasonable notice, with such copies thereof as such Lender may reasonably require from time to time at its expense;
 - (v) except as otherwise specifically provided for in this Agreement, promptly advise each Lender upon receipt of each notice and deliver to each Lender, promptly upon receipt, all other written communications furnished by any Loan Party to the Agent pursuant to this Agreement, including without limitation copies of financial reports and certificates which are to be furnished to the Agent;
 - (vi) promptly forward to each Lender, upon request, an up-to-date loan status report and any other information respecting any Loan Party reasonably requested by such Lender;
 - (vii) upon learning of same, promptly advise each Lender in writing of the occurrence of a Default or an Event of Default or the occurrence of any event, condition or circumstance which could be expected to have a Material Adverse Effect; provided that, except as aforesaid, the Agent shall

- be under no duty or obligation whatsoever to provide any notice to the Lenders with respect to a Default, Event of Default or Material Adverse Effect, and further provided that each Lender hereby agrees to notify the Agent of any Default or Event of Default of which it may reasonably become aware;
- (viii) advise each Lender in writing of any change in the Swingline Lender or Fronting Lender, promptly upon learning of same; and
 - (ix) enforce its rights and perform its obligations under the Service Agreement.
- (b) Any provision of this Agreement may be amended only if the Borrowers and the Majority Lenders so agree in writing, and except as otherwise specifically provided herein, may be waived only if the Majority Lenders so agree in writing, but:
- (i) any amendment or waiver which changes or relates to:
 - (A) the amount of the Facilities available hereunder (other than as permitted herein);
 - (B) the amount of any Lender's Commitment hereunder (other than pursuant to an Assignment Agreement as otherwise permitted herein);
 - (C) the period of notice for Drawdowns, Conversions, Rollovers, and prepayments or repayments of any Obligations;
 - (D) extending any date fixed for payment of principal under the Facilities (including, without limitation, a waiver of an Event of Default described in Section 10.1(a))
 - (E) decreases in the rates of interest or Bankers' Acceptance Stamping Fees or deferral of the dates of payments of interest or Bankers' Acceptance Stamping Fees (including, without limitation, a waiver of an Event of Default described in Section 10.1(b));
 - (F) decreases in the amount of or deferral of the dates of payment of fees hereunder (other than fees payable for the account of the Agent);
 - (G) any provision hereof contemplating consent, approval or agreement of "all Lenders" or similar expressions or permitting waiver of conditions or covenants or agreements by "all Lenders" or similar expressions;
 - (H) the definition of "Event of Default";
 - (I) the release or discharge of, or any material amendment or waiver of, any Security or any Encumbrance constituted thereby, except for the discharge or release of Security required in connection with any sale, transfer or disposition of Property permitted by this Agreement or all of the Lenders;

- (J) the conditions precedent listed in Article 5;
- (K) the definition of "Majority Lenders", this Section 11.11(b), or any other provision which has the effect of amending the level of consents or approvals required by or from the Lenders hereunder; or
- (L) any provision that relates to the rateable treatment of Lenders,

shall require the agreement or waiver of all of the Lenders and also (in the case of an amendment) of the other parties hereto;

- (ii) any amendment or waiver which changes or relates to the rights and/or obligations of the Agent shall also require the agreement of the Agent; and
- (iii) any amendment or waiver which changes or relates to the rights and/or obligations of the Swingline Lender or the Fronting Lender shall require the agreement of the Swingline Lender or the Fronting Lender, as applicable.

Any of the above actions shall bind the Lenders and if applicable, all of the Swap Lenders, only if such action is agreed to in writing by the required Lenders.

- (c) Without limiting the generality of Section 11.11(b), and subject to 11.11(b)(i), the Agent may take the following actions only with the prior consent of the Majority Lenders, unless otherwise specified in this Agreement:

- (i) exercise any and all rights of approval and consent specifically conferred upon the Lenders (and not the Agent) by this Agreement;
- (ii) waive an Event of Default;
- (iii) declare an Event of Default or take action to enforce performance of the Obligations of the Loan Parties under and in respect of the Credit Documents, enforce the Security and/or pursue any other legal remedy necessary;
- (iv) declare the Obligations under the Facilities to be due and payable in accordance with Section 10.2;
- (v) pay insurance premiums, taxes and any other sums as may be reasonably required to protect the interests of the Lenders; and
- (vi) amend, modify, supplement, restate or replace the Service Agreement.

Any such action shall bind all of the Lenders and, if applicable, all of the Swap Lenders, only if such waiver, amendment, action, consent or other determination is agreed to in writing by the Majority Lenders.

- (d) As between the Borrowers (and each of them), on the one hand, and the Agent and the Lenders, on the other hand:
 - (i) all statements, certificates, consents and other documents which the Agent purports to deliver on behalf of the Lenders or the Majority Lenders shall be binding on each of the Lenders and Swap Lenders, and the Borrowers shall not be required to ascertain or confirm the authority of the Agent in delivering such documents;
 - (ii) all certificates, statements, notices and other documents which are delivered by the Borrowers (or any of them) to the Agent in accordance with this Agreement shall be deemed to have been delivered to each of the Lenders;
 - (iii) all payments which are delivered by the Borrowers (or any of them) to the Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders; and
 - (iv) unless a Default or an Event of Default has occurred and is continuing, the consent of the Borrowers to the appointment of any Successor Agent must be obtained, but such consent shall not be unreasonably withheld or delayed.

11.12 Rights of Agent

- (a) In administering the Facilities or in realizing on the rights available under this Agreement, the other Credit Documents or the Service Agreement, the Agent may retain, at the expense of the Lenders if such expenses are not recoverable from the Borrowers, such solicitors, counsel, auditors and other experts and agents as the Agent may select, in its sole discretion, acting reasonably and in good faith after consultation with the Lenders.
- (b) The Agent shall be entitled to rely on any communication, instrument or document believed by it to be genuine and correct and to have been signed by the proper individual or individuals, and shall be entitled to rely and shall be protected in relying as to legal matters upon opinions of independent legal advisors selected by it. The Agent may also assume that any representation made by any Loan Party is true and that no Default or Event of Default has occurred unless the officers or employees of the Lender acting as Agent, active in their capacity as officers or employees responsible for the Borrowers' accounts, have actual knowledge to the contrary or have received notice to the contrary from any other party to this Agreement.
- (c) The Agent may, without any liability to account, but subject to the terms of this Agreement, enter into Eligible Hedge Agreements with the Loan Parties (or any of them), accept deposits from and lend money to and generally engage in any kind of banking, or other business with the Borrowers (or any of them), as if it were not the Agent.
- (d) The Agent shall not be required to advance its own funds for any purpose, and in particular, shall not be required to pay with its own funds insurance premiums, taxes or public utility charges or the cost of repairs or maintenance with respect to

any of the Property of any Loan Party, nor shall it be required to pay with its own funds the fees of solicitors, counsel, auditors, experts, or agents engaged by it as permitted hereby.

11.13 Acknowledgements, Representations and Covenants of Lenders

- (a) It is acknowledged and agreed by each Lender that it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigations into the financial condition, creditworthiness, condition, affairs, status and nature of the Loan Parties and their respective Affiliates. Each Lender represents to the Agent that it is engaged in the business of making and evaluating the risks associated with commercial revolving loans or term loans, or both, to corporations similar to the Borrowers, that it can bear the economic risks related to the transaction contemplated hereby, that it has had access to all information deemed necessary by it in making such decision (provided that this representation shall not impair its rights against the Borrowers) and that it is entering into this Agreement in the ordinary course of its commercial lending business. Accordingly, each Lender confirms with the Agent that it has not relied, and will not hereafter rely, on the Agent (i) to check or enquire on its behalf into the adequacy, accuracy or completeness of any information provided by the Borrowers or any other Person under or in connection with this Agreement or the transactions herein contemplated (whether or not such information has been or is hereafter distributed to such Lender by the Agent), or (ii) to assess or keep under review on its behalf the financial condition, property, creditworthiness, condition, affairs, status or nature of the Borrowers or any of their respective Affiliates and subsidiaries. Each Lender acknowledges that a copy of this Agreement and the other Credit Documents (to the extent available) has been made available to it for review and each Lender acknowledges that it is satisfied with the form and substance thereof. Each Lender hereby covenants and agrees that it will not make any arrangements with the Borrowers for the satisfaction of any Advances or other Obligations without the consent of all the other Lenders.
- (b) Each Lender represents and warrants that it has the legal capacity to enter into this Agreement pursuant to its charter and any Applicable Laws and has not violated its charter, constating documents or any Applicable Laws by so doing.
- (c) The Lenders hereby agree to indemnify the Agent (to the extent not reimbursed by the Borrowers), on a *pro rata* basis in accordance with their respective Commitment as a proportion of the aggregate of all outstanding Commitments, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Agent in any way relating to or arising out of this Agreement, the other Credit Documents, the Service Agreement or any action taken or omitted by the Agent under or in respect of this Agreement, the other Credit Documents or the Service Agreement in its capacity as Agent; 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 Agent's gross negligence or wilful misconduct. If the Borrowers subsequently repay all or a portion of such amounts to the Agent, the Agent shall reimburse the Lenders their *pro rata* shares (according to the amounts paid by them in respect thereof) of the amounts received from the Borrowers. Without limiting the generality of the foregoing, each Lender

agrees to reimburse the Agent promptly upon demand for its portion (determined as above) of any out-of-pocket expenses (including counsel fees on a solicitor-client, full-indemnity basis) incurred by the Agent in connection with the preservation of any rights of the Agent or the Lenders under, or the enforcement of, or legal advice in respect of rights or responsibilities under, this Agreement or the other Credit Documents, to the extent that the Agent is not reimbursed for such expenses by the Borrowers. The obligation of the Lenders to indemnify the Agent shall survive the termination of this Agreement.

- (d) Each of the Lenders acknowledges and confirms that in the event that the Agent does not receive payment in accordance with this Agreement, it shall not be the obligation of the Agent to maintain the Facilities in good standing nor shall any Lender have recourse to the Agent in respect of any amounts owing to such Lender under this Agreement.
- (e) Each Lender acknowledges and agrees that its obligation to advance its Proportionate Share of Advances in accordance with the terms of this Agreement is independent and in no way related to the obligation of any other Lender hereunder.
- (f) Each Lender hereby acknowledges receipt of a copy of this Agreement and the other Credit Documents (to the extent that such Credit Documents have been delivered) and the Service Agreement and acknowledges that it is satisfied with the form and content of such documents.
- (g) Except to the extent recovered by the Agent from the Borrowers, promptly following demand therefor, each Lender shall pay to the Agent an amount equal to such Lender's Proportionate Share of any and all reasonable costs, expenses, claims, losses and liabilities incurred by the Agent in connection with this Agreement, the other Credit Documents and the Service Agreement (including, without limitation, the collection or enforcement thereof, which shall be based on each Lender's Proportionate Share of the Obligations) except for those incurred by reason of the Agent's gross negligence or willful misconduct.
- (h) Each Lender shall respond promptly to each request by the Agent for the consent of such Lender required hereunder.
- (i) If any Loan Party has provided security in favour of any Lender directly (such as, but not limited to, security under the *Bank Act* (Canada)), such Lender agrees to pay to the Agent all amounts received by it in connection with the enforcement of such security, and all such amounts shall be deemed to be secured by the Credit Documents.

11.14 Action of the Lenders

Each of the Lenders hereby acknowledges that, to the extent permitted by Applicable Law, the remedies available to the Lenders under the Credit Agreement, the other Credit Documents and the Service Agreement (if any) are for the benefit of the Lenders collectively and that its rights hereunder and under the Security and the Service Agreement are to be exercised by the Agent as required by this Agreement. The Agent shall have no responsibility or liability to any Swap Lender to enforce any Credit Document or the Service Agreement for or on behalf of any Swap Lender or to obtain the payment of any Obligations owed to any Swap Lender under, in respect

of or in connection with any Eligible Hedge Agreement, provided however, that to the extent the Agent receives any payments after the delivery of an Acceleration Notice, such payments shall be distributed by the Agent in accordance with Section 11.3. Accordingly, except as otherwise expressly provided herein, each of the Lenders hereby covenants and agrees that it shall not take any action hereunder or under the Security or the Service Agreement but that any such action shall be taken only by the Agent with the prior written agreement of the Majority Lenders or all of the Lenders, if and as required. Each of the Lenders hereby further covenants and agrees that upon any written agreement being given by the Majority Lenders or all of the Lenders, if and as required, it shall co-operate fully with the Agent to the extent requested by the Agent. Notwithstanding the foregoing, in the absence of instructions from the Lenders and where in the sole opinion of the Agent, acting reasonably and in good faith, the exigencies of the situation warrant such action, the Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the interest of the Lenders.

11.15 Successor Agent

Subject to the appointment and acceptance of a Successor Agent as provided in this Section 11.15, the Agent may resign at any time by giving 30 days' written notice thereof to the Lenders and the Borrowers, and may be removed at any time by the Majority Lenders upon 30 days' written notice if the Agent has been grossly negligent hereunder. Upon receipt of notice by the Lenders of the resignation of the Agent, or upon giving notice of termination to the Agent, the Majority Lenders may with the consent of the Borrowers (provided that the Lenders shall only be obligated to obtain such consent if no Default or Event of Default exists), such consent not to be unreasonably withheld or delayed, within 21 days, appoint a successor from among the Lenders or, if no Lender is willing to accept such an appointment, from among other banks to which the *Bank Act* (Canada) applies, which each have combined capital and reserves in excess of \$250,000,000.00, and which have offices in Calgary and Toronto (the "**Successor Agent**"). If no Successor Agent has been so appointed and has accepted such appointment within 21 days after the retiring Agent's giving of notice of resignation or receiving of notice of termination, then the retiring Agent may, on behalf of the Lenders, appoint a Successor Agent. If neither the Majority Lenders nor the Agent appoints a Successor Agent within such 21 days, then the Majority Lenders or the Agent may apply to a Court of competent jurisdiction for the appointment of a Successor Agent, but any Successor Agent so appointed by the Court shall be subject to removal as aforesaid by the Majority Lenders. Upon the acceptance of any appointment as Agent hereunder by a Successor Agent, the Successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its further duties and obligations as Agent under this Agreement and the other Credit Documents and the Service Agreement. After any retiring Agent's resignation hereunder as Agent, the provisions of this Article 11 shall continue to enure to its benefit and be binding upon it as to any actions taken or omitted to be taken by it while it was Agent hereunder.

11.16 Provisions Operative Between Lenders and Agent Only

Except for the provisions of Sections 11.3, 11.11(b), 11.11(c), 11.11(d), 11.13(b), 11.13(e) and 11.15, the provisions of this Article 11 relating to the rights and obligations of the Lenders and the Agent inter se shall be operative as between the Lenders and the Agent only, and the Borrowers shall not have any rights or obligations under or be entitled to rely for any purpose upon such provisions.

11.17 Lenders' Obligations Several; No Partnership

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

Each of the Lenders hereby acknowledges that, to the extent permitted by Applicable Law, the remedies provided hereunder to the Lenders are for the benefit of the Lenders collectively and acting together and not severally, and further acknowledges that its rights hereunder are to be exercised not severally, but collectively by the Agent upon the decision of the Majority Lenders regardless of whether acceleration was made under Article 10. Notwithstanding any of the provisions contained herein, each of the Lenders hereby covenants and agrees that it shall not be entitled to individually take any action with respect to the Facilities, including, without limitation, any acceleration under Article 10, but that any such action shall be taken only by the Agent with the prior written agreement or instructions of the Majority Lenders; provided that, notwithstanding the foregoing, if (a) the 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 Majority 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 Agent hereunder or elsewhere, and (b) in the absence of instructions from the Majority Lenders and where in the sole opinion of the Agent the exigencies of the situation warrant such action, the 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 Majority Lenders, or upon a Lender or the Agent taking action as aforesaid, it shall cooperate fully with the Lender or the Agent to the extent requested by the Lender or the Agent in the collective realization including, without limitation, and, if applicable, the appointment of a receiver, interim receiver or receiver/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, without limitation, any instruments necessary to effect any registrations, so as to fully carry out the intent and purpose of this Section 11.17; and each of the Lenders hereby covenants and agrees that, it has not heretofore and shall not seek, take, accept or receive any security for any of the Obligations of the Loan Parties hereunder or under any other document, instrument, writing or agreement ancillary hereto (other than as expressly contemplated hereby) and shall not enter into any agreement with any of the parties hereto or thereto relating in any manner whatsoever to the Facilities, unless all of the Lenders shall at the same time obtain the benefit of any such security or agreement.

With respect to any enforcement, realization or the taking of any rights or remedies to enforce the rights of the Lenders hereunder, the Agent shall be a trustee for each Lender, and all monies received from time to time by the 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 Agent, and each Lender shall be entitled to their Proportionate Share of such monies. In its capacity as trustee, the 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.

**ARTICLE 12
ADDITIONAL LENDERS, SUCCESSORS AND ASSIGNS**

12.1 Successors and Assigns

- (a) The Credit Documents shall be binding upon and enure to the benefit of the Agent, each Lender, each Loan Party party thereto, and their respective successors and assigns (including without limitation, any successor resulting from the amalgamation or merger of any Loan Party with one or more Persons or resulting from the winding-up of one or more Persons into such Loan Party), except that, other than as provided herein, no Borrower shall assign any rights or obligations with respect to this Agreement or any of the other Credit Documents without the prior written consent of Agent acting on the instructions of the Lenders.

The collective rights and obligations of the Lenders under this Agreement are assignable in whole or in part and any Lender shall be entitled to assign in whole or in part its individual rights and obligations hereunder or to permit other financial institutions to participate in the Facilities, all in accordance with the provisions of Section 12.2 and the other terms of this Agreement. Each Borrower hereby consents to the disclosure of any information and opinions relating to it to any potential lender or Participant, provided that the potential lender or Participant agrees in writing to keep the information confidential and to return such information if it does not become a Lender or a Participant.

Each assignment shall be of a uniform, and not a varying, percentage of all rights and obligations of the assignor(s) under or in respect of all of the Facilities for which the assignor has a Commitment. No assignment may be in an aggregate amount less than Cdn. \$5,000,000 unless such assignment is of the entire Commitment of a Lender, or results in the total Commitment of any Lender, determined as of the effective date of the Assignment Agreement with respect to such assignment, being less than Cdn. \$5,000,000.

Notwithstanding any other provisions of this Agreement, each Lender agrees that:

- (i) it shall not offer to assign or assign or offer to sell or sell a participation in any portion of its rights and obligations under this Agreement including, without limitation, any portion of its Commitment without the prior written consent of and 5 Business Days' prior notice to the Agent and the Swingline Lender, which consent shall not be unreasonably withheld;
- (ii) any assignee or transferee of any of its rights and obligations hereunder will agree with the Borrowers to be bound by the provisions of this Agreement;
- (iii) it shall not assign or transfer any of its rights and obligations hereunder to any Person who is a non-resident within the meaning of the *Income Tax Act* (Canada);
- (iv) it shall, except in the case of an offer to sell or the sale of a Participation, and prior to a Default or Event of Default, obtain the prior written consent of the Borrowers to such assignment, such consent of the Borrowers not to be unreasonably withheld; and

- (v) unless a Default or Event of Default has occurred and is continuing, the Borrowers shall not be under any obligation to pay by way, as a result of an assignment, of withholding tax or otherwise any greater amount than they would have been obliged to pay of the assigning Lender and not made such assignment.
- (b) A Participation by a Lender of its interest (or a part thereof) hereunder or a payment by a Participant to a Lender as a result of the Participation will not constitute a payment hereunder to the Lender or an Advance to the Borrowers (or any of them).

12.2 Assignments

- (a) Subject to Section 12.1 and the other terms of this Agreement, the Lenders collectively or individually may assign to one or more assignees that is a chartered bank under the *Bank Act* (Canada) or other financial institution resident in Canada all or a portion of their respective rights and obligations under this Agreement (including, without limitation, all or a portion of their respective Commitments, provided, however, that an assigning Lender must assign the same percentage of its Commitment of each Facility in which it holds a Commitment); provided however, after a declaration is made pursuant to Section 10.2, a Lender may assign any of its rights and obligations under this Agreement to any Person. Each of the parties to each such assignment shall execute and deliver an Assignment Agreement to the Agent and, unless a Default or an Event of Default has occurred and is continuing, to the Borrowers, for their acknowledgement, as the case may be, and recording by the Agent in the Register and, except in the case of an assignment by a Lender to an Affiliate of that Lender, the assigning Lender shall pay a processing and recording fee of \$5,000 to the Agent. After such execution, delivery, acknowledgement and recording, (i) the assignee thereunder shall be a party to this Agreement and, to the extent that rights and obligations hereunder have been assigned to it, have the rights and obligations of a Lender hereunder, and (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, relinquish its rights and be released from its obligations under this Agreement, other than obligations in respect of which it is then in default or which arose prior to its assignment, and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto.
- (b) The agreements of an assignee contained in an Assignment Agreement shall benefit the assigning Lender thereunder, the other Lenders, the Agent and the Borrowers in accordance with the terms of the Assignment Agreement.
- (c) The Agent shall maintain at its address referred to herein a copy of each Assignment Agreement delivered to and acknowledged by it and a register for recording the names and addresses of the Lenders and their respective Commitments from time to time (the "**Register**"). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error. The Borrowers, the Agent and each of the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement, and need not recognize any Person as a Lender unless it is recorded in the Register as a Lender. The Register shall be available for inspection by any Borrower or any Lender at any reasonable time and from time to time upon reasonable prior notice.

- (d) Within 5 Business Days after receipt by the Agent of (i) the processing and recording fee required pursuant to Section 12.2(a), and (ii) an Assignment Agreement executed by an assigning Lender and an assignee and approved by the Borrowers (if applicable) and the Agent, the Agent shall, if the Assignment Agreement has been completed and is in the required form with such immaterial changes as are acceptable to the Agent:
- (A) acknowledge the Assignment Agreement;
 - (B) record the information contained therein in the Register; and
 - (C) give prompt notice thereof to the Borrowers and the other Lenders, and provide them with an updated list of the respective Commitments of each Lender.

12.3 Participation

Each Lender may sell an interest (other than by way of assignment pursuant to Section 12.2) to one or more banks, financial institutions or other Persons (a "**Participant**") in or to all or a portion of its rights and obligations (including, without limitation, all or a portion of its Commitment) under this Agreement, (such interest is referred to herein as a "**Participation**"), which Participation must be in an aggregate amount of Cdn. \$5,000,000 or more, but the Participant shall not become a Lender and:

- (a) the Lender's obligations under this Agreement (including, without limitation, its Commitment) shall remain unchanged;
- (b) the Lender shall remain solely responsible to the other parties hereto for the performance of such obligations;
- (c) the Borrowers, the Agent and the other Lenders shall continue to deal solely and directly with the Lender in connection with the Lender's rights and obligations under this Agreement; and
- (d) no Participant shall have any right to approve any amendment or waiver of any provision of this Agreement, or any consent to any departure by any Person therefrom.

12.4 Departing Lenders.

If a Lender (in each case, a "**Departing Lender**"): (a) elects to exercise its rights under Section 6.16 for a period of at least 30 days, unless all Lenders are exercising their rights under such Section, (b) is a Defaulting Lender, (c) seeks Additional Compensation in accordance with Section 13.12 for a period of at least 30 days (after notice thereof is provided to the Borrowers), (d) declares that its obligations hereunder in respect of its Commitments or the Facilities so affected shall be terminated in accordance with Section 13.13, or (e) refuses to give timely consent to an amendment, modification or waiver of this Agreement that requires consent of all the Lenders (and the consent of the Majority Lenders has been given with respect thereto) (a "**Non-Consenting Lender**"), then the Borrowers may, upon at least 3 days' notice to the Agent and the Departing Lender and provided that no Default or Event of Default has occurred and is continuing:

- (a) replace the Departing Lender with another bank or other financial institution who purchases the Outstanding Principal owing to the Departing Lender and such Lender's entire Commitment under the Facilities and assumes the Departing Lender's entire Commitment under the Facilities and all other obligations of the Departing Lender hereunder (provided, however, obligations under Eligible Hedge Agreements do not need to be assumed or assigned), provided that prior to or concurrently with such replacement:
- (i) the Departing Lender shall have received payment in full (subject to negotiation between the Departing Lender and the replacement bank or financial institution) of all principal, interest, fees and other all amounts, including all losses, costs and expenses suffered or incurred by such Lender with respect to Additional Compensation, through such date of replacement, together with a release from any further obligations to make Advances after the date of such replacement, and all other amounts, if any, payable for the account of such Lender hereunder in respect of any Advances made by it and in respect of all losses, costs and expenses suffered or incurred by such Lender hereunder as a result of any unlawfulness described in Section 13.13;
 - (ii) the assignment fee required to be paid by Section 12.2(a) shall have been paid to the Agent;
 - (iii) all of the requirements for such assignment contained in Section 12.2 shall have been satisfied;
 - (iv) the Agent (if the replacement financial institution is not already a Lender) and the Swingline Lender each consents in writing to such replacement, prior to such replacement; and
 - (v) in the case of a Departing Lender who is a Non-Consenting Lender, each assignee consents, at the time of such assignment, to each matter in respect of which such Non-Consenting Lender was a Non-Consenting Lender and the Borrowers also require each other Lender that is a Non-Consenting Lender to assign the Outstanding Principal owing to it under each of the Facilities, its entire Commitment under the Facilities and all other obligations hereunder (not including obligations under Eligible Hedge Agreements); or
- (b) elect to terminate the Departing Lender's Commitments under the Facilities, in which case the aggregate Commitments in respect of each Facility shall be reduced by an amount equal to the amount of any Departing Lender's Commitments under the applicable Facilities so cancelled (provided that prior to or concurrently with such cancellation the Departing Lender shall have received payment in full of all principal, interest, fees and other amounts through such date of cancellation (including the deposit with the Agent, for the benefit of such Departing Lender, cash Collateral equal to the full principal amount at maturity of all Bankers' Acceptances and Notional Bankers' Acceptances accepted by such Departing Lender) and a release from any further obligations to make Advances under this Agreement after such termination); or

- (c) exercise any combination of the rights under (a) and (b); provided that, in each case, each Departing Lender is treated rateably with the other Departing Lenders, if any.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 Capitalized Terms

All capitalized terms used in any of the Credit Documents (other than this Agreement) which are defined in this Agreement shall have the respective meanings defined herein unless otherwise defined in the other document.

13.2 Severability

Any provision of this Agreement which is or becomes prohibited or unenforceable in any relevant jurisdiction shall not invalidate or impair the remaining provisions hereof, all of which shall be deemed severable from such prohibited or unenforceable provision and any such prohibition or unenforceability in any such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Should this Agreement fail to provide for any relevant matter, the validity, legality or enforceability of this Agreement shall not hereby be affected.

13.3 Amendment, Supplement or Waiver

No amendment, supplement or waiver of any provision of the Credit Documents, nor any consent or approval to any departure by any Loan Party therefrom, shall in any event be effective unless it is in writing, makes express reference to the provision affected thereby and is signed by the Agent for and on behalf of the Lenders or the Majority Lenders, as may be as required under Section 11.11(b) or 11.11(c) or otherwise herein, and then such waiver, consent or approval shall be effective only in the specific instance and for the specific purpose for which given. No waiver, consent, approval or act or omission of the Lenders or the Agent shall extend to or be taken in any manner whatsoever to affect any subsequent Default, Event of Default or breach by any Loan Party of any provision of the Credit Documents or the rights resulting therefrom.

13.4 Governing Law

Each of the Credit Documents, except for those which expressly provide otherwise, shall be conclusively deemed to be a contract made under, and shall for all purposes be governed by and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable in Alberta. Each party to this Agreement hereby irrevocably and unconditionally attorns to the non-exclusive jurisdiction of the Courts of Alberta and all Courts competent to hear appeals therefrom. Each Loan Party hereby irrevocably waives, to the fullest extent of Applicable Law, any defence of *forum non conveniens* and confirms that Alberta is the proper forum for any dispute, action, application or other claim of any nature to be heard.

13.5 This Agreement to Govern

In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any other Credit Document, the provisions of this Agreement shall govern to the extent necessary to remove the conflict or inconsistency; provided however, a conflict or inconsistency shall not be deemed to occur if one Credit Document provides for a matter and another Credit Document does not.

13.6 Anti-Money Laundering Legislation

- (a) Each Lender and the Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers (and the Borrowers each acknowledge) that pursuant to the requirements of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (USA) or any other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" Applicable Laws (collectively, including any guidelines or orders thereunder, "**AML Legislation**"), it may be required to obtain, verify and record information that identifies the Borrowers and their respective Affiliates and subsidiaries, which information includes the name and address of each such person and such other information that will allow such Lender or the Agent, as applicable, to identify each such person in accordance with AML Legislation (including, information regarding such person's directors, authorized signing officers, or other persons in control of each such person). The Borrowers shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Agent (for itself and not on behalf of any Lender), or any prospective assignee or participant of a Lender or the Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.
- (b) If, upon the written request of any Lender, the Agent has ascertained the identity of the Borrowers or their respective Affiliates or subsidiaries, or any authorized signatories of such person, for the purposes of applicable AML Legislation on such Lender's behalf, then the Agent:
 - (i) shall be deemed to have done so as an agent for such Lender, and this Agreement shall constitute a "written agreement" in such regard between such Lender and the Agent within the meaning of applicable AML Legislation; and
 - (ii) shall provide to such Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.
- (c) Notwithstanding anything to the contrary in this Section 13.6, each of the Lenders agrees that the Agent has no obligation to ascertain the identity of the Borrowers or their respective Affiliates or subsidiaries or any authorized signatories of such person, on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from any such person or any such authorized signatory in doing so.

13.7 Currency

All payments made hereunder shall be made in the currency in respect of which the Obligation requiring such payment arose. Unless the context otherwise requires, all amounts expressed in this Agreement in terms of money shall refer to Canadian Dollars.

Except as otherwise expressly provided in this Agreement, wherever this Agreement contemplates or requires the calculation of the Equivalent Amount in Canadian Dollars or

U.S. Dollars of an amount expressed in another, the calculation shall be made on the basis of the Exchange Rate at the effective date of the calculation.

13.8 Liability of Lenders

The liability of the Lenders in respect of all matters relating to this Agreement and the other Credit Documents is several and not joint or joint and several. Without limiting the preceding sentence, the obligations of the Lenders to make Advances is limited to their respective Proportionate Shares of any Advance that is requested, and, in the aggregate, to their respective Proportionate Shares of the total amount of the Facilities.

13.9 Expenses and Indemnity

All statements, reports, certificates, opinions, appraisals and other documents or information required to be furnished to the Agent, the Lenders or any of them by any Loan Party under this Agreement shall be supplied without cost to the Lenders, the Agent or any of them. The Borrowers shall pay on demand all reasonable out of pocket costs and expenses of the Agent, the Lenders or any of them (including, without limitation, long distance telephone and courier charges and the reasonable fees and expenses of counsel for the Agent, the Lenders or any of them on a solicitor-client, full-indemnity basis) incurred in connection with: (i) the preparation, execution, delivery, administration, periodic review, modification or amendment of the Credit Documents and all actions and agreements ancillary thereto; (ii) any enforcement of the Credit Documents; (iii) obtaining advice as to their rights and responsibilities in connection with the Facilities, the Credit Documents and the Service Agreement; (iv) reviewing, inspecting and appraising the collateral that is the subject of the Security at reasonable intervals; and (v) other matters relating to the Credit Documents, the Facilities (or any of them) and the Service Agreement. Such costs and expenses shall be payable whether or not an Advance is made under this Agreement and shall form part of the Obligations and be secured by the Security and the Encumbrances constituted thereby.

The Borrowers (and each of them) shall indemnify the Agent and the Lenders (and each of them) against any liability, obligation, loss or expense which they may sustain or incur as a consequence of (i) any representation or warranty made by any Loan Party which was incorrect at the time it was made or deemed to have been made; (ii) a default by any Loan Party in the payment of any sum due from it (irrespective of whether an Advance is deemed to be made to any Borrower to pay the amount that the Borrowers have failed to pay) including, but not limited to, all sums (whether in respect of principal, interest or any other amount) paid or payable to Lenders of funds borrowed by a Lender in order to fund the amount of any such unpaid amount to the extent such Lender is not reimbursed pursuant to any other provisions of this Agreement, (iii) the failure of any Borrower to complete any Advance or make any payment after notice therefor has been given under this Agreement, (iv) the repayment, prepayment or Conversion (whether by acceleration or otherwise) of a BA Advance by the Borrowers on a date other than the maturity date thereof, (v) any draw on any Letter of Credit; and (vi) any other default by any Loan Party under any Credit Document or the Service Agreement. A certificate of the Agent or the applicable Lender as to the amount of any such loss or expense shall be prima facie evidence as to the amount thereof, in the absence of manifest error.

In addition, the Borrowers (and each of them) shall hold harmless and indemnify the Agent, each Lender and their respective directors, officers, employees, agents, advisors and representatives (collectively, the "**Indemnified Parties**" and, individually, an "**Indemnified Party**") from and against any and all actions, proceedings, claims, losses, damages, penalties, judgments, suits, applications, costs, disbursements, liabilities, expenses and obligations of any

kind (at law or equity or otherwise) that may be incurred by or asserted against any of them as a result of or in connection with the making of any Advance hereunder, under any Credit Document and the Agent taking, holding and enforcing the Security or any Encumbrance constituted thereby, other than arising from the gross negligence or willful misconduct of the Agent or such other Indemnified Party. Whenever any such claim shall arise, the Indemnified Party shall promptly notify the Borrowers of the 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 to give notice of a claim promptly shall not adversely affect the Indemnified Party's rights to indemnity hereunder.

The agreements in this Section 13.9 shall survive the termination of this Agreement and repayment of the Obligations.

13.10 Environmental Indemnity

Without limiting the generality of the provisions of Section 13.9, each Borrower hereby agrees to indemnify, defend and hold harmless the Lenders, the Agent and each of them from and against any and all administrative, regulatory or judicial actions, suits, demands, claims, liens, notices of non-compliance or violation, investigations, inspections, inquiries, proceedings, losses, costs, fines, expenses, damages, claims and liabilities of every nature (collectively, "**Environmental Claims**") incurred by the Lenders, the Agent and any of them relating in any way to any Environmental Laws or to any Permit issued under such Environmental Laws in respect of any Loan Party or any of its Property, including without limitation, as a result of:

- (a) any breach of Environmental Laws which relates to the Property or operations of any Loan Party;
- (b) any Release, presence, use, creation, transportation, storage or disposal of Hazardous Materials which relate to the property or operations of any Loan Party; or
- (c) any claim, fine or order for any clean-up, restoration, detoxification, reclamation, repair or other securing or remedial action which relates to the property or operations of any Loan Party,

other than, with respect to an indemnified party, Environmental Claims arising from the willful misconduct or gross negligence of such indemnified party.

This indemnity shall extend to the officers, directors, employees, agents and assignees of the Lenders, the Agent, and each of them as well as to the Lenders, the Agent and each of them itself, and the Lenders, the Agent and each of them will hold the benefit of this indemnity in trust for such other indemnified Persons to the extent necessary to give effect thereto.

The agreements in this Section 13.10 shall survive the termination of this Agreement and repayment of the Obligations.

13.11 Manner of Payment and Taxes

All payments to be made by the Loan Parties (or any of them) pursuant to the Credit Documents are to be made without set-off, compensation or counterclaim, free and clear of and without deduction for or on account of any Tax, including but not limited to withholding taxes, except for Taxes on the overall net income of a Lender (such taxes applicable to the overall net

income of a Lender are herein referred to as "**Excluded Taxes**"). If any Tax, other than Excluded Taxes, is deducted or withheld from any payments under the Credit Documents, the Borrowers shall promptly remit to the applicable Lender or Lenders in the currency in which such payment was made, the equivalent of the amount of Tax so deducted or withheld together with the relevant receipt addressed to the Agent. If any Loan Party is prevented by operation of law or otherwise from paying, causing to be paid or remitting such Tax, the interest or other amount payable under the Credit Documents will be increased to such rates as are necessary to yield and remit to each Lender the principal sum advanced or made available together with interest at the rates specified in the Credit Documents after provision for payment of such Tax.

If, following the making of any payment by any Loan Party under this Section 13.11, a Lender is granted a credit against or refund in respect of any Tax payable by it in respect of such Taxes to which such payment by such Loan Party relates that such Lender would not have received had such Loan Party not made the payment, such Lender shall (subject to such Loan Party having paid the relevant amount) to the extent that it is satisfied that it can do so without prejudice to the retention of the amount of such credit or refund, reimburse such Loan Party such amount as such Lender shall certify to be the proportion of such credit or refund as will leave such Lender, after such reimbursement in no worse or better position than it would have been in if the relevant Taxes had not been imposed, or the relevant Taxes had not been deducted or withheld in respect of the payment by such Loan Party as aforesaid. Such Lender shall, at the Borrowers' request and cost, file such documentation and do such commercially reasonable things as may be necessary to obtain such credit or refund, but such Lender shall not be obligated to disclose any information to any Borrower or any other Person concerning its income or taxes that is not otherwise publicly available.

If any Loan Party makes any payment under this Section 13.11 for the account of a Lender, such Lender shall take reasonable steps to minimize the net amount payable by such Loan Party under this Section 13.11, but such Lender shall not be obliged to disclose any information to such Loan Party concerning its income or Taxes that is not otherwise publicly available.

13.12 Increased Costs

- (a) If, after the date hereof, the introduction of or any change in any Applicable Laws or in the interpretation or application thereof by any Court or by any Governmental or Judicial Body charged with the interpretation or administration thereof, or if compliance by any Lender with any request or directive from any central bank or other fiscal, monetary or other authority issued after the date hereof (whether or not having the force of law):
 - (i) subjects the Lenders (or any of them) to, or causes the withdrawal or termination of a previously granted exemption with respect to, any Taxes (other than taxes on the Lenders' income), or changes the basis of taxation of payments due to the Lenders (or any of them), or increases any existing Taxes (other than taxes on the Lenders' income) on payments of principal, interest or other amounts payable by the Borrowers to the Lenders (or any of them) under this Agreement;
 - (ii) imposes, modifies or deems applicable any reserve, liquidity, special deposit, regulatory or similar requirement against assets or liabilities held by, or deposits in or for the account of, or loans by the Lenders (or any of them), or any acquisition of funds for loans or commitments to fund loans

or obligations in respect of undrawn, committed lines of credit or in respect of Bankers' Acceptances accepted by a BA Lender;

- (iii) imposes on the Lenders (or any of them) or requires there to be maintained by the Lenders (or any of them) any capital adequacy, liquidity or additional capital requirements (including, without limitation, a requirement which affects a Lenders' allocation of capital resources to its obligations) in respect of any Advance or obligation of a Lender hereunder, or any other condition with respect to this Agreement; or
- (iv) otherwise imposes on the Lenders (or any of them), any other condition or requirement affecting this Agreement, any other Credit Document or any Advance or any obligation of the Lenders (or any of them) hereunder which directly or indirectly affects the cost to the Lenders (or any of them) of making available, funding or maintaining any Advance or the Obligations owing by the Borrowers hereunder;

and the result of (i), (ii), (iii) or (iv) above, in the sole determination of the affected Lender acting in good faith, is:

- (A) to increase the cost to such Lender of performing its obligations hereunder with respect to any Advance;
- (B) to reduce any amount received or receivable by such Lender hereunder or its effective return hereunder or on its capital in respect of any Advance;
- (C) to reduce the interest or any fees payable to the Lenders hereunder; or
- (D) to cause such Lender to make any payment with respect to or to forego any return on or calculated by reference to, any amount received or receivable by such Lender hereunder with respect to any Advance;

such Lender shall determine such additional cost, reduction in income or payment, without duplication, (the "**Additional Compensation**") and shall promptly notify the Borrowers. Such affected Lender shall provide to the Borrowers a photocopy of the relevant law, rule, guideline, regulation, treaty, or official directive and a certificate of a duly authorized officer of such Lender setting forth the Additional Compensation and the basis of calculation thereof and for the purposes of calculating such amount such Lender shall treat the Borrowers and its Commitments in a manner consistent with comparable borrowers and transactions. The Borrowers shall pay to such affected Lender forthwith following the giving of such notice such Additional Compensation calculated from the effective date of the relevant adoption or change; provided that the affected Lender shall not be entitled to Additional Compensation for any period more than 180 days prior to the date of such notice, and shall not be entitled to Additional Compensation to the extent that such increase in costs or reduction in amounts received or to be received or reduction in return is reflected in or recovered by an increase in the interest or other amounts payable hereunder other than pursuant

to this Section 13.12. Such affected Lender shall endeavor, on a commercially reasonable basis, to minimize the incidence of any Additional Compensation.

- (b) Each Lender shall use its commercially reasonable efforts to reduce the amount of Additional Compensation payable pursuant to this Section 13.12; provided that no Lender shall have an obligation to expend its own funds, suffer any economic hardship or take any action detrimental to its interests in connection therewith.

13.13 Illegality

If a Lender determines, in good faith, that: (a) the introduction of or any change in any Applicable Laws or in the interpretation or application thereof by any Court or Governmental or Judicial Body charged with the interpretation or administration thereof that has occurred after the date hereof, or (b) compliance by such Lender with any request or directive from any central bank or other fiscal, monetary or other authority (whether or not having the force of law) issued after the date hereof has made it unlawful for such Lender to make, maintain or fund all or any portion of any Advance or of its Commitments or to perform its obligations in respect of the Facilities hereunder or any relevant portions thereof as contemplated hereby, such Lender may, by notice in writing to the applicable Borrower, declare that its obligations hereunder in respect of its Commitments or the Facilities so affected shall be terminated forthwith.

13.14 Interest on Miscellaneous Amounts¹

If the Borrowers fail to pay any amount payable hereunder (other than principal, interest thereon and fees in respect thereof or interest upon interest or fees which are payable as otherwise provided in this Agreement) on the due date, then the Borrowers shall, forthwith on demand, pay interest on such overdue amount to each Lender from and including such due date up to but excluding the date of actual payment, both before and after demand, default or judgment, at a rate of interest per annum equal to: (i) the Prime Rate plus []% compounded monthly for amounts payable in Canadian Dollars; and (ii) the US Base Rate plus []% compounded monthly for amounts payable in US Dollars.

13.15 Address for Notice

Notice to be given under the Credit Documents to any of the Loan Parties, the Lenders, the Swingline Lender or the Agent shall, except as otherwise specifically provided, be in writing addressed to the party for whom it is intended and, unless Applicable Law deems a particular notice to be received earlier, a notice shall not be deemed received until actual receipt by the recipient of an original of such notice or a facsimile thereof if sent by facsimile transmission or other electronic means. The addresses of the parties hereto for the purposes hereof shall be the addresses specified beside their respective signatures to this Agreement, or such other mailing, facsimile or electronic addresses as each party from to time may notify the other in writing as aforesaid.

13.16 Time of the Essence

Time shall be of the essence in this Agreement.

¹ Fee information redacted.

13.17 Further Assurances

The Borrowers shall, at the request of the Agent acting on the instructions of the Lenders, do all such further acts and execute and deliver all such further documents, agreements, recordings, registrations and other instruments and actions as may, in the reasonable opinion of the Lenders, be necessary or desirable in order to fully perform and carry out the purpose and intent of the Credit Documents.

13.18 Term of Agreement

Except as otherwise provided herein, this Agreement shall remain in full force and effect until the indefeasible payment and performance in full of all of the Obligations in cash under this Agreement and the other Credit Documents (which do not include, for greater certainty, Eligible Hedge Agreements).

13.19 Payments on Business Day

Whenever any payment or performance under the Credit Documents would otherwise be due on a day other than a Business Day, such payment shall be made on the immediately following Business Day.

13.20 Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof.

13.21 Interest Act Equivalent; Maximum Rate Permitted by Law; Interest Generally

- (a) In this Agreement, each rate of interest which is calculated with reference to a period (the "**deemed interest period**") that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada), equivalent to a rate based on a calendar year calculated by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing by the number of days in the deemed interest period.
- (b) No interest or fee to be paid hereunder shall be paid at a rate exceeding the maximum rate permitted by Applicable Law. In the event any such interest or fee exceeds such maximum rate, such interest or fee shall be reduced or refunded, as the case may be, so as to be payable at the highest rate recoverable under Applicable Law.
- (c) Any provision of this Agreement or any other Credit Document that would oblige a Loan Party to pay any fine, penalty or rate of interest on any arrears of principal or interest secured by a mortgage on real property or hypothec on immovables that has the effect of increasing the charge on arrears beyond the rate of interest payable on principal money not in arrears shall not apply to such Loan Party, which shall be required to pay interest on money in arrears at the same rate of interest payable on principal money not in arrears.
- (d) If any provision of this Agreement or any other Credit Document would oblige a Loan Party to make any payment of interest or other amount payable to the Agent

or any Lender in an amount or calculated at a rate which would result in a receipt by the Agent or any Lender of "interest" at a "criminal rate" (as such terms are construed under the *Criminal Code* (Canada)), then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not so result in a receipt by the Agent or any Lender of "interest" at a "criminal rate", such adjustment to be effected, to the extent necessary (but only to the extent necessary), as follows:

- (i) first, by reducing the amount or rate of interest; and
 - (ii) thereafter, by reducing any fees, commissions, costs, expenses, premiums and other amounts required to be paid which would constitute "interest" for purposes of Section 347 of the *Criminal Code* (Canada).
- (e) The theory of deemed reinvestment shall not apply to the calculation of interest or payment of fees or other amounts hereunder, notwithstanding anything contained in this Agreement or in any other Credit Document now or hereafter granted to or taken by the Lenders and all interest and fees payable by the Borrowers to any Lender shall accrue from day to day and be computed as described herein in accordance with the "nominal rate" method of interest calculation.

13.22 Currency Indemnity

In the event of a judgment or order being rendered by any Court or tribunal for the payment of any amounts owing under this Agreement or for the payment of damages in respect of any breach of this Agreement or under or in respect of a judgment or order of another Court or tribunal for the payment of such amounts or damages, such judgment or order being expressed in a currency (the "**Judgment Currency**") other than the currency payable hereunder or thereunder (the "**Agreed Currency**"), each party against whom the judgment or order is made shall indemnify and hold each party in whose favour the judgment or order is made harmless against any deficiency in terms of the Agreed Currency in the amounts received by such party arising or resulting from any variation as between: (a) the Exchange Rate at which the Agreed Currency is converted into the Judgment Currency for the purposes of such judgment or order, and (b) the Exchange Rate at which such party is able to purchase the Agreed Currency with the amount of the Judgment Currency actually received by such party on the date of such receipt. The indemnity in this Section 13.22 shall constitute a separate and independent obligation from the other obligations of the parties hereunder, shall apply irrespective of any indulgence granted hereunder.

13.23 Non-Merger

Each Borrower covenants and agrees with the Agent and the Lenders that, in the case of any judicial or other proceeding to enforce the rights and remedies of the Agent of the Lenders under the Credit Documents (or any part thereof), judgment may be rendered against such Borrower and any other Loan Party in favour of the Lenders, or any of them, for any amount owing by them under the Credit Documents (or for which such Borrower or any Loan Party may be liable thereunder after the application to the payment thereof of the proceeds of any sale of any of the Property of such Borrower or other Loan Party). The covenants of the Borrowers to pay interest at the rate provided for in this Agreement shall not merge in any such judgment and such judgment shall bear interest at the rate applicable to Prime Rate Advances plus []%¹ per annum until such

¹ Fee information redacted.

judgment and all Obligations of the Borrowers to the Lenders under the Credit Documents have been indefeasibly satisfied and paid in full in cash.

13.24 Joint and Several Liability of Borrowers

Notwithstanding anything else in this Agreement, the debts, liabilities and performance obligations of the Borrowers hereunder and under the other Credit Documents are joint and several. For greater certainty, where more than one Person is liable as a Borrower for any Obligation, then the liability of each such Person for such obligation is joint and several with each other Borrower.

13.25 Counterparts and Facsimile

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement. For the purposes of this Section 13.25, the delivery of a facsimile copy or other electronic transmission of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement, but the party delivering a facsimile copy or other electronic transmission shall deliver original copies of this Agreement (in the quantity required by the Agent) as soon as possible after delivering the facsimile copy or other electronic transmission.

13.26 Sharing of Information; Confidentiality

The Loan Parties authorize the Agent, each Lender and each Swap Lender to share among each other and with any successor, assignee or any potential assignee, any information possessed by it regarding the Loan Parties, the Credit Documents, the Eligible Hedge Agreements or the Service Agreement. The Agent, each Lender and each Swap Lender agrees to keep all information provided by the Loan Parties confidential and shall not disclose such information other than (a) as provided for herein, (b) to employees and professional advisors, (c) to comply with Applicable Laws or any order, subpoena or decree issued by a court of competent jurisdiction, (d) to any Governmental or Judicial Body asserting jurisdiction over such Lender or any of its Affiliates, and (e) as necessary in connection with any proceedings to enforce the provision hereof or the Security. The Loan Parties shall, subject to Applicable Laws, keep all information regarding this Agreement, the Credit Documents, the Eligible Hedge Agreements and the Service Agreement confidential and shall not disclose such information other than required by Applicable Laws after consultation with and approval by the Agent.

13.27 Amendment and Restatement

- (a) Each Loan Party hereby confirms, acknowledges and agrees that effective as of the Effective Date, the Prior Credit Agreement is (i) hereby amended and restated as herein set forth without in any way affecting the rights or obligations of any party which have accrued as of the Effective Date pursuant to the provisions of the Prior Credit Agreement prior to their amendment and restatement hereunder and (ii) as so amended and restated, ratified and confirmed.
- (b) Each Loan Party hereby confirms, acknowledges and agrees that effective as of the Effective Date (i) it remains bound by and hereby ratifies each Credit Document previously delivered to which it is a party and (ii) the Security previously delivered to which it is a party is enforceable in accordance with its terms and binding upon

it and is or remains in full force and effect and secures all Obligations hereunder to the Agent, the Lenders and the Swap Lenders.

13.28 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

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

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

[Remainder of page deliberately blank, signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Address For Notice

Rocky Mountain Dealerships Inc.
#301, 3345 8th Street SE
Calgary, Alberta
T2G 3A4

Attention: David Ascott, Chief Financial
Officer and Jerald Palmer,
General Counsel and Corporate
Secretary

Facsimile: (403) 214-5644

Address For Notice

Rocky Mountain Equipment Canada Ltd.
#301, 3345 8th Street SE
Calgary, Alberta
T2G 3A4

Attention: David Ascott, Chief Financial
Officer and Jerald Palmer,
General Counsel and Corporate
Secretary

Facsimile: (403) 214-5644

Address For Notice

Rocky Mountain Dealer Acquisition Corp.
#301, 3345 8th Street SE
Calgary, Alberta
T2G 3A4

Attention: David Ascott, Chief Financial
Officer and Jerald Palmer,
General Counsel and Corporate
Secretary

Facsimile: (403) 214-5644

ROCKY MOUNTAIN DEALERSHIPS INC.,
as a Borrower

By:

Name:

Title:

By:

Name:

Title:

**ROCKY MOUNTAIN EQUIPMENT CANADA
LTD.**, as a Borrower

By:

Name:

Title:

By:

Name:

Title:

**ROCKY MOUNTAIN DEALER
ACQUISITION CORP.**, as a Borrower

By:

Name:

Title:

By:

Name:

Title:

Address For Notice¹

Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []

Facsimile: []

CANADIAN IMPERIAL BANK OF COMMERCE, as Agent

By:

Name:

Title:

By:

Name:

Title:

Address For Notice

Canadian Imperial Bank of Commerce, as Lender
[]

Attention: []

Facsimile: []

CANADIAN IMPERIAL BANK OF COMMERCE, as Lender

By:

Name:

Title:

By:

Name:

Title:

¹ Addresses and contact details redacted.

Address For Notice¹

HSBC Bank Canada, as Lender
[]

Attention: []

Facsimile: []

HSBC BANK CANADA, as Lender

By: _____
Name:
Title:

By: _____
Name:
Title:

¹ Addresses and contact details redacted.

Address For Notice¹

The Bank of Nova Scotia, as Lender
[]

Attention: []

Facsimile: []

THE BANK OF NOVA SCOTIA, as Lender

By:

Name:

Title:

By:

Name:

Title:

¹ Addresses and contact details redacted.

Address For Notice¹

Rabobank Canada,
as Lender
[]

Attention: []

Facsimile: []

RABOBANK CANADA, as Lender

By:

Name:

Title:

By:

Name:

Title:

¹ Addresses and contact details redacted.

Address For Notice¹

Alberta Treasury Branches, as Lender
[]

Attention: []

Facsimile: []

**ALBERTA TREASURY BRANCHES, as
Lender**

By:

Name:

Title:

By:

Name:

Title:

¹ Addresses and contact details redacted.

Address For Notice¹

De Lage Landen Financial Services Canada
Inc., as Lender
[]

Attention: []

Facsimile: []

**DE LAGE LANDEN FINANCIAL SERVICES
CANADA INC., as Lender**

By:

Name:

Title:

By:

Name:

Title:

¹ Addresses and contact details redacted.

EXHIBIT 1

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

<u>Payment</u>	<u>Date Payment</u>	<u>Balance</u>
1/29/2018	\$ (1,557,000.00)	\$ 35,686,000.00
4/27/2018	\$ (1,557,000.00)	\$ 34,129,000.00
7/27/2018	\$ (1,556,000.00)	\$ 32,573,000.00
10/29/2018	\$ (1,557,000.00)	\$ 31,016,000.00
1/28/2019	\$ (1,557,000.00)	\$ 29,459,000.00
4/29/2019	\$ (1,557,000.00)	\$ 27,902,000.00
7/29/2019	\$ (1,557,000.00)	\$ 26,345,000.00
10/28/2019	\$ (1,556,000.00)	\$ 24,789,000.00
1/27/2020	\$ (1,557,000.00)	\$ 23,232,000.00
4/27/2020	\$ (1,557,000.00)	\$ 21,675,000.00
7/27/2020	\$ (1,557,000.00)	\$ 20,118,000.00
10/27/2020	\$ (1,557,000.00)	\$ 18,561,000.00
1/27/2021	\$ (1,557,000.00)	\$ 17,004,000.00
4/27/2021	\$ (1,556,000.00)	\$ 15,448,000.00
7/27/2021	\$ (1,557,000.00)	\$ 13,891,000.00
10/27/2021	\$ (1,557,000.00)	\$ 12,334,000.00
1/27/2022	\$ (1,557,000.00)	\$ 10,777,000.00
4/27/2022	\$ (1,557,000.00)	\$ 9,220,000.00
7/27/2022	\$ (1,556,000.00)	\$ 7,664,000.00
10/27/2022	\$ (1,557,000.00)	\$ 6,107,000.00
1/27/2023	\$ (1,557,000.00)	\$ 4,550,000.00
4/27/2023	\$ (130,000.00)	\$ 4,420,000.00
7/27/2023	\$ (130,000.00)	\$ 4,290,000.00

10/27/2023	\$ (130,000.00)	\$ 4,160,000.00
1/29/2024	\$ (130,000.00)	\$ 4,030,000.00
4/29/2024	\$ (130,000.00)	\$ 3,900,000.00
7/29/2024	\$ (130,000.00)	\$ 3,770,000.00
10/28/2024	\$ (130,000.00)	\$ 3,640,000.00
1/27/2025	\$ (130,000.00)	\$ 3,510,000.00
4/28/2025	\$ (130,000.00)	\$ 3,380,000.00
7/28/2025	\$ (130,000.00)	\$ 3,250,000.00
10/27/2025	\$ (130,000.00)	\$ 3,120,000.00
1/27/2026	\$ (130,000.00)	\$ 2,990,000.00
4/27/2026	\$ (130,000.00)	\$ 2,860,000.00
7/27/2026	\$ (130,000.00)	\$ 2,730,000.00
10/27/2026	\$ (130,000.00)	\$ 2,600,000.00
1/27/2027	\$ (130,000.00)	\$ 2,470,000.00
4/27/2027	\$ (130,000.00)	\$ 2,340,000.00
7/27/2027	\$ (130,000.00)	\$ 2,210,000.00
10/27/2027	\$ (130,000.00)	\$ 2,080,000.00
1/27/2028	\$ (130,000.00)	\$ 1,950,000.00
4/27/2028	\$ (130,000.00)	\$ 1,820,000.00
7/27/2028	\$ (130,000.00)	\$ 1,690,000.00
10/27/2028	\$ (130,000.00)	\$ 1,560,000.00
1/29/2029	\$ (130,000.00)	\$ 1,430,000.00
4/27/2029	\$ (130,000.00)	\$ 1,300,000.00
7/27/2029	\$ (130,000.00)	\$ 1,170,000.00
10/29/2029	\$ (130,000.00)	\$ 1,040,000.00
1/28/2030	\$ (130,000.00)	\$ 910,000.00
4/29/2030	\$ (130,000.00)	\$ 780,000.00

7/29/2030	\$ (130,000.00)	\$ 650,000.00
10/28/2030	\$ (130,000.00)	\$ 520,000.00
1/27/2031	\$ (130,000.00)	\$ 390,000.00
4/28/2031	\$ (130,000.00)	\$ 260,000.00
7/28/2031	\$ (130,000.00)	\$ 130,000.00
10/27/2031	\$ (130,000.00)	\$ -

SCHEDULE "A"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

COMMITMENTS OF LENDERS¹
(expressed in Cdn. Dollars)

	<u>Lender</u>	<u>Operating Facility Commitment</u>	<u>Swingline Facility Commitment</u>	<u>Letter of Credit Commitment</u>	<u>Flooring Facility Commitment</u>	<u>Revolving Term Facility Commitment</u>	<u>Total</u>
1.	Canadian Imperial Bank of Commerce	\$[]	\$[] <i>(sublimit of Operating Facility Commitment)</i>	\$[] <i>(sublimit of Operating Facility Commitment)</i>	\$[]	\$[]	\$[]
2.	HSBC Bank Canada	\$[]	\$[]	\$[]	\$[]	\$[]	\$[]
3.	The Bank of Nova Scotia	\$[]	\$[]	\$[]	\$[]	\$[]	\$[]
4.	Rabobank Canada	\$[]	\$[]	\$[]	\$[]	\$[]	\$[]
5.	Alberta Treasury Branches	\$[]	\$[]	\$[]	\$[]	\$[]	\$[]
6.	De Lage Landen Financial Services Canada Inc.	\$[]	\$[]	\$[]	\$[]	\$[]	\$[]
	Total:	\$60,000,000	\$7,500,000	\$10,000,000	\$125,000,000	\$75,000,000	\$260,000,000

Note – Pursuant to Section 3.18, the Operating Facility Commitment, the Flooring Facility Commitment and/or the Revolving Term Facility Commitment may be increased by up to the aggregate amount of \$50,000,000, resulting in a maximum Total Commitment of \$310,000,000, subject to the terms and provisions set forth in Section 3.18, including the agreement of the Lenders.

¹ Lender commitment amounts redacted.

SCHEDULE "B"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

COMPLIANCE CERTIFICATE¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

Ladies and Gentlemen:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017, among Rocky Mountain Dealerships Inc. ("**RMDI**"), Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (collectively, the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent for itself and for and on behalf of the Lenders (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.
2. I, [name], in my capacity as [**Chief Executive Officer/Chief Operating Officer/Chief Financial Officer**] of RMDI and not in any personal capacity, hereby certify, for and on behalf of RMDI and the other Borrowers, that as of the date hereof:
 - (a) the representations and warranties set forth in the Credit Agreement are in all material respects true and correct on the date hereof, except: [**describe where not**];
 - (b) each Borrower has performed or observed or caused to be performed or observed the covenants set forth in the Credit Agreement to be performed or observed by it to the date hereof, except: [**describe where not**]; and
 - (c) there has not occurred any unremedied Default or Event of Default except:

[**insert a description of unremedied Defaults or Events of Default and remedial action proposed to be taken and taken**]
3. As at [**insert March 31, June 30, September 30 or December 31, as applicable**], 20____:
 - (a) the Current Assets to Current Liabilities Ratio is [**•:•**], and [**is/is not**] compliant with the required ratio of not less than 1.20:1.00;

¹ Addresses and contact details redacted.

- (b) the Total Debt to Tangible Net Worth Ratio is **[[•]:[•]]**, and **[is/is not]** compliant with the required ratio of not more than 5.00:1.00; and
- (c) the Fixed Charge Coverage Ratio is **[[•]:[•]]**, and **[is/is not]** compliant with the required ratio of 1.20:1.00 or greater.

Particulars of the calculation of each of paragraphs above are as set out in Exhibit "1" attached hereto.

4. Based on the Total Debt to Tangible Net Worth Ratio which is **[[•]:[•]]**, the current Level **[remains unchanged at Level [•]/changes to Level [•]]**.
5. The details of all dispositions of Property (other than Permitted Dispositions and Proceeds from the sale, transfer or other disposition of Equipment Inventory financed by the Flooring Facility which is subject to Section 3.10(b) of the Credit Agreement, but including, in any case, all Material Dispositions) made by any Loan Party during the Fiscal Quarter ending at **[insert March 31, June 30, September 30 or December 31, as applicable]**, 20____ are attached hereto as Exhibit "2". The aggregate value of all such dispositions made by the Loan Parties in the current Fiscal Year ending December 31, 20____, represent **[•]**% of the Net Tangible Total Assets based on the audited Financial Statements for Fiscal Year **[•]**.
6. The details of all proceeds received by any Loan Party from all property insurance which the Loan Parties are required to deposit with the Agent in accordance with Section 3.13(b) received by any Loan Party during the Fiscal Quarter ending at **[insert March 31, June 30, September 30 or December 31, as applicable]**, 20____, and the details of any reinvestment thereof (or of insurance proceeds received in a previous Fiscal Quarter but not previously reinvested) in the Business of the Loan Parties are attached hereto as Exhibit "3".
7. The particulars of all Investments (other than Investments described in Section 9.3(k)(i) or Section 9.3(k)(iii) of the Credit Agreement) made by any Loan Party during the Fiscal Quarter ending **[insert March 31, June 30, September 30 or December 31, as applicable]**, 20____ are attached hereto as Exhibit "4". The aggregate value of all Investments made by the Loan Parties in the current Fiscal Year ending December 31, 20____, other than Investments in Material Subsidiaries who are Loan Parties hereunder and Acquisitions permitted pursuant to Section 9.3(j) of the Credit Agreement, is Cdn. \$_____ and does not exceed Cdn. \$7,500,000.
8. A listing of all Hedge Agreements to which any Loan Party is a party as at **[insert March 31, June 30, September 30 or December 31, as applicable]**, 20____ is attached as Exhibit "5". Such listing includes the Mark-to-Market value of each such Hedge Agreement as at as at **[insert March 31, June 30, September 30 or December 31, as applicable]**, 20____. All such Hedge Agreements are either Eligible Hedge Agreements or Permitted Hedge Agreements.
9. **[There has been no change to the Loan Party information disclosed in Schedule "E" [of the Credit Agreement / attached to the Compliance Certificate dated • previously delivered to the Agent]] OR [Attached hereto is an updated Schedule "E".]**
10. **[There has been no change to the Material Contract information disclosed in Schedule "G" [of the Credit Agreement / attached to the Compliance Certificate**

dated • previously delivered to the Agent]] OR [Attached hereto is an updated Schedule "G".]

[remainder of page left intentionally blank]

DATED this _____ day of
_____, 20_____.

ROCKY MOUNTAIN DEALERSHIPS INC.

Name:

Title:

SCHEDULE "C"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

DRAWDOWN, CONVERSION OR ROLLOVER NOTICE¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

[NOTE: With respect to Drawdown under Flooring Facility:

AND TO: De Lage Landen Financial Services Canada Inc.
[]

Attention: []
Facsimile: []

Ladies and Gentlemen:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc., Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**") and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.

2. The undersigned Borrower hereby requests the following in accordance with Section 6.5 of the Credit Agreement:
 Drawdown
 Rollover
 Conversion
 - (a) Date: _____
 - (b) Applicable Facility(s): _____
 - (c) Total Amount: _____
 - (d) Type of Advance: _____
 - (e) Maturity Date (if applicable): _____

¹ Addresses and contact details redacted.

(f) Borrower's account(s) to be credited if applicable: _____

(g) Special Instructions (if any): _____

- 3. **[In the case of Drawdowns:]** The representations and warranties set forth in the Credit Agreement are true and correct in all material respects on the date hereof.
- 4. There has not occurred any unremedied Default or Event of Default and after giving effect to the Advance requested hereby, no Default or Event of Default shall occur.
- 5. **[In the case of an Acquisition financed under the Revolving Term Facility:]** ____% (being less than 40%) of the aggregate cost of the Acquisition that is being financed under the Revolving Term Facility is being financed through cash equity or subordinated Debt or Shares.]

DATED this ____ day of _____, 20____.

[NAME OF BORROWER]

Name:

Title:

SCHEDULE "D"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

REQUEST FOR EXTENSION¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

Ladies and Gentlemen:

We refer you to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc. ("**RMDI**"), Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**") and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as ascribed thereto in the Credit Agreement.

For and on behalf of RMDI and the other Borrowers, we hereby give notice of our request for an extension of the Maturity Date in respect to the Facilities for a further period of **[insert]** days pursuant to Section 3.6 of the Credit Agreement.

Affixed to this are the required reports as specified in Sections 9.2(g), (h), (i) and (k).

As of the date hereof, there exists no Event of Default or Default under the Credit Agreement.

Yours very truly,

DATED this ____ day of _____, 20____.

ROCKY MOUNTAIN DEALERSHIPS INC.

Name:

Title:

¹ Addresses and contact details redacted.

SCHEDULE "E"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

DISCLOSURE SCHEDULE

Section 8.1(m)

Subsidiaries and Material Subsidiaries

- (a) Subsidiaries – Rocky Mountain Equipment Canada Ltd., Rocky Mountain Dealer Acquisition Corp., NGF Geomatics Inc., 5587353 Manitoba Ltd., JD Farmyard Supply Inc., Chabot Implements Co. Ltd., and Jobet Enterprises Inc.
- (b) Material Subsidiaries – None.

Section 8.1(n)

Principal Places of Business ,Chief Executive Offices and Relevant Jurisdictions

<u>Loan Party</u>	<u>Jurisdiction of Incorporation</u>	<u>Principal Place of Business</u>	<u>Relevant Jurisdictions</u>
RMDI	Alberta	#301, 3345 8 th Avenue SE Calgary, Alberta T2G 3A4	Alberta Saskatchewan British Columbia Manitoba
RMEL	Alberta	#301, 3345 8 th Avenue SE Calgary, Alberta T2G 3A4	Alberta Saskatchewan British Columbia Manitoba
RMDA	Alberta	#301, 3345 8 th Avenue SE Calgary, Alberta T2G 3A4	Alberta

SCHEDULE "F"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT made this [●] [●] day of [●].

B E T W E E N:

[●] (the "Assignor")

OF THE FIRST PART

- and -

[●] (the "Assignee")

OF THE SECOND PART

WHEREAS the Assignor is a party to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**") among Rocky Mountain Dealerships Inc., Rocky Mountain Equipment Canada Ltd., and Rocky Mountain Dealer Acquisition Corp. as borrowers (collectively, the "**Borrowers**"), the Lenders (as defined therein) and Canadian Imperial Bank of Commerce, as agent (the "**Agent**");

AND WHEREAS the Assignor desires to assign to the Assignee a portion of its rights and obligations under the Credit Agreement (including, without limitation, that same portion of the Commitments) and the other Credit Documents;

AND WHEREAS pursuant to the terms of the Credit Agreement, the Assignor has paid to the Agent a processing and recording fee, receipt of which shall be evidenced by the Agent's acknowledgement and approval hereof and the Assignor has otherwise complied with the provisions set out in Article 12 of the Credit Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties hereto agree as follows:

1. All capitalized terms used herein and not defined shall have the meaning ascribed thereto in the Credit Agreement.
2. Pursuant to and in accordance with Article 12 of the Credit Agreement, the Assignor hereby irrevocably assigns and transfers to the Assignee and the Assignee hereby purchases from the Assignor and assumes all rights and obligations of the Assignor under the Credit Agreement with respect to that portion of its Commitment(s) set forth in Appendix I hereto.
3. The Assignee agrees to be bound by the terms and conditions of the Credit Agreement and to perform all of the obligations of a Lender thereunder from and after the effective date of this assignment.

4. The Assignee hereby confirms and agrees to the appointment of Canadian Imperial Bank of Commerce as Agent.
5. All of the acknowledgements and representations of a Lender contained in Section 11.13 of the Credit Agreement are true and correct with respect to the Assignee and the Assignee hereby agrees to be bound by the covenants of a Lender under the Credit Agreement.
6. The Assignor and the Assignee irrevocably authorize the Agent to effect all transfers of funds, instruments and documentation necessary to implement the transactions contemplated by this Assignment Agreement in compliance with the Credit Agreement, including, without limitation, any required re-distribution of the respective Proportionate Shares of outstanding Obligations among the Lenders.
7. The representations, warranties, covenants and agreements contained herein shall survive the execution and delivery of this Assignment Agreement.
8. The parties hereto acknowledge and agree that the provisions of this Assignment Agreement shall enure to the benefit of the Borrowers, the Assignor, the Agent and such other Lenders as may from time to time be parties to the Credit Agreement.
9. This Assignment Agreement shall be construed in accordance with, and all the rights of the parties hereto, shall be governed by, the laws of the Province of Alberta and the laws of Canada applicable therein.
10. This Assignment Agreement and any acknowledgements and approvals thereof may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement.

[•] [Assignor]

Name:

Title:

[•] [Assignee]

Name:

Title:

Acknowledged and Consented to this [•] day
of [•]

**CANADIAN IMPERIAL BANK OF
COMMERCE**, as Agent

By:

If no Default or Event of Default has occurred:

Each Borrower hereby confirms that the representations and warranties set forth in Article 8 of the Credit Agreement are true and correct on the date hereof and that no Default or Event of Default has occurred thereunder, which is continuing. Each Borrower hereby consents to the foregoing as of this [•] day of [•].

ROCKY MOUNTAIN DEALERSHIPS INC.,
as a Borrower

By:

Name:

Title:

**ROCKY MOUNTAIN EQUIPMENT
CANADA LTD.,** as a Borrower

By:

Name:

Title:

**ROCKY MOUNTAIN DEALER
ACQUISITION CORP.,** as a Borrower

By:

Name:

F-4

Title:

Appendix I

NAME AND ADDRESS OF ASSIGNOR

[•]
Attention: [•]

NAME AND ADDRESS OF ASSIGNEE

[•]
Attention: [•]

ASSIGNOR'S COMMITMENT TO BE ASSIGNED

[\$•] of Operating Facility Commitment
(including \$• of Swingline Facility Commitment)

Payments

[\$•] of Flooring Facility Commitment
[\$•] of Revolving Term Facility Commitment

All interest payments or other payments to be made to the Assignee by **[bank wire transfer]** to:

[•]
Attention: [•]

Notices

All notices and communications, except notice with respect to payment, and written confirmation of each such payment, to be addressed to the Assignee at:

[•]
Attention: [•]

Notices with respect to payment, and written confirmation of each such payment, to be addressed to the Assignee at:

[•]
Attention: [•]

SCHEDULE "G"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9,
2017

MATERIAL CONTRACTS

1. The CNH Agreement

SCHEDULE "H"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9,
2017

OPERATING FACILITY BORROWING BASE CERTIFICATE¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

Ladies and Gentlemen:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc. ("**RMDI**"), Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.
2. There has not occurred any unremedied Default or Event of Default.
3. With respect to the Operating Facility:
 - (a) A listing of all Eligible Accounts Receivable as at the end of **[month/year]** is attached hereto.
 - (b) A listing of all Priority Payables relating to the Eligible Accounts Receivable as at the end of **[month/year]** is attached hereto.
 - (c) A listing of all accounts payable as at the end of **[month/year]** is attached hereto.
 - (d) A listing of all Eligible Equipment Inventory manufactured in the then current calendar year or 5 years prior to the then current calendar year (and that is not included in the calculation of the Flooring Facility Borrowing Base), including, with respect to each separate unit, its year, make, model number and Book Value, is attached hereto.
 - (e) A listing of the Book Value of all Eligible Parts Inventory is attached hereto.
 - (f) A listing of the Book Value of Parts Inventory that is secured by the Security which, but for being manufactured by CNH, would otherwise be Eligible Parts Inventory is attached hereto.
 - (g) A listing of the Book Value of Fleet Vehicles is attached hereto.

¹ Addresses and contact details redacted.

- (h) A calculation of the value of real property (including construction thereon) is attached hereto together with a copy of the Appraisal supporting such value.
- (i) Based on calculations attached hereto, the Operating Facility Borrowing Base as at the end of **[month/year]** is Cdn. \$_____.
- (j) The Operating Facility Limit as at the end of **[month/year]** is Cdn. \$_____.
- (k) RMDI, for and on behalf of itself and the other Borrowers, hereby confirms that the principal amount of all Advances, in aggregate, under the Operating Facility does not exceed, and has not at any time exceeded, the Operating Facility Limit.

DATED this _____ day of _____, 20_____.

ROCKY MOUNTAIN DEALERSHIPS INC.

By:

Name:

Title:

SCHEDULE "I"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

REPAYMENT NOTICE¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

[NOTE: With respect to repayment under Flooring Facility:

AND TO: De Lage Landen Financial Services Canada Inc.
[]

Attention: []
Facsimile: []

Dear Sirs:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc., Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.
2. Pursuant to Article 3 of the Credit Agreement, the undersigned Borrower hereby requests the following
 - cancellation of applicable Facility(s) pursuant to Section 3.7:
 - prepayment of Operating Facility pursuant to Section 3.8:
 - prepayment of Flooring Facility pursuant to Section 3.9:
 - repayment of Flooring Facility pursuant to Section 3.10 **[indicate Section: _____]**:
 - prepayment of Revolving Term Facility pursuant to Section 3.12:
 - repayment of Revolving Term Facility pursuant to Section 3.11:
 - repayment of Facilities pursuant to Section 3.13 **[indicate Section: _____]**:

(a) Date of repayment: _____

¹ Addresses and contact details redacted.

- (b) Applicable Facility(s): _____
 \$[•] to Operating Facility: _____
 \$[•] to Floor Facility: _____
 \$[•] to Revolving Term Facility: _____
- (c) Type of Advance: _____
- (d) Amount of repayment: _____
- (f) Borrower's account(s) to be debited (if applicable): _____
- (g) Special Instructions (if any): _____

DATED this _____ day of _____, 20_____.

[NAME OF BORROWER]

Name:

Title:

SCHEDULE "J"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

FUNDING REPORT¹

TO: Canadian Imperial Bank of Canada, as Agent
[]

Attention: []
Facsimile: []

AND TO: De Lage Landen Financial Services Canada Inc.
[]

Attention: []
Facsimile: []

Dear Sirs:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc., Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.
2. Pursuant to Article 3 of the Credit Agreement, the Service Agreement and the attached Drawdown Notice, the undersigned Borrower hereby notifies the Agent and the Service Provider that it wishes to finance the following Equipment Inventory under the Flooring Facility: **[NOTE: For each item of Equipment Inventory, provide the following:**
 - (a) **stock number;**
 - (b) **serial number;**
 - (c) **year, make and model number;**
 - (d) **current location;**
 - (e) **the initial cost of the unit for percentage financed determination;**
 - (f) **the initial amount of the loan based on equipment value.]**

DATED this _____ day of _____, [•].

¹ Addresses and contact details redacted.

[NAME OF BORROWER]

Name:

Title:

SCHEDULE "K"

attached to an forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

PAYMENT REPORT¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

AND TO: De Lage Landen Financial Services Canada Inc.
[]

Attention: []
Facsimile: []

Dear Sirs:

1. Reference is made to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc., Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as are ascribed thereto in the Credit Agreement.
2. Pursuant to Article 3 of the Credit Agreement, the Service Agreement and the attached Repayment Notice, the undersigned Borrower hereby notifies the Agent and the Service Provider that the following Equipment Inventory financed under the Flooring Facility has been sold, transferred or otherwise disposed of: **[NOTE: For each item of Equipment Inventory, provide the following:**
 - (a) **stock number;**
 - (b) **serial number;**
 - (c) **year, make and model number;**
 - (d) **current location;**

¹ Addresses and contact details redacted.

(e) the current amount of principal owing.]

DATED this _____ day of _____, [•].

[NAME OF BORROWER]

Name:

Title:

SCHEDULE "L"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9, 2017

REQUEST FOR INCREASE¹

TO: Canadian Imperial Bank of Commerce, as Agent
[]

Attention: []
Facsimile: []

Ladies and Gentlemen:

We refer you to the Seventh Amended and Restated Credit Agreement made as of November 9, 2017 among Rocky Mountain Dealerships Inc. ("**RMDI**"), Rocky Mountain Equipment Canada Ltd. and Rocky Mountain Dealer Acquisition Corp., as borrowers (collectively, the "**Borrowers**"), Canadian Imperial Bank of Commerce and the other banks and financial institutions from time to time party thereto, as lenders (the "**Lenders**"), and Canadian Imperial Bank of Commerce, as Agent (as amended, modified, supplemented, restated or replaced from time to time, the "**Credit Agreement**"). All terms and expressions used herein but not otherwise defined shall have the same respective meanings herein as ascribed thereto in the Credit Agreement.

For and on behalf of RMDI and the other Borrowers, we hereby give notice of our request for an increase in one or more of the Accordion Facilities pursuant to Section 3.18 of the Credit Agreement, as follows:

- (a) Name of Accordion Facility(s) to be increased: _____;
- (b) Amount of increase: \$_____.

Affixed to this are the required reports as specified in Sections 9.2(d), (e), (f) and (h).

As of the date hereof, there exists no Event of Default or Default under the Credit Agreement.

Yours very truly,

DATED this _____ day of _____, [•].

ROCKY MOUNTAIN DEALERSHIPS INC.

Name:

Title:

¹ Addresses and contact details redacted.

SCHEDULE "M"

attached to and forming part of the Seventh Amended and Restated Credit Agreement made as of November 9,
2017

GRANDFATHERED HEDGES¹

¹ The list of Grandfathered Hedges has been redacted.