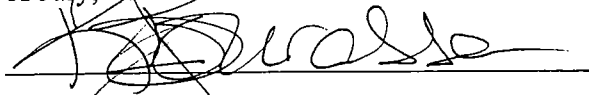


This is Exhibit K referred to in the Affidavit  
of Peter D. Scott sworn before me this 12<sup>th</sup> day  
of July, 2016

A handwritten signature in black ink, appearing to read "K. Bourassa", written over a horizontal line.

A Commissioner for Oaths in and for Alberta

**KELLY J. BOURASSA**  
*Barrister and Solicitor*

LIGHTSTREAM RESOURCES LTD.  
as Borrower

- and -

THE TORONTO-DOMINION BANK,  
ROYAL BANK OF CANADA,  
THE BANK OF NOVA SCOTIA,  
CANADIAN IMPERIAL BANK OF COMMERCE  
WELLS FARGO BANK N.A., CANADIAN BRANCH,  
BANK OF AMERICA, N.A., CANADA BRANCH,  
CREDIT SUISSE AG, TORONTO BRANCH,  
HSBC BANK CANADA,  
UNION BANK, CANADA BRANCH,  
CAISSE CENTRALE DESJARDINS,  
ALBERTA TREASURY BRANCHES,  
SUMITOMO MITSUI BANKING CORPORATION OF CANADA,  
CANADIAN WESTERN BANK,  
UNITED OVERSEAS BANK LIMITED, VANCOUVER BRANCH,  
NATIONAL BANK OF CANADA and  
BUSINESS DEVELOPMENT BANK OF CANADA.

- and -

THOSE OTHER FINANCIAL INSTITUTIONS WHICH  
HEREAFTER BECOME LENDERS UNDER THIS AGREEMENT  
as Lenders

- and -

THE TORONTO-DOMINION BANK  
as Administration Agent

- with -

TD SECURITIES  
as Sole Bookrunner

- with -

TD SECURITIES,  
RBC CAPITAL MARKETS and  
THE BANK OF NOVA SCOTIA  
as Co-Lead Arrangers

- with -

RBC CAPITAL MARKETS,  
THE BANK OF NOVA SCOTIA and  
CANADIAN IMPERIAL BANK OF COMMERCE  
as Co-Syndication Agents

- with -

WELLS FARGO BANK N.A., CANADIAN BRANCH  
as Documentation Agent

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

Dated May 29, 2015

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**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**

THIS AGREEMENT is made effective May 29, 2015,

**BETWEEN:**

**LIGHTSTREAM RESOURCES LTD.**  
as Borrower

- and -

**THE TORONTO-DOMINION BANK,  
ROYAL BANK OF CANADA,  
THE BANK OF NOVA SCOTIA,  
CANADIAN IMPERIAL BANK OF COMMERCE  
WELLS FARGO BANK N.A., CANADIAN BRANCH,  
BANK OF AMERICA, N.A., CANADA BRANCH,  
CREDIT SUISSE AG, TORONTO BRANCH,  
HSBC BANK CANADA,  
UNION BANK, CANADA BRANCH,  
CAISSE CENTRALE DESJARDINS,  
ALBERTA TREASURY BRANCHES,  
SUMITOMO MITSUI BANKING CORPORATION OF CANADA  
CANADIAN WESTERN BANK,  
UNITED OVERSEAS BANK LIMITED, VANCOUVER BRANCH,  
NATIONAL BANK OF CANADA and  
BUSINESS DEVELOPMENT BANK OF CANADA**

- and -

**THOSE OTHER FINANCIAL INSTITUTIONS WHICH  
HEREAFTER BECOME LENDERS UNDER THIS AGREEMENT  
as Lenders**

- and -

**THE TORONTO-DOMINION BANK  
as Administration Agent**

**PREAMBLE:**

The Borrower has requested and the Lenders have agreed to amend and restate the Existing Credit Agreement all on terms and conditions and for the purposes set out in this Agreement and TD has agreed to continue to act as Agent for the Lenders.

**AGREEMENT:**

In consideration of the covenants and agreements between the Parties contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions.

Capitalized words and phrases used in the Loan Documents, the Schedules hereto and in all notices and communications expressed to be made pursuant to this Agreement will have the meanings set out in Schedule A, unless otherwise defined in any of the Loan Documents.

### 1.2 Headings.

Headings, subheadings and the table of contents contained in the Loan Documents are inserted for convenience of reference only, and will not affect the construction or interpretation of the Loan Documents.

### 1.3 Subdivisions.

Unless otherwise stated, reference herein to a Schedule or to an Article, Section, paragraph or other subdivision is a reference to such Schedule to this Agreement or such Article, Section, paragraph or other subdivision of this Agreement. Unless specified otherwise, reference in Schedule A to a Schedule or to an Article, Section, paragraph or other subdivision is a reference to such Schedule or Article, Section, paragraph or other subdivision of this Agreement.

### 1.4 Number.

Wherever the context in the Loan Documents so requires, a term used herein importing the singular will also include the plural and vice versa.

### 1.5 Statutes, Regulations and Rules.

Any reference in the Loan Documents to all or any section or paragraph or any other subdivision of any Law will, unless otherwise expressly stated, be a reference to that Law or the relevant section or paragraph or other subdivision thereof, as such Law may be amended, substituted, replaced or re-enacted from time to time.

### 1.6 Permitted Encumbrances.

Any reference in any of the Loan Documents to a Permitted Encumbrance is not intended to and will not be interpreted as subordinating or postponing, or as any agreement to subordinate or postpone, any obligation of, or Lien granted by, any Loan Party to the Lenders under any of the Loan Documents to any Permitted Encumbrance.

### 1.7 Monetary References.

Whenever an amount of money is referred to in the Loan Documents, such amount will, unless otherwise expressly stated, be in Canadian Dollars.

**1.8 Time.**

Time will be of the essence of the Loan Documents.

**1.9 Governing Law.**

The Loan Documents will be governed by and construed in accordance with the Law in force in the Province of Alberta from time to time.

**1.10 Enurement.**

The Loan Documents will be binding upon and will enure to the benefit of the Parties and their respective successors and permitted assigns.

**1.11 Amendments.**

No Loan Document may be amended orally and, subject to Sections 1.12(a), 19.16 and 20.1(e), any amendment may only be made by way of an instrument in writing signed by the Parties.

**1.12 No Waiver.**

- (a) No waiver by a Party of any provision or of the breach of any provision of the Loan Documents will be effective unless it is contained in a written instrument duly executed by an authorized officer or representative of such Party. Such written waiver will affect only the matter specifically identified in the instrument granting the waiver and will not extend to any other matter, provision or breach.
- (b) The failure of a Party to take any steps in exercising any right in respect of the breach or non-fulfilment of any provision of the Loan Documents will not operate as a waiver of that right, breach or provision, nor will any single or partial exercise of any right preclude any other or future exercise of that right or the exercise of any other right, whether in Law or otherwise.
- (c) Acceptance of payment by a Party after a breach or non-fulfilment of any provision of the Loan Documents requiring a payment to such Party will constitute a waiver of such provision if cured by such payment, but will not constitute a waiver or cure of any other provision of the Loan Documents.

**1.13 Severability.**

If the whole or any portion of the Loan Documents or the application thereof to any circumstance will be held invalid or unenforceable to an extent that does not affect the operation of the Loan Document in question in a fundamental way, the remainder of the Loan Document in question, or its application to any circumstance other than that to which it has been held invalid

or unenforceable, will not be affected thereby and will be valid and enforceable to the fullest extent permitted by applicable Law.

#### 1.14 Inconsistency.

To the extent that there is any inconsistency or ambiguity between the provisions of this Agreement and any other Loan Document, the provisions of this Agreement will govern to the extent necessary to eliminate such inconsistency or ambiguity.

#### 1.15 Accounting Terms and Principles.

Except as otherwise expressly provided, all accounting terms, principles and calculations applicable to the Credit Facilities will be interpreted, applied and calculated, as the case may be, in accordance with GAAP. The basis of accounting and all calculations set out in this Agreement will be applied and made on a consistent basis and will not be changed for the purposes of this Agreement unless required by GAAP or as agreed to by the Lenders in writing, such agreement not to be unreasonably withheld. It will be reasonable for the Lenders to withhold their consent if a proposed change could adversely affect the obligations of the Borrower or rights of the Lenders under the Loan Documents.

#### 1.16 Changes in GAAP or Accounting Policies.

- (a) If:
  - (i) there occurs a material change in GAAP; or
  - (ii) the Borrower or any Subsidiary, as permitted by GAAP, adopts a material change in an accounting policy in order to more appropriately present events or transactions in its financial statements,

and any such change would require disclosure under GAAP in the consolidated financial statements of the Borrower and would cause an amount required to be determined for the purposes of any financial covenant in Section 13.3 or any other financial calculation hereunder (each a "**Financial Calculation**") to be materially different than the amount that would be determined without giving effect to such change, the Borrower 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 and state whether the Borrower wishes to revise the method of calculating the Financial Calculation in order that amounts determined after giving effect to such Accounting Change and the revised method of calculating the Financial Calculation 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 the Financial Calculation. The Accounting Change Notice shall be delivered to the Agent within 45 days after 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 after the end of such period.

- (b) If, pursuant to the Accounting Change Notice, the Borrower does not indicate that it desires to revise the method of calculating the Financial Calculation, the Agent or the Majority Lenders may within 30 days after receipt of the Accounting Change Notice, notify the Borrower that they wish to revise the method of calculating the Financial Calculation in the manner described above.
- (c) If either the Borrower, the Agent or the Majority Lenders so indicate that they wish to revise the method of calculating the Financial Calculation, the Borrower and the Lenders shall in good faith attempt to agree on a revised method of calculating the Financial Calculation. If, however, within 30 days after receipt of the foregoing notice by the Borrower, the Agent or the Majority Lenders of their desire to revise the method of calculating the Financial Calculation, the Borrower 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 thereunder 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 Financial Calculation in respect of an Accounting Change is given by either the Borrower, the Agent or the Majority Lenders within the applicable time period described above, then the method of calculating the Financial Calculation shall not be revised in response to such Accounting Change and all amounts to be determined pursuant to the Financial Calculation shall be determined after giving effect to such Accounting Change.
- (d) 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 the Financial Calculation, and subsequently, as provided above, the method of calculating the Financial Calculation is revised in response to such Accounting Change, or the amount to be determined pursuant to the Financial Calculation is to be determined without giving effect to such Accounting Change, the Borrower shall deliver a revised Compliance Certificate. Any Event of Default which arises as a result of the Accounting Change and which is cured by this Section 1.16 shall be deemed never to have occurred.

#### **1.17 Amendment and Restatement**

- (a) The Borrower, the Agent and the Lenders agree that effective on the Closing Date, this Agreement is an amendment and restatement of the Existing Credit Agreement and not a novation of the Existing Credit Agreement. As a consequence, the obligations, indebtedness and liabilities outstanding under the Existing Credit Agreement shall constitute obligations, indebtedness and liabilities hereunder governed by the terms hereof and shall continue to be secured by the Security. Such obligations, indebtedness and liabilities shall be continuing in all respects, and this Agreement shall not be deemed to evidence or result in a novation of such obligations, indebtedness and liabilities or a repayment and reborrowing of such obligations, indebtedness and liabilities. The Existing Credit Agreement has been amended and restated solely for the purposes of reflecting amendments to the Existing Credit Agreement which the Lenders, the Agent and

the Borrower have agreed upon. All references to the "Credit Agreement" contained in the Loan Documents delivered prior to the effectiveness of this Agreement shall be references to this Agreement without further amendment to those Loan Documents. The Borrower confirms that each of the Loan Documents remains in full force and effect. All deliverables made under the Existing Credit Agreement shall be deemed to have been delivered under this Agreement. Each Lender authorizes the Agent to take all actions and make such adjustments as are reasonably necessary to give effect to the foregoing.

- (b) The Existing Letters of Credit will hereafter be deemed to be outstanding as Operating Letters of Credit issued by the Operating Lender under the Operating Facility, will reduce the availability under the Operating Facility by the aggregate undrawn amount thereof on the date hereof and will otherwise be subject to the terms and conditions of this Agreement.

#### **1.18 Schedules.**

The following are the Schedules which form part of this Agreement:

|             |   |
|-------------|---|
| Schedule A: | Definitions   |
| Schedule B: | Commitments   |
| Schedule C: | Form of Environmental Certificate   |
| Schedule D: | Form of Compliance Certificate  |
| Schedule E: | Form of Request for Offer of Extension                                    |
| Schedule F: | Form of Notice of Borrowing   |
| Schedule G: | Form of Notice of Rollover or Notice of Conversion or Notice of Repayment |
| Schedule H: | Loan Party Information  |
| Schedule I: | Form of Designation of Restricted Subsidiary                              |
| Schedule J: | Form of Assignment  |
| Schedule K: | Form of POA Letter of Credit  |
| Schedule L: | Form of Power of Attorney   |
| Schedule M: | Form of Oil and Gas Certificate   |
| Schedule N: | Material Terms of Second Lien Intercreditor Agreement                     |

## **ARTICLE 2 CONDITIONS PRECEDENT**

#### **2.1 Conditions Precedent.**

This Agreement will become effective, and the Existing Credit Agreement shall be amended and restated as herein provided, upon the following conditions being satisfied (unless waived in writing by the Lenders):

- (a) the receipt by the Agent, for and on behalf of the Lenders, of the following documents each in full force and effect, and in form and substance satisfactory to the Lenders, acting reasonably:

- (i) an executed copy of this Agreement;
  - (ii) executed copies of Closing Certificates from or on behalf of the Borrower and each other Loan Party, together with all attachments thereto;
  - (iii) a certificate of status, certificate of good standing, partnership declaration or similar evidence as to the creation or existence of each Loan Party under the Laws of its jurisdiction of formation, each such certificate to be dated on or about the Closing Date;
  - (iv) an executed copy of a guarantee from the Borrower in respect of the Swap Indebtedness and Cash Management Obligations of the other Loan Parties;
  - (v) an executed copy of an acknowledgement and confirmation of guarantees and security from each of the Loan Parties in respect of the Security and lien searches evidencing the registration, filing and recording of the Security in all applicable offices or places of registration, including the Province of Alberta;
  - (vi) an Oil and Gas Certificate;
  - (vii) an Environmental Certificate;
  - (viii) an executed copy of the Closing Opinion; and
  - (ix) an executed copy of an opinion from Lenders' counsel;
- (b) receipt by the Agent and the Lenders of any information, including supporting documentation and other evidence, requested by any Lender or the Agent, each acting reasonably, pursuant to Section 20.12;
  - (c) the payment of all fees and expenses which are payable by the Borrower to the Agent and the Lenders, as the case may be, in connection with the execution and delivery of this Agreement, including those owing pursuant to the fee letter from TD addressed to the Borrower dated May 25, 2015;
  - (d) no Default or Event of Default shall occur as a result of the execution and delivery of the Loan Documents; and
  - (e) each of the representations and warranties as provided in Section 12.1 shall be true and correct.

### ARTICLE 3 CREDIT FACILITIES

#### 3.1 Establishment of Credit Facilities.

- (a) Syndicated Facility. Subject to the terms and conditions hereof and effective on the Closing Date, the Syndicated Facility Lenders hereby establish the Syndicated Facility in favour of the Borrower as an extendible revolving credit facility. Accommodations under the Syndicated Facility may be drawn down by the Borrower prior to the Termination Date in Canadian Dollars, or the Canadian Dollar Exchange Equivalent thereof in U.S. Dollars, or any combination thereof, to a maximum of the Syndicated Facility Commitment Amount. The Individual Syndicated Facility Commitment Amount of each of the Syndicated Facility Lenders is set out in Schedule B.
- (b) Operating Facility. Subject to the terms and conditions hereof and effective on the Closing Date, the Operating Lender hereby establishes the Operating Facility in favour of the Borrower. Accommodations under the Operating Facility may be drawn down by the Borrower prior to the Termination Date in Canadian Dollars or the Canadian Dollar Exchange Equivalent thereof in U.S. Dollars, or any combination thereof, to a maximum of the Operating Facility Commitment Amount.

### 3.2 Extension of Termination Date.

- (a) Notice by Borrower. The Borrower may, at its option and provided that no Default or Event of Default exists at such time and that the Borrower has delivered the financial statements, notices and reports within the time periods required pursuant to Section 13.2, request an extension of the then current Termination Date (an "Extension") not less than 60 days or more than 90 days before any Anniversary Date (each a "Request Period"), provided that following the granting of such Extension, the term to maturity of the Credit Facilities shall not exceed three years. The Agent will promptly after receipt thereof, provide a copy of the Request for Offer of Extension to each of the Lenders. If the Borrower does not make a Request for Offer of Extension within the Request Period, then, unless otherwise agreed to by the Majority Lenders, the Borrower will not be able to request an extension of the Termination Date as herein provided until the next Request Period applicable to the next Anniversary Date and, unless so extended, the Credit Facilities will continue until the then current Termination Date with each Lender's Individual Commitment Amount remaining available for Drawdown during such time.
- (b) Agreeing and Non-Agreeing Lenders. Each Lender may in its sole discretion, pursuant to a Request for Offer of Extension, elect to extend the current Termination Date with respect to its Individual Commitment Amount, subject however to such conditions and amendments respecting the Credit Facilities, if any, as the Lenders agree upon in accordance with Section 19.16 and are acceptable to the Borrower. Each Lender will make its election by notice to the Agent on or before the 30<sup>th</sup> day prior to the applicable Anniversary Date (or such other later date prior to such Anniversary Date as may be agreed to by the Majority Lenders) (the "Election Period"). Each Lender which grants an Extension is referred to herein as an "Agreeing Lender", and each Lender which



elects not to grant an Extension, or fails to make such election within the Election Period, is referred to herein as a “Non-Agreeing Lender”.

- (c) No Extension. No Extension shall occur unless those Lenders who wish to grant an Extension pursuant to a Request for Offer of Extension represent at least 66 2/3% of the aggregate Individual Commitment Amounts of all Lenders who are not Non-Agreeing Lenders at the time of such Request for Offer of Extension. If no Extension occurs, the then current Termination Date of the Lenders who are not already Non-Agreeing Lenders will, subject to Section 3.2(e), continue for each such Lender and each such Lender’s Individual Commitment Amount will remain available for Drawdown hereunder until the Termination Date; provided that the Borrower may again make a Request for Offer of Extension during the Request Period applicable to the next Anniversary Date in accordance with Section 3.2(a).
  
- (d) Extension Notice. Promptly after the expiry of the Election Period, the Agent will notify the Borrower of the decision of the Lenders with respect to their Request for Offer of Extension (the “**Extension Notice**”). The Extension Notice will identify the Agreeing Lenders and Non-Agreeing Lenders, the term of the Extension, if granted, and a list of the conditions or amendments, if any, respecting the Credit Facilities as the Lenders have agreed upon in accordance with Section 19.16 as a condition to the granting of the Extension. The Borrower will, within 20 days of receipt of the Extension Notice from the Agent (or such other period of time as may be agreed to by the Majority Lenders), notify the Agent as to its acceptance or rejection of the conditions or amendments, if any, stipulated by the Lenders respecting the Credit Facilities. If the Borrower accepts all such conditions or amendments requested by the Agreeing Lenders as aforesaid, the Termination Date with respect to the Agreeing Lenders will be deemed to have been extended for that period of time set out in the Extension Notice and, subject to Section 3.2(e), the Termination Date with respect to the Non-Agreeing Lenders shall not be extended. If the Borrower notifies the Agent that it does not accept such conditions or amendments or it fails to notify the Agent within the time provided above for acceptance, the Termination Date will not be extended as herein provided and will continue until the then current Termination Date with each Lender’s Individual Commitment Amount remaining available for Drawdown until the then current Termination Date; provided that the Borrower may again make a Request for Offer of Extension during the Request Period applicable to the next Anniversary Date in accordance with Section 3.2(a).
  
- (e) Replacement of Non-Agreeing Lender. Notwithstanding Section 3.7 and provided that Lenders representing more than 66 2/3% of the aggregate Individual Commitment Amounts of all Lenders have elected to grant an Extension, the Borrower will be entitled to exercise one of the following options, with respect to any Lender who has become a Non-Agreeing Lender, prior to the Termination Date applicable to such Non-Agreeing Lender:

- (i) so long as no Default or Event of Default exists at the time, the Borrower may repay in full the Aggregate Principal Amount owing to such Non-Agreeing Lender, together with all accrued but unpaid interest and fees thereon and any expenses, breakage and other costs determined in accordance with Section 8.2 and including cash collateralization in full of any contingent obligations in respect of any outstanding Letters of Credit for which the Non-Agreeing Lender is the Issuing Bank, provided that a Bankers' Acceptance will not be paid prior to its Maturity Date (but provided that the Borrower may provide Escrow Funds in respect thereof to the Agent on behalf of such Lender in accordance with Section 9.5); and upon such payment such Non-Agreeing Lender's Individual Commitment Amount will be permanently cancelled in accordance herewith; or
- (ii) the Borrower may replace each Non-Agreeing Lender with one or more financial institutions (which may be one or more of the Lenders) who purchase such Lender's entire Individual Commitment Amount in accordance with Section 18.2.

### **3.3 Maturity Date.**

Each Advance made by a Lender will have a Maturity Date which expires on or prior to the Termination Date applicable to such Lender.

### **3.4 Repayment.**

- (a) Revolving Nature. Until the Termination Date, the Borrower may borrow, repay and re-borrow Advances under each Credit Facility, subject to Section 3.1.
- (b) Payment on Termination Date. The Aggregate Principal Amount owing to a Lender under each Credit Facility, if any, on the Termination Date applicable to such Lender will be unconditionally and irrevocably paid by the Borrower in full, together with all accrued but unpaid interest and fees thereon and all other Obligations owing in respect thereof to such Lender on such date.

### **3.5 Prepayment and Cancellation.**

Subject to Section 9.5, and with the same notice required when the Advance to be prepaid was made, the Borrower may at any time prepay without premium, bonus or penalty, any or all of the Aggregate Principal Amount, except that: (a) a Bankers' Acceptance will not be paid prior to its Maturity Date; (b) a LIBOR Based Loan may only be paid prior to its Maturity Date in accordance with Sections 8.2 and 11.2; and (c) any Letter of Credit may only be prepaid if such Letter of Credit is returned to the Issuing Bank for cancellation or collateralized in accordance with Section 10.12. At any time prior to the Termination Date, the Borrower may also, upon the Borrower giving the Agent not less than 2 Banking Days prior notice, cancel any undrawn portion, of the Commitment Amount, including any undrawn portion resulting from a prepayment. Subject to Section 19.17, any prepayment or cancellation in respect of a Credit Facility will be made *pro rata* to all applicable Lenders under such Credit Facility on the basis of

each Lender's Rateable Portion. Any permanent prepayment and cancellation in respect of either Credit Facility shall be final.

### **3.6 Use of Proceeds.**

The Borrower will be entitled, subject to Section 6.2, to use the proceeds of the Credit Facilities:

- (a) to fund the prepayment or repayment of the Existing Convertible Bonds; and
- (b) for any other general corporate purposes of the Loan Parties.

### **3.7 Types of Accommodation.**

The Borrower may from time to time obtain Advances under the Credit Facilities (unless otherwise indicated) by way of:

- (a) Canadian Prime Rate Loans, in principal amounts of not less than Cdn. \$1,000,000 and in multiples of Cdn. \$100,000 for any amounts in excess thereof;
- (b) U.S. Base Rate Loans, in principal amounts of not less than U.S. \$1,000,000 and in multiples of U.S. \$100,000 for any amounts in excess thereof;
- (c) Bankers Acceptances;
- (d) LIBOR Based Loans;
- (e) overdraft borrowings in Canadian Dollars or U.S. Dollars under the Operating Facility only; and
- (f) Letters of Credit with terms not exceeding one year, provided that no Letter of Credit shall have an expiry date or be capable of being renewed beyond the Termination Date,

(collectively, the "Accommodations").

### **3.8 Interest and Fees.**

- (a) Interest and Fees. Interest and fees payable by the Borrower under the Credit Facilities will be payable in the following manner:
  - (i) each Canadian Prime Rate Loan and each Cdn. \$ overdraft loan under the Operating Facility will bear interest at a variable rate of interest per annum equal to the Canadian Prime Rate plus the applicable margin indicated in the Pricing Table payable monthly in arrears, subject to Section 3.8(d);

- (ii) each LIBOR Based Loan will bear interest at a rate per annum equal to LIBOR plus the applicable margin indicated in the Pricing Table payable in accordance with Section 7.2(d), subject to Section 3.8(d);
- (iii) for each Bankers' Acceptance, the stamping fee (the "BA Stamping Fee") payable by the Borrower on the acceptance thereof by the applicable Lenders will be calculated based upon the applicable BA Stamping Fee indicated in the Pricing Table, subject to Section 3.8(d);
- (iv) each U.S. Base Rate Loan and each U.S. \$ overdraft loan under the Operating Facility will bear interest at a variable rate of interest per annum equal to the U.S. Base Rate plus the applicable margin indicated in the Pricing Table, payable monthly in arrears, subject to Section 3.8(d);
- (v) the Borrower will pay to the applicable Lenders under the Credit Facility in which a Letter of Credit is issued an issuance or renewal fee (the "Letter of Credit Fee") in respect of each Letter of Credit issued in accordance with Section 10.8(a) at the applicable rate indicated in the Pricing Table, subject to Section 3.8(d), together with all other customary administrative charges in respect thereof; provided that such fee will be in a minimum amount of \$250 in the applicable currency on each issuance or renewal;
- (vi) the Borrower will pay to the Issuing Bank the fronting fee in respect of each Fronted Letter of Credit issued in accordance with Section 10.8(b); and
- (vii) the standby fees are payable quarterly in arrears by the Borrower as set forth in Section 3.8(f) and will be calculated based upon the applicable standby fee indicated in the Pricing Table.

| Level | Consolidated First Lien Debt to EBITDA Ratio | Canadian Prime Rate/U.S. Base Rate Margin | BA Stamping Fee/LIBOR Margin/Letter of Credit Fee for Financial Letters of Credit* | Standby Fees |
|-------|--|---|--|--------------|
| I     | ≤ 1.00:1.00                                  | 175.0 bps                                 | 275.0 bps  | 68.75 bps    |
| II    | > 1.0:1 ≤ 1.50:1                             | 200.0 bps                                 | 300.0 bps  | 75.00 bps    |
| III   | > 1.50:1 ≤ 2.00:1                            | 225.0 bps                                 | 325.0 bps  | 81.25 bps    |
| IV    | > 2.00:1 ≤ 2.50:1                            | 250.0 bps                                 | 350.0 bps  | 87.50 bps    |
| V     | > 2.50:1 ≤ 3.00:1                            | 300.0 bps                                 | 400.0 bps  | 100.00 bps   |
| VI    | > 3.00:1 ≤ 3.50:1                            | 375.0 bps                                 | 475.0 bps  | 118.75 bps   |
| VII   | > 3.50:1                                     | 475.0 bps                                 | 575.0 bps  | 143.75 bps   |

\* Non-Financial Letters of Credit will be issued at 66.6% of the applicable fees stated in the Pricing Table above applicable to Financial Letters of Credit.

- (b) Changes in Rates due to Change in Ratio. The effective date on which any change in interest rates, BA Stamping Fees, Letter of Credit Fees or standby fees occurs will be the first day of the calendar month immediately following the earlier of: (i) the date the Borrower delivers to the Agent the Compliance Certificate as required hereunder which evidences a change in the Consolidated First Lien Debt to EBITDA Ratio; and (ii) the date such Compliance Certificate is due in accordance with Section 13.2(c), provided that if such Compliance Certificate is not so delivered when required, then the applicable interest rates and fees shall be those set forth in Level VII of the Pricing Table effective the date such Compliance Certificate was otherwise due until such time as the Compliance Certificate is delivered. Any increase or decrease in: (x) the interest rates on LIBOR Based Loans outstanding on the effective date of a change in the aforesaid rates and fees will apply proportionately to each such LIBOR Based Loan outstanding on the basis of the number of days remaining in the term to maturity thereof; (y) the BA Stamping Fees on the effective date of a change in the aforesaid rates and fees will apply for new Bankers' Acceptances issued after such effective date or on any Rollover of an existing Bankers' Acceptance but otherwise the BA Stamping Fees on any Bankers' Acceptance existing at such effective date will not change until the Maturity Date thereof; and (z) the Letter of Credit Fees on Letters of Credit outstanding on the effective date of a change in the aforesaid rates and fees will apply proportionately to each such Letter of Credit outstanding on the basis of the number of days remaining in the term to maturity or renewal thereof.
- (c) Restatement of Ratio. If the Borrower has delivered a Compliance Certificate that is subsequently found to be inaccurate in any way as a result of the Borrower's financial results having to be restated or if the Borrower's financial results were inaccurately reflected in the original financial results on which such Compliance Certificate was based or for any other reason and the result thereof is that the Consolidated First Lien Debt to EBITDA Ratio was originally reported as lower (and the corresponding Level in the pricing table in Section 3.8(a) was lower) than it otherwise would have been in the absence of such inaccuracy or prior to such restatement, then the Borrower will, immediately upon the correction of such inaccuracy or upon such restatement, pay to the Agent for the benefit of the applicable Lenders an amount equal to the interest, stamping fees in respect of Bankers' Acceptances and standby fees that the Lenders should have received, but did not receive, over the applicable period had the Consolidated First Lien Debt to EBITDA Ratio, and the underlying components thereof, been reported correctly in the first instance.
- (d) Borrowing Base Shortfall/Event of Default. Effective upon the occurrence of a Borrowing Base Shortfall or an Event of Default (the "Effective Date") and

unless otherwise agreed to by all the Lenders, the interest rates then applicable to Canadian Prime Rate Loans, LIBOR Based Loans, U.S. Base Rate Loans, Letter of Credit Fees and BA Stamping Fees will each increase by 200.0 Basis Points and such increase will remain in effect for as long as such Borrowing Base Shortfall or Event of Default subsists. An increase in interest rates and fees as aforesaid arising from a Borrowing Base Shortfall or an Event of Default shall apply to all outstanding Advances under the Credit Facilities and will on the Effective Date apply proportionately to each outstanding Advance on the basis of the number of days remaining in the term to maturity of such Advance. The Borrower will pay to the Agent on behalf of the Lenders any resulting increase in BA Stamping Fees and Letter of Credit Fees on or prior to the third Banking Day following the Effective Date. In addition to the conditions set forth above, the Lenders' obligation to provide any Advances under any Credit Facility, other than rollovers or conversions of a then-maturing Advances (in each case not to exceed a 30 day term), will be suspended for as long as there exists a Borrowing Base Shortfall or an Event of Default.

- (e) Agency Fee. The Borrower will pay to the Agent, on an annual basis, the agency fee agreed upon between the Borrower and the Agent.
- (f) Standby Fee. The Borrower will, effective from and including the Closing Date to and including the Termination Date applicable to each Lender, pay to the Agent for the benefit of the Lenders, a standby fee in Canadian Dollars from time to time equal to the Basis Points set forth in the Pricing Table, calculated on the basis of a 365 day calendar year, multiplied by the Individual Commitment Amount of each Lender, less the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount attributable to each Lender. The standby fees will be calculated daily and will be payable quarterly in arrears on the earlier of the third Banking Day of each calendar quarter for the previous calendar quarter and the Termination Date.
- (g) Existing Letters of Credit on the Closing Date. Notwithstanding anything else in set forth in this Section 3.8, the Letter of Credit Fees payable in respect of Letters of Credit outstanding on the Closing Date will remain unchanged until December 31, 2015, and beginning on such date the fees set forth in the Pricing Table will apply thereto.

### 3.9 Swap Facilities.

Subject to Section 13.4(b), each Lender, or one of its Affiliates, may enter into Swap Documents with any Loan Party; provided that, subject to Section 16.6, all Swap Indebtedness of the Loan Parties shall rank at all times *pari passu* with the Borrower's and the other Loan Parties' Obligations under the Credit Facilities.

### 3.10 Borrowing Base.

- (a) Borrowing Base. The Borrowing Base as of the Closing Date is Cdn. \$750,000,000, provided that each Credit Facility is made available by the

applicable Lenders thereunder in accordance with their respective Individual Commitment Amounts as set forth in Schedule B.

- (b) Setting of Borrowing Base. A review and re-determination of the Borrowing Base will occur semi-annually on or before April 30 and October 31 in each year any of the Credit Facilities remain available to the Borrower or any Obligations remain outstanding (in any such case, the “**Scheduled Borrowing Base Date**”). Notwithstanding the foregoing, the first Scheduled Borrowing Base Date after the Closing Date will take place on or before October 31, 2015. In addition to the foregoing semi-annual redeterminations, the Borrowing Base will be redetermined by the Lenders in any of the following circumstances: (i) the Majority Lenders may cause one additional re-determination of the Borrowing Base each calendar year upon notice to the Borrower; or (ii) if the amounts received by Loan Parties from all Hedge Monetizations since the last Borrowing Base Determination together with the proceeds received by the Loan Parties from the dispositions (for certainty, other than Permitted Dispositions) which the Loan Parties are entitled to make pursuant to Section 13.4(e) without the consent of the Lenders exceeds 5% of the then applicable Borrowing Base (each of the scheduled and additional Borrowing Base determinations noted above are referred to herein as a “**Borrowing Base Determination**”); provided that, any re-determination initiated under paragraph (ii) above shall be completed by the Lenders within 30 days after the Agent provides written notice to the Borrower that the Lenders have undertaken such re-determination.
- (c) Borrowing Base Determination. The Lenders shall make each Borrowing Base Determination in consultation with each other and any such Borrowing Base Determination will require the unanimous consent of all of the Lenders. Each Lender, in making its determination of the Borrowing Base value in connection with a Borrowing Base Determination, will act in accordance with its usual and customary practices for revolving loans of this nature. If the Lenders are unable to agree on the Borrowing Base Determination on or before the applicable Scheduled Borrowing Base Date or other applicable Borrowing Base Determination date set out herein, the Borrowing Base Determination shall be determined to be the lowest Borrowing Base value proposed by a Lender or Lenders, subject to any adjustment required pursuant to Section 19.17(a).
- (d) Notification of Borrowing Base. The Agent shall within 5 Banking Days of any Borrowing Base Determination advise the Borrower of the Borrowing Base value and, in the event that Borrowing Base Determination was not unanimously consented to by all of the Lenders and was determined to be the lowest Borrowing Base value proposed by a Lender or Lenders, the Agent shall advise the Borrower as to which Lender(s) had the lowest Borrowing Base (the “**Non-Conforming Borrowing Base Lender**”). The Borrowing Base shall be effective immediately upon notice thereof to the Borrower and any resulting adjustment of the Commitment Amount shall occur automatically in accordance with Section 3.10(f). The Borrowing Base will remain in effect until the next Borrowing Base Determination is made as required or permitted herein.

- (e) Meeting with the Lenders. The Borrower will meet with the Lenders at the time of any Borrowing Base Determination to review and discuss the production profile of the proved reserves of Petroleum Substances and other assets of the Loan Parties, and such other matters affecting the Borrower's business as such Lenders may request, acting reasonably. The Borrower will cooperate in all respects in providing the Lenders, through the Agent, in a timely manner with such information as may be required by the Lenders to assist the Lenders in determining the Borrowing Base within the time periods required under this Agreement. To assist the Lenders in a determination of the Borrowing Base, the Borrower will, while any Credit Facility remains available to the Borrower, provide the Agent, for the benefit of the Lenders, with the materials and documents set forth in Section 13.2(i)(i).
- (f) Reduction of Commitments. Subject to Section 3.10(g) if the Borrowing Base is determined to be an amount less than the Commitment Amount, then the Individual Syndicated Facility Commitment Amount of each Lender shall be reduced on a proportionate basis based on each Lender's Rateable Portion. Each such reduction shall be permanent, unless all of the Lenders consent otherwise. Each such reduction shall be promptly communicated by the Agent and, subject to Section 3.10(g), shall be effective upon the Agent's delivery of notice of such reduction to the Borrower.
- (g) Mandatory Principal Reduction. Upon becoming aware of the occurrence of a Borrowing Base Shortfall, the Agent shall so notify the Borrower in writing. Within 90 days after the Borrower is notified by the Agent of a Borrowing Base Shortfall, the Borrower shall repay any amount required to reduce the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount under Credit Facilities to an amount not exceeding the Commitment Amount (based on the Rateable Portion of each Lender under the Credit Facilities) then in effect, and until such Borrowing Base Shortfall is eliminated:
- (i) the Syndicated Facility Lenders and the Operating Lender shall have no obligation to make any further Advance under the Syndicated Facility or the Operating Facility, respectively; and
  - (ii) any Rollover or Conversion of existing Accommodation into Bankers' Acceptances with a term in excess of, or LIBOR Based Loans shall not create LIBOR Periods which expire after, the earlier of (A) 30 days and (B) 60 days after the Borrower is notified by the Agent of such Borrowing Base Shortfall.
- (h) Assurances and Costs. The Borrower, at the request of the Agent, shall execute such documents and instruments as the Agent requests to give effect to any reductions or revisions made pursuant to this Section 3.10. The Borrower shall pay all reasonable costs and expenses (including reasonable legal and registration fees) relating to the preparation and registration of such documents and instruments.



- (i) Commitment Amount. Notwithstanding anything else set forth herein, the Borrowing Base shall not be permitted to exceed the Commitment Amount without the consent of all of the Lenders; provided that if (A) an increase to the Borrowing Base pursuant to a Borrowing Base redetermination in accordance with this Section 3.10 is approved by the Lenders and such increased Borrowing Base does not exceed the Commitment Amount in effect immediately prior to the initial Borrowing Base determination under this Section 3.10, (B) the Lenders agree (in their sole discretion) to increase their respective Individual Syndicated Facility Commitment Amounts by an aggregate amount not less than such increase, and (C) the allocation of such increase among the Lenders is agreed to by the Agent, the Lenders, the Issuing Bank and the Borrower, then the Borrowing Base shall be increased to the amount approved by the Lenders and the Syndicated Facility Commitment Amount shall be increased to an amount equal to such increased Borrowing Base less the Operating Facility Commitment.

## ARTICLE 4 SECURITY

### 4.1 Security.

The present and future Secured Obligations of the Borrower and each other Loan Party to the Agent and the Lenders, howsoever arising or incurred, will be secured by the following (collectively, the “**Security**”), each in a form acceptable to the Majority Lenders, acting reasonably:

- (a) a demand debenture in the amount of Cdn. \$2,000,000,000 from the Borrower and each Loan Party and providing for a first ranking charge over all of the assets and property of each such party, to be registered in all appropriate jurisdictions;
- (b) a guarantee from each Restricted Subsidiary;
- (c) a guarantee from the Borrower in respect of the Swap Indebtedness and Cash Management Obligations of the other Loan Parties;
- (d) if requested by the Agent, such documents and instruments providing a fixed Lien in accordance with Section 4.6; and
- (e) if requested by the Agent, security in the same form as security that is or may be granted to any Second Lien Creditors as security for any Second Lien Indebtedness from time to time.

### 4.2 Sharing of Security.

The Borrower and the Lenders agree and acknowledge that, subject to Section 16.6, the Security is being shared equally among the Secured Parties to secure the Secured Obligations on a rateable basis; and that the Agent will hold the Security for the benefit of the Secured Parties. For purposes of the above sentence, “rateable basis” means:

- (a) with respect to the Lenders, the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount and other Obligations under each of the Credit Facilities relative to the Canadian Dollar Exchange Equivalent of the Secured Obligations; and
- (b) with respect to the Swap Lenders, the Canadian Dollar Exchange Equivalent of the Swap Indebtedness relative to the Canadian Dollar Exchange Equivalent of the other Secured Obligations;
- (c) with respect to the Cash Manager, the Canadian Dollar Exchange Equivalent of the Cash Management Obligations relative to the Canadian Dollar Exchange Equivalent of the other Secured Obligations.

If requested by the Lenders or any Swap Lender, the Lenders and the Swap Lenders will enter into such further agreements and assurances as may be reasonably requested to further evidence the provisions of this Section 4.2.

#### **4.3 Exclusivity of Remedies.**

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

#### **4.4 Form of Security.**

The Security will be in such form or forms as will be required by the Majority Lenders, acting reasonably, and will be registered in such offices in Canada or any province thereof or any other jurisdiction where Borrowing Base Properties are located as the Agent, acting reasonably, may from time to time require to protect the Liens created thereby. Should the Agent determine at any time and from time to time, acting reasonably, that the form and nature of the then existing Security is deficient in any way or does not fully provide the Agent, the Lenders or the Swap Lenders with the Liens and priority to which each is entitled hereunder, the Borrower will forthwith execute and deliver or cause to be executed and delivered to the Agent, at the Borrower's expense, such amendments to the Security or provide such new security as the Agent may reasonably request.

#### **4.5 After-Acquired Property.**

All property acquired by or on behalf of the Borrower or any Loan Party which forms part of the property of the Borrower or any Loan Party (hereafter collectively referred to as "After-Acquired Property"), will be subject to the Security without any further conveyance, mortgage, pledge, charge, assignment or other act on the part of the Parties. Without limiting the effect of the preceding sentence, the Borrower will, or will cause the applicable Loan Party to, from time to time execute and deliver and the Agent will register, all at the Borrower's expense, such instruments supplemental to the Security, in form and substance satisfactory to the Agent, acting reasonably, as may be necessary or desirable to ensure that the Security as amended and supplemented constitutes in favour of the Agent, the Lenders and the Swap Lenders an effective

Lien to the extent created by the Security over such After-Acquired Property as required hereunder, subject only to Permitted Encumbrances which under applicable Law rank in priority thereto.

#### **4.6 Undertaking to Grant Fixed Charge Security.**

If a Default, Event of Default, or Borrowing Base Shortfall has occurred and is continuing, the Borrower, at the request of the Majority Lenders, acting reasonably, will forthwith grant or cause to be granted to the Agent, for its benefit and for the benefit of the Secured Parties, a fixed charge in all or any of the Borrower's and the Loan Parties' property (including any After-Acquired Property) which is intended by the terms of the Loan Documents to be subject to a fixed charge pursuant to Section 4.1.

#### **4.7 Further Assurances.**

The Borrower will and will cause each of the Loan Parties, in connection with the provision of any amended, new or replacement Security referred to in Section 4.5, to:

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

#### **4.8 Security for Swap Documents with Former Lenders.**

If a Lender ceases to be a Lender under this Agreement (a "Former Lender"), all Swap Indebtedness owing to such Former Lender and its Affiliates under Swap Documents entered

into while such Former Lender was a Lender shall remain secured by the Security (equally and rateably) to the extent that such Swap Indebtedness was secured by the Security prior to such Lender becoming a Former Lender and, subject to the following provisions of this Section 4.8. For certainty, any Swap Indebtedness under Hedging Agreements entered into with a Former Lender or an Affiliate thereof after the Former Lender has ceased to be a Lender shall not be secured by the Security. Notwithstanding the foregoing, while any Obligations remain outstanding under the Credit Facilities, no Former Lender or any Affiliate thereof shall have any right to cause or require the enforcement of the Security or any right to participate in any decisions relating to the Security, including any decisions relating to the enforcement or manner of enforcement of the Security or decisions relating to any amendment to, waiver under, release of or other dealing with all or any part of the Security; for certainty, the sole right of a Former Lender and its Affiliates with respect to the Security while any Obligations remain outstanding under the Credit Facilities is to share, on a *pari passu* basis, in any proceeds of realization and enforcement of the Security.

#### **4.9 Discharge of Security.**

The Agent will discharge all of the Security at the Borrower's expense forthwith after all of the Secured Obligations have been unconditionally and irrevocably paid or satisfied in full and will discharge the Security in respect of a given Subsidiary if such Subsidiary ceases to be a Restricted Subsidiary hereunder.

### **ARTICLE 5 FUNDING AND OTHER MECHANICS**

#### **5.1 Funding of Accommodations.**

Subject to Section 5.2 and Article 9, all Advances requested by the Borrower will be made available by deposit of the applicable funds (which in the case of Bankers' Acceptances will be the Net Proceeds) into the Borrower's Account for value on the Banking Day, or the LIBOR Banking Day in the case of a LIBOR Based Loan, as the case may be, on which the Advance is to take place.

#### **5.2 Notice Provisions.**

Drawdowns under the Credit Facilities will be made available to the Borrower and the Borrower will be entitled to effect a Rollover or Conversion where permitted hereunder, in each case on the requested Banking Day or LIBOR Banking Day, as the case may be, provided, other than for an overdraft Advance under the Operating Facility where no notice is required, a Notice of Borrowing or Notice of Rollover or Notice of Conversion, as applicable, is received by the Agent from the Borrower as follows:

- (a) with respect to Advances under the Credit Facilities, other than by way of LIBOR Based Loans and Letters of Credit, at least 2 Banking Days prior to such Advance, provided notice is received by the Agent no later than 12:00 noon (Toronto time) on the second Banking Day immediately preceding the requested Drawdown Date or the date of Rollover or Conversion, as applicable; and

- (b) with respect to a Drawdown, Rollover or Conversion of or into a LIBOR Based Loan, at least 3 LIBOR Banking Days prior to such Advance, provided notice is received by the Agent no later than 12:00 noon (Toronto time) on the third LIBOR Banking Day immediately preceding the Drawdown Date or the date of Rollover or Conversion, as applicable and with respect to the issuance of Letters of Credit, at least 3 Banking Days prior to the requested issuance date, provided notice is received by the Agent no later than 12:00 noon (Toronto time) on the third Banking Day immediately preceding the requested issuance date.

Any of the notices referred to in the foregoing paragraphs of this Section 5.2 may, subject to Section 20.2, be given by the Borrower, solely at the risk of the Borrower, to the Agent by telephone and in such case will be followed by the Borrower delivering to the Agent on the same day the written notice required hereunder confirming such instructions.

### **5.3 Irrevocability.**

Subject to Sections 8.3 and 9.6, a Notice of Borrowing, Notice of Rollover or Notice of Conversion when given by the Borrower will be irrevocable and will oblige the Borrower, the Agent and the Lenders to take the action contemplated herein and therein on the date specified therein, provided that, any such notice will not be binding on a Lender who makes a determination under Section 11.2.

### **5.4 Rollover or Conversion of Accommodations.**

- (a) Subject to Section 3.3, Section 5.2, Article 8 and Article 9, the Borrower will be entitled to effect a Rollover of one type of Accommodation into the same type of Accommodation or to effect a Conversion of one type of Accommodation into another type of Accommodation under the same Credit Facility on the terms herein provided.
- (b) Subject to Section 8.1(b), if the Borrower fails to give the Agent a duly completed Notice of Rollover or Notice of Conversion if and as required by Section 5.2, or if in giving such notice the Borrower fails to provide for the Rollover or Conversion of all of the Advances then maturing, the Borrower will be deemed to have irrevocably elected to convert such maturing Advances, or that part of such maturing Advances which the Borrower has failed to provide for in such notice, as the case may be, into a Canadian Prime Rate Loan with respect to a Cdn. Dollar Advance or a U.S. Base Rate Loan with respect to a U.S. Dollar Advance.
- (c) No Conversion of a Bankers' Acceptance will be made prior to its Maturity Date.

### **5.5 Agent's Obligations.**

Upon receipt of a Notice of Borrowing, Notice of Rollover or Notice of Conversion with respect to a proposed Advance under the Syndicated Facility, the Agent will forthwith notify the applicable Lenders of the proposed date on which such Advance is to take place, of each

applicable Lender's Rateable Portion of such Advance and of the account of the Agent to which each applicable Lender's Rateable Portion thereof is to be credited, if applicable.

#### **5.6 Lenders' Obligations.**

Each Lender will, prior to 12:00 noon (Toronto time) on the proposed date on which an Advance under the Syndicated Facility is to take place (other than an Advance by way of Bankers' Acceptances, in which case prior to 2:00 p.m. (Toronto time)), credit the account of the Agent specified in the Agent's notice given pursuant to Section 5.5 with such Lender's Rateable Portion of such Advance, and upon receipt of the funds from the Lenders, the Agent will make available to the Borrower the amount so credited.

#### **5.7 Failure of a Lender to Fund.**

- (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 5.6, 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 Borrower a corresponding amount (except that no such amount shall be made available to the 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 Borrower on such Drawdown Date as aforesaid (or is deemed to have made an Advance to the 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 5.6 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 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 365 in the case of all Advances. A certificate of the Agent containing details of the amount owing by a Lender under this Section 5.7(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 Borrower, on demand, the related amount made available by the Agent to the Borrower as aforesaid together with interest thereon at the applicable rate per annum payable by the Borrower hereunder.
- (b) Notwithstanding the provisions of Section 5.7(a), if any Lender fails to make available to the Agent its Rateable Portion of any Advance, which for greater certainty includes a deemed Advance hereunder (including under Section 16.3) (such Lender being herein called the "**Non-Paying Lender**"), the Agent shall forthwith give notice of such failure by the Non-Paying Lender to the 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-Paying Lender's Rateable Portion 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-Paying Lender. If more than one Lender gives notice that it is prepared to make funds available in the place of a Non-Paying 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-Paying Lender failed to make, then each Contributing Lender shall be deemed to have given notice that it is prepared to make available its Rateable Portion 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-Paying Lender in such circumstances, then the Non-Paying Lender shall pay to 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 Borrower. The failure of any Lender to make available to the Agent its Rateable Portion of any Advance as required herein shall not relieve any other Lender of its obligations to make available to the Agent its Rateable Portion 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-Paying 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 3.8(f) shall cease to accrue on the unused portion of the Individual Commitment Amount of such Defaulting Lender;
  - (ii) a Defaulting Lender shall not be included in determining whether, and the Individual Commitment Amount and the Rateable Portion of the Aggregate Principal Amount of such Defaulting Lender shall not be included in determining whether all Lenders or the Majority Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 19.16), 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 5.7(b), for the purposes of any Advance requested hereunder while there is a Defaulting Lender, each Lender's Rateable Portion thereof shall be calculated based on such Lender's Individual

Commitment Amount relative to the Commitment Amount reduced by the Individual Commitment Amount of the Defaulting Lender;

- (iv) the Agent or any Issuing Bank 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 Lenders' maximum contingent obligations hereunder to the Agent or such Issuing Bank;
  - (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 Borrower shall retain and reserve its other rights and remedies respecting each Defaulting Lender.
- (d) if any Fronted Letters of Credit are outstanding (the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount of such Advances 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 5.7(c) above, such Defaulting Lender Exposure shall be reallocated among the non-Defaulting Lenders for the purposes of Section 16.3 in accordance with their respective Rateable Portions (disregarding any Defaulting Lender's Individual Commitment Amount) but only to the extent that the sum of: (A) the aggregate Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount of all Advances made by any non-Defaulting Lender and outstanding at such time; plus (B) such non-Defaulting Lender's rateable share (after giving effect to the reallocation contemplated herein) of the Defaulting Lender Exposure, does not exceed such non-Defaulting Lender's Individual Commitment Amount; and
  - (ii) if the reallocation described in Section 5.7(d)(i) above cannot, or can only partially, be effected, the Borrower shall within three Banking Days following notice by any Issuing Bank prepay all outstanding Fronted Letters of Credit (in the case of Letters of Credit, by the provision of cash collateral in accordance with Section 10.12, the provisions of which Section shall apply thereto as if a demand has been made pursuant thereto by each LC Lender in respect of each outstanding Letter of Credit).
- (e) So long as any Lender is a Defaulting Lender, no Issuing Bank shall be required to issue any Fronted Letters of Credit unless, in each case, it is satisfied that the related exposure will be 100% covered by the Individual Commitment Amounts of non-Defaulting Lenders in accordance with Section 5.7(d), and participating



interests in any such newly issued Fronted Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 5.7(d)(i).

**5.8 Exchange Rate Fluctuations.**

- (a) Subject to Sections 5.8(b) and 5.9, if as a result of currency fluctuation, the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount owing under a Credit Facility exceeds the Commitment Amount under such Credit Facility (in each case, an "Excess"), the Borrower will, within 3 Banking Days after a written request from the Agent, pay the applicable Excess to the Agent as a Principal Repayment for the benefit of the applicable Lenders to be shared on the basis of each applicable Lender's Rateable Portion.
- (b) If the applicable Excess represents an amount which is less than 3% of the then current Commitment Amount under the applicable Credit Facility, then the Borrower will only be required to repay the applicable Excess on the earlier of the next Rollover Date or Conversion Date and 30 days after written request from the Agent.

**5.9 Excess Relating to LIBOR, Bankers' Acceptances and Letters of Credit.**

If to pay an Excess it is necessary to repay an Advance made by way of Bankers' Acceptance, a LIBOR Based Loan or a Letter of Credit prior to the Maturity Date thereof, the Borrower will not be required to repay such Advances until the Maturity Date applicable thereto, provided, however, that at the request of the Agent, the Borrower will forthwith pay the Excess to the Agent for deposit into a cash collateral account maintained by and in the name of the Agent for the benefit of the Lenders. The Excess will be held by the Agent for set-off against future Obligations owing by the Borrower to the Lenders in respect of such Excess, if any, and, pending such application, such amounts will bear interest for the Borrower's account at the rate payable by the Agent in respect of deposits of similar amounts and for similar periods of time. The Agent shall have exclusive control over all amounts at any time on deposit in such cash collateral account. The deposit of the Excess by the Borrower with the Agent as herein provided, will not operate as a repayment of the Aggregate Principal Amount until such time as the Excess is actually paid to the Lenders as a Principal Repayment.

**ARTICLE 6  
DRAWDOWNS UNDER THE CREDIT FACILITY**

**6.1 Conditions Precedent to Drawdown.**

The Lenders' obligation to provide Advances will be subject to the following conditions precedent being met:

- (a) the Borrower will have complied, or caused to be complied, with the deliveries required under Section 2.1;
- (b) except in the case of an overdraft borrowing under the Operating Facility, the appropriate Notice of Borrowing, Notice of Rollover or Notice of Conversion will

have been delivered in accordance with the notice provisions provided in Section 5.2;

- (c) no Event of Default will have occurred and be continuing or would reasonably be expected to result therefrom (including any pro forma breach of a financial covenant under Section 13.3);
- (d) in the case of any Advances by way of a Drawdown only, no Default or Borrowing Base Shortfall will have occurred and be continuing;
- (e) subject to Section 12.2, each of the representations and warranties set out in Article 12 will be true and correct with the same effect as if such representations and warranties had been made on the date of such Advance; and
- (f) the notice with respect to a Hostile Acquisition if required to be given pursuant to Section 6.2 will have been provided by the Borrower and the other provisions of Section 6.2, if applicable, will have been complied with.

## 6.2 Hostile Acquisitions.

If the Borrower wishes to utilize, whether directly or indirectly, Drawdowns to facilitate, assist or participate in a Hostile Acquisition by any Loan Party or any Affiliate thereof:

- (a) at least 10 Banking Days prior to the delivery to the Agent of a Notice of Borrowing made in connection with a Hostile Acquisition, the president or chief financial officer of the Borrower will notify the Agent in writing (who will then notify the Lenders) of the particulars of the Hostile Acquisition in sufficient detail to enable each Lender to determine, in each Lender's sole discretion, whether it will permit a Drawdown to be utilized for such Hostile Acquisition;
- (b) if a Lender decides not to fund an Advance to be utilized for such Hostile Acquisition, then upon such Lender so notifying the Agent (who will then notify the Borrower), such Lender will have no obligation to fund such Advance notwithstanding any other provision of this Agreement to the contrary; and
- (c) each Lender will use reasonable commercial efforts to notify the Agent as soon as practicable (and in any event within 5 Banking Days of receipt of the particulars thereof from the Agent) of its decision whether or not to fund such proposed Hostile Acquisition.

## 6.3 Adjustment of Rateable Portion.

If a Lender elects not to participate in a Drawdown under the Syndicated Facility for a Hostile Acquisition (a "**Non-Participating Lender**"), the Drawdown will be reduced by the Non-Participating Lenders' Rateable Portion thereof and the allocation among all Lenders who are not Non-Participating Lenders (each, a "**Participating Lender**") of interest and other fees payable by the Borrower hereunder, including standby fees, will be adjusted so as to reflect the non-participation by the Non-Participating Lender in the Drawdown, and thereafter the Rateable

Portion of each Lender, for such purposes only, will reflect the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount owing to the Participating Lenders under the Syndicated Facility after taking into account the non-participation by the Non-Participating Lender in the requested Drawdown. Notwithstanding the adjustment of the Rateable Portion pursuant to this Section 6.3, there will be no reduction in the Individual Commitment Amount of each Non-Participating Lender.

#### **6.4 Subsequent Drawdowns.**

If a Lender is a Non-Participating Lender, subsequent Drawdowns under the Syndicated Facility will be funded first by the Non-Participating Lenders rateably based on each Non-Participating Lender's Individual Syndicated Facility Commitment Amount until the Aggregate Principal Amounts of all Syndicated Facility Lenders are again in proportion to their respective Rateable Portions.

#### **6.5 Prepayment.**

As an alternative to the provisions of Section 6.4, the Borrower will also be entitled, subject to the prepayment provisions herein contained but without obligation to make prepayments to all Lenders to reduce the Aggregate Principal Amount owing to the Participating Lenders under the Syndicated Facility until the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount owing to all Syndicated Facility Lenders are again in proportion to their respective Rateable Portions.

### **ARTICLE 7 CALCULATION OF INTEREST AND FEES**

#### **7.1 Records.**

The Operating Lender will maintain records, in written or electronic form, evidencing all Advances it has made in respect of the Operating Facility. The Agent will maintain records, in written or electronic form, evidencing all Advances and all other Obligations owing by the Borrower to the Agent and each Lender under the Syndicated Facility. The Operating Lender or the Agent, as applicable, will enter in such records details of all amounts from time to time owing, paid or prepaid by the Borrower to it hereunder. In addition, each Lender will maintain records, in written or electronic form, evidencing all Advances and other Obligations owing by the Borrower to such Lender. The information entered in such records will constitute *prima facie* evidence of the Obligations of the Borrower to the Agent, the Operating Lender and each Lender. In the event of a conflict between the records of the Agent and a Lender maintained pursuant to this Section 7.1, the records of the Agent shall prevail, absent manifest error.

#### **7.2 Payment of Interest and Fees.**

- (a) Interest. Except as expressly stated otherwise herein, all Canadian Prime Rate Loans, U.S. Base Rate Loans and LIBOR Based Loans from time to time outstanding will bear interest, as well after as before maturity, default and judgment, with interest on overdue interest, at the applicable rates as prescribed under Section 3.8 or Section 20.10. Interest payable at a variable rate will be

adjusted automatically without notice to the Borrower whenever there is a variation in such rate.

- (b) Calculation of Interest and Fees. Interest on Canadian Prime Rate Loans and U.S. Base Rate Loans will accrue and be calculated but not compounded daily and be payable monthly in arrears on the third Banking Day of each month for the immediately preceding month, or, after notice to the Borrower, on such other Banking Day as is customary for the Agent having regard to its then existing practice. Interest on Canadian Prime Rate Loans and U.S. Base Rate Loans, BA Stamping Fees on Bankers' Acceptances and Letter of Credit Fees will be calculated on the basis of a 365 day year.
- (c) Interest Act (Canada). For the purposes of the *Interest Act* (Canada) and any other applicable Laws which may hereafter regulate the calculation or computation of interest on borrowed funds, the annual rates of interest and fees applicable to Canadian Prime Rate Loans, U.S. Base Rate Loans, Bankers' Acceptances and Letters of Credit, respectively, are the rates as determined hereunder 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 or stamping fee is payable and divided by 365.
- (d) LIBOR Based Loans. Interest on LIBOR Based Loans will accrue and be calculated but not compounded daily and be payable at the end of each applicable LIBOR Period, provided that, where the LIBOR Period exceeds 3 months, interest will be calculated and payable every 3 months during the term of the LIBOR Period and on the last day of the applicable LIBOR Period. Interest on LIBOR Based Loans will be calculated on the basis of the actual number of days in each LIBOR Period divided by 360. For the purposes of the *Interest Act* (Canada) and any other applicable Laws, the annual rates of interest applicable to LIBOR Based Loans are the rates as determined hereunder 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 360.

### **7.3 Payment of BA Stamping Fee.**

The Borrower will pay to the Agent for the account of the Lenders the applicable BA Stamping Fee under Section 3.8(a) with respect to Bankers' Acceptances on the date of acceptance thereof by the Lenders. Payment of the BA Stamping Fee may be made by way of set-off as provided in Section 9.4.

### **7.4 Debit Authorization.**

The Borrower authorizes and directs the Agent and the Operating Lender, in its discretion, to automatically debit, by mechanical, electronic or manual means, the bank accounts of the Loan Parties maintained by it for amounts that are due and payable under this Agreement.

### **7.5 Payments to Agent.**

All payments of the Obligations of the Borrower to the Lenders under the Syndicated Facility will be made by the Borrower to the Agent for the account of the applicable Lenders, and, except to the extent otherwise provided herein, in accordance with each such Lender's Rateable Portions thereof, if any, provided that all payments of the Obligations of the Borrower to the Operating Lender under the Operating Facility will be made to the Operating Lender. Any payment received by the Agent or the Operating Lender after 3:00 p.m. (Toronto time) shall be deemed for all purposes to have been received by the Agent or the Operating Lender, as applicable, on the next Banking Day.

#### **7.6 Conversion to Another Currency.**

A Conversion of an Advance from one currency to another currency may be made only by the repayment of such existing Advance in the same currency as such existing Advance and the request of a new Advance in another currency.

#### **7.7 Maximum Rate of Return.**

Notwithstanding any provision herein to the contrary, in no event will the aggregate "interest" (as defined in section 347 of the *Criminal Code* (Canada)) payable under this Agreement exceed the maximum effective annual rate of interest on the "credit advanced" (as defined in that section 347) permitted under that section and, if any payment, collection or demand pursuant to this Agreement in respect of "interest" (as defined in that section 347) is determined to be contrary to the provisions of that section 347, such payment, collection or demand will be deemed to have been made by mutual mistake of the Borrower and the applicable Lenders and the amount of such payment or collection will be refunded to the Borrower. For purposes of this Agreement, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term of the Credit Facilities on the basis of annual compounding of the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent will be *prima facie* evidence, for the purposes of such determination.

#### **7.8 Waiver of Judgment Interest Act (Alberta).**

To the extent permitted by applicable Law, the provisions of the *Judgment Interest Act* (Alberta) will not apply to the Loan Documents and are hereby expressly waived by the Borrower.

#### **7.9 Deemed Reinvestment Not Applicable.**

For the purposes of the *Interest Act* (Canada), the principle of deemed reinvestment of interest will not apply to any interest calculation under the Loan Documents, and the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

**ARTICLE 8**  
**GENERAL PROVISIONS RELATING TO LIBOR BASED LOANS**

**8.1 General.**

- (a) The aggregate amount of each Advance by way of a LIBOR Based Loan under (i) the Syndicated Facility will be at least U.S. \$5,000,000 and in multiples of U.S. \$100,000 for any amount in excess thereof, and (ii) under the Operating Facility will be at least U.S. \$500,000 and in multiples of U.S. \$100,000 for any amount in excess thereof and each LIBOR Based Loan will, in each case, have a term to maturity of 1, 2, 3 or 6 months, or, subject to availability, as otherwise agreed by the Lenders.
- (b) If the Borrower elects to Drawdown by way of a LIBOR Based Loan, effect a Rollover of a LIBOR Based Loan or a Conversion of an Accommodation into a LIBOR Based Loan, the Borrower will specify in its Notice of Borrowing, Notice of Rollover or Notice of Conversion, as applicable, the LIBOR Period (which will begin and end on a LIBOR Banking Day) applicable to such LIBOR Based Loan. If the Borrower fails, as required hereunder, to select a LIBOR Period for any proposed LIBOR Based Loan, then the applicable LIBOR Period will be approximately one month as determined by the Agent.
- (c) Any amount owing by the Borrower in respect of any LIBOR Based Loan which is not paid at maturity in accordance with this Agreement will, as and from its Maturity Date, be deemed to be outstanding as a U.S. Base Rate Loan.

**8.2 Early Termination of LIBOR Periods.**

If the early termination of any LIBOR Based Loan is required hereunder, the Borrower will pay to the Lenders all expenses and out-of-pocket costs incurred by the Lenders as a result of the early termination of the LIBOR Based Loan, including expenses and out-of-pocket costs incurred due to early redemption of offsetting deposits. If, in the sole discretion of a Lender, acting reasonably, any such early termination cannot be effected, the LIBOR Based Loan will not be terminated and the Borrower will continue to pay interest to the applicable Lenders, at the rate per annum applicable to such LIBOR Based Loan for the remainder of the applicable LIBOR Period. A written statement of the Agent as to the aggregate amount of such expenses and out of pocket costs will be *prima facie* evidence of the amount thereof.

**8.3 Inability to Make LIBOR Based Loans.**

If at any time subsequent to the giving of a Notice of Borrowing or any Notice of Rollover or Notice of Conversion to the Agent by the Borrower with regard to any requested LIBOR Based Loan:

- (a) the Agent (acting reasonably) determines that by reason of circumstances affecting the London Interbank Eurodollar Market, adequate and fair means do not exist for ascertaining the rate of interest with respect to, or deposits are not available in sufficient amounts in the ordinary course of business at the rate

determined hereunder to fund, a requested LIBOR Based Loan during the ensuing LIBOR Period selected;

- (b) the Agent (acting reasonably) determines that the making or continuing of the requested LIBOR Based Loan by the Lenders has been made impracticable by the occurrence of an event which materially adversely affects the London Interbank Eurodollar Market generally; or
- (c) the Agent is advised by Lenders holding at least 35% of the Commitment Amount of all Lenders hereunder by written notice (each, a "**Lender LIBOR Suspension Notice**"), such notice received by the Agent no later than 2:00 p.m. (New York time) on the third Banking Day prior to the date of the requested Drawdown, Rollover or Conversion, as the case may be, that such Lenders have determined (acting reasonably and in good faith) that LIBOR will not or does not represent the effective cost to such Lenders of United States Dollar deposits in such market for the relevant LIBOR Period,

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

## ARTICLE 9 BANKERS' ACCEPTANCES

### 9.1 General.

Each bankers' acceptance draft tendered by the Borrower for acceptance by a Lender will be in a form acceptable to the accepting Lenders, acting reasonably, and the Advance in respect thereof under (a) the Syndicated Facility will be in a principal amount of not less than Cdn. \$5,000,000 and in multiples of Cdn. \$100,000 for any amounts in excess thereof, and (b) under the Operating Facility will be in a principal amount of not less than Cdn. \$500,000 and in

multiples of Cdn. \$100,000 for any amounts in excess thereof and will, in each case, have terms of not less than 1 month and no more than 6 months, unless, subject to availability, otherwise agreed to by the accepting Lenders.

## 9.2 Terms of Acceptance by the Lenders.

- (a) Payment. The Borrower will provide for payment to the Agent for the benefit of the Lenders of each Bankers' Acceptance at its maturity, either by payment of the face amount thereof or, subject to Section 7.4, through the utilization of an Accommodation (including by way of Rollover) in accordance with this Agreement, or through a combination thereof. The Borrower waives presentment for payment of Bankers' Acceptances by the Lenders and will not claim from the applicable Lenders any days of grace for the payment at maturity of Bankers' Acceptances. Any amount owing by the Borrower in respect of any Bankers' Acceptance which is not paid at maturity in accordance with this Agreement, will, as and from its maturity date, be deemed to be outstanding as a Canadian Prime Rate Loan.
- (b) Power of Attorney. To facilitate the procedures contemplated in this Agreement, the Borrower appoints each Lender from time to time as the attorney-in-fact of the Borrower to execute, endorse and deliver on behalf of the Borrower drafts or depository bills in the form or forms prescribed by such Lender for bankers acceptances denominated in Canadian Dollars (each such executed draft or depository bill which has not yet been accepted by a Lender being referred to as a "Draft"). Each bankers' acceptance executed and delivered by a Lender on behalf of the Borrower as provided for in this Section 9.2(b) will be as binding upon the Borrower as if it had been executed and delivered by a duly authorized officer of the Borrower. The foregoing appointment will cease to be effective three Banking Days following receipt by the Lender in question of a notice from the Borrower revoking such appointment provided that any such revocation will not affect Bankers' Acceptances previously executed and delivered by a Lender pursuant to such appointment.
- (c) Marketing of BAs. The Borrower will have the option to make its own arrangements with respect to the sale of Bankers' Acceptances in the market place. If the Borrower elects to do so, the Borrower may in the Notice of Borrowing, Notice of Rollover or Notice of Conversion requesting an Accommodation by way of Bankers' Acceptances or by subsequent notice to the Agent, provide the Agent with information as to the discount proceeds payable by the purchasers of the Bankers' Acceptances and the party to whom delivery of the Bankers' Acceptances is to be made against delivery of such discount proceeds to the Agent for the credit of the Borrower subject to Section 9.4(d), and the Agent and the Borrower shall establish such reasonable procedures as may be appropriate to govern such marketing arrangements. If the Borrower does not expressly exercise such option, it shall be deemed to have requested the Lenders to purchase the Bankers' Acceptance accepted by them at the BA Discount Rate.



- (d) Depository Bills. It is the intention of the Parties that pursuant to the *Depository Bills and Notes Act* (Canada) (“DBNA”), all Bankers’ Acceptances accepted by the Lenders under this Agreement will be issued in the form of a “depository bill” (as defined in the DBNA), deposited with a “clearing house” (as defined in the DBNA), including The Canadian Depository for Securities Limited or its nominee CDS Clearing and Depository Services Inc. (“CDS”). In order to give effect to the foregoing, the Agent will, subject to the approval of the Borrower and the Lenders, establish and notify the Borrower and the Lenders of any additional procedures, consistent with the terms of this Agreement, as are reasonably necessary to accomplish such intention, including:
- (i) any instrument held by the Agent for purposes of Bankers’ Acceptances will have marked prominently and legibly on its face and within its text, at or before the time of issue, the words “This is a depository bill subject to the *Depository Bills and Notes Act* (Canada)”;
  - (ii) any reference to the authentication of the Bankers’ Acceptance will be removed; and
  - (iii) any reference to the “bearer” will be removed and such Bankers’ Acceptances will not be marked with any words prohibiting negotiation, transfer or assignment of it or of an interest in it.

### 9.3 BA Equivalent Loans.

In lieu of accepting bankers’ acceptance drafts on any Drawdown Date, or any date of Rollover or Conversion, as applicable, each Non-BA Lender will make a BA Equivalent Loan. Any BA Equivalent Loan will be made on the relevant Drawdown Date, or any date of Rollover or Conversion, as applicable, and its Maturity Date will be the Maturity Date of the corresponding Bankers’ Acceptances. The amount of each BA Equivalent Loan will be equal to the Discount Proceeds of the corresponding Bankers’ Acceptances calculated on the basis the Lenders purchased such Bankers’ Acceptances. On the Maturity Date of a BA Equivalent Loan, the Borrower will pay to the Non-BA Lender an amount equal to the face amount of the Bankers’ Acceptance which such Non-BA Lender would have accepted in lieu of making a BA Equivalent Loan if it were not a Non-BA Lender. All provisions of this Agreement with respect to Bankers’ Acceptances will apply to BA Equivalent Loans provided that stamping fees with respect to a BA Equivalent Loan will be calculated on the basis of the amount of such BA Equivalent Loan which the Borrower is required to pay on the Maturity Date.

### 9.4 General Mechanics.

- (a) Notice. If the Borrower elects to market Bankers’ Acceptance on its own pursuant to Section 9.2(c), the Borrower will initiate a telephone call to the Agent by 11:00 a.m. (Toronto time) on the Drawdown Date or the date of the Rollover or Conversion, as applicable, and provide such information to the Agent. Any such telephone advice will be at the risk of the Borrower pursuant to Section 20.2 and will be confirmed by a Notice of Borrowing, Notice of Rollover or Notice of

Conversion, as applicable, of the Borrower to the Agent prior to 11:30 a.m. (Toronto time) on the same day.

- (b) Bankers' Acceptances. Unless such Lender makes a BA Equivalent Loan pursuant to the terms of Section 9.3 or the Borrower elects to market Bankers' Acceptances pursuant to the terms of Section 9.2(c), upon acceptance of a Bankers' Acceptance by a Lender, such Lender will purchase, or arrange for the purchase of, each Bankers' Acceptance from the Borrower at the BA Discount Rate applicable for such Lender for such Bankers' Acceptance accepted by it and provide to the Agent the Discount Proceeds for the account of the Borrower. The stamping fee payable by the Borrower to a Lender in respect of each Bankers' Acceptance by such Lender will be set off against the Discount Proceeds payable by such Lender under this Section 9.4.
- (c) Rollovers. In the case of a Rollover of maturing Bankers' Acceptances, each Lender, in order to satisfy the continuing liability of the Borrower to the Lender for the face amount of the maturing Bankers' Acceptances, will retain for its own account the Net Proceeds of each new Bankers' Acceptance issued by it in connection with such Rollover and the Borrower will, on the Maturity Date of the maturing Bankers' Acceptances, pay to the Agent for the benefit of the Lenders an amount equal to the difference between the face amount of the maturing Bankers' Acceptances and the aggregate Net Proceeds of the new Bankers' Acceptances.
- (d) Conversion to BA's. In the case of a Conversion from a Canadian Prime Rate Loan into an Accommodation by way of Bankers' Acceptances, each Lender, in order to satisfy the continuing liability of the Borrower to each Lender for the amount of the Canadian Prime Rate Loan being converted, will retain for its own account the Net Proceeds of each new Bankers' Acceptance issued by it in connection with such Conversion and the Borrower will, on the date of issuance of the Bankers' Acceptances pay to the Agent for the benefit of the Lenders an amount equal to the difference between the amount of the Canadian Prime Rate Loan being converted, including any accrued interest thereon, owing to the Lenders and the Net Proceeds of such Bankers' Acceptances.
- (e) Conversion from BA's. In the case of a Conversion of an Accommodation by way of Bankers' Acceptances into a Canadian Prime Rate Loan, each Lender, in order to satisfy the liability of the Borrower to each Lender for the face amount of the maturing Bankers' Acceptances, will record the obligation of the Borrower to it as a Canadian Prime Rate Loan, unless the Borrower provides for payment to the Agent for the benefit of the Lenders of the face amount of the maturing Bankers' Acceptance in some other manner acceptable to the Lenders.
- (f) Rounding. In the case of an issue of Bankers' Acceptances, the Agent will round allocations amongst the Lenders to ensure that each Bankers' Acceptance issued has a face amount which is a whole number multiple of Cdn. \$100,000 (and such

rounded allocations shall constitute the Lenders' respective Rateable Portions for the purposes of this Agreement).

**9.5 Escrowed Funds.**

Upon the request of the Agent after the occurrence and during the continuance of an Event of Default, the Borrower will forthwith pay to the Agent for deposit into an escrow account maintained by and in the name of the Agent for the benefit of the Lenders, an amount equal to the Lenders' maximum potential liability under then outstanding Bankers' Acceptances (the "**Escrow Funds**"). The Escrow Funds will be held by the Agent for set-off against future Obligations owing by the Borrower to the applicable Lenders in respect of such Bankers' Acceptances and pending such application will bear interest for the Borrower's Account at the rate payable by the Agent in respect of deposits of similar amounts and for similar periods of time. If such Event of Default is either waived or cured in compliance with the terms of this Agreement, then the remaining Escrow Funds if any, together with any accrued interest to the date of release, will be released to the Borrower. The deposit of the Escrow Funds by a Borrower with the Agent as herein provided, will not operate as a repayment of the Aggregate Principal Amount until such time as the Escrow Funds are actually paid to the Lenders as a Principal Repayment.

**9.6 Market Disruption. If:**

- (a) the Agent (acting reasonably) makes a determination, which determination shall be conclusive and binding upon the Borrower, and notifies the Borrower, that there no longer exists an active market for Bankers' Acceptances accepted by the Lenders; or
- (b) the Agent is advised by Lenders holding at least 35% of the Commitment Amount of all Lenders hereunder by written notice (each, a "**Lender BA Suspension Notice**") that such Lenders have determined (acting reasonably and in good faith) that the BA Discount Rate will not or does not accurately reflect the cost of funds of such Lenders or the discount rate which would be applicable to a sale of Bankers' Acceptances accepted by such Lenders in the market;

then:

- (c) the right of the Borrower to request Bankers' Acceptances or BA Equivalent Loans from any Lender shall be suspended until the Agent determines that the circumstances causing such suspension no longer exist, and so notifies the Borrower and the Lenders;
- (d) any outstanding Notice of Borrowing requesting an Advance by way of Bankers' Acceptances or BA Equivalent Loans shall be deemed to be a Notice of Borrowing requesting an Advance by way of Canadian Prime Rate Loans in the amount specified in the original Notice of Borrowing;
- (e) any outstanding Notice of Conversion requesting a Conversion of an Advance by way of Bankers' Acceptances or BA Equivalent Loans shall be deemed to be a

Notice of Conversion requesting a Conversion of such Advances into an Advance by way of Canadian Prime Rate Loans; and

- (f) any outstanding Notice of Rollover requesting a Rollover of an Advance by way of Bankers' Acceptances or BA Equivalent Loans, shall be deemed to be a Notice of Conversion requesting a Conversion of such Advances into an Advance by way of Canadian Prime Rate Loans.

The Agent shall promptly notify the Borrower and the Lenders of any suspension of the Borrower's right to request Advances by way of Bankers' Acceptances or BA Equivalent Loans and of any termination of any such suspension. A Lender BA Suspension Notice shall be effective upon receipt of the same by the Agent if received prior to 2:00 p.m. (Toronto time) on a Banking Day and if not, then on the next following Banking Day, except in connection with an outstanding Notice of Drawdown, Notice of Conversion or Notice of Rollover, in which case the applicable Lender BA Suspension Notice shall only be effective with respect to such outstanding Notice of Drawdown, Notice of Conversion or Notice of Rollover if received by the Agent prior to 2:00 p.m. (Toronto time) two Banking Days prior to the proposed date of Advance, date of Conversion or date of Rollover (as applicable) applicable to such outstanding Notice of Drawdown, Notice of Conversion or Notice of Rollover, as applicable.

## ARTICLE 10 LETTERS OF CREDIT

### 10.1 Letters of Credit Commitment.

Each of the Operating Lender and the LC Lenders (on a several basis with the other LC Lenders up to the amount of such LC Lender's Individual Syndicated Facility Commitment Amount) agrees from time to time on any Banking Day to issue Letters of Credit for the account of the Borrower on the terms and conditions herein set forth herein; provided that at no time shall the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount with respect to the undrawn amount of outstanding Letters of Credit exceed collectively Cdn. \$75,000,000.

Letters of Credit shall be issued by way of, as selected by the Borrower, either:

- (a) a Letter of Credit issued by the Operating Lender under the Operating Facility (in this Article 10, an "**Operating Letter of Credit**");
- (b) a Letter of Credit issued by the Issuing Bank on behalf of the applicable Lenders on a "fronting" basis in accordance with Section 10.2 (in this Article 10, a "**Fronted Letter of Credit**"); or
- (c) a Letter of Credit issued by the Agent on behalf of the LC Lenders in accordance with Section 10.3 and substantially in the form attached hereto as Schedule K (in this Article 10, a "**POA Letter of Credit**").

While any Lender is a Non-LC Lender, the Borrower shall only be entitled to request Fronted Letters of Credit under the Syndicated Facility.

## 10.2 Fronted Letters of Credit.

In the event that a Fronted Letter of Credit shall be issued on behalf of the LC Lenders by the Issuing Bank:

- (a) the Aggregate Principal Amount in respect of such Letter of Credit shall be considered to be allocated among the applicable LC Lenders on the basis of their respective Rateable Portions, and on the basis that each such LC Lender is liable to, and by entering into this Agreement agrees to, indemnify and hold harmless the Issuing Bank in relation to the Issuing Bank's liability as issuer of such Letter of Credit to the extent of the amount of that LC Lender's Rateable Portion; and
- (b) for greater certainty and without limiting the generality of Section 10.2(a), the Aggregate Principal Amount among the applicable LC Lenders shall be adjusted in the circumstances and in the manner contemplated by Section 10.7 in order to reflect the issuance by the Issuing Bank on behalf of such LC Lenders.

## 10.3 POA Letters of Credit.

The provisions of this Section 10.3 shall apply to POA Letters of Credit.

- (a) **Limitation.** Each POA Letter of Credit shall be issued: (i) in Cdn. \$ only; and (ii) only to beneficiaries which shall, at all times, be domiciled in Canada.
- (b) **Issuance of Lenders.** Each POA Letter of Credit shall be issued by the Agent on behalf of the LC Lenders as a single multi-Lender Letter of Credit, but the obligation of each LC Lender thereunder shall be several, and not joint, based upon its Rateable Portion in effect on the date of issuance of such POA Letter of Credit, subject to any changes resulting from a change in such *pro rata* share after the date of issuance of the POA Letter of Credit that are effected in accordance with the terms of the POA Letter of Credit. Without the unanimous consent of the LC Lenders, no POA Letter of Credit shall be issued which varies the several and not joint nature of the liability of each LC Lender thereunder.
- (c) **Agent as Agent and Attorney.** Each POA Letter of Credit shall be executed and delivered by the Agent in the name and on behalf of, and as attorney-in-fact for, each LC Lender party to such Letter of Credit. The Agent shall act under each POA Letter of Credit as the agent of each LC Lender to:
  - (i) receive documents presented by the beneficiary under such POA Letter of Credit;
  - (ii) determine whether such documents are in compliance with the terms and conditions of such POA Letter of Credit; and
  - (iii) notify such Lender and the Borrower that a valid drawing has been made and the date that the related payment under such POA Letter of Credit is to be made; provided that the Agent (in such capacity) shall have no

obligation or liability or any payment to be made under POA Letter of Credit and each POA Letter of Credit shall expressly so provide.

- (d) **Power of Attorney.** Each Lender hereby appoints and designates the Agent as its attorney-in-fact, acting through any duly authorized officer of the Agent, to execute and deliver each POA Letter of Credit to be issued by such LC Lender hereunder in the name and on behalf of such LC Lender. Each Lender shall furnish to the Agent, upon reasonable notice from the Agent, a power of attorney substantially in the form attached hereto as Schedule L which may be presented as evidence of the Agent's power to act but which shall not, as between the Lender and the Agent, vary the power of the Agent as established in this Agreement. In addition, promptly upon the request of the Agent, each Lender will furnish to the Agent such other evidence as any beneficiary of any POA Letter of Credit may reasonably request in order to demonstrate that the Agent has the power to act as attorney-in-fact for such LC Lender to execute and deliver such POA Letter of Credit. The Borrower and the Lenders agree that each POA Letter of Credit issued shall provide that all documents presented thereunder shall be delivered to the Agent and that all payments thereunder shall be made by the Lenders obligated thereon through the Agent. Each LC Lender shall be severally liable under each POA Letter of Credit in proportion to its *pro rata* share (on the basis of its Individual Commitment) on the date of issuance of such POA Letter of Credit and each POA Letter of Credit shall specify each such Lender's share of the amount payable thereunder.
- (e) **Documents and Payment Demands.** The Borrower and each Lender hereby authorize the Agent to review on behalf of each such LC Lender each document presented under each POA Letter of Credit. The determination of the Agent as to the conformity of any documents presented under a POA Letter of Credit to the requirements of such POA Letter of Credit shall be conclusive and binding on the Borrower and each Lender; provided that the Agent acts in accordance with the standards of reasonable care specified in the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce current at the time of issuance of such Letter of Credit (the "Uniform Customs") and as otherwise required under ISP98. The Agent shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under any POA Letter of Credit. The Agent shall promptly after such examination:
- (i) notify each of the Lenders obligated under such POA Letter of Credit and the Borrower by telephone (confirmed in writing) of such demand for payment and of each such LC Lender's share of such payment;
  - (ii) deliver to each such LC Lender and the Borrower a copy of each document purporting to represent a demand for payment under such POA Letter of Credit; and

- (iii) notify each such LC Lender and the Borrower whether the demand for payment was properly made under such POA Letter of Credit.
- (f) **Drawings.** With respect to any drawings determined by the Agent to have been properly made under a POA Letter of Credit, each Lender will make a payment under the POA Letter of Credit in accordance with its liability under the POA Letter of Credit and this Agreement. The payment shall be made to such account as the Agent designates by notice to the Lenders. The Agent will promptly make any such payment available to the beneficiary of such POA Letter of Credit. Promptly following any payment by any such LC Lender in respect of any POA Letter of Credit, the Agent will notify the Borrower of such payment, but any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Lenders with respect to any such payment. The responsibility of the Agent and the Lenders in connection with any document presented for payment under any POA Letter of Credit shall, in addition to any payment obligation expressly provided in such POA Letter of Credit, be limited to determining that the documents delivered under such Letter of Credit in connection with such presentment are in conformity with such POA Letter of Credit. The Agent shall not be required to make any payment under a POA Letter of Credit in excess of the amount received by it from the Lenders for such payment.
- (g) **Reimbursement by Borrower.** The Borrower shall pay to the Agent (for the account of the Lenders) the amount paid to a Beneficiary upon a drawing under a POA Letter of Credit (in this Section 10.3(g), the "drawn amount") on the date of such drawing. The Agent, on behalf of such LC Lenders, shall be entitled to receive interest on the drawn amount at the rate applicable to Canadian Prime Rate Loans (if the drawn amount was in Canadian Dollars) or the rate applicable to U.S. Base Rate Loans (if the drawn amount was in US Dollars) for the period from and including the date the drawn amount was paid to a beneficiary pursuant to the drawing to but excluding the date on which such payment (including interest) is made to the Agent.
- (h) **Notice regarding Potential Automatic Renewal.** Without limiting the other provisions of this Agreement, if a Default or an Event of Default has then occurred and is continuing, the Agent shall notify the LC Lenders 30 days before any applicable deadline for notifying the Beneficiary of a POA Letter of Credit that it will not be renewed, in order to avoid automatic renewal in accordance with the terms of the POA Letter of Credit.

#### 10.4 **Notice of Issuance.**

- (a) **Notice.** Each issuance of a Letter of Credit shall be made by way of a Notice of Borrowing provided in accordance with Section 5.2(b) by the Borrower to the Agent or the Operating Lender, as applicable. The Agent shall give prompt notice to the applicable LC Lenders of their Rateable Portion of any such issuance under the Syndicated Facility.

- (b) Other Documents. In addition, the Borrower shall execute and deliver to the Issuing Bank a customary form of letter of credit indemnity agreement; provided that, if there is any inconsistency between the terms of this Agreement and the terms of such customary form of indemnity agreement, the terms of this Agreement shall prevail.

#### 10.5 Form of Letter of Credit.

Each Letter of Credit to be issued hereunder shall:

- (a) be dated the date of issuance of the Letter of Credit;
- (b) have an expiration date on a Banking Day which occurs no more than 365 days after the Issue Date (provided that Letters of Credit may have a term in excess of 365 days if the Issuing Bank shall agree, subject to clause (c) below);
- (c) have an expiration date prior to the Termination Date applicable to each LC Lender and Issuing Bank in respect of Letters of Credit issued; and
- (d) comply with the definition of Letter of Credit and shall otherwise be satisfactory in form and substance to the Issuing Bank.

#### 10.6 Procedure for Issuance of Letters of Credit.

- (a) Issue. On the date of issue, the Issuing Bank will complete and issue one or more Letters of Credit in favour of the beneficiary as specified by the Borrower in its Notice of Borrowing.
- (b) Time for Honour. No Letter of Credit shall require payment against a conforming draft to be made thereunder on the same Banking Day upon which such draft is presented, if such presentation is made after 11:00 a.m. (Toronto time) on such Banking Day.
- (c) Text. Prior to the issue date, the Borrower shall specify a precise description of the documents and the verbatim text of any certificate to be presented by the beneficiary prior to payment under the Letter of Credit. The Issuing Bank may require changes in any such documents or certificate, acting reasonably.
- (d) Conformity. In determining whether to pay under a Letter of Credit, the Issuing Bank shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit.

#### 10.7 Payment of Amounts Drawn Under Letters of Credit.

In the event of any request for a drawing under any Letter of Credit, the Issuing Bank may notify the Borrower (with a copy of the notice to the Agent) on or before the date on which it intends to honour such drawing. The Borrower (whether or not such notice is given) shall



reimburse the Issuing Bank on demand by the Issuing Bank, in the relevant currency, an amount, in same day funds, equal to the amount of such drawing.

Unless the Borrower notifies the Issuing Bank and the Agent, prior to 1:00 p.m. (Toronto time) on the second Banking Day following receipt by the Borrower of the notice from the Issuing Bank referred to in the preceding paragraph, that the Borrower intends to reimburse the Issuing Bank for the amount of such drawing with funds other than the proceeds of Advances:

- (a) the Borrower shall be deemed to have given a Notice of Borrowing to the Agent or the Operating Lender in the case of Operating Letters of Credit, as applicable, requesting the applicable LC Lenders or the Operating Lender in the case of Operating Letters of Credit to make a Canadian Prime Rate Loan on the third Banking Day following the date on which such notice is provided by the Issuing Bank to the Borrower in an amount equal to the amount of such drawing; and
- (b) in the case of a Fronted Letter of Credit or a POA Letter of Credit and subject to the terms and conditions of this Agreement (including those set forth in Article 6), the applicable LC Lenders shall, on the next Banking Day following the date of such drawing, make such Advance in accordance with Article 3 and the Agent shall apply the proceeds thereof to the reimbursement of the Issuing Bank for the amount of such drawing.

#### 10.8 Fees.

- (a) Issue Fee. The Borrower shall, on the third Banking Day following the end of each Fiscal Quarter and on the maturity date of the Letter of Credit, pay in arrears to the Agent, or the Operating Lender in the case of Operating Letters of Credit, in relation to each such Letter of Credit for the account of the applicable LC Lenders, or the Operating Lender in the case of Operating Letters of Credit, a fee in respect of each Letter of Credit outstanding during any portion of such Fiscal Quarter equal to the issuance fee specified in Section 3.8(a), such fee to be payable in the currency of issue and determined for a period equal to the number of days during such Fiscal Quarter that each such Letter of Credit was outstanding.
- (b) Fronting Fee. In addition, the Borrower shall, on the third Banking Day following the end of each Fiscal Quarter and on the maturity date of the applicable Fronted Letter of Credit, pay in arrears to the Agent for the account of the applicable Issuing Bank a fronting fee in respect of each Fronted Letter of Credit issued by the applicable Issuing Bank and outstanding during any portion of such Fiscal Quarter equal to 20.0 basis points per annum multiplied by an amount equal to the undrawn portion of the face amount of each such Fronted Letter of Credit, such fee to be determined for a period equal to the number of days during such Fiscal Quarter that each Fronted Letter of Credit was outstanding.
- (c) Administrative Fee. The Borrower shall pay to the applicable Issuing Bank, upon the issuance of a Letter of Credit, amendment or transfer of each Letter of Credit,

the applicable Issuing Bank's standard documentary and administrative charges for issuing, amending or transferring standby or commercial letters of credit or letters of guarantee of a similar amount, term and risk.

#### **10.9 Obligations Absolute.**

The obligation of the Borrower to reimburse the applicable Issuing Bank for drawings made under any Letter of Credit shall be unconditional and irrevocable and shall be fulfilled strictly in accordance with the terms of this Agreement under all circumstances, including:

- (a) any lack of validity or enforceability of any Letter of Credit;
- (b) the existence of any claim, set-off, defence or other right which the Borrower may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), the applicable Issuing Bank, any Lender or any other Person, whether in connection with this Agreement, the Loan Documents, the transactions contemplated herein and therein or any unrelated transaction (including any underlying transaction between the Borrower and the beneficiary of such Letter of Credit);
- (c) any draft, demand, certificate or other document presented under any Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect;
- (d) payment by the applicable Issuing Bank under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit (provided that such payment does not breach the standards of reasonable care specified in the Uniform Customs or disentitle the applicable Issuing Bank to reimbursement under ISP98, in each case as stated on its face to be applicable to the respective Letter of Credit); or
- (e) the fact that a Default or an Event of Default shall have occurred and be continuing.

#### **10.10 Indemnification; Nature of Lenders' Duties.**

- (a) Indemnity. In addition to amounts payable as elsewhere provided in this Article 10, the Borrower hereby agrees to protect, indemnify, pay and save each Issuing Bank and each LC Lender and their respective directors, officers, employees, agents and representatives harmless from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including legal fees and expenses) which the indemnitee may incur or be subject to as a consequence, direct or indirect, of:
  - (i) the issuance of any Letter of Credit, other than as a result of the breach of the standards of reasonable care specified in the Uniform Customs or where the applicable Issuing Bank would not be entitled to the foregoing

indemnification under ISP98, in each case as stated on its face to be applicable to such Letter of Credit; or

(ii) the failure of the indemnitee to honour a drawing under any Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future *de jure* or *de facto* Administrative Body, (all such acts or omissions called in this Section 10.10, "Governmental Acts").

(b) Risk. As between the Borrower, on the one hand, and the Issuing Banks and the LC Lenders, on the other hand, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued hereunder by, the respective beneficiaries of such Letters of Credit and, without limitation of the foregoing, neither the Issuing Bank nor any LC Lender shall be responsible for:

(i) the form, validity, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, inaccurate, fraudulent or forged;

(ii) the invalidity or insufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason;

(iii) errors, omissions, interruptions or delays in transmission or delivery of any messages, by fax, electronic transmission, mail, cable telegraph, telex or otherwise, whether or not they are in cipher;

(iv) errors in interpretation of technical terms;

(v) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof;

(vi) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; and

(vii) any consequences arising from causes beyond the control of any Lender, including any Governmental Acts.

None of the above shall affect, impair or prevent the vesting of any of the LC Lenders' rights or powers hereunder. No action taken or omitted by any LC Lender under or in connection with any Letter of Credit issued by it or the related certificates, if taken or omitted in good faith, shall put any LC Lender under any resulting liability to the Borrower (provided that the Issuing Bank acts in accordance with the standards of reasonable care specified in the Uniform Customs and otherwise as may be required under ISP98, in each case as stated on its face to be applicable to the respective Letter of Credit).

#### 10.11 Default, Maturity, etc.

Upon the earlier of the maturity date of the Letter of Credit and the Agent declaring the Obligations to be due and payable pursuant to Section 16.2, and notwithstanding the expiration date of any outstanding Letters of Credit, an amount equal to the face amount of all outstanding Letters of Credit, and all accrued and unpaid fees owing by the Borrower in respect of the issuance of such Letters of Credit pursuant to Section 10.8, if any, shall thereupon forthwith become due and payable by the Borrower to the Agent for the benefit of the applicable LC Lenders, or the Operating Lender in the case of Operating Letters of Credit, and, except for any amount payable in respect of unpaid fees as aforesaid, such amount shall be held in a trust account kept by the Agent and applied against amounts payable under such Letters of Credit in respect of any drawing thereunder. Notwithstanding the foregoing, the LC Lenders, or the Operating Lender in the case of Operating Letters of Credit, having at such time outstanding Letters of Credit, shall have the option, but not the obligation, subject to availability, to cause a Drawdown by way of a Canadian Prime Rate Loan or a U.S. Base Rate Loan, having regard to the applicable currency, under the applicable Credit Facility, in an amount not to exceed the amount which has become due and payable under the applicable Letter of Credit, to be held in a trust account kept by the Agent and applied against amounts payable under such Letters of Credit in respect of any drawing thereunder.

#### 10.12 Escrowed Funds.

If any Letter of Credit is outstanding on the Termination Date, at any time that an Event of Default occurs, a demand for repayment is made hereunder, or a domestic or foreign court issues any judgment or order restricting or prohibiting payment by the applicable Issuing Bank under such Letter of Credit or extending the liability of the LC Lenders or the Operating Lender in the case of Operating Letters of Credit to make payment under such Letter of Credit beyond the expiry date specified therein, the Borrower will forthwith upon demand by the applicable Issuing Bank deposit into a cash collateral account maintained by and in the name of the applicable Issuing Bank funds in the applicable currency in the amount of the Advance constituted by such Letter of Credit and such funds (together with interest thereon) will be held by the applicable Issuing Bank for payment of the liability of the Borrower pursuant to this Article 10 or otherwise in respect of such Letter of Credit so long as the LC Lenders, or the Operating Lender in the case of Operating Letters of Credit, have or may in any circumstance have any liability under such Letter of Credit, and, pending such payment, shall bear interest at the applicable Issuing Bank's then prevailing rate in respect of deposits of similar amounts and of similar periods of time. Any balance of such funds and interest remaining at such time as the LC Lenders or the Operating Lender, as applicable, do not have and may never have any liability under such Letter of Credit will nevertheless continue to be held by the applicable Issuing Bank, if and so long as any Default or Event of Default is continuing or after a demand for repayment is made or both, as security for the remaining liabilities of the Borrower hereunder. The Agent shall have exclusive control over all amounts at any time on deposit in such cash collateral account. The deposit of such funds by the Borrower with an LC Lender or the Operating Lender, as applicable, as herein provided will not operate as a repayment of the Aggregate Principal Amount until such time as such funds are actually paid to the relevant LC Lender or the Operating Lender, as applicable, as a principal repayment.

### 10.13 Records.

The Agent and, in the case of a Fronted Letter of Credit, the applicable Issuing Bank, and in the case of Operating Letters of Credit, the Operating Lender, shall maintain records showing the undrawn and unexpired amount of each Letter of Credit outstanding hereunder and each Lender's share of such amount and showing for each Letter of Credit issued hereunder:

- (a) the dates issuance and expiration thereof;
- (b) the amount thereof; and
- (c) the date and amount of all payments made thereunder.

The Agent and, in the case of Fronted Letters of Credit, the applicable Issuing Bank, and in the case of Operating Letters of Credit, the Operating Lender, shall make copies of such records available to the Borrower or any Lender upon its request.

### 10.14 Certain Notices to the Agent with Respect to Letters of Credit.

- (a) Each Notice of Borrowing in respect of a Letter of Credit shall be delivered in accordance with Section 5.2(b) and, in the case of a Fronted Letter of Credit or an Operating Letter of Credit, shall specify the Issuing Bank.
- (b) If the Agent receives a Notice of Borrowing requesting the issuance of a Fronted Letter of Credit, the Agent shall forthwith forward such Notice of Borrowing to the applicable Issuing Bank.
- (c) Each Issuing Bank (if other than the Agent) shall forthwith advise the Agent of any payment under, or cancellation of (whether full or partial), any Fronted Letter of Credit issued by such Issuing Bank pursuant hereto.

## ARTICLE 11 INCREASED COSTS

### 11.1 Changes in Law.

- (a) If, after the date hereof, due to either:
  - (i) the introduction of, or any change in, or in the interpretation of any Law, whether having the force of law or not, resulting in the imposition or increase of reserves, deposits or similar requirements by any central bank or Administrative Body charged with the administration thereof; or
  - (ii) the compliance with any guideline or request from any central bank or other Administrative Body which a Lender, acting reasonably, determines that it is required to comply with,

there will be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining an Accommodation or there will be any reduction in the effective return to such Lender thereunder, then, subject to Section 11.1(b), the Borrower will, within 10 Banking Days after being notified by such Lender of such event, pay to such Lender, quarterly in arrears, that amount (the “**Additional Compensation**”) which such Lender, acting reasonably, determines will compensate it, after taking into account all applicable Taxes (other than Excluded Taxes) and all interest and other amounts received, for any such increased costs or reduced returns incurred or suffered by such Lender.

- (b) If Additional Compensation is payable pursuant to Section 11.1(a), the Borrower will have the option to convert the Accommodation to another type of Accommodation, in accordance with this Agreement, in respect of which no further such Additional Compensation will be payable, or prepay any amount of the applicable Credit Facility owed to the Lender entitled to receive the Additional Compensation, subject always to Section 8.2 without obligation to make a corresponding prepayment to any other Lender. If the Additional Compensation relates to outstanding Bankers’ Acceptances under the applicable Credit Facility, such Lender may require the Borrower to deposit in an interest bearing cash collateral account with such Lender such amount as may be necessary to fully satisfy the contingent obligations of such Lender for all outstanding Bankers’ Acceptances in accordance with the arrangements similar to those set out in Section 9.5.
- (c) Notwithstanding anything contained in this Section 11.1, the *Dodd-Frank Wall Street Reform and Consumer Protection Act (United States)* and all requests, rules, regulations, guidelines and directives thereunder or issued in connection therewith and all requests, rules, regulations, guidelines and directives concerning capital adequacy promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority or any United States, Canadian or foreign regulatory authority) (collectively, the “**New Rules**”) shall, in each case, be deemed a “change in Law” under Section 11.1(a)(i) regardless of the date enacted, adopted or issued but only to the extent (i) applicable to a Lender claiming Additional Compensation, (ii) materially different from that in effect on the date hereof, and (iii) such New Rules have general application to substantially all banks and their affiliates within the jurisdiction in which such Lender operates.

## 11.2 Changes in Circumstances.

Notwithstanding anything to the contrary herein or in any of the other Loan Documents contained, if on any date a Lender determines in good faith, which determination will be conclusive and binding on the Parties, and provided notice is given to the Agent and the other Lenders and to the Borrower that its ability to maintain, or continue to offer any Accommodation has become unlawful or impossible due to:

- (a) any change in applicable Law, or in the interpretation or administration thereof by authorities having jurisdiction in the matter; or
- (b) any material adverse change in or the termination of the London Interbank Eurodollar Market for Eurodollars; or
- (c) the imposition of any condition, restriction or limitation upon such Lender which is outside of its control,

then in any such case, the Borrower will forthwith repay to such Lender all principal amounts affected thereby, together with all unpaid interest accrued thereon to the date of repayment and all other expenses incurred in connection with the termination of any such Accommodation, including any expenses resulting from the early termination of any LIBOR Period relating thereto in accordance with Section 8.2, without any obligation to make a corresponding prepayment to any other Lender. The Borrower may utilize other forms of Accommodations not so affected in order to make any required repayment and after any such repayment, the Borrower may elect to re-borrow the amount repaid by way of some other Accommodation upon complying with applicable requirements thereof.

### **11.3 Application of Sections 11.1 and 11.2.**

If a Lender exercises its discretion under either Section 11.1 or 11.2, then concurrently with a notice from such Lender to the Lenders and the Borrower requiring compliance with the applicable Section, such Lender will provide the Borrower (with a copy to the Agent and the other Lenders) with a certificate in reasonable detail outlining the particulars giving rise to such notice, confirming that its actions are consistent with actions concurrently taken by such Lender with respect to similar type provisions affecting other borrowers of such Lender in comparable circumstances and certifying (with reasonable supporting detail) the increased costs, if any, payable by the Borrower thereunder, which will be *prima facie* evidence thereof and binding on the Parties.

### **11.4 Limitations on Additional Compensation.**

Section 11.1 and 11.2 will not apply to a Lender with respect to any event, circumstance or change of the nature and kind of which such Lender had actual knowledge on the Closing Date. A Lender will not be entitled to Additional Compensation to the extent such increase in costs or reduction in return is reflected in or recovered by an increase in the interest or other amounts payable hereunder (other than pursuant to Section 11.1) or relates to any period which is more than 90 days prior to such Lender becoming aware such Additional Compensation was owing or if the Lender is not generally collecting amounts which are the equivalent to Additional Compensation from other borrowers in similar circumstances to the Borrower where it is contractually entitled to do so.

### **11.5 Taxes.**

- (a) Withholding. The Borrower agrees that any and all payments by the Borrower to or for the benefit of the Agent and the Lenders under this Agreement shall be, except as required by law or expressly provided in this Section 11.5(a), free and

clear of and without set-off, counterclaim, reduction or deduction for any and all present or future Taxes other than Excluded Taxes. If the Borrower shall be required to deduct or withhold any Taxes (other than Excluded Taxes) from or in respect of any sum payable hereunder to the Agent or any Lender:

- (i) the sum payable shall be increased as may be necessary so that, after making all required deductions or withholdings (including deductions applicable to additional sums payable under this Section 11.5(a)), the Agent or such Lender has received an amount equal to the sum it would have received had no such deductions or withholdings been made;
- (ii) the Borrower shall make such deductions or withholdings; and
- (iii) the Borrower shall pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law and shall provide the Agent with official receipts or other documentation evidencing such payment within a reasonable period of time from receipt by it of such receipts or other documentation.

If the Borrower is required by law to withhold, deduct or otherwise reduce or set-off amounts from any payments hereunder, but the Borrower is not required to make a corresponding increase in the sum payable pursuant to clause (i) above, the Borrower shall notify the Agent in writing of the amount it has withheld, or intends to withhold, from any payment hereunder in respect of such legal requirement or, if the Agent and the Borrower so agree, the Agent may make or confirm such calculations as may be requisite to determine the amount of the required withholding and notify the Borrower thereof in writing. Provided that the amount stated by the Borrower in any such notice given by it was determined by the Borrower in good faith, the Borrower shall not be considered to be in default hereunder, or to have failed to make any required payment hereunder, for any purpose if the Borrower withholds from any such payment the amount set forth in any such notice.

- (b) FATCA: If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA or Canadian equivalent legislation, regulations or other guidance if such Lender were to fail to comply with the applicable reporting requirements of FATCA or Canadian equivalent legislation, regulations or other guidance (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable, or the *Income Tax Act* (Canada)), such Lender shall deliver to the Borrower and/or the Agent (as applicable) at the time or times prescribed by applicable laws and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable laws (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA or Canadian equivalent legislation, regulations or other guidance and to determine that such Lender has



complied with such Lender's obligations under FATCA or Canadian equivalent legislation, regulations or other guidance (or is exempt from withholding thereunder) or to determine the amount to deduct and withhold from such payment. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

- (c) Refunds. If any Taxes (other than Excluded Taxes) are imposed on or with respect to any payment on or under this Agreement, in consequence of which the Borrower is required to make any additional payment to the Agent or any Lender under Section 11.5(a)(i), and if the Agent or such Lender is entitled to a cash refund or to a credit which is applied against Taxes otherwise payable in the applicable taxation year of the Agent or such Lender and in either case which is both identifiable and quantifiable by the Agent or such Lender as being attributable to the imposition of such Taxes (a "**Tax Refund**"), and such Tax Refund may be obtained without increased liability to the Agent or such Lender by filing one or more forms, certificates, documents, applications or returns (collectively, the "**Forms**"), then the Agent or such Lender shall within a reasonable time after receiving a written request from the Borrower (which request shall specify in reasonable detail the Forms to be filed and explain the actions necessary to obtain such Tax Refund), file such Forms. If the Agent or such Lender subsequently receives a Tax Refund, and the Agent or such Lender is able to identify the Tax Refund as being attributable, in whole or in part, to the Tax with respect to which such additional payment was made, then the Agent or such Lender shall reimburse the Borrower such amount as the Agent or such Lender shall determine acting in good faith to be the proportion of the Tax Refund, together with any interest received thereon, attributable to such additional payment as will leave the Agent or such Lender after the reimbursement in the same position as it would have been if the additional payment had not been required; provided that, if any Tax Refund reimbursed by the Agent or a Lender to the Borrower is subsequently disallowed, the Borrower shall repay the Agent or such Lender such amount (together with interest and any applicable penalty payable by the Agent or such Lender to the relevant taxing authority) promptly after receipt of notice by the Agent or such Lender of such disallowance. The Borrower agrees to reimburse the Agent or such Lender for the reasonable out-of-pocket expenses of the Agent or such Lender, if any, incurred in complying with any request hereunder and agrees that all costs incurred by the Agent or such Lender in respect of this Section 11.5(c) may be deducted from the amount of any reimbursement to the Borrower in respect of any Tax Refund pursuant to this Section 11.5(c).
- (d) Cooperation. In the event that the Borrower makes any indemnification payment to the Agent or a Lender under Section 11.5 and in the event the Agent or such Lender determines in its good faith judgment that it is not liable for the Taxes for which such indemnification payment was made, the Agent or such Lender agrees to use reasonable efforts to cooperate with the Borrower in contesting the liability

for such Taxes; provided that, the Borrower shall reimburse the Agent or such Lender for any reasonable out-of-pocket costs and expenses incurred in providing such cooperation and shall indemnify and hold the Agent or such Lender harmless from and against any liabilities incurred as a result of the Agent or such Lender providing such cooperation or contesting such liability, and provided further that no such cooperation shall be required if such contest shall in the good faith judgment of the Agent or such Lender subject it to any liability not covered by such indemnity.

## ARTICLE 12 REPRESENTATIONS AND WARRANTIES OF THE BORROWER

### 12.1 Representations and Warranties.

The Borrower hereby represents and warrants to the Lenders that:

- (a) Formation, Organization and Power. Each Loan Party has been duly created, and is validly existing under the Law of its jurisdiction of its creation, and is duly registered to carry on business in each jurisdiction in which the nature of any material business carried on by it or the character of any material property owned or leased by it makes such registration necessary, except for jurisdictions where the failure to be so registered would not reasonably be expected to have a Material Adverse Effect, and the Borrower and each other Loan Party has full power and capacity to enter into and perform its obligations under the Loan Documents to which it is a party, and to carry on its business as currently conducted.
- (b) Authorization and Status of Agreements. Each Loan Document to which any Loan Party is a party delivered pursuant hereto has been duly authorized, executed and delivered by it and does not conflict with or contravene or constitute a default or create a Lien, other than a Lien which is a Permitted Encumbrance, under:
  - (i) its constating documents, by-laws, any resolution of the Directors or partners or any shareholders' or partnership agreement in respect thereof;
  - (ii) any agreement or document to which it is a party or by which any of its property is bound; or
  - (iii) any applicable Law,in the case of (ii) above, where such conflict, contravention, default or creation of Lien would reasonably be expected to have a Material Adverse Effect.
- (c) Enforceability. Each of the Loan Documents constitutes a valid and binding obligation of each Loan Party that is a party thereto, and is enforceable against such Loan Party in accordance with the terms thereof, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency,

reorganization, or similar statutes affecting the enforcement of creditors' rights generally and by general principles of equity.

(d) Litigation. There are no actions, suits or proceedings at Law or before or by any Administrative Body existing or pending, or to the best of the Borrower's knowledge threatened, to which any Loan Party is, or to the Borrower's knowledge is threatened to be made, a party and the result of which would, if successful against it, reasonably be expected to have a Material Adverse Effect.

(e) Environmental Law. Each Loan Party: (i) has obtained all permits, licenses and other authorizations which are required under Environmental Law; and (ii) is in compliance with Environmental Law and with the terms and conditions of all such permits, licenses and authorizations, except, in all cases, to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.

(f) Environmental Condition of Property. The property or any part thereof owned, operated or controlled by each Loan Party, either directly or indirectly:

(i) is not, to the best of the knowledge of the Borrower, the subject of any outstanding claim, charge or order from an Administrative Body alleging violation of Environmental Law or, if subject to any such claim, charge or order, the applicable Loan Party is taking all such remedial, corrective or other action required under the claim, charge or order or such claim, charge or order is being contested by a Permitted Contest; and

(ii) complies in all respects with respect to each of its use and operation, with Environmental Law and with the terms and conditions of all permits, licenses and other authorizations which are required to be obtained under applicable Environmental Law,

except to the extent that the failure to do so would not be reasonably expected to have a Material Adverse Effect.

(g) Title to Properties. Each Loan Party has good and valid title to its property, subject only to Permitted Encumbrances and to minor defects of title which in the aggregate would not have or reasonably be expected to have a Material Adverse Effect. Each Loan Party is entitled to charge or pledge its interests in its property in favour of the Agent and the Lenders as provided in this Agreement without the need to obtain any consent of or release from any other Person which has not been obtained and such property is not held in trust by any Loan Party for any Person other than a Loan Party.

(h) Financial Condition - Borrower. The most recent audited consolidated financial statements of the Borrower heretofore or contemporaneously delivered to the Agent and the Lenders were prepared in accordance with GAAP and such financial statements present fairly in all material respects the Borrower's consolidated financial position as at the date thereof. Since the date of such financial statements, there has been no occurrence of any event or circumstance

which would reasonably be expected to have a Material Adverse Effect, other than as previously publicly disclosed or disclosed in writing to the Lenders.

- (i) Information. All factual information heretofore or contemporaneously furnished by or on behalf of any Loan Party to the Agent or the Lenders in connection with the Loan Parties, the Borrowing Base Properties or the Credit Facility (and in the case of third parties, to the knowledge of the Borrower) was true and accurate in all material respects at the time given and the Borrower is not aware of any omission of any material fact which renders such factual information incomplete or misleading in any material way at the time given.
- (j) No Breach of Orders, Licences or Statutes. No Loan Party is in breach of:
  - (i) any order, approval or mandatory requirement or directive of any Administrative Body;
  - (ii) any governmental licence or permit; or
  - (iii) any applicable Law,the breach of which would reasonably be expected to have a Material Adverse Effect.
- (k) Pension. Each Loan Party has in all respects complied with the contractual provisions and applicable Law relating to each Pension Plan to which they are a party or are otherwise bound, if any, except to the extent failure to comply would not reasonably be expected to have a Material Adverse Effect, all amounts due and owing under any such Pension Plan have been paid in full, and, to the best of the knowledge of the Borrower, no deficiency exists (whether or not waived) under any such Pension Plan that could reasonably be expected to have a Material Adverse Effect.
- (l) No Default. No Default or Event of Default has occurred and is continuing.
- (m) Insurance. Each Loan Party has in full force and effect such policies of insurance in such amounts issued by such insurers of recognized standing covering the property of the Loan Parties as required by Section 13.1(k).
- (n) Approvals. All regulatory and other approvals, consents, permits and licenses necessary for each Loan Party to carry on its business, as currently carried on, and all approvals, consents, permits and licenses necessary for each Loan Party to enter into the Loan Documents to which it is a party and perform its obligations thereunder have, in each case, been obtained and are in good standing except to the extent that failure to so obtain would not be reasonably expected to have a Material Adverse Effect.
- (o) Payment of Taxes. Each Loan Party has filed all tax returns which are required to be filed and have paid all Taxes (including interest and penalties) which are due

and payable, unless such payment is subject to a Permitted Contest, except, in either case, to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.

- (p) Remittances. All of the remittances required to be made by each Loan Party to the applicable federal, provincial or municipal governments have been made, are currently up to date and there are no outstanding arrears, except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (q) Subsidiaries. As at the date hereof, the Borrower has no Subsidiaries other than as set out in Schedule H and the jurisdictions of formation, the location of their respective businesses and assets, the trade names of each, if any, used in such locations as set forth in Schedule H. As at the date hereof, the legal and beneficial owners of the issued and outstanding Voting Securities of each Loan Party and its Subsidiaries are as set out in Schedule H.
- (r) Liens. No Loan Party has any Liens on its property, other than Permitted Encumbrances.
- (s) Material Adverse Effect. Since the date of the most recently audited financial statements provided to the Agent pursuant hereto, there have been no events, circumstances, developments or other changes in facts that would, in the aggregate, have a Material Adverse Effect.
- (t) Non-Residents. None of the Loan Parties is a non-resident of Canada as defined by the *Income Tax Act* (Canada).
- (u) Anti-Terrorism Laws; Anti-Money Laundering Laws:
  - (i) No part of the proceeds of any Advance will knowingly be used 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 the Borrower, any of its Subsidiaries, any Lender or the Agent of (A) any Sanctions or (B) any applicable regulations, rules or executive orders administered by any Sanctions Authority, where such funding, financing or payment would reasonably be expected to have a material and adverse effect on the Lenders or the Agent, or a Material Adverse Effect.
  - (ii) Neither the Borrower nor any of its Subsidiaries is a Sanctioned Person.
  - (iii) Neither the Borrower nor any of its Subsidiaries knowingly engages in any dealings or transactions with, or is otherwise knowingly associated with, a Sanctioned Person that would result in any violation of (A) any Sanctions or (B) any applicable regulations, rules or executive orders administered by any Sanctions Authority, where such violation would reasonably be expected to have a material and adverse effect on the Lenders or the Agent, or a Material Adverse Effect.

- (iv) The Borrower and its Subsidiaries are in compliance in all respects with all laws relating to money laundering or terrorist financing, including, without limitation, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*; the *Bank Secrecy Act*, 31 U.S.C. sections 5301 et seq.; the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, Pub. L. 107-56 (a/k/a the U.S.A Patriot Act); *Laundering of Monetary Instruments*, 18 U.S.C. section 1956; *Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity*, 18 U.S.C. section 1957; the *Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations*, 31 C.F.R. Chapter X (Parts 1000 et. seq.); and any similar laws or regulations currently in force or hereafter enacted, in each case, to the extent that such laws apply to the Borrower, any of its Subsidiaries, any Lender or the Agent, and in each case except to the extent non-compliance would not reasonably be expected to have a material and adverse effect on the Lenders or the Agent, or a Material Adverse Effect.
- (v) To the Borrower's knowledge, neither the Borrower nor any of its Subsidiaries, is the subject of any investigation, inquiry or enforcement proceedings by any governmental authority regarding any offense or alleged offense under any anti-corruption, anti-terrorism or anti-money laundering laws in which there is a reasonable possibility of a material and adverse decision which would reasonably be expected to have a Material Adverse Effect or affect the legality, validity or enforceability of the Loan Documents, and, to the Borrower's knowledge, no such investigation, inquiry or proceeding is pending or has been threatened.
- (vi) The Borrower and each of its Subsidiaries has conducted its business in compliance in all respects with all applicable anti-corruption laws, including without limitation the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*, the UK Bribery Act and the FCPA, in each case to the extent that such laws apply to the Borrower, any of its Subsidiaries, any Lender or the Agent, and in each case except to the extent non-compliance would not reasonably be expected to have a material and adverse effect on the Lenders or the Agent, or a Material Adverse Effect.
- (vii) No part of the proceeds of any Advance has been used or will be used, directly or, to the Borrower's knowledge, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in a governmental capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA, the UK Bribery Act, or any similar law or regulation to which the Borrower, its Subsidiaries, any Lender or the Agent is subject, in each case to the extent

that such law applies to the Borrower, its Subsidiaries, any Lender or the Agent.

For the purposes of this Section 12.1(u), the terms “knowledge” or “knowingly” shall mean and be limited to the actual knowledge of any one or more of the senior officers of the Borrower and without personal liability for any such knowledge.

### **12.2 Acknowledgement.**

The Borrower acknowledges that the Agent and the Lenders are relying upon the representations and warranties in this Article 12 in making the Credit Facility available to the Borrower and that the representations and warranties contained in Section 12.1, except for any representation and warranty made solely at the date hereof, will be deemed to be restated in every respect effective on the date each and every Advance is made except for Advances which are Rollovers or Conversions in which case only Section 12.1(l) will be deemed to be restated.

### **12.3 Survival and Inclusion.**

The representations and warranties in this Article 12 shall survive until this Agreement has been terminated. All statements, representations and warranties contained in any Compliance Certificate and in the other Loan Documents or in any instruments delivered by or on behalf of any Loan Party pursuant to this Agreement or the other Loan Documents shall constitute statements, representations and warranties made by the Borrower to the Agent and the Lenders under this Agreement.

## **ARTICLE 13 COVENANTS OF THE BORROWER**

### **13.1 Affirmative Covenants.**

While any Obligations under the Credit Facilities are outstanding or any Accommodation under the Credit Facilities remains available:

- (a) Punctual Payment. The Borrower will pay or cause to be paid all Obligations and other amounts payable under the Loan Documents punctually when due.
- (b) Use of Credit Facilities. The Borrower will use the Credit Facilities only in accordance with Section 3.6.
- (c) Legal Existence. Except as permitted by Article 15, the Borrower will do or will cause to be done all things necessary to preserve and keep in full force and effect each Loan Party's existence in good standing under the Law of its jurisdiction of creation.
- (d) Status. The Borrower will, while any Convertible Bonds are outstanding, maintain its status as an issuer in good standing with all applicable regulatory bodies to

permit it at all times to issue common shares in satisfaction of all payment obligations arising in relation to the Convertible Bonds.

- (e) Wholly-Owned Status. Each Loan Party, other than the Borrower, will be direct or indirect wholly-owned Subsidiaries of the Borrower.
- (f) Material Adverse Claims. The Borrower will, and will cause each other Loan Party to, except for Permitted Encumbrances, do all things necessary to defend, protect and maintain its property and the Security (and the priority thereof) from all material adverse claims where the failure to do so in the opinion of the Lenders, acting reasonably, threatens the intended priority or validity of the Security as herein provided, or could reasonably be expected to have a Material Adverse Effect.
- (g) Maintain Title to Properties. The Borrower will, and will cause each other Loan Party to, maintain good and valid title to its property, subject only to Permitted Dispositions, Permitted Encumbrances and to minor defects of title which in the aggregate do not affect their rights of ownership therein or the value thereof in any material way.
- (h) Operation of Properties. The Borrower will, and will cause each other Loan Party to, operate its respective property, or, if it is not the operator, use reasonable efforts to ensure that such property is operated, in accordance with sound industry practice and in accordance in all respects with applicable Law, except to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (i) Performance of Agreements. The Borrower will, and will cause each other Loan Party to, perform its obligations under the Loan Documents and all other agreements relating to its properties, including payment of rentals, royalties, Taxes or other charges in respect thereof which are necessary to maintain all such agreements in good standing in all respects, except to the extent failure to so perform would not reasonably be expected to have a Material Adverse Effect, provided that this covenant will not restrict any right to surrender leases or terminate agreements which are uneconomic to maintain.
- (j) Comply with Law and Maintain Permits. The Borrower will, and will cause each other Loan Party to, comply with applicable Laws, including Environmental Laws, and obtain and maintain all permits, licenses, consents and approvals necessary to the ownership of their property and to the conduct of their business in each jurisdiction where it carries on material business or owns material property, including those issued or granted by Administrative Bodies, except to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (k) Insurance. The Borrower will, and will cause each other Loan Party to, maintain adequate insurance in respect of its material property, including all wellhead



equipment and other plant and equipment, as is customary in the case of businesses of established reputation engaged in the same or similar businesses and to the extent available on commercially reasonable terms, and will provide the Agent with copies of all insurance policies relating thereto if so requested. At the Agent's request, all such insurance policies will contain a loss payable clause and mortgage clause in favour of the Agent.

- (l) Subsidiary Guarantees and Security. Within 10 Banking Days of a Subsidiary becoming a Restricted Subsidiary, the Borrower will cause such Subsidiary to provide a guarantee and the other Security listed in Section 4.1, in form and substance acceptable to the Agent, acting reasonably, together with such other supporting documentation and legal opinions as the Agent may reasonably require.
- (m) Inspection of Property; Books and Records; Discussions. The Borrower will, and will cause each other Loan Party to, maintain books and records of account in accordance with GAAP and applicable Law; and permit representatives of the Agent at the Agent's expense no more than once a year while no Default, Event of Default or Borrowing Base Shortfall exists and at any time at the Borrower's expense while a Default, Event of Default or Borrowing Base Shortfall exists to visit and inspect any property of any of the Borrower or any Subsidiary and to examine and make abstracts from any books and records of the Borrower or any Subsidiary at any reasonable time during normal business hours and upon reasonable request and notice, and subject to the Borrower's health and safety requirements, and to discuss the business, property, condition (financial or otherwise) and prospects of the Borrower or any other Loan Party with their senior officers and (in the presence of such representatives, if any, as it may designate) with its independent chartered accountants.
- (n) Payment of Taxes. The Borrower will, and will cause each other Loan Party to, duly file on a timely basis all Tax returns required to be filed by them, and duly and punctually pay all Taxes and other governmental charges levied or assessed against them or their property, except, in either case: (i) to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect; or (ii) to the extent such Taxes or charges are being contested by a Permitted Contest.
- (o) Remittances. The Borrower will, and will cause each other Loan Party to, make all of the remittances required to be made by each Loan Party to the applicable federal, provincial or municipal governments and keep such remittances up to date, except: (i) to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect; or (ii) to the extent such remittances are being contested by a Permitted Contest.
- (p) Ownership of Assets. The Borrower will ensure at all times that the Borrower and the Restricted Subsidiaries own not less than 85% of the Consolidated Tangible Assets.

- (q) Protection of Security. The Borrower will, and will cause each other Loan Party that provides Security to the extent required hereunder to, do all things reasonably requested by the Agent to protect and maintain the Security and the priority thereof in relation to other Persons.
- (r) Pension Plans. The Borrower shall and shall cause each of the other Loan Parties to:
  - (i) comply with all federal, provincial, state and local laws, statutes and regulations relating to each Pension Plan to which it is a party or otherwise bound, if any, except to the extent any failure to do so would not reasonably be expected to have a Material Adverse Effect; and
  - (ii) pay all amounts due and owing under any such Pension Plan in full, except to the extent any failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (s) Anti-Terrorism Laws; Anti-Money Laundering Laws; Anti-Corruption Laws Representations Continue to be True. The Borrower shall, and shall cause each of its Subsidiaries to, conduct its business operations such that the representations and warranties in Section 12.1(u) are true and correct at all times that this Agreement is in effect (and not just at, and as of, the times such representations and warranties are made or deemed to be made).

### 13.2 Reporting Covenants.

While any Obligations under the Credit Facilities are outstanding or any Accommodation under the Credit Facilities remains available:

- (a) Additional Environmental Information. The Borrower will upon the request of the Agent, acting reasonably, make available for discussion with the Agent or its nominee at all reasonable times the individuals who were involved in the preparation of any Environmental Certificate.
- (b) Financial Statements. The Borrower will furnish to the Agent (in sufficient copies for each of the Lenders) a copy of: (i) the Borrower's quarterly unaudited consolidated financial statements on or prior to 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year; and (ii) the Borrower's annual audited consolidated financial statements on or prior to 90 days after the end of each Fiscal Year.
- (c) Quarterly Compliance Certificate and Environmental Certificate. Within: (i) the time period set forth in Section 13.2(b)(i) for each of the first three Fiscal Quarters of each Fiscal Year; and (ii) 90 days after the end of each Fiscal Year, the Borrower will furnish to the Agent (in sufficient copies for each of the Lenders) a Compliance Certificate and an Environmental Certificate.

- (d) Projections. As soon as available and in any event not later than 100 days after the end of each Fiscal Year, a copy of forecasts prepared by management of the Borrower in respect of its business operations on a consolidated basis and a statement of all of the material assumptions on which such forecasts are based.
- (e) Notice of Default or Event of Default. The Borrower will notify the Agent of the occurrence of any Default or Event of Default as soon as reasonably possible upon the Borrower becoming aware thereof and specify in such notice the nature of the event and the steps taken or proposed to be taken to remedy or eliminate the same.
- (f) Notice of Material Adverse Effect. The Borrower will notify the Agent of the occurrence of any Material Adverse Effect as soon as reasonably possible upon the Borrower becoming aware thereof.
- (g) Notice of Legal Proceedings. The Borrower will, as soon as reasonably possible upon the Borrower becoming aware thereof, notify the Agent of the commencement of any legal or administrative proceedings or any insurance claims against any Loan Party which, if adversely determined against such Loan Party, would reasonably be expected to have a Material Adverse Effect.
- (h) Notice of Change of Control. The Borrower will, as soon as reasonably possible upon becoming aware thereof, notify the Agent of any Change of Control.
- (i) Borrowing Base Properties. To, among other things, assist the Lenders in connection with any redetermination of the Borrowing Base as provided for in this Agreement, the Borrower will provide:
  - (i) by March 31 of such year, an independent economic and reserve evaluation report covering the then applicable Borrowing Base Properties, in form satisfactory to the Lenders, acting reasonably, prepared, in the case of such independent reports, by an engineering firm acceptable to the Lenders, acting reasonably, dated as of December 31 of the preceding year; and
  - (ii) prior to September 30 of each year, an internally prepared economic and reserve evaluation update report covering the then current Borrowing Base Properties together with lease operating statements, net revenue statements and any other information reasonably required by the Lenders, with such update to be effective as of June 30 of that year.
- (j) Notice of Environmental Damage. The Borrower will, as soon as reasonably possible upon acquiring knowledge thereof, notify the Agent of the discovery of any Contaminant or of any Release of a Contaminant into the Environment from or upon the land or property owned (either individually or jointly), operated or controlled by any Loan Party which could reasonably be expected to have a Material Adverse Effect.

- (k) Notices and Filings. The Borrower will, on a timely basis, furnish to the Agent (in sufficient copies for each of the Lenders) all prospectuses, material change reports (except those filed on a confidential basis, but only for so long as such confidentiality remains in effect) and material press releases filed by any Loan Party with securities commissions having jurisdiction and other documents distributed by the Borrower to its shareholders provided that the requirement to deliver the foregoing periodic reports and filings may be satisfied by posting such information on www.sedar.com or on another website, as applicable, and forthwith advising the Lenders that such periodic reports and filings have been so posted and the details of any website on which the same have been posted.
- (l) Dividend and Hedging Policies. The Borrower will furnish to the Agent (in sufficient copies for each of the Lenders), the Borrower's dividend and hedging policies and any material changes thereto, in each case promptly upon the approval thereof by the Borrower's board of directors.
- (m) Notices in Respect of Second Lien Indebtedness. The Borrower shall provide to the Agent:
  - (i) as soon as reasonably practicable, and in any event no later than 3 Banking Days after becoming actually aware of a Default or Event of Default under and as defined in the Second Lien Financing Agreement, an officer's certificate describing in detail such Default or Event of Default and specifying the steps, if any, being taken to cure or remedy the same; and
  - (ii) not less than 10 Banking Days' prior written notice of any proposed alteration, amendment, modification or supplement to, or restatement of, the Second Lien Financing Agreement or any ancillary related thereto (or any waiver or consent to like effect), which notice shall include a copy of such proposed alteration, amendment, modification, supplement, restatement, waiver or consent.
- (n) Other Information. The Borrower will provide to the Agent such other documentation and information concerning its business operations as may be requested by the Lenders, acting reasonably.

### 13.3 Financial Covenants.

While any Obligations under the Credit Facilities are outstanding or any Accommodation under the Credit Facilities remains available, the Borrower covenants with the Lenders that the Consolidated First Lien Debt to EBITDA Ratio, as measured at the end of each Fiscal Quarter, will not exceed: (a) 3.0:1 as at the end of each of the Fiscal Quarters ending June 30, 2015, and September 30, 2015; (b) 3.75:1 as at the end of each of the Fiscal Quarters ending December 31, 2015, March 31, 2016, and June 30, 2016; (c) 4.25:1 as at the end of each of the Fiscal Quarters ending September 30, 2016, and December 31, 2016; and (d) 4.00:1 as at the end of each Fiscal Quarter thereafter.

### 13.4 Negative Covenants.

While any Obligations under the Credit Facilities are outstanding or any Accommodation under the Credit Facilities remains available:

- (a) Limitation on Indebtedness, Liens and Distributions. The Borrower will not, and will not permit any other Loan Party to:
- (i) incur, assume or suffer to exist any Indebtedness, other than (A) Second Lien Indebtedness, if and for so long as the obligations, indebtedness and liabilities under and in respect thereof shall be subject to the Second Lien Intercreditor Agreement; (B) Subordinated Debt; (C) Indebtedness (other than Indebtedness described in paragraphs (A) and (B) above) secured by Permitted Encumbrances; (D) Indebtedness arising under a Second Lien Refinancing; (E) the Existing Convertible Bonds and the Existing Unsecured Notes; (F) any unsecured Indebtedness; (G) the Secured Obligations; and (H) any other Indebtedness incurred or assumed with the prior consent of all of the Lenders; provided that, Indebtedness described in paragraphs (A), (B) and (F) above may only be incurred or assumed if:
    - (I) 100% of the net proceeds of such Indebtedness are used to redeem or purchase the Existing Unsecured Notes within 30 days of the Borrower's receipt of such net proceeds;
    - (II) such Indebtedness has an initial final maturity in respect of repayment of principal extending at least one year beyond the latest Termination Date of any Lender under this Agreement at the time such Indebtedness is created, incurred, assumed or guaranteed;
    - (III) the annual cash interest expense of such Indebtedness is less than or equal to the annual cash interest expense of the portion of the Existing Unsecured Notes being redeemed or purchased by the proceeds of such Indebtedness;
    - (IV) in the case of any Second Lien Indebtedness, such Indebtedness shall be subject to the Second Lien Intercreditor Agreement; and
    - (V) no Default or Event of Default is continuing at the time of assumption or incurrence of such Indebtedness.
  - (ii) provide or permit a Lien over any of its property, except for Permitted Encumbrances; or
  - (iii) make any Distribution at any time, other than Permitted Distributions.
- (b) Limitation on Hedging Agreements. The Borrower will not, and will not permit any other Loan Party to, enter into or maintain any hedging contract, forward contract, swap agreement, futures contract, or other foreign exchange protection

agreement or option with respect to any such transaction, in each case designed to hedge against fluctuations in foreign exchange rates, any contract for a rate swap, rate cap, rate floor, rate collar, forward rate agreement, futures or other rate protection agreement or option with respect to any such transaction, designed to hedge against fluctuations in interest rates, any contract for a commodity swap or other production agreement or option designed to protect against fluctuations in commodity prices (which, for greater certainty, includes both physically and financially settled hedges) and any other derivative agreement or other similar agreement or arrangements (collectively, the “**Hedging Agreements**”), unless such Hedging Agreement is entered into: (i) for hedging purposes only in the ordinary course of business and not for speculative purposes; and (ii) in accordance with the then current hedging policies approved by the board of directors of the Borrower.

- (c) Mergers, Amalgamation and Consolidations. The Borrower will not, and will not permit any other Loan Party to, merge, amalgamate or consolidate with another Person other than a Loan Party except as permitted under Article 15.
- (d) Change in Business, Name, Location or Fiscal Year. The Borrower will not, and will not permit any other Loan Party to: (i) change in any material respect the nature of their business or operations from the direct or indirect exploration for, and development, production, transportation and marketing of, petroleum, natural gas and related products; or (ii) change its name, trade name or locations of business from those set forth in Schedule H without giving the Agent at least 15 days prior notice thereof. The Borrower will notify the Agent of the creation of any Subsidiary and the ownership thereof or any change of the Fiscal Year end of any Loan Party no later than 30 days after any such creation or change, as applicable.
- (e) Asset Dispositions. Other than Permitted Dispositions, the Borrower will not, and will not permit any other Loan Party to, directly or indirectly, make any sale, exchange, lease, transfer or other disposition of any of its assets or properties to any Person if the cumulative proceeds of all such dispositions to be received by the Borrower and each other Loan Party since the last Borrowing Base Determination hereunder exceeds 5% of the then applicable Borrowing Base or could otherwise reasonably be expected to have a Material Adverse Effect, without the prior consent of all of the Lenders.
- (f) Capital Contributions/Financial Assistance. The Borrower will not, and will not permit any Loan Party to, make any contributions of capital or any other forms of equity investment in any Person (other than another Loan Party) or provide any Financial Assistance to any Person (other than another Loan Party) exceeding the Threshold Amount.
- (g) Transactions with Affiliates. The Borrower will not, and will not permit any other Loan Party to, except as otherwise specifically permitted hereunder, enter into any transaction, including the purchase, sale or exchange of any property or the

rendering of any services, with any of its shareholders or with any of its Affiliates, or with any of its or their Directors or officers, or enter into, assume or suffer to exist any employment, consulting or analogous agreement or arrangement with any such shareholder or Affiliate or with any of its directors or officers, except a transaction or agreement or arrangement which is in the ordinary course of business of the applicable Loan Party and which is upon fair and reasonable terms not materially less favourable to the applicable Loan Party than it would obtain in a comparable arms-length transaction; provided that such restriction will not apply to any transaction between the Loan Parties.

- (h) Changes to Constatng Documents. Subject to Article 15, the Borrower will not, and will not permit any other Loan Party to, amend the terms of its constating documents or its by-laws, if, in each case, to do so would reasonably be expected to materially and adversely affect the rights of the Agent and the Lenders under the Loan Documents.
- (i) Restricted Subsidiaries. The Borrower will not divest any of its interests in any Loan Party if such divestiture directly or indirectly creates or would create a breach of Section 13.4(e).
- (j) Non-Restricted Subsidiary Indebtedness. The Borrower will not permit its Non-Restricted Subsidiaries to incur Indebtedness at any time exceeding the Threshold Amount.
- (k) Repurchase or Prepayment of Debt. The Borrower will not, and will not permit any other Loan Party to, repurchase or prepay the principal amount of any Indebtedness described in Section 13.4(a)(i), other than (i) Indebtedness under the Credit Facilities, (ii) to the extent such purchase or prepayment is funded from the proceeds of a Second Lien Refinancing, (iii) by the issuance of common shares of the Borrower, (iv) to the extent permitted pursuant to Section 3.6(a), or (v) the Existing Unsecured Notes to the extent permitted by Section 13.4(a)(i), provided that in the case of clauses (ii), (iii), (iv) and (v) above, no Borrowing Base Shortfall, Default or Event of Default is continuing at the time of such repurchase or repayment or would reasonably be expected to result therefrom.

### 13.5 Most Favoured Lender.

If at any time the Second Lien Financing Agreement or any other agreement related to the Second Lien Indebtedness includes: (a) any one or more covenants or events of default that are not provided for in the Loan Documents (other than affirmative covenants as to reporting obligations provided in the Second Lien Financing Agreement on the date hereof) taking into account the different relevant circumstance between the Second Lien Financing Agreement and the Second Lien Lenders and the Loan Documents and the Lenders, or (b) any one or more covenants or events of default that are more restrictive, taken as a whole, than the same or similar covenants or events of default provided in this Agreement or the other Loan Documents taking into account the different relevant circumstances between the Second Lien Financing Agreement and the Second Lien Lenders and the Loan Documents and the Lenders, then: (i)

such additional or more restrictive covenants or events of default shall upon notice from the Agent be incorporated by reference in this Agreement as if set forth fully herein, *mutatis mutandis*, and no such provision may thereafter be waived, amended or modified under this Agreement except pursuant to the provisions of Section 19.16, and (ii) the Loan Parties shall promptly, and in any event within ten (10) days after entering into any such additional or more restrictive covenants or events of default so advise the Agent in writing. Thereafter, upon the request of the Majority Lenders, the Majority Lenders shall enter into an amendment to this Agreement evidencing the incorporation of such additional or more restrictive covenants or events of default, it being agreed that any failure to make such request or to enter into any such amendment shall in no way qualify or limit the incorporation by reference described in clause (i) of the immediately preceding sentence.

Notwithstanding the foregoing, provisions of any Second Lien Financing Agreement that (a) establish any interest rate, fees or other amounts payable in respect of any Second Lien Indebtedness, (b) provide for any make-whole payments to be paid by the Borrower in connection with an early repayment or pre-payment of any Second Lien Indebtedness, (c) impose a limit on the amount of Indebtedness that may be incurred under the Credit Agreement, or (d) incorporate or include a covenant or event of default that is already contained in the Existing Unsecured Notes, shall, in each case, not be subject to the requirements of the first paragraph of this Section 13.5.

#### ARTICLE 14 DESIGNATION OF RESTRICTED SUBSIDIARIES

##### 14.1 Designation of Non-Restricted/Restricted Subsidiaries.

- (a) The Borrower from time to time, by notice to the Agent in the form of Schedule I, shall be entitled to designate that either:
  - (i) a Restricted Subsidiary will be a Non-Restricted Subsidiary; or
  - (ii) a Non-Restricted Subsidiary will be a Restricted Subsidiary,provided that, the Borrower will not be entitled to designate a Restricted Subsidiary to be a Non-Restricted Subsidiary if:
  - (A) a Default or an Event of Default has occurred and is continuing unless the exercise of the Borrower's discretion under paragraph (i) or (ii) above would cause such Default or Event of Default to be cured; or
  - (B) a Default or an Event of Default would result from or exist immediately after such a designation.
- (b) As at the Closing Date, the Restricted Subsidiaries and Non-Restricted Subsidiaries are as set out in Schedule H.



**ARTICLE 15**  
**REORGANIZATION**

**15.1 Reorganization.**

The Borrower may, and may permit another Loan Party, to, from time to time, amalgamate, merge or consolidate (including where the result of such consolidation is a dissolution of a Loan Party) with another other Loan Party, a wholly-owned Subsidiary of a Loan Party where the successor entity is a Loan Party or with another Person, provided that in the case of any such amalgamation, merger or consolidation involving another Person:

- (a) no Default or Event of Default will be continuing at the time of such amalgamation, merger or consolidation and no Default or Event of Default will result from such amalgamation, merger or consolidation;
- (b) contemporaneously with the consummation of such amalgamation, merger or consolidation, the applicable Loan Parties and the successor entity, as applicable, will have executed such instruments and done such things as in the reasonable opinion of the Agent are necessary or advisable to establish that upon the consummation of such transaction:
  - (i) the successor entity will be a Person formed under the Laws of Canada or one of its provinces and will have assumed, including by operation of Law, all the covenants and obligations of the applicable Loan Parties under the Loan Documents;
  - (ii) the Loan Documents, as applicable, will be valid and binding obligations of the successor entity entitling the Lenders and the Agent, as against the successor entity, to exercise all their rights and benefits thereunder;
  - (iii) the Liens created by the Security will continue to be Liens against the property of the successor entity in substantially the same manner and to the same extent and priority as existed immediately prior to such amalgamation, merger or consolidation;
  - (iv) the rights and benefits afforded or intended to be afforded the Lenders and the Agent under the Loan Documents are not materially prejudiced; and
  - (v) legal opinions in form satisfactory to the Agent confirming the matters set forth in Sections 15.1(b)(i), (ii) and (iii) are provided by Borrower's Counsel; and
- (c) no Material Adverse Effect could reasonably be expected to occur as a result of such amalgamation, merger or consolidation; provided that for purposes hereof, a material downgrade in the creditworthiness of the successor entity as a result of such amalgamation, merger or consolidation shall be deemed to be a Material Adverse Effect.

ARTICLE 16  
EVENTS OF DEFAULT

16.1 Event of Default.

Each of the following events will constitute an Event of Default:

- (a) Failure to Pay. If:
  - (i) the Borrower makes default in the due and punctual payment of any principal amount owing under the Loan Documents, as and when the same becomes due and payable, whether at maturity or otherwise; or
  - (ii) the Borrower makes default in the due and punctual payment of interest or fees owing under the Loan Documents, as and when the same become due and payable, whether at maturity or otherwise and such default continues for a period of 3 Banking Days after written notice thereof is given to the Borrower by the Agent.
- (b) Incorrect Representations. If any representation or warranty made by any Loan Party in any Loan Document proves to have been incorrect when so made or deemed to have been repeated as herein provided and the underlying facts, if capable of being remedied such that the representation or warranty if made at such time would be correct, are not so remedied within 30 days after notice of such incorrectness is given to the Borrower by the Agent (but only if and for so long as the remedying thereof was and continues to be diligently and in good faith pursued and no Material Adverse Effect has occurred or is imminent as a result of such facts).
- (c) Breach of Certain Covenants. The Borrower fails to observe or perform any covenant in Section 13.3.
- (d) Breach of Notice Covenant: If the Borrower fails to observe or perform the covenant in Section 13.2(e), and such failure is not remedied within a period of 5 Banking Days of the failure by the Borrower to observe or perform the same.
- (e) Breach of Covenants. Except for an Event of Default set out in Section 16.1(a), 16.1(c), 16.1(d) or elsewhere in this Section 16.1, if a Loan Party defaults in the performance or observance of any covenant, obligation or condition to be observed or performed by it pursuant to any of the Loan Documents and such default continues for a period of 30 days after notice of such default is given to the Borrower by the Agent.
- (f) Insolvency. If a judgment, decree or order of a court of competent jurisdiction is entered against a Loan Party: (i) adjudging any of them bankrupt or insolvent, or approving a petition seeking its reorganization or winding-up under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other bankruptcy, insolvency or analogous Law; or

- (ii) appointing a receiver, trustee, liquidator, or other Person with like powers, over all, or substantially all, of the property of any of them; or (iii) ordering the involuntary winding up or liquidation of the affairs of any of them; or (iv) appointing any receiver or other Person with like powers over all, or substantially all, of the property of any of them, unless, in any such case, such judgment, petition, order or appointment is stayed and of no effect against the rights of the Lenders within 30 days of its entry.
- (g) Winding-Up. If: (i) except as permitted by Section 15.1, an order or a resolution is passed for the dissolution, winding-up, reorganization or liquidation of a Loan Party, pursuant to applicable Law, including the *Business Corporations Act* (Alberta); or (ii) any of them institutes proceedings to be adjudicated bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or any other bankruptcy, insolvency or analogous Law; or (iii) any of them consents to the filing of any petition under any such Law or to the appointment of a receiver, or other Person with like powers, over all, or substantially all, of any of their property; or (iv) any of them makes a general assignment for the benefit of creditors, or becomes unable to pay its debts generally as they become due; or (v) any of them takes or consents to any action in furtherance of any of the aforesaid purposes.
- (h) Second Lien Indebtedness. An event of default occurs and is continuing under a Second Lien Financing Agreement.
- (i) Other Debt. A Loan Party fails to make any payment of principal, interest or other amount in regard to any Indebtedness (other than Indebtedness pursuant to a Swap Document with a Lender), which for the purpose of this Section 16.1(i) includes obligations and liabilities under any Hedging Agreement that is not a Swap Document, whatsoever owed by it after the expiry of any applicable grace period in respect thereof, to any Person, other than the Agent or any Lender under the Loan Documents, where the outstanding principal amount of such Indebtedness is more than the Threshold Amount.
- (j) Other Defaults. A Loan Party defaults in the observance or performance of any non-monetary obligation, covenant or condition to be observed or performed by it pursuant to any agreement to which it is a party or by which any of its property is bound, where such default has a Material Adverse Effect and such default continues for a period of 30 days after notice thereof is given to the Borrower by the Agent.
- (k) Adverse Proceedings. The occurrence of any action, suit or proceeding against or affecting a Loan Party before any court or before any Administrative Body which, if successful, would reasonably be expected to have a Material Adverse Effect, unless the action, suit, or proceedings is being contested diligently and in good faith and, in circumstances where a lower court or tribunal has rendered a decision

adverse to it, any of them is appealing such decision, and has provided a reserve in respect thereof in accordance with GAAP.

- (l) Material Lien. The property of a Loan Party having a fair market value in excess of, in the aggregate, the Threshold Amount, shall be seized (including by way of execution, attachment, garnishment or distraint) or any Lien thereon shall be enforced, or such property shall become subject to 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 the Threshold Amount, in the aggregate, shall exist in respect of any one or more of any of them, or such property, or any sheriff, civil enforcement agent or other Person shall become lawfully entitled to seize or distraint upon 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, charging order or equitable execution, or other seizure or right, shall continue in effect and not be released or discharged for more than 30 days.
- (m) Judgment. A judgment is obtained against any Loan Party for an amount in excess of, in the aggregate, the Threshold Amount, which remains unsatisfied and undischarged for a period of 30 days during which such judgment shall not be on appeal or execution thereof shall not be effectively stayed.
- (n) Swap Documents. The occurrence of a demand, an event of default or other termination event under any Swap Document, after the expiry of any applicable grace period thereunder and notice of such occurrence is given to the Borrower and to the Agent.
- (o) Cessation of Business. Except as permitted by Article 15, a Loan Party ceases or proposes to cease carrying on business, or a substantial part thereof, or makes or threatens to make a sale of all or substantially all of its property.
- (p) Enforceability of Loan Documents. If any material provision of any Loan Document shall at any time cease to be in full force and effect, be declared to be void or voidable or shall be repudiated, or the validity or enforceability thereof shall at any time be contested by any Loan Party or if any Lien constituted pursuant to the Security ceases to have the priority contemplated in the Loan Documents.
- (q) Qualified Auditor Report. If the audited financial statements that are required to be delivered to the Agent pursuant to Section 13.2(b) contain a qualification that is not acceptable to the Majority Lenders, acting reasonably, and, if unacceptable, such qualification is not rectified or otherwise dealt with to the satisfaction of the Majority Lenders within a period of 30 days after delivery of such financial statements.

- (r) Change of Control. If a Change of Control occurs.
- (s) Borrowing Base Shortfall. If a Borrowing Base Shortfall occurs and is not eliminated in accordance with Section 3.10(g).

## 16.2 Remedies.

Upon the occurrence of an Event of Default which has not been waived, the Operating Lender, in the case of the Operating Facility, or otherwise the Agent (on the direction of the Majority Lenders, or in the case of an Event of Default under Sections 16.1(f) and 16.1(g), automatically), shall forthwith terminate any further obligation to make Advances and declare all Obligations owing under the Credit Facilities together with unpaid accrued interest thereon and any other amounts owing under the Loan Documents, contingent or otherwise, to be immediately due and payable, whereupon the Borrower will be obligated without any further grace period to forthwith pay such amounts and the Agent and the Lenders may exercise any and all rights, remedies, powers and privileges afforded by applicable Law or under any and all other instruments, documents and agreements made to assure payment and performance of the obligations of the Loan Parties under the Loan Documents.

## 16.3 Adjustments.

Upon the occurrence and any time during the continuance of an Event of Default, adjustments shall be made among the Lenders as set forth in this Section 16.3. The Lenders shall make such adjusting payments amongst themselves in any manner as may be required to ensure their respective participations in outstanding Advances reflect their respective Rateable Portion including the following:

- (a) If a Fronted Letter of Credit is drawn upon which results in a payment by an Issuing Bank thereunder (in this Section 16.3, an “**LC Payment**”), such Issuing Bank will promptly request the Agent on behalf of the Borrower (and for this purpose each Issuing Bank is irrevocably authorized by the Borrower to do so) for an Advance by way of a Canadian Prime Rate Loan or a U.S. Base Rate Loan, as applicable, from the Lenders pursuant to Article 10 to reimburse such Issuing Bank for such LC Payment. The Lenders are irrevocably directed by the Borrower to make any Canadian Prime Rate Loan or U.S. Base Rate Loan, as applicable, if so requested by an Issuing Bank and pay the proceeds thereof directly to the Agent for the account of such Issuing Bank. Each Lender unconditionally agrees to pay to the Agent for the account of the applicable Issuing Bank such Lender’s Rateable Portion of each Advance requested by an Issuing Bank on behalf of the Borrower to repay LC Payments made by an Issuing Bank.
- (b) The obligations of each Lender under this Section 16.3 are unconditional, shall not be subject to any qualification or exception whatsoever and shall be performed in accordance with the terms and conditions of this Agreement under all circumstances including:
  - (i) the occurrence of any Default or Event of Default or the exercise of any rights by the Agent under Section 16.2; and

- (ii) the absence of any demand for payment being made, any proof of claim being filed, any proceeding being commenced or any judgment being obtained by a Lender or the LC Lender against the Borrower.
- (c) If for any reason an Advance may not be made pursuant to this Section 16.3 to reimburse the LC Lender as contemplated thereby, then promptly upon receipt of notification of such fact from the Agent, each relevant Lender shall deliver to the Agent for the account of the LC Lender in immediately available funds the purchase price for such Lender's participation interest in the relevant unreimbursed LC Payments (including interest then accrued thereon and unpaid by the Borrower). Without duplication, each Lender shall, upon demand by the LC Lender made to the Agent, deliver to the Agent for the account of the LC Lender interest on such Lender's Rateable Portion from the date of payment by the LC Lender of such unreimbursed LC Payments until the date of delivery of such funds to the LC Lender by such Lender at a rate per annum equal to the one month CDOR Rate for such period. Such payment shall only, however, be made by the Lenders in the event and to the extent the LC Lender has not been reimbursed in full by the Borrower for interest on the amount of such unreimbursed LC Payments.
- (d) Each LC Lender shall, forthwith upon its receipt of any reimbursement (in whole or in part) by the Borrower for any unreimbursed LC Payments in relation to which other Lenders have purchased a participation interest pursuant to this Section 16.3, or of any other amount from the Borrower or any other Person in respect of such payment, transfer to such other Lender such other Lender's Rateable Portion of such reimbursement or other amount. In the event that any receipt by the LC Lender of any reimbursement or other amount is found to have been a transfer in fraud of creditors or a preferential payment under any applicable insolvency legislation or is otherwise required to be returned, such Lender shall promptly return to the LC Lender any portion thereof previously transferred to it by the LC Lender, without interest to the extent that interest is not payable by the LC Lender in connection therewith.

#### 16.4 Waivers.

An Event of Default which relates to a breach of a provision of this Agreement which may only be waived by all Lenders may only be waived in writing by all of the Lenders.

#### 16.5 Attorney in Fact.

The Borrower hereby irrevocably constitutes and appoints the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, from time to time in the Agent's discretion, for the purpose of carrying out the terms of the Loan Documents, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of the Loan Documents and which the Borrower being required to take

or execute has failed to take or execute; provided that this power of attorney will not be effective until the occurrence and during the continuance of any Event of Default under any Loan Document. The Borrower hereby ratifies all that said attorneys will lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and will be irrevocable until all of the Obligations under the Loan Documents have been unconditionally and irrevocably paid and performed in full. The Borrower also authorizes the Agent, at any time and from time to time, to execute any endorsements, assignments or other instruments of conveyance or transfer pursuant to the Security. If requested by the Agent, the Borrower will cause each other Loan Party to constitute and appoint the Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact in accordance with the foregoing provisions of this Section 16.5.

#### **16.6 Application of Proceeds.**

Except as otherwise agreed to by all of the Lenders in their sole discretion or as otherwise expressly provided for herein, all (i) payments made by or on behalf of a Loan Party under the Loan Documents after acceleration pursuant to Section 16.2, and (ii) proceeds resulting from any realization or enforcement of the Security, including by way of foreclosure, will be applied and distributed by the Agent or any nominee thereof in the following manner:

- (a) first, in full and final payment of any amounts due and payable by way of recoverable expenses, including all out-of-pocket realization and enforcement costs and all legal costs and disbursements (on a solicitor and his own client full indemnity basis);
- (b) second, in full and final payment of all accrued and unpaid interest, BA Stamping Fees, Letter of Credit Fees, fronting fees, agency fees and standby fees based on each Lender's Rateable Portion;
- (c) third, in full and final payment of the Aggregate Principal Amount under each of the Credit Facilities, the Cash Management Obligations and the Swap Indebtedness, pro rated in accordance with the provisions hereof;
- (d) fourth, in full and final payment of all other Secured Obligations, pro rated in accordance with the provisions hereof; and
- (e) finally, if there are any amounts remaining and subject to applicable Law, to the appropriate Loan Party.

#### **16.7 Set-off.**

The Borrower agrees that, upon the occurrence of an Event of Default, in addition to and without limitation of any right of set-off, bankers' lien, counterclaim or other right or remedy that the Agent and the Lenders may otherwise have, the Agent and each Lender will be entitled, at its option, to offset any and all balances and deposits held by it for the account of the Borrower at any of its offices or branches, in any currency, against any Secured Obligations owed to the Agent or such Lender (regardless of whether any such balances are then due or payable to the Borrower), including all claims of any nature or description arising out of or connected with this

Agreement, including contingent obligations of the Lenders in respect of unmatured Bankers' Acceptances, in which case the Agent or such Lender will promptly notify the Borrower thereof after the occurrence thereof; provided that the Agent's or such Lender's failure to give any such notice will not affect the validity thereof. Nothing contained in the Loan Documents will require the Agent or a Lender to exercise any right, or will affect the right of the Agent or a Lender to exercise and retain the benefits of exercising any right, with respect to any indebtedness or other obligation of the Borrower existing otherwise than pursuant to the Loan Documents.

## ARTICLE 17 CONFIDENTIALITY

### 17.1 Non-Disclosure.

All information received by the Agent and the Lenders from or in respect of any Loan Party the confidential nature of which is made known or ought to have been known to the Party receiving such information, including any information relating to a Hostile Acquisition, other than information that is required to be disclosed by applicable Law (including, for certainty, information required to be disclosed in connection with any legal proceedings, including proceedings relating to the Loan Documents) or to any Administrative Body of competent jurisdiction, including any central bank or other banking regulatory authority and any official bank examiners or regulators, will be held by the Parties in the strictest confidence and will not be disclosed to any Person, except as provided in Sections 17.2 and 17.3.

### 17.2 Exceptions.

Section 17.1 does not apply to information:

- (a) of a Party where that Party consents in writing to its disclosure;
- (b) which becomes part of the public domain;
- (c) received from a third party without restriction on further disclosure and without breach of Section 17.1;
- (d) developed independently without breach of Section 17.1; or
- (e) to the extent required to be disclosed by order or direction of a court or Administrative Body of competent jurisdiction.

### 17.3 Permitted Disclosures by the Agent or the Lenders.

Information received by the Agent or a Lender may be disclosed to their respective Affiliates, Swap Lenders, the Agent or any other Lender, including any financial institution which desires to become a Lender hereunder, any actual or prospective counterparty (or its advisors) to any securitization, swap or derivative transaction relating to the Borrower, any Subsidiaries thereof, and the Obligations and to their respective employees, auditors, accountants, legal counsel, geologists, engineers and other consultants and financial advisors



retained by such Persons on a need to know basis and subject to the obligation to maintain confidentiality.

#### 17.4 Survival.

The obligations of the Parties under this Article 17 will survive the termination of this Agreement.

### ARTICLE 18 ASSIGNMENT

#### 18.1 Assignment of Interests.

Except as expressly permitted under Article 15 and this Article 18, this Agreement and the rights and obligations hereunder will not be assignable, in whole or in part, by the Borrower without the prior written consent of all of the Lenders.

#### 18.2 Assignment by the Lenders.

Each Lender will have the right to sell or assign in minimum portions of Cdn. \$20,000,000 (with such Lender, where such sale or assignment is not of all of such Lender's Individual Syndicated Facility Commitment Amount or Operating Facility Commitment Amount, as applicable, retaining an Individual Syndicated Facility Commitment or Operating Facility Commitment Amount, as applicable, of at least Cdn. \$20,000,000), such Lender's Individual Commitment Amount to one or more Lenders acceptable to the Borrower, the Agent and each Issuing Bank, acting reasonably, provided that such Lender shall also assign its *pro rata* interest in the Syndicated Facility or Operating Facility, as applicable, and further provided that at and after the time of the assignment, the Borrower will not be under any obligation to pay by way of withholding tax or otherwise any greater amount than it would have been obliged to pay if the Lender had not made an assignment. An assignment fee of Cdn. \$3,500 for each such assignment (other than to an affiliate of a Lender or to another Lender) will be payable to the Agent by the assigning Lender. In the event of such sale or assignment, the Borrower, the Agent and the other Lenders will execute and deliver all such agreements, documents and instruments as the Agent or Lender may reasonably request to effect and recognize such sale or assignment, including an Assignment. Notwithstanding the foregoing, no consent of the Borrower will be required if an assignment occurs during an Event of Default which is continuing or if made between financial institutions who, at the relevant time, are already Lenders.

#### 18.3 Effect of Assignment.

To the extent that any Lender sells or assigns any portion of its Individual Commitment Amount pursuant to Section 18.2 and such new Lender or new Lenders, as the case may be, has executed and delivered to the Borrower and the Agent an Assignment, such Lender will be relieved and forever discharged of any and all of its covenants and obligations under the Loan Documents in respect of that portion of its Individual Commitment Amount so sold or assigned from and after the date of such Assignment and the Borrower's recourse under the Loan Documents in respect of such portion so sold or assigned from and after the date of the

Assignment for matters arising thereunder from and after the date of the Assignment will be to such new Lender or new Lenders only, as the case may be, and their successors and permitted assigns.

#### 18.4 Participations.

Any Lender may at any time sell to one or more financial institutions or other Persons (each of such financial institutions and other Persons being herein called a "Participant") participating interests in any of the Advances, commitments, or other interests of such Lender hereunder, provided, however, that:

- (a) no participation contemplated in this Section 18.4 will relieve such Lender from its commitments or its other obligations hereunder or under any other Loan Document;
- (b) such Lender will remain solely responsible for the performance of its commitments and such other obligations as if such participation had not taken place;
- (c) the Agent will continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and each of the other Loan Documents;
- (d) no Participant will have any rights (through a right of consent or approval or otherwise) to require such Lender to take or refrain from taking any action hereunder or under any other Loan Document;
- (e) the Borrower will not be required to pay any amount hereunder that is greater than the amount which it would have been required to pay had no participating interest been sold;
- (f) in the case of an assignment of a Fronted Letter of Credit, the Issuing Bank consents to such assignment;
- (g) in the case of any outstanding POA Letter of Credit, such Lender shall not be relieved from its obligations thereunder without the written consent of the beneficiary thereof; and
- (h) in the case of any outstanding Bankers' Acceptances, the Participants execute an indemnity agreement in respect of such Bankers' Acceptances.

### ARTICLE 19 ADMINISTRATION OF THE CREDIT FACILITY

#### 19.1 Authorization and Action.

- (a) Authorization and Action. Each Lender hereby irrevocably appoints and authorizes the Agent to be its agent in its name and on its behalf and to exercise

such rights or powers granted to the Agent or the Lenders under the Loan Documents to the extent specifically provided therein and on the terms thereof, together with such powers and authority as are reasonably incidental thereto. As to any matters not expressly provided for by the Loan Documents, the Agent will not be required to exercise any discretion or take any action, but will be required to act or to refrain from acting (and will be fully indemnified and protected by the Lenders to the greatest extent permitted by Law in so acting or refraining from acting) upon the instructions of the Majority Lenders, and such instructions will be binding upon all Lenders, provided however that the Agent will not be required to take any action which, in the opinion of the Agent, might expose the Agent to liability in such capacity, which could result in the Agent incurring any costs and expenses, or which is contrary to the spirit and intent of this Agreement.

- (b) Lenders' Determination. Where the provisions of this Agreement provide that any waiver of or any amendment to any provision of the Loan Documents may be made or any action, consent or other determination in connection with the Loan Documents may be taken or given, with the consent or agreement of the Lenders or the Majority Lenders (in accordance with Section 19.16), then any such waiver, amendment, action, consent or determination so made, so taken or so given with the consent or agreement of the Lenders or the Majority Lenders will be binding on all of the Lenders and all of the Lenders will cooperate in all ways necessary or desirable to implement and effect such waiver, amendment, action, consent or determination.
- (c) Deemed Non-Consent. If the Agent delivers a notice to a Lender requesting advice from such Lender as to whether it consents or objects to any matter in connection with the Loan Documents, then, except as otherwise expressly provided herein, if such Lender does not deliver to the Agent its written consent or objection to such matter within 7 Banking Days of the delivery of such notice by the Agent to such Lender, such Lender will be deemed not to have consented thereto upon the expiry of such 7 Banking Day period.
- (d) Release and Discharge of Security. Each Lender hereby irrevocably authorizes the Agent to execute and deliver such releases and no-interest letters as may be required in connection with any disposition of assets by one or more Loan Parties in respect of which the Agent has received an officer's certificate of the Borrower certifying that such disposition is permitted hereunder, together with any other information from the Borrower reasonably required by the Agent, if any, to satisfy itself that any such disposition is permitted hereunder.

## 19.2 Procedure for Making Advances.

- (a) Pro Rata Advances. Subject to Sections 6.2, 6.3, 6.4 and 9.4(f), all Advances under a Credit Facility will be made in accordance with each Participating Lender's Rateable Portion of such Advance under such Credit Facility.

- (b) Instructions from Borrower. The Syndicated Facility Lenders, through the Agent, will make Advances under the Syndicated Facility available to the Borrower as required hereunder by debiting the account of the Agent to which each such Lender's Rateable Portion in respect of the Syndicated Facility of such Advances has been credited in accordance with Section 5.6 (or causing such account to be debited) and, in the absence of other arrangements agreed to by the Agent and the Borrower in writing, by transferring (or causing to be transferred) like funds in accordance with the instructions of the Borrower as set forth in the Notice of Borrowing, Notice of Rollover or Notice of Conversion, as the case may be, in respect of each Advance under the Syndicated Facility, provided that the obligation of the Agent hereunder will be limited to taking such steps as are in keeping with its normal banking practice and which are commercially reasonable in the circumstances to implement such instructions, and the Agent will not be liable for any damages, claims or costs which may be suffered by the Borrower or any of the Lenders and occasioned by the failure of such funds to reach their designated destination, unless such failure is due to the gross negligence or wilful misconduct of the Agent.
- (c) Assumption Respecting Availability. Unless the Agent has been notified by a Lender within 1 Banking Day prior to an anticipated Advance under the Syndicated Facility that such Lender will not make available to the Agent its Rateable Portion of such Advance, the Agent may assume, without any enquiry required on its part, that such Lender has made or will make such portion of the Advance available to the Agent on the date such Advance is to take place, in accordance with the provisions hereof and the Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent such Lender will not have so made its Rateable Portion of an Advance under the applicable Credit Facility available to the Agent, such Lender agrees to pay to the Agent, forthwith on demand, such Lender's Rateable Portion of the Advance and all reasonable costs and expenses incurred by the Agent in connection therewith together with interest thereon (at the rate payable thereunder by the Borrower in respect of such Advance) for each day from the date such amount is made available to the Borrower until the date such amount is paid to the Agent, provided however, that if such Lender fails to so pay, the Borrower covenants and agrees that without prejudice to any rights the Borrower may have against such Lender, it will repay the amount of such Lender's Rateable Portion of the Advance (without duplication) to the Agent for the account of the Agent after receipt of the certificate referred to below and forthwith after demand therefor by the Agent. The amount payable to the Agent pursuant hereto will be as set forth in a certificate delivered by the Agent to such non-paying Lender and the Borrower (which certificate will contain reasonable details of how the amount payable is calculated) and will be conclusive and binding, for all purposes, in the absence of manifest error. If such Lender makes the payment to the Agent as required herein, the amount so paid will constitute such Lender's Rateable Portion of the Advance under the applicable Credit Facility for purposes of this Agreement. The failure of any Lender to make its Rateable Portion of the Advance will not relieve any other Lender of its

obligation, if any, hereunder to make its Rateable Portion of the Advance on the date that such Advance is to take place, but no Lender will be responsible for the failure of any other Lender to provide its Rateable Portion of any Advance under the applicable Credit Facility.

### 19.3 Remittance of Payments.

Forthwith after receipt of any payment by the Borrower hereunder and subject to Section 16.6, the Agent, if and to the extent a Lender is entitled thereto, will remit to such Lender its Rateable Portion 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 Rateable Portion of such payment and the Borrower fails to make such payment, each such Lender agrees to repay to the Agent forthwith on demand such Lender's Rateable Portion of any such payment, 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 customarily applicable to interbank payments for each day from the date such amount is remitted to such Lender. The exact amount of the repayment required to be made by a Lender pursuant hereto will be set forth in a certificate delivered by the Agent to such Lender, which certificate will be conclusive and binding for all purposes in the absence of manifest error.

### 19.4 Redistribution of Payment.

Each Lender agrees that, subject to Section 16.6:

(a) If it exercises any right of counter-claim, set off, bankers' lien or similar right with respect to any property of any Loan Party (including pursuant to Section 16.7) or if under applicable Law it receives a secured claim, the security for which is a debt owed by it to the Loan Party, it will apportion the amount thereof proportionately between:

(i) amounts outstanding at the time owed by the Loan Party to such Lender under this Agreement, which amounts will be applied in accordance with this Section 19.4; and

(ii) amounts otherwise owed to it by a Loan Party,

provided that any cash collateral account held by such Lender as collateral for a letter of credit or bankers' acceptance (including a Bankers' Acceptance) issued or accepted by such Lender on behalf of a Loan Party may be applied by such Lender to such amounts owed by such Loan Party to such Lender pursuant to such letter of credit or in respect of any such bankers' acceptance without apportionment.

(b) If it receives, through the exercise of a right or the receipt of a secured claim described in Section 19.4(a) or otherwise, payment of a proportion of the aggregate amount of principal, interest and fees due to it hereunder which is greater than the proportion received by any other Lender in respect of the aggregate amount of principal, interest and fees due in respect of the applicable

Credit Facility (having regard to the respective proportionate amounts advanced as Advances by each of the Lenders under such Credit Facility), the Lender receiving such proportionately greater payment will purchase a participation (which will be deemed to have been done simultaneously with receipt of such payment) in that portion of the applicable Credit Facility of the other Lenders so that their respective receipts will be *pro rata* to their respective Rateable Portions, provided however that, if all or part of such proportionately greater payment received by such purchasing Lender is otherwise recovered by it, such purchase will be rescinded and the purchase price for such participation will be returned to the extent of such recovery, but without interest. Such Lender will exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders entitled under this Section 19.4 to share in the benefits of any recovery on such secured claims.

- (c) If it does any act or thing permitted by Sections 19.4(a) or 19.4(b), it will promptly provide full particulars thereof to the Agent.
- (d) Except as permitted under Sections 19.4(a) or 19.4(b), no Lender will be entitled to exercise any right of counter-claim, set off, bankers' lien or similar right without the prior written consent of the other Lenders.
- (e) Notwithstanding any other provision of this Agreement or any other Loan Document, a Cash Manager may, at any time and from time to time, set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Cash Manager to or for the credit or the account of any Loan Party against any and all of the obligations of the Loan Party now or hereafter existing under any Cash Management Documents to such Cash Manager.

#### 19.5 Duties and Obligations.

The Agent or any of its directors, officers, agents or employees (and, for purposes hereof, the Agent will be deemed to be contracting as agent for and on behalf of such Persons) will not be liable to any Lender for any action taken or omitted to be taken by it under or in connection with the Loan Documents, except for its 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 the Lenders of their rights under the Loan Documents, unless and until the Agent receives a duly executed Assignment from such Lender;
- (b) may consult with counsel (including Borrower's Counsel), independent public accountants and other experts selected by it and will not be liable for any action taken or omitted to be taken in good faith by it in accordance with or reliance upon the advice of such counsel, accountants or experts;

- (c) will incur no liability under or in respect of the Loan Documents by acting upon any notice, consent, certificate or other instrument or writing believed by it to be genuine and signed or sent by the apparently proper Person or by acting upon any representation or warranty of any Loan Party 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; and
- (e) may rely, as to any matter 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.

Further, the Agent: (i) does not make any warranty or representation to any Lender nor will it be responsible to any Lender for the accuracy or completeness of the data made available to any of the Lenders in connection with any Credit Facility, or for any statements, warranties or representations (whether written or oral) made in connection with any Credit Facility; (ii) will not have any duty to ascertain or to enquire as to the performance or observance of any of the terms, covenants or conditions of the Loan Documents on the part of any Loan Party or to inspect the property (including books and records) of any Loan Party; and (iii) will not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any other instrument or document furnished pursuant hereto or thereto. The Agent shall not have any duty to disclose any information obtained or received by it or any of its Affiliates relating to any Loan Party or any of its Subsidiaries to the extent such information was obtained or received in any capacity other than as the Agent hereunder.

#### **19.6 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 Borrower hereunder, promptly upon receipt of same, excepting therefrom information and notices relating solely to the role of the Agent hereunder. The Agent shall not have any duty to disclose any information obtained or received by it or any of its Affiliates relating to any Loan Party or any of its Subsidiaries to the extent such information was obtained or received in any capacity other than as the Agent hereunder.

#### **19.7 Agent and Agent Authority.**

With respect to its Rateable Portion of a Credit Facility and the Advances made by it as a Lender thereunder, as applicable, the Agent will have the same rights and powers under the Loan Documents as any other Lender and may exercise the same as though it were not the Agent. The Agent may accept deposits from, lend money to, and generally engage in any kind of business with any Loan Party, any of their Subsidiaries, their respective shareholders or unitholders or any Person owned or controlled by any of them and any Person which may do business with any of

them, all as if the Agent was not serving as Agent, and without any duty or obligation to account therefor to the Lenders.

#### **19.8 Lenders' Credit Decisions.**

It is understood 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. Accordingly, each Lender confirms with the Agent that it has not relied, and will not hereafter rely, on the Agent (a) to check or inquire on its behalf into the adequacy, accuracy or completeness of any information provided by the Loan Parties or any other Person under or in connection with the Credit Facilities (whether or not such information has been or is hereafter distributed to such Lender by the Agent) or (b) to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of any Loan Party. Each Lender acknowledges that copies of the Loan Documents have been made available to it for review and each Lender acknowledges that it is satisfied with the form and substance of the Loan Documents. A Lender will not make any independent arrangement with any Loan Party for the satisfaction of any Obligations owing to it under the Loan Documents without the written consent of the other Lenders.

#### **19.9 Indemnification.**

The Lenders hereby agree to indemnify the Agent and its directors, officers, agents and employees (to the extent not reimbursed by the Borrower) in accordance with their respective Rateable Portions, 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 or its directors, officers, agents and employees in any way relating to or arising out of the Loan Documents or any action taken or omitted by the Agent under or in respect of the Loan Documents in its capacity as Agent, provided that no Lender will be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agent's gross negligence or wilful misconduct. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Agent promptly upon demand for its Rateable Portion of any reasonable out-of-pocket expenses (including legal fees, on a solicitor and his own client full indemnity basis) incurred by the Agent in connection with the preservation of any right of the Agent or the Lenders under, or the enforcement of, or legal advice in respect of rights or responsibilities under, the Loan Documents, to the extent that the Agent is not reimbursed for such expenses by the Borrower. This indemnity will survive the termination of the other provisions of this Agreement as a separate and continuing covenant of the Lenders.

#### **19.10 Successor Agent.**

The Agent may, as hereinafter provided, resign at any time by giving 30 days' notice (the "Resignation Notice") thereof to the Lenders and the Borrower. The remaining Lenders, with the consent of the Borrower, such consent not to be unreasonably withheld, will forthwith upon receipt of the Resignation Notice unanimously appoint a successor agent (the "Successor



Agent”) to assume the duties hereunder of the resigning Agent. Upon the acceptance of any appointment as agent hereunder by a Successor Agent, such Successor Agent will thereupon succeed to and become vested with all the rights, powers, privileges and duties as agent under the Loan Documents of the resigning Agent. Upon such acceptance, the resigning Agent will be discharged from its further duties and obligations as agent under the Loan Documents, but any such resignation will not affect such resigning Agent’s obligations hereunder as a Lender, including for its Rateable Portion of the applicable Commitment Amount. After the resignation of the Agent as agent hereunder, the provisions of this Article 19 will continue to enure to its benefit as to any actions taken or omitted to be taken by it while it was the agent of the Lenders hereunder. Notwithstanding the foregoing, if the remaining Lenders fail to appoint a Successor Agent within 30 days of receipt of the Resignation Notice, the resigning Agent may and with the approval of the Borrower prior to an Event of Default, such approval not to be unreasonably withheld, appoint a Successor Agent from among the Lenders.

#### **19.11 Taking and Enforcement of Remedies.**

Except as otherwise provided herein, each Lender hereby acknowledges that, to the extent permitted by applicable Law, rights and remedies provided under the Loan Documents to the Lenders are for the benefit of the Lenders collectively and not severally and further acknowledges that its rights and remedies thereunder are to be exercised not severally but collectively through the Agent upon the decision of the Lenders (with the required majority or unanimity as herein provided, subject to Section 16.2), regardless of whether acceleration of Obligations hereunder was made, and accordingly, notwithstanding any of the provisions contained herein, each of the Lenders hereby covenants and agrees that it will not be entitled to take any action with respect to the Credit Facilities, including any acceleration of Obligations thereunder, but that any such action will be taken only by the Agent with the prior written direction of the Lenders (with the required majority or unanimity as herein provided, subject to Section 16.2). Notwithstanding the foregoing, in the absence of written instructions from the 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 take such action on behalf of the Lenders as it deems appropriate or desirable in the circumstances. Each of the Lenders hereby covenants and agrees that it has not heretofore and will not seek, take, accept or receive any security for any of the Obligations of the Loan Parties under the Loan Documents and will not enter into any agreement with any of the Parties relating in any manner whatsoever to the Credit Facilities, unless all of the Lenders under the Credit Facilities will at the same time obtain the benefit of any such security or agreement, as the case may be.

#### **19.12 Reliance Upon Agent.**

The Borrower will be entitled to rely upon any certificate, notice or other document or other advice, statement or instruction provided to it by the Agent pursuant to the Loan Documents, and the Borrower will be entitled to deal with the Agent with respect to matters under the Loan Documents which the Agent is authorized hereunder to deal with, without any obligation whatsoever to satisfy itself as to the authority of the Agent to act on behalf of the Lenders and without any liability whatsoever to the Lenders for relying upon any certificate, notice or other document or other advice, statement or instruction provided to them by the Agent, notwithstanding any lack of authority of the Agent to provide the same.

**19.13 Agent May Perform Covenants.**

If the Borrower fails to perform any covenant on its part herein contained, the Agent may give notice to the Borrower of such failure and if, within 10 days of such notice (or after the expiry of such other time or cure period as may be required in this Agreement), such covenant remains unperformed, the Agent on behalf of the Lenders may, in its sole discretion but need not, perform any such covenant capable of being performed by it and, if the covenant requires the payment or expenditure of money, the Agent may make such payment or expenditure and all sums so expended will be forthwith payable by the Borrower to the Agent on behalf of the Lenders and will bear interest at the Canadian Prime Rate plus 2%.

**19.14 No Liability of Agent.**

The Agent, in its capacity as agent of the Lenders under the Loan Documents, will have no responsibility or liability to the Borrower or the Lenders on account of the failure of any Lender to perform its obligations hereunder, or to any Lender on account of the failure of the Borrower to perform its obligations under the Loan Documents.

**19.15 Nature of Obligations under this Agreement.**

- (a) Obligations Separate. The obligations of each Lender and the Agent under this Agreement are separate. The failure of any Lender to carry out its obligations hereunder will not relieve the other Lenders, the Agent or the Borrower of any of their respective obligations hereunder.
- (b) No Liability for Failure by Other Lenders. Neither the Agent nor any Lender will be liable or otherwise responsible for the obligations of any other Lender hereunder.

**19.16 Lender Consent.**

- (a) Unanimity. Notwithstanding anything herein to the contrary and without limiting in any way the context of any provision in this Agreement requiring the consent, approval, action or agreement of all Lenders, the following matters will require the consent, approval action or agreement, as the context requires, of all Lenders:
  - (i) the reduction or forgiveness of any Obligations payable by any Loan Party under the Credit Facilities or under any of the Loan Documents;
  - (ii) the postponement of any maturity date of any Obligations of any Loan Party to the Lenders or under any of the Loan Documents;
  - (iii) the release or discharge of the Security, or any part thereof, unless otherwise expressly permitted or provided in this Agreement or any change in the ranking or priority of the Security;

- (iv) any change in the nature of Advances or any change to the covenants referred to in Sections 3.1(a), 3.2, 3.4, 3.6, 3.10, 4.2, 6.1, 6.2, 12.2, 13.1(a), 13.4(a), 13.4(e), 13.4(i) and 16.6;
- (v) any amendment to Sections 5.7, 11.4, 16.3 or to this Section 19.16(a);
- (vi) any decrease in the applicable margins set out in Section 3.8;
- (vii) any increase in the Commitment Amount;
- (viii) any change to the definition of "Majority Lenders", "LIBOR Period" or "Permitted Encumbrances";
- (ix) any amendment to the Intercreditor Agreement that affects either (A) the priority of the rankings between any of the Obligations, or the Liens in respect thereof, and any Second Lien Indebtedness, or the Liens in respect thereof, (B) the priority or order of any payments to be made by a collateral agent or other party on behalf of the Secured Parties and the Second Lien Creditors following a realization event or otherwise; and
- (x) any other provision hereof which specifically requires the agreement, consent, approval or action of all of the Lenders;

except in any such case to the extent related solely to the Operating Facility where only the consent, approval, action or agreement of the Operating Lender is required.

- (b) Majority Consent. Subject to Section 19.16(a), any waiver of or any amendment to any provision of the Loan Documents and any action, consent or other determination in connection with the Loan Documents will bind all of the Lenders if such waiver, amendment, action, consent or other determination is agreed to in writing by the Majority Lenders.

#### 19.17 Departing Lenders.

If a Lender: (i) is a Non-Agreeing Lender; (ii) is a Defaulting Lender; (iii) seeks Additional Compensation in accordance with Article 11; (iv) is a Non-Conforming Borrowing Base Lender; or (v) refuses to give timely consent to an amendment, modification or waiver of this Agreement that, pursuant to Section 19.16(a), requires consent of all the Lenders (and the consent of the Majority Lenders has otherwise been given with respect thereto) (a "**Non-Consenting Lender**") (collectively, the "**Departing Lenders**"), then the Borrower may, provided no Borrowing Base Shortfall, Default or Event of Default exists at such time or would reasonably be expected to result therefrom, either:

- (a) replace the Departing Lender with another financial institution acceptable to the Agent, acting reasonably, who purchases at par the Aggregate Principal Amount owing to the Departing Lender and such Lender's entire Individual Commitment Amount and assumes the Departing Lender's Individual Commitment Amount

and all other obligations of the Departing Lender hereunder, provided that prior to or concurrently with such replacement:

- (i) the Departing Lender shall have received payment in full of all principal, interest, fees and other amounts through such date of replacement and a release from any further obligations to make Advances under the Loan Documents after the date of such replacement;
  - (ii) the assignment fee required to be paid by Section 18.2 shall have been paid to the Agent;
  - (iii) all of the requirements for such assignment contained in Section 18.2 shall have been satisfied, including, without limitation, the consent of the Agent and the Issuing Banks and the receipt by the Agent of such agreements, documents and instruments as the Agent may reasonably require;
  - (iv) 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 Borrower also requires each other Lender that is a Non-Consenting Lender to assign the Aggregate Principal Amount owing to it and its Individual Commitment Amount in the same manner; and
  - (v) in the case of a Departing Lender who is a Non-Conforming Borrowing Base Lender, each assignee and all of the other Lenders consent, at the time of such assignment, to what the Borrowing Base would have been determined to be under Section 3.10(c) but for the Borrowing Base determined by such Non-Conforming Borrowing Base Lender; or
- (b) elect to terminate the Departing Lender's Individual Commitment Amount, in which case the Commitment Amount shall be reduced by an amount equal to the amount of any Individual Commitment Amount 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 breakage and other costs in accordance with Section 9.2, the provision of Escrow Funds to the Agent on behalf of such Lender in respect of outstanding Bankers' Acceptances accepted by such Lender and cash collateralization in full of any contingent obligations in respect of any outstanding Letters of Credit for which such Lender is the LC Lender) and a release from any further obligations to make Advances under the Loan Documents after such termination).

## ARTICLE 20 MISCELLANEOUS

### 20.1 Notices.

Unless otherwise provided in the Loan Documents, any notice, consent, determination, demand or other communication required or permitted to be given or made thereunder, will be in writing and will be sufficiently given or made if:

- (a) left at the relevant address set forth below; or
  - (b) telecopied or sent by other means of recorded electronic communication; and
- if to TD, as Agent, addressed to TD at:

- (i) For Drawdowns, Rollovers , Conversions and Repayments:

**THE TORONTO-DOMINION BANK**, as Agent  
TD North Tower  
77 King Street West, 25th Floor  
Toronto, Ontario MSK 1A2

Attention: Vice President, Loan Syndications-Agency  
Fax: 416 982-5535  
Email: tdsagencyadmin@tdsecurities.com

- (i) For All Other Notices:

**THE TORONTO-DOMINION BANK**, as Agent  
TD Bank Tower  
66 Wellington Street West, 9th Floor  
Toronto, Ontario MSK 1A2

Attention: Vice President, Loan Syndications-Agency  
Fax: 416 944-6976  
Email: michael.freeman@tdsecurities.com

if to any Loan Party, addressed to such Loan Party at:

**LIGHTSTREAM RESOURCES LTD.**  
2800, 525 – 8<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 1G1

Telecopier: (403) 218-6075  
Attention: Senior Vice President and Chief Financial Officer

- (c) The Parties each covenant to accept service of judicial proceedings arising under the Loan Documents at its respective address set forth herein.
- (d) Any notice or other communication given or made in accordance with this Section 20.1 will be deemed to have been received on the day of delivery if delivered as aforesaid or on the day of receipt of same by telecopy or other

recorded means of electronic communication, as the case may be, provided such day is a Banking Day and that such notice is received prior to 12:00 noon local time and, if such day is not a Banking Day or if notice is received after 12:00 noon local time, on the first Banking Day thereafter.

- (e) Each Party may change its address and telecopier number for purposes of this Section 20.1 by notice given in the manner provided in this Section 20.1 to the other Parties.
- (f) Any notice given under any of the Loan Documents to the Agent will be deemed to also be given to and received by the Agent in its capacity as Lender.

## **20.2 Telephone Instructions.**

Any verbal instructions given by the Borrower in relation to this Agreement will be at the risk of the Borrower and neither the Agent nor the Lenders will have any liability for any error or omission in such verbal instructions or in the interpretation or execution thereof by the Agent or a Lender, as the case may be, provided that the Agent or Lender, as the case may be, acted without gross negligence in the circumstances. The Agent will notify the Borrower of any conflict or inconsistency between any written confirmation of such verbal instructions received from the Borrower and the said verbal advice as soon as practicable after the conflict or inconsistency becomes apparent to the Agent.

## **20.3 No Partnership, Joint Venture or Agency.**

Except as expressly provided for herein, the Parties agree that nothing contained in this Agreement nor the conduct of any Party will in any manner whatsoever constitute or be intended to constitute any Party as the agent or representative or fiduciary of any other Party nor constitute or be intended to constitute a partnership or joint venture among the Parties or any of them, but rather each Party will be separately responsible, liable and accountable for its own obligations under the Loan Documents, or any conduct arising therefrom and for all claims, demands, actions and causes of action arising therefrom. The Parties agree that no Party will have the authority or represent that it has, or hold itself out as having, the authority to act for or assume any obligation or responsibility on behalf of any other Party, save and except as may be expressly provided for in this Agreement.

## **20.4 Judgment Currency.**

If, for the purposes of obtaining judgment in any court or any other related purpose hereunder, it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applicable will be the daily noon day rate quoted by the Bank of Canada on the relevant date to purchase in Calgary, Alberta the Original Currency with the Second Currency and includes any premium and costs of exchange payable by the purchaser in connection with such purchase. Each Party (the "First Party") agrees that its obligation in respect of any Original Currency due from it to another Party hereunder will, notwithstanding any judgment or payment in the Second Currency, be discharged only to the extent that on the Banking Day following the receipt of any sum so paid in the Second Currency, the other Parties may, in accordance with

normal banking procedures, purchase in the Calgary, Alberta foreign exchange market the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased is less than the amount originally due in the Original Currency, the First Party agrees that the deficiency will be a separate and continuing obligation of it, independent from its obligations under this Agreement, and will constitute in favour of the other Parties a cause of action which will continue in full force and effect notwithstanding any such judgment, or order to the contrary, and the First Party agrees, notwithstanding any such payment or judgment, to indemnify the other Parties against any such loss or deficiency. The Borrower acknowledges and agrees that any Indebtedness, obligations or liabilities it may incur or suffer under this Section 20.4 will form part of the Obligations and be secured by the Security.

#### **20.5 Environmental Indemnity of Borrower.**

The Borrower hereby indemnifies and holds harmless each of the Agent and the Lenders, including their respective directors, officers, employees and agents (collectively, the “**Indemnified Parties**”), for any costs, losses, damages, expenses, judgments, suits, claims, awards, fines, sanctions and liabilities whatsoever (in this Section 20.5 collectively a “**Claim**”) suffered or incurred by an Indemnified Party, arising out of, or in respect of:

- (a) the Release of any Contaminant into the Environment from or into any property, owned, operated or controlled, directly or indirectly, by any Loan Party or otherwise in which any Loan Party or any Subsidiary thereof has an interest; and
- (b) the remedial action, if any, required to be taken by the Agent or the Lenders in respect of any such Release,

except in such cases where and to the extent that such Claims from the gross negligence or wilful misconduct of any of the Indemnified Parties. This indemnity will survive repayment or cancellation of the Credit Facilities or any part thereof, including any termination of the other provisions of this Agreement. Other than for costs and expenses incurred by the Indemnified Parties for investigating, defending or denying a Claim or preparing any necessary environmental assessment report or other reports in connection with any Claim (the reasonable costs thereof to be paid forthwith by the Borrower on demand therefor), the Indemnified Parties will not request indemnification from the Borrower unless an Indemnified Party is required by Law, based on the advice of such Indemnified Party’s counsel, to honour a Claim or any part thereof. During the continuation of an Event of Default, the Indemnified Parties will be entitled, but not obligated, to negotiate any settlement of a Claim in consultation with the Borrower, and any such settlement will be binding on the Parties.

#### **20.6 General Indemnity.**

In addition to any liability of the Borrower to the Lenders under any other provision hereof, the Borrower will and does hereby indemnify each Indemnified Party and hold each Indemnified Party harmless against any losses, claims, costs, damages or liabilities (including reasonable out-of-pocket expenses and reasonable legal fees on a solicitor and his own client full indemnity basis) incurred by the same as a result of or in connection with: (a) any cost or

expense incurred by reason of the liquidation or re-deployment in whole or in part of deposits or other funds required by any Lender to fund any Bankers' Acceptance or to fund or maintain any Advance as a result of the Borrower's failure to complete a Drawdown or to make any payment, repayment or prepayment on the date required hereunder or specified by it in any notice given hereunder; (b) subject to permitted or deemed Rollovers and Conversions, the Borrower's failure to provide for the payment to the Agent for the account of the Lenders of the full principal amount of each Bankers' Acceptance on its maturity date; (c) the Borrower's failure to pay any other amount, including any interest or fees, due hereunder on its due date after the expiration of any applicable grace or notice periods; (d) the prepayment of any outstanding Bankers' Acceptance before the maturity date of such Bankers' Acceptance; (e) the Borrower's repayment or prepayment of a LIBOR Based Loan otherwise than on the last day of its LIBOR Period; (f) the Borrower's failure to give any notice required to be given by it to the Agent or the Lenders hereunder; (g) the failure of any Loan Party to make any other payment due hereunder or under any of the other Loan Documents; (h) the inaccuracy of any Loan Party's representations and warranties contained in any Loan Document; (i) any failure of any Loan Party to observe or fulfil its covenants under any Loan Document; (j) the occurrence of any other Default or Event of Default; or (k) any use of the proceeds of the Credit Facilities, including to pay the purchase price of any acquisition; provided that this Section 20.6 will not apply to any losses, claims, costs, damages or liabilities that arise by reason of the gross negligence or wilful misconduct of the Indemnified Party claiming indemnity hereunder. The provisions of this Section 20.6 shall survive repayment of the Obligations of the Borrower under the Loan Documents.

#### **20.7 Further Assurances.**

The Borrower will, from time to time forthwith at the Agent's request and at the Borrower's own cost and expense (to the extent reasonable), do, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, financing change statements, assignments, acts, matters and things which may be reasonably required by the Agent with respect to the Credit Facilities, the Security or any part thereof and to give effect to any provision of the Loan Documents.

#### **20.8 Waiver of Law.**

To the extent legally permitted, the Borrower hereby irrevocably and absolutely waives the provisions of any applicable Law which may be inconsistent at any time with, or which may delay or limit in any way, the enforcement of the Loan Documents in accordance with their terms.

#### **20.9 Attornment and Waiver of Jury Trial.**

The Parties hereto do hereby irrevocably:

- (a) submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta for all matters arising out of or relating to the Loan Documents or any of the transactions contemplated thereby; and



- (b) to the extent legally permitted, waive any right they may have to, or to apply for, trial by jury in connection with any matter, action, proceeding, claim or counterclaim arising out of or relating to the Loan Documents or any of the transactions contemplated thereby.

**20.10 Interest on Payments in Arrears.**

- (a) Except as otherwise provided in this Agreement, interest will be paid by the Parties as follows:

- (i) on amounts for which any Party has actually incurred an out-of-pocket expense and for which another Party has an obligation under the Loan Documents to reimburse such amounts to the Party incurring the expenses, interest will be payable on such amount at the Canadian Prime Rate plus 200 Basis Points from and including the day on which the amount was incurred to but excluding the day on which the amount is reimbursed if, commencing on the date which is 3 Banking Days following a demand for payment of the amount in accordance with the terms of the Loan Documents, such expense has not been paid; and

- (ii) on amounts payable by one Party to another Party under the Loan Documents where such payment is in default but the non-payment of such amount has not required an actual out-of-pocket expense by the Party to whom such payment is due, at the Canadian Prime Rate plus 200 Basis Points from and including the day on which the payment was due to, but excluding the day on which the payment is made whether before or after judgment, but if such payment is a reimbursement by the Lenders to the Borrower for overpayment by it to the Lenders or is in respect of an inadvertent underpayment by the Agent, the Lenders or the Borrower to another Party (based on information provided by such other Party), such interest will only be calculated from the date which is 3 Banking Days following a demand for payment by the Party entitled to it.

- (b) All interest referred to in this Section 20.10 will be simple interest calculated daily on the basis of a 365 day year. For the purposes of the *Interest Act* (Canada), the annual rates of interest to which such rates 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.

**20.11 Payments Due on Banking Day.**

Whenever any payment hereunder will be due on a day other than a Banking Day, or in the case of LIBOR Based Loans a LIBOR Banking Day, such payment will be made on the next succeeding Banking Day, or LIBOR Banking Day, as applicable, and such extension of time will in such case be included in the computation of payment of interest thereunder.

**20.12 Expenses.**

The Borrower will pay or reimburse the Agent and the Lenders, as applicable, for all reasonable out-of-pocket expenses, including legal fees and disbursements (on a solicitor and his own client full indemnity basis) and enforcement costs, incurred by the Agent and the Lenders, as applicable, in connection with the negotiation, preparation, execution and maintenance of the Loan Documents and the enforcement of their rights and remedies under the Loan Documents.

#### 20.13 Anti-Money Laundering Legislation.

- (a) The Borrower acknowledges that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” Laws, whether within Canada or elsewhere (collectively, including any guidelines or orders thereunder, “**AML Legislation**”), the Lenders and the Agent may be required to obtain, verify and record information regarding the Loan Parties, their respective directors, authorized signing officers, direct or indirect shareholders or unitholders or other Persons in control of any Loan Party and the transactions contemplated hereby. The Borrower shall promptly: (i) provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or the Agent, or any prospective assignee of a Lender or the Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence; and (ii) notify the recipient of any such information of any changes thereto.
- (b) If, upon the written request of any Lender, the Agent has ascertained the identity of the Borrower or any Subsidiary or any authorized signatories of the Borrower or any Subsidiary 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 the preceding sentence, each of the Lenders agrees that the Agent has no obligation to ascertain the identity of the Borrower, or any Subsidiary or any authorized signatories of the Borrower or any Subsidiary, on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Borrower or any Subsidiary or any such authorized signatory in doing so.

#### 20.14 Whole Agreement.

This Agreement and the other Loan Documents constitute the entire agreement between the Agent and the Lenders on one hand and the Borrower on the other hand, and cancels and

supersedes any other agreements, undertakings, declarations, representations and warranties, written or verbal among all such Parties in respect of the subject matter of this Agreement.

**20.15 Counterparts.**

The Loan Documents may be executed in any number of counterparts (including by facsimile transmission or other electronic transmission) and by different Parties in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same instrument.

*[The remainder of this page has intentionally been left blank.]*

THIS AGREEMENT has been executed effective the date first written above.

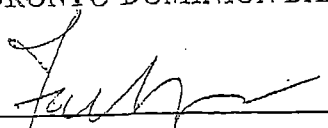
LIGHTSTREAM RESOURCES LTD., as  
Borrower

Per:

Annie Belecki

Annie Belecki  
General Counsel

THE TORONTO-DOMINION BANK, as Agent

Per:   
Name: \_\_\_\_\_  
Title: Feroz Haq  
Director, Loans Syndications - Agency

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE TORONTO-DOMINION BANK, as  
Lender

Per:   
Name: ~~Clark Terrell~~  
Title: Managing Director

Per:   
Name: Carmen Angelescu  
Title: Director

ROYAL BANK OF CANADA, as Lender

Per:  \_\_\_\_\_

Name: \_\_\_\_\_

Title: **Bryan R. Davies**


Authorized Signatory


Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

THE BANK OF NOVA SCOTIA, as Lender

Per:   
Name: Albert Kwan  
Title: Director

Per:   
Name: Michael Linder  
Title: Director



CANADIAN IMPERIAL BANK OF  
COMMERCE, as Lender

Per: \_\_\_\_\_  
Name: *Chris Perks*  
Title: *Managing Director*

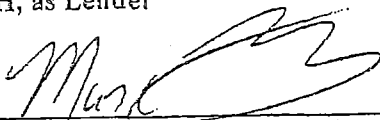
Per: \_\_\_\_\_  
Name: *Randy Geislinger*  
Title: *Executive Director*

WELLS FARGO BANK N.A., CANADIAN  
BRANCH, as Lender

Per:   
Name: DAN LINDQUIST  
Title: Managing Director

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BANK OF AMERICA, N.A., CANADA  
BRANCH, as Lender

Per:   
\_\_\_\_\_

Name:

Title:


**Marc Ahlers**  
**Vice President**


Per: \_\_\_\_\_

Name:

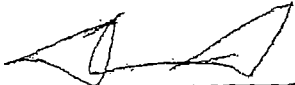
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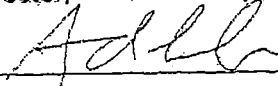
CREDIT SUISSE AG, TORONTO BRANCH, as  
Lender

Per:   
Name: Alain Daoust  
Title: Authorized Signatory

Per:   
Name: Chris Gage  
Title: Authorized Signatory

HSBC BANK CANADA, as Lender

Per:   
Name: \_\_\_\_\_  
Title: **Duncan Levy**  
**Director, Oil & Gas Corporate**

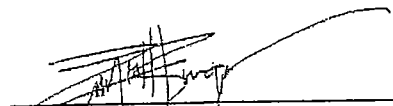
Per:   
Name: \_\_\_\_\_  
Title: **ADAM LAMB**  
**Assistant Vice President**  
**Oil & Gas Large Corporate**

UNION BANK, CANADA BRANCH, as Lender

Per:   
Name: **Matt Schwann**  
Title: **Director**

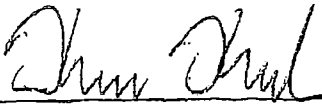
Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CAISSE CENTRALE DESJARDINS, as Lender

Per:   
Name: Oliver Surpugod  
Title: Director

Per:   
Name: Matt van Rensmen  
Title: Managing Director

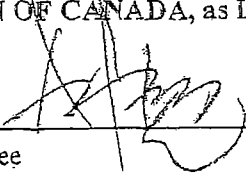
ALBERTA TREASURY BRANCHES, as  
Lender

Per:   
Name: **Kevin Kynoch**  
Title: **Senior Director Energy**

Per:   
Name: **Simon Briggs**  
Title: **Associate Director**




SUMITOMO MITSUI BANKING  
CORPORATION OF CANADA, as Lender

Per:   
Name: Alfred Lee  
Title: Senior Vice President

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CANADIAN WESTERN BANK, as Lender

Per:   
Name: Tim Bacon  
Title: Director, Energy Lending

Per:   
Name: Erin Depoe  
Title: AVP, Energy Lending

UNITED OVERSEAS BANK LIMITED,  
VANCOUVER BRANCH, as Lender

Per: 

Name: \_\_\_\_\_

Title: \_\_\_\_\_

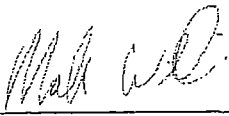
Per: \_\_\_\_\_

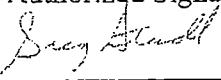
Name: \_\_\_\_\_

Title: \_\_\_\_\_

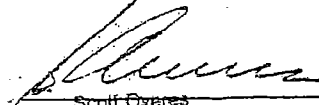
**K. JIN KOH**  
**GENERAL MANAGER**

NATIONAL BANK OF CANADA, as Lender

Per:   
Name: Mark Williamson  
Title: Authorized Signatory

Per:   
Name: Greg Steidl  
Title: Authorized Signatory

BUSINESS DEVELOPMENT BANK OF  
CANADA, as Lender

Per: 

Name: Scott Ovens  
Director, Specialized Credit Group

Title: Corporate Financing  
Directeur, Groupe financement spécialisé  
Financement corporatif

Per: 

Name: Bob Ovens  
Manager, Specialized Credit Group

Title: Corporate Financing  
Directeur, Groupe financement spécialisé  
Financement corporatif



SCHEDULE A  
LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

DEFINITIONS

“Accommodation” means an accommodation referred to in Section 3.7.

“Accounting Change” has the meaning attributed to it in Section 1.16.

“Accounting Change Notice” has the meaning attributed to it in Section 1.16.

“Additional Compensation” will have the meaning attributed to it in Section 11.1(a).

“Administrative Body” means any domestic or foreign, national, federal, provincial, state, municipal or other local government or regulatory body and any division, agency, ministry, commission, board or authority or any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing, and any domestic, foreign or international judicial, quasi-judicial, arbitration or administrative court, tribunal, commission, board or panel acting under the authority of any of the foregoing.

“Advance” means, with respect to a Drawdown, Rollover or Conversion:

- (a) in respect of Accommodations other than Bankers’ Acceptances or Letters of Credit, the disbursement or credit of funds to, or to the credit of, the Borrower;
- (b) in respect of Bankers’ Acceptances, the acceptance by the Lenders of drafts issued under the Agreement by the Borrower and, where the Lenders are purchasing such drafts, the disbursement of the Net Proceeds to the Borrower as provided hereunder; or
- (c) in respect of Letters of Credit, the issuance of Letters of Credit.

“Affiliate” means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided, that beneficial ownership of 10% or more of the Voting Securities of a Person will be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “common control with” have correlative meanings as the meaning attributed to it in the *Securities Act* (Alberta).

“After-Acquired Property” has the meaning attributed to it in Section 4.5.

“Agent” means initially TD or any successor to TD appointed as agent pursuant to Section 19.10.

**“Aggregate Principal Amount”** means (a) when the context requires, the aggregate of the amount of principal outstanding from time to time under a Credit Facility, including the face amount of all unmatured Bankers’ Acceptances and Letters of Credit issued thereunder; or (b) where the context so requires, the aggregate of the amount of principal outstanding from time to time under the Credit Facilities, including the face amount of all unmatured Bankers’ Acceptances and the undrawn amount of outstanding Letters of Credit issued thereunder.

**“Agreeing Lender”** has the meaning ascribed thereto in Section 3.2(b).

**“Agreement”** or **“this Agreement”** means the Third Amended and Restated credit agreement in writing dated effective May 29, 2015 between the Borrower, the Lenders and the Agent entitled **“Third Amended and Restated Credit Agreement”** inclusive of all Schedules, including this Schedule A, as amended, confirmed, replaced or restated from time to time and **“hereto”**, **“hereof”**, **“herein”**, **“hereby”** and **“hereunder”**, and similar expressions mean and refer to the Agreement and, unless the context otherwise requires, not to any particular Article, Section, paragraph or other subdivision thereof.

**“AML Legislation”** has the meaning ascribed thereto in Section 20.13.

**“Anniversary Date”** means June 2nd of each calendar year and each successive anniversary of such date thereafter until the Termination Date.

**“Assignment”** means an agreement whereby a financial institution becomes a Lender substantially in the form of Schedule I, with the blanks completed.

**“BA Discount Rate”** means:

- (a) in relation to a Bankers’ Acceptance accepted by a Schedule I Lender, the CDOR Rate; and
- (b) in relation to a Bankers’ Acceptance accepted by a Schedule II Lender or by a Schedule III Lender, the lesser of:
  - (i) the discount rate then applicable to Bankers’ Acceptances as quoted by such non-Schedule I Lenders; and
  - (ii) the CDOR Rate plus 10 Basis Points per annum,

provided that if both such rates are equal, then the **“BA Discount Rate”** applicable thereto shall be the rate specified in (i) above; and

- (c) in relation to a BA Equivalent Loan:
  - (i) made by a Schedule I Lender (other than Canadian Western Bank) or Alberta Treasury Branches, the CDOR Rate; and
  - (ii) made by a Schedule II Lender or by a Schedule III Lender, the rate determined in accordance with subparagraph (b) of this definition; and



(iii) made by Canadian Western Bank or any other Lender, the CDOR Rate plus 10 Basis Points per annum.

“BA Equivalent Loan” means Canadian Dollar Accommodations made pursuant to Section 9.3.

“BA Stamping Fee” has the meaning attributed to it in Section 3.8(a)(iii).

“*Bank Act (Canada)*” means the *Bank Act*, S.C. 1991, c. 46 including the regulations made and, from time to time, in force under that Act.

“**Bankers’ Acceptance**” means depository bills as defined in the *Depository Bills and Notes Act (Canada)* in Canadian Dollars that are signed by the Borrower, made payable to CDS and accepted by a Lender pursuant to this Agreement.

“**Banking Day**” means any day, other than a Saturday or Sunday, on which financial institutions are open for domestic and foreign exchange business in Calgary, Alberta, Montreal, Quebec, Toronto, Ontario and New York, New York.

“*Bankruptcy and Insolvency Act (Canada)*” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, including the regulations made and, from time to time, in force under that Act.

“**Basis Point**” or “**bps**” means one one-hundredth of 1%.

“**Borrower**” means Lightstream Resources Ltd. and its successors and permitted assigns.

“**Borrower’s Account**” means one or more current accounts maintained by the Borrower at a branch of the Agent or such other account as may be agreed to by the Agent and the Borrower.

“**Borrower’s Counsel**” means Blake, Cassels & Graydon LLP or another firm of barristers and solicitors in an appropriate jurisdiction retained by the Loan Parties and acceptable to the Agent, acting reasonably.

“**Borrowing Base**” means, subject to Section 3.10, a lending value determined based on the oil and gas properties and related facilities of the Loan Parties; such lending value to be determined or redetermined by the Lenders from time to time in accordance with Section 3.10, taking into consideration, without limitation, such factors as each such Lender determines relevant in accordance with its customary practices for oil and gas production loans, including the estimated future net revenue after income tax from the oil and gas properties of the Loan Parties (after taking into account any Hedging Agreements and any royalties or other burdens applicable to such oil and gas properties) using each such Lender’s then current projections of oil and gas prices and direct operating and capital costs and other assumptions affecting such estimated future net revenue in accordance with its customary practice for oil and gas production loans.

“**Borrowing Base Determination**” has the meaning attributed thereto in Section 3.10(b).

“**Borrowing Base Properties**” means the Proved Reserves and other P&NG Rights and related properties and facilities of the Loan Parties which are given lending value in determining the

Borrowing Base and identified as such, from time to time, to the Borrower [by the Agent] in accordance with Section 3.10.

**"Borrowing Base Shortfall"** means, at any time after a Borrowing Base has been determined or redetermined in accordance with Section 3.10, that amount, if any, by which the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount under the Credit Facilities exceeds such Borrowing Base.

**"Business Corporations Act (Alberta)"** means the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended, including the regulations made, from time to time, under that Act.

**"Canadian Dollar Exchange Equivalent"** means with reference to Canadian Dollars, the amount thereof expressed in Canadian Dollars, and with reference to any amount (the **"Original Amount"**) expressed in U.S. Dollars (the **"Original Currency"**), the amount expressed in Canadian Dollars on the date when such amount is being determined as herein provided, required to purchase the Original Amount of the Original Currency at the Noon Rate on the Banking Day immediately preceding the date such conversion is to be made.

**"Canadian Dollars"** or **"Canadian \$"** or **"Cdn. \$"** or **"\$"** each means such currency of Canada which, as at the time of payment or determination, is legal tender in Canada for the payment of public or private debts.

**"Canadian Prime Rate"** means the greater of: (i) the variable rate of interest quoted by the Agent from time to time as the reference rate of interest which it employs to determine the interest rate it will charge for demand loans in Canadian Dollars to its customers in Canada and which it designates as its prime rate, and (ii) one month CDOR Rate plus 100 basis points per annum.

**"Canadian Prime Rate Loan"** means an Advance in Canadian Dollars which bears interest at a rate based on the Canadian Prime Rate.

**"Capital Adequacy Guidelines"** means the capital adequacy guidelines from time to time specified by the Office of the Superintendent of Financial Institutions and published by it as guidelines for banks in Canada.

**"Cash Management Documents"** means any agreement, document or other arrangement entered into or to be entered into by any Loan Party with the Operating Lender for the purpose of creating secured centralized operating accounts for any Loan Party and/or providing for automated clearing house transactions, controlled disbursement services, treasury, depository, overdraft and electronic funds transfer services, foreign exchange facilities currency exchange transactions or agreements or options with respect thereto, credit card processing services, credit or debit cards or purchase cards.

**"Cash Management Obligations"** means any and all obligations of the Loan Parties resulting from or in connection with any Cash Management Documents.

**"Cash Manager"** means the Operating Lender.

“CDOR Rate” means

- (a) for Banker’s Acceptances which have a term to maturity of 1, 2, 3 or 6 months, the arithmetic average of the yields to maturity for bankers’ acceptances accepted by each Schedule I Lender quoted on the Reuter’s Canadian Deposit Offered Rate screen, at 10:00 a.m., (Toronto time) on the applicable date on which an Advance shall take place, for bankers’ acceptances having a term similar to the term requested for each Bankers’ Acceptance issued pursuant to the applicable Advance; provided that if such rates do not appear on such Reuter’s Canadian Deposit Offered Rate screen, then the “CDOR Rate” shall be the discount rate applicable to Canadian Dollar bankers’ acceptances having identical issue and comparable maturity dates and in a comparable amount to the Bankers’ Acceptances proposed to be issued by the Borrower quoted by the Agent as of 10:00 a.m. (Toronto time) on such day for the purchase of bankers’ acceptances accepted by the Agent, or if such day is not a Banking Day, then on the immediately preceding Banking Day; and
- (b) for Bankers’ Acceptances which do not have a term to maturity of 1, 2, 3 or 6 months, the discount rate applicable to Cdn. Dollar bankers’ acceptances having identical issue and comparable maturity dates and in a comparable amount to the Bankers’ Acceptance proposed to be issued by the Borrower quoted by the Agent as of 10:00 a.m. (Toronto time) on such day for bankers’ acceptances accepted by the Agent, or if such day is not a Banking Day, then on the immediately preceding Banking Day.

“CDS” has the meaning attributed to it in Section 9.2(d).

“**Change of Control**” means if, after the Closing Date, any Person, other than another Loan Party, acquires, directly or indirectly, alone or in concert with other Persons, over a period of time or at any one time, Voting Securities in the capital of the Borrower aggregating in excess of 30% of all of the then issued and outstanding Voting Securities of the Borrower.

“**Claim**” has the meaning attributed to it in Section 20.5.

“**Closing Certificate**” means the officer’s certificate of a Loan Party dated as of the Closing Date in a form acceptable to the Lenders, acting reasonably.

“**Closing Date**” means, subject to the satisfaction of the conditions set out in Section 2.1, May 29, 2015.

“**Closing Opinion**” means the opinions of the Borrower’s Counsel, addressed to the Agent and its legal counsel as agreed to by the Agent and its legal counsel, each acting reasonably.

“**Code**” means the *Internal Revenue Code of 1986* (United States), as amended, supplemented or replaced from time to time or any successor thereto.

“**COGEH Definitions**” means the definitions promulgated by the Canadian Oil and Gas Evaluation Handbook in effect from time to time.

“**Commitment Amount**” means, initially, Cdn. \$750,000,000 (or the Equivalent Amount in U.S. Dollars) (being the aggregate of the Syndicated Facility Commitment Amount and the Operating Facility Commitment Amount) as such amount may be decreased pursuant to this Agreement.

“**Companies’ Creditors Arrangement Act (Canada)**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, including the regulations made and, from time to time, in force under that Act.

“**Compliance Certificate**” means the certificate of the Borrower substantially in the form of Schedule D, with the blanks completed.

“**Consolidated EBITDA**” means, without duplication, in respect of any period of determination and as determined on a consolidated basis in respect of the Borrower, Consolidated Net Income for such period, plus to the extent deducted in the calculation of such Consolidated Net Income:

- (a) Consolidated Interest Expense;
- (b) provision for income taxes;
- (c) all non-cash expenses, depreciation and amortization; and
- (d) all extraordinary losses,

less:

- (e) all non-cash gains added in determining Consolidated Net Income; and
- (f) all extraordinary income and gains,

in each case, excluding any such amounts that are attributable to a Subsidiary that on the last day of such period of determination is a Non-Restricted Subsidiary.

Consolidated EBITDA will be adjusted for Material Acquisitions and Material Dispositions and to include or exclude, as applicable, Consolidated EBITDA associated with any such acquisition or disposition made within the applicable period, as if that acquisition or disposition had been made at the beginning of such period (in a manner satisfactory to the Lenders, acting reasonably).

“**Consolidated First Lien Debt**” means all indebtedness which would, in accordance with GAAP, be classified upon a consolidated balance sheet of the Borrower as Indebtedness of the Borrower and its Subsidiaries and, whether or not so classified, shall include (without duplication and on a consolidated basis):

- (a) indebtedness for borrowed money (which for certainty excludes accounts payable incurred in the ordinary course of business);
- (b) the Obligations;

- (c) obligations arising pursuant to bankers' acceptance facilities and commercial paper programs, and under letters of credit, letters of guarantee or any other similar instruments (supporting obligations which would otherwise constitute Consolidated First Lien Debt within the meaning of this definition) or indemnities issued in connection therewith;
- (d) obligations under guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the Indebtedness of any other Person or the obligations of any other Person which would otherwise constitute Consolidated First Lien Debt within the meaning of this definition, and all other obligations incurred for the purpose of, or having the effect of, providing Financial Assistance to another Person in respect of the Indebtedness or such other obligations, including endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business);
- (e) all obligations of any other Person which are secured by a Lien on any of the assets of any of the Borrower and its Subsidiaries; and
- (f) all indebtedness representing the deferred purchase price of any property or services, and all obligations created or arising under any conditional sales agreement or other title retention agreement (but excluding operating leases) or any capital lease,

excluding, in any event: (i) any of the foregoing which is attributable to a Subsidiary that on the last date of the relevant period of determination is a Non-Restricted Subsidiary; (ii) Subordinated Debt; (iii) Second Lien Indebtedness; (iii) Convertible Bonds; (iv) any other unsecured Indebtedness of a Loan Party; and (v) capital or other leases that were or, in the case of leases entered into after the date hereof, would have been classified as operating leases under GAAP immediately prior to the implementation of IFRS.

**"Consolidated First Lien Debt to EBITDA Ratio"** means, as at the end of each Fiscal Quarter, the ratio of Consolidated First Lien Debt as at the last day of such Fiscal Quarter to Consolidated EBITDA for the 12 months ending on the last day of such Fiscal Quarter.

**"Consolidated Interest Expense"** means without duplication, for any period of determination and as determined in accordance with GAAP on a consolidated basis in respect of the Borrower, capitalized interest for such period plus interest expense for such period, including interest charges, the interest component of capital leases, discounts and stamping fees payable in respect of bankers' acceptances and letters of credit, discounts in respect of any securitization programs and commitment or standby fees, in each case excluding any such amounts that are attributable to a Subsidiary that on the last day of such period of determination is a Non-Restricted Subsidiary.

**"Consolidated Net Income"** means, for any period of determination and as determined in accordance with GAAP on a consolidated basis with respect to the Borrower, the net income or loss, as applicable, of the Borrower after income taxes as shown on the Borrower's consolidated statement of income and accumulated earnings for such period, in each case excluding any amounts that are attributable to a Subsidiary that on the last day of such period of determination is a Non-Restricted Subsidiary.

“**Contaminants**” means those substances, pollutants, wastes and special wastes which are defined as contaminants, hazardous, toxic, or a threat to public health or to the Environment under any applicable Environmental Law, including any radioactive materials, urea formaldehyde foam insulation, asbestos or polychlorinated biphenyls (PCB’s).

“**Contributing Lender**” has the meaning ascribed thereto in Section 5.7.

“**Conversion**” means in relation to an Advance, a conversion of an Advance into another type of Advance made pursuant to the Agreement.

“**Convertible Bonds**” means the Existing Convertible Bonds and any Subordinated Convertible Bonds issued by the Borrower from time to time.

“**Credit Facilities**” means the credit facilities established by the Lenders in favour of the Borrower pursuant to Section 3.1, and “**Credit Facility**” means either one of them.

“**Criminal Code (Canada)**” means the *Criminal Code*, R.S.C. 1985, c. C-46, including the regulations made and, from time to time, in force under that Act.

“**Default**” means any event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (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-Paying 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 Borrower (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 Banking Days after request by the Borrower, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Advances; or
- (e) that becomes insolvent, has been deemed insolvent by a court of competent jurisdiction, or becomes the subject of bankruptcy or insolvency proceedings.

“**Defaulting Lender Exposure**” has the meaning ascribed thereto in Section 5.7(d).

“**Departing Lender**” has the meaning ascribed thereto in Section 19.17.

“*Depository Bills and Notes Act (Canada)*” or “DBNA” means the *Depository Bills and Notes Act (Canada)*, S.C. 1998, c. 13, including the regulations made and, from time to time, in force under that Act.

“**Director**” means a director of a corporation and reference to action by the directors or board of directors when used with respect to a corporation means action by the directors of such corporation as a board or, whenever duly empowered, by an executive committee or any other duly authorized committee of the board.

“**Discount Fraction**” means:

$$\frac{1}{1 + (\text{the BA Discount Rate (expressed as a decimal)} \times \text{the number of days in the term of the Bankers' Acceptance divided by 365})}$$

“**Discount Proceeds**” means the actual amount (based on the BA Discount Rate) received by the Borrower from the sale of a Bankers’ Acceptance hereunder without deduction for the stamping fee and which, in the case of a purchase of Bankers’ Acceptances by the Lenders, means an amount equal to the face amount of the Bankers’ Acceptances multiplied by the Discount Fraction (rounded up or down to the fifth decimal place with .000005 being rounded up).

“**Distribution**” means any:

- (a) payment of any dividend on or in respect of any shares, units or other ownership interests of any class in the capital of a Loan Party (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (b) redemption, retraction, purchase or other acquisition or retirement, in whole or in part, of shares, units or other ownership interests of any class in the capital of a Loan Party (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (c) payment of principal, interest or other amounts in whole or in part, of any Indebtedness of a Loan Party (including any Indebtedness incurred or assumed by a Loan Party pursuant to a capital lease or operating lease but excluding any payment made in connection with any Indebtedness otherwise permitted under Section 13.4(a)(i));

to (in the case of paragraphs (a) and (c) of this definition) or by or from (in the case of paragraph (b) of this definition) any shareholder or any Affiliate of a shareholder of a Loan Party (other than a Lender), whether made or paid in or for cash, property or both, or

- (d) transfer of any property for consideration of less than fair market value by a Loan Party to any shareholder or to any Affiliate of a shareholder of a Loan Party.

“**Draft**” has the meaning attributed to it in Section 9.2(b).

“**Drawdown**” means a borrowing or credit of funds by way of Advances, other than an Advance by way of Rollover or Conversion.

“**Drawdown Date**” means the date specified in a Notice of Borrowing or pursuant to Section 5.2 in the case of an overdraft borrowing as the date on which a Drawdown will occur and which date will be a Banking Day, and which in the case of a LIBOR Based Loan will be a LIBOR Banking Day.

“**Effective Date**” has the meaning attributed to it in Section 3.8(d).

“**Election Period**” has the meaning ascribed thereto in Section 3.2(b).

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

“**Environmental Certificate**” means the certificate of the Borrower substantially in the form of Schedule C, with the blanks completed.

“**Environmental Law**” means any Law relating, in whole or in part, to the protection or enhancement of the Environment, including occupational safety, product liability, public health, public safety and transportation or handling of dangerous goods.

“**Escrow Funds**” has the meaning attributed to it in Section 9.5.

“**Event of Default**” means an event specified in Section 16.1.

“**Excess**” has the meaning attributed to it in Section 5.8.

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

- (a) Taxes imposed on or measured by its overall net income (however denominated) or such Lender’s capital, and franchise Taxes imposed on it (in lieu of net income Taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located;
- (b) any branch profits Taxes or any similar Tax imposed by any other jurisdiction in which the Borrower is located;
- (c) Taxes arising from a Lender’s failure to properly comply with such Lender’s obligations imposed under the *Canada-United States Enhanced Tax Information Exchange Agreement Implementation Act* (Canada) or the similar provisions of legislation of any other jurisdiction that has entered into an agreement with the United States of America to provide for the implementation of FATCA-based reporting in that jurisdiction, and for



certainty including in all circumstances any U.S. federal withholding Taxes for or in respect of FATCA.

**"Existing Convertible Bonds"** means the 3.125% senior unsecured convertible bonds due February 8, 2016 issued by the Borrower under the loan agreement dated January 21, 2010 between the Borrower and Norsk Tillitsmann ASA, as loan trustee, as amended, supplemented or restated from time to time to the extent not prohibited hereby.

**"Existing Credit Agreement"** means the second amended and restated credit agreement made effective June 2, 2011 between the Borrower, the lenders thereunder and TD, as agent, as amended to the date hereof.

**"Existing Letters of Credit"** means the letters of credit issued under the Existing Credit Agreement and continued hereunder.

**"Existing Swaps"** means the Hedging Agreements between a Loan Party and any Swap Lender (as defined in the Existing Credit Agreement) which were in place prior to the Closing Date which remain in force and effect on the Closing Date.

**"Existing Unsecured Notes"** means the 8.625% senior notes due January 30, 2020 in the principal amount of \$800,000,000, and established under the indenture dated as of January 30, 2012, between the Borrower and the trustee thereunder, as amended or supplemented, from time to time.

**"Extension"** has the same meaning ascribed thereto in Section 3.2(a).

**"Extension Notice"** has the meaning ascribed thereto in Section 3.2(d).

**"FATCA"** means sections 1471 through 1474 of the Code, as amended or any successor version, any current or future regulations thereunder or relating thereto (whether final, temporary or proposed) or official interpretations thereof and any intergovernmental agreement entered into in connection with the implementation of the foregoing and any regulation, legislation, rules or practices adopted pursuant to any such governmental agreement entered into in connection with Sections 1471 through 1474 of the Code.

**"FCPA"** means the *United States Foreign Corrupt Practices Act of 1977*, including any subordinate legislation thereunder.

**"Federal Funds Rate"** means, for any day, the rate of interest per annum equal to (a) the weighted average (rounded upwards, if necessary, to the next 1/100th of one percent per annum) of the annual rates of interest on overnight Federal funds transactions with members of the Federal Reserve Board of the United States of America (or any successor thereof) arranged by Federal funds brokers on such day, as published on the next succeeding Banking Day by the Federal Reserve Bank of New York (or any successor thereto) or, (b) if such day is not a Banking Day, such weighted average for the immediately preceding Banking Day for which the same is published or, (c) if such rate is not so published for any day that is a Banking Day, the average (rounded upwards, if necessary, to the next 1/100th of one percent per annum) of the

quotations for such day on such transactions received by the Agent from three Federal funds brokers of recognized standing selected by the Agent.

**“Federal Reserve Board”** or **“Federal”** means the Board of Governors of the Federal Reserve System of the United States of America or any successor thereof.

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

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

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

**“Financial Letter of Credit”** means a stand-by Letter of Credit if it serves as a payment guarantee of the Borrower’s financial obligations and is treated as a direct credit substitute for purposes of the Capital Adequacy Guidelines.

**“First Party”** has the meaning attributed to it in Section 20.4.

**“Fiscal Quarter”** means any fiscal quarter of the Borrower.

**“Fiscal Year”** means any fiscal year of the Borrower.

“**Former Lender**” has the meaning ascribed thereto in Section 4.8.

“**Fronted Letter of Credit**” has the meaning ascribed thereto in Section 10.1(b).

“**GAAP**” means generally accepted accounting principles which are in effect from time to time in Canada, which as of the Closing Date is IFRS.

“**Governmental Acts**” has the meaning attributed to it in Section 10.10.

“**Hedge Monetization**” means the termination, restructuring or unwinding of any Hedge Agreement (but, for certainty, excluding the termination thereof on the scheduled maturity date thereof) in respect of commodity prices which was in effect as of the last Borrowing Base Determination where lending value has been attributed to the underlying production by any one or more of the Lenders in determining the Borrowing Base and which has resulted in proceeds being paid to a Loan Party.

“**Hedging Agreements**” has the meaning attributed to it in Section 13.4(b).

“**Hostile Acquisition**” means an acquisition, which is required to be reported to applicable securities regulatory authorities, of shares of a corporation where the board of directors of that corporation has not approved such acquisition nor recommended to the shareholders of the corporation that they sell their shares pursuant to the proposed acquisition or of units of a trust where the trustee or manager or administrator of that trust has not approved such acquisition nor recommended to the unitholders of the trust that they sell their units pursuant to the proposed acquisition or of units of a partnership where the board of directors of the general partner(s) thereof has not approved such acquisition nor recommended to the partners of the partnership that they sell their units pursuant to the proposed acquisition.

“**IFRS**” means International Financial Reporting Standards adopted by the International Accounting Standards Board from time to time.

“**includes**” means “includes without limitation” and “**including**” means “including without limitation”.

“**Income Tax Act (Canada)**” means the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), including the regulations made and, from time to time, in force under that Act.

“**Indebtedness**” means, without duplication, the aggregate amount of all obligations, liabilities and indebtedness of a Person which would be classified under GAAP as indebtedness for borrowed money upon the consolidated balance sheet of such Person, including all long-term borrowings, the current portion of long-term borrowings, short-term borrowings, obligations under capital leases (classified as such under GAAP) plus all obligations of such Person arising in respect of a Hedging Agreement that are due and owing and all obligations, contingent or otherwise, of any of the foregoing arising from any guarantee made by such Person in respect of any of the foregoing.

“**Indemnified Parties**” has the meaning attributed to it in Section 20.5.

**“Individual Commitment Amount”** means, from time to time, in respect of a Lender, that portion of the Commitment Amount which such Lender has severally agreed to make available to the Borrower in accordance with the terms and conditions of the Agreement, subject to adjustment pursuant to the terms of the Agreement.

**“Individual Syndicated Facility Commitment Amount”** means, from time to time, in respect of a Syndicated Facility Lender, that portion of the Syndicated Facility Commitment Amount which such Lender has severally agreed to make available to the Borrower in accordance with the terms and conditions of this Agreement, subject to adjustment pursuant to the terms as set forth herein.

**“Interest Act (Canada)”** means the *Interest Act*, R.S.C. 1985, c. I-15, including the regulations made and, from time to time, in force under that Act.

**“ISP98”** means the International Standby Practices ISP98, as published by the International Chamber of Commerce and in effect from time to time.

**“Issuing Bank”** means TD for Fronted Letters of Credit and the Agent for POA Letters of Credit and the Operating Lender for Letters of Credit issued under the Operating Facility.

**“Judgment Interest Act (Alberta)”** means the *Judgment Interest Act*, R.S.A. 2000, c. J-1, including the regulations made and from time to time in force under that Act.

**“Law”** means all constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international, any judgments, orders, writs, injunctions, decisions, rulings, decrees and awards of any Administrative Body, and any policies, voluntary restraints, practices or guidelines of any Administrative Body, and including any principles of common law and equity.

**“LC Lenders”** means the Syndicated Facility Lenders who participate in an Advance under the Syndicated Facility by way of Letter of Credit, and **“LC Lender”** means any one of them.

**“LC Payment”** has the meaning attributed to it in Section 16.3.

**“Lender BA Suspension Notice”** has the meaning attributed to it in Section 9.6.

**“Lender LIBOR Suspension Notice”** has the meaning attributed to it in Section 8.3.

**“Lenders”** means, initially, the Operating Lender and the Syndicated Facility Lenders identified in Schedule B, and thereafter, each Person which may become a Lender under this Agreement, as a lender, by executing and delivering to the Agent an Assignment, and each of their respective successors and permitted assigns, and **“Lender”** means any one of them in such capacity.

**“Letters of Credit”** means letters of credit or letters of guarantee in Canadian Dollars or U.S. Dollars issued under Article 10.

**“Letter of Credit Fee”** has the meaning attributed to it in Section 3.8(a)(v).

**"LIBOR"** means, for each LIBOR Period applicable to a Libor Loan, the rate of interest per annum, expressed on the basis of a year of 360 days, determined by the Agent at approximately 11:00 a.m. (London, England time) on the second Banking Day prior to the first day of such LIBOR Period by reference to the rate set by ICE Benchmark Administration for deposits in United States Dollars (as set forth by any service selected by the Agent that has been nominated by ICE Benchmark Administration as an authorized information vendor for the purpose of displaying such rates (which, as of the date hereof, is the "LIBOR01 Page" of Reuters Limited)) for a period equal to the LIBOR Period in question; provided, however, that, to the extent that such rate is not ascertainable pursuant to the foregoing provisions of this definition, "LIBOR" shall be the rate per annum determined by the Agent to be the average of the rates per annum at which deposits of United States Dollars are offered for such relevant LIBOR Period to major banks in the London interbank market in London, England by the Agent (or an Affiliate thereof, if the Agent does not offer such deposits) at approximately 11:00 a.m. (London, England time) on the second Banking Day prior to the first day of such LIBOR Period; provided that, if the rate determined above shall ever be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

**"LIBOR Banking Day"** means any Banking Day on which commercial banks are open for international business (including dealings in U.S. Dollar deposits in the London interbank market) in London, England.

**"LIBOR Based Loan"** means an Advance in U.S. Dollars which bears interest at a rate based on the LIBOR.

**"LIBOR Period"** means a period of 1, 2, 3 or 6 months selected by the Borrower and readily available in the London Interbank Eurodollar Market, or such other period as may be agreed to by the Lenders.

**"Lien"** means any mortgage, lien, pledge, charge (whether fixed or floating), security interest, conditional sale or title retention agreement (other than operating leases in respect of tangible personal property which are not in the nature of financing transactions), trust or deposit arrangements in the nature of a security interest or other encumbrance of any kind, contingent or absolute but excludes any contractual right of set-off created in the ordinary course of business and any writ of execution, or other similar instrument, arising from a judgment relating to the non-payment of Indebtedness.

**"Loan Documents"** means the Agreement and any other instruments or agreements entered into by the Parties relating to the Credit Facilities, including the Security, and any document or agreement resulting from the operation of Section 4.1.

**"Loan Parties"** means, collectively, the Borrower and each Restricted Subsidiary, which as of the Closing Date, are set out in Schedule H.

**"Majority Lenders"** means Lenders holding, in aggregate, at least 66 2/3% of the Commitment Amount.

**“Material Acquisition”** means an acquisition by a Loan Party of shares or other assets from a third party completed in the immediately preceding four Fiscal Quarters which results in net proceeds in excess of the Threshold Amount.

**“Material Adverse Effect”** means a material adverse effect on:

- (a) the financial condition of the Loan Parties taken as a whole;
- (b) the Loan Parties’ ability to perform their respective material obligations under the Loan Documents or the validity or enforceability of a material provision of the Loan Documents; or
- (c) the property, business, operations, prospects, assets, liabilities or financial condition of the Loan Parties taken as a whole.

**“Maturity Date”** means the date, which must be a Banking Day, or a LIBOR Banking Day with respect to a LIBOR Based Loan, on which the applicable LIBOR Period expires in respect of a LIBOR Based Loan or a Bankers’ Acceptance, or a BA Equivalent Loan, matures.

**“Material Dispositions”** means a sale, disposition or other transfer of assets or shares by a Loan Party to a third party (to the extent permitted hereunder) completed in the immediately preceding four Fiscal Quarters which results in net proceeds in excess of the Threshold Amount.

**“Net Proceeds”** means the Discount Proceeds of a Bankers’ Acceptance (or in the case of a BA Equivalent Loan, the amount of such BA Equivalent Loan), less the applicable stamping fee as provided hereunder in respect of Bankers’ Acceptances.

**“Non-Agreeing Lender”** has the meaning attributed to it in Section 3.2(b).

**“Non-BA Lender”** means a Lender that (a) is not a bank chartered under the *Bank Act* (Canada); or (b) has notified the Agent in writing that it is unwilling or unable to accept bankers’ acceptance drafts, including Canadian Western Bank.

**“Non-Conforming Borrowing Base Lender”** has the meaning attributed thereto in Section 3.10(d).

**“Non-Consenting Lender”** has the meaning ascribed thereto in Section 19.17.

**“Non-Financial Letter of Credit”** means a Letter of Credit that is not a Financial Letter of Credit.

**“Non-LC Lender”** means a Lender which cannot, as part of its on-going lending business, issue its own letter of credit.

**“Non-Participating Lender”** has the meaning attributed to it in Section 6.3.

**“Non-Paying Lender”** has the meaning ascribed thereto in Section 5.7.

**“Non-Restricted Subsidiary”** means any Subsidiary which is not a Restricted Subsidiary.

**"Noon Rate"** means, in relation to the conversion of one currency into another currency, the rate of exchange for such conversion as quoted by the Bank of Canada (or, if not so quoted, the spot rate of exchange quoted for wholesale transactions made by the Agent at Toronto, Ontario at approximately noon (Toronto time)).

**"Notice of Borrowing"** means, in relation to Advances, a notice by the Borrower to the Agent substantially in the form of Schedule F, with the blanks completed, as applicable.

**"Notice of Rollover or Notice of Conversion"** means, in relation to Advances, a notice by the Borrower to the Agent substantially in the form of Schedule G, with the blanks completed.

**"Obligations"** means, as the contract requires, without duplication: (a) the aggregate amount of all obligations, liabilities and Indebtedness, contingent or otherwise, of a Loan Party to the Agent or any Lender under the Loan Documents (including, for greater certainty, the Swap Documents); or (b) with respect to a Credit Facility, all of the foregoing outstanding under such Credit Facility.

**"Oil and Gas Certificate"** means the certificate of the Borrower substantially in the form of Schedule M with the blanks completed.

**"Operating Facility"** means the operating facility established from time to time in favour of the Borrower by the Operating Lender pursuant to Section 3.1(b).

**"Operating Facility Commitment Amount"** means Cdn. \$50,000,000 as it may be changed from time to time in accordance with the terms hereof.

**"Operating Lender"** means, initially, TD, or any other Lender which from time to time provides the Operating Facility to the Borrower.

**"Operating Letter of Credit"** has the meaning attributed to it in Section 10.1(a).

**"Original Currency"** has the meaning attributed to it in Section 20.4.

**"P&NG Rights"** means all of the right, title, estate and interest, whether contingent or absolute, legal or beneficial, present or future, vested or not, and whether or not an "interest in land", in and to any, or such as are stipulated, of the following, by whatever name the same are known:

- (a) rights to explore for, drill for, produce, take, save or market Petroleum Substances from or allocated to its lands or lands with which the same have been pooled or unitized;
- (b) rights to a share of the production of Petroleum Substances from or allocated to lands or lands with which the same have been pooled or unitized;
- (c) rights to a share of the proceeds of, or to receive payments calculated by reference to the quantity or value of, the production of Petroleum Substances from or allocated to lands or lands with which the same have been pooled or unitized;

- (d) rights in lands or documents of title related thereto, including leases, subleases, licenses, permits, reservations, rights and privileges; and
- (e) rights to acquire any of the above rights described in paragraphs (a) through (d) of this definition,

and includes interests and rights known as working interests, royalty interests, overriding royalty interests, gross overriding interests, production payments, profits interests, net profits interests, revenue interests, net revenue interests and other economic interests.

**“Participant”** has the meaning attributed to it in Section 18.4.

**“Participating Lender”** has the meaning attributed to it in Section 6.3.

**“Parties”** means the Borrower, the Agent and the Lenders and their respective successors and permitted assigns, and **“Party”** means any one of the Parties.

**“Pension Plan”** means any retirement or pension benefit plan that is established by a Person for the benefit of its employees, that requires such Person to make periodic payments or contributions.

**“Permitted Contest”** means action taken by or on behalf of a Loan Party in good faith by appropriate proceedings diligently pursued to contest a Tax, claim or Lien, provided that:

- (a) the Person to which the Tax, claim or Lien being contested is relevant (and, in the case of a Loan Party, the Borrower on a consolidated basis) has established reasonable reserves therefor if and to the extent required by GAAP;
- (b) proceeding with such contest does not have, and could not reasonably be expected to have, a Material Adverse Effect; and
- (c) proceeding with such contest will not create a material risk of sale, forfeiture or loss of, or interference with the use or operation of, a material part of the proved reserves of Petroleum Substances of the Borrower or the Loan Parties.

**“Permitted Dispositions”** means any:

- (a) sale or disposition of P&NG Rights (and related tangibles) resulting from any pooling or unitization entered into in the ordinary course of business and in accordance with sound industry practice when, in the reasonable judgment of the Borrower, it is necessary to do so in order to facilitate the orderly exploration, development or operation of such P&NG Rights;
- (b) sale or disposition in the ordinary course of business and in accordance with sound industry practice of tangible personal property forming part of the Borrower’s production facilities that is obsolete, no longer useful for its intended purpose or being replaced in the ordinary course of business;



- (c) sale or disposition of current production from P&NG Rights made in the ordinary course of business; and
- (d) subject to Section 13.4(e), sales or dispositions of assets between any of the Loan Parties.

**“Permitted Distributions” means:**

- (a) any Distribution to the extent payable solely in common shares of the Borrower;
- (b) any Distribution by a Loan Party to another Loan Party; and
- (c) to the extent the same is a Distribution, any payment of salaries, bonuses, directors’ fees and other executive compensation to employees, officers, directors or trustees of the Borrower and its Subsidiaries in the ordinary course of business.

**“Permitted Encumbrances” means:**

- (a) undetermined or inchoate Liens arising in the ordinary course of and incidental to construction or current operations which have not been filed pursuant to Law or in respect of which no steps or proceedings to enforce such Lien have been initiated or which relate to obligations which are not due or delinquent or if due or delinquent, any Lien which the Borrower is contesting at the time by a Permitted Contest;
- (b) Liens incurred or created in the ordinary course of business and in accordance with sound industry practice in respect of the joint operation of oil and gas properties or related production or processing facilities as security in favour of any other Person conducting the development or operation of the property to which such Liens relate costs and expenses of such development or operation, provided such costs or expenses are not due or delinquent or if due or delinquent, any Lien which the Borrower is contesting at the time by a Permitted Contest;
- (c) to the extent a Lien is created thereby, a sale or disposition of oil and gas properties resulting from any pooling or unitization agreement entered into in the ordinary course of business when, in the Borrower’s reasonable judgment, it is necessary to do so in order to facilitate the orderly exploration, development or operation of such properties, provided that, the resulting pooled or unitized interest is proportional (either on an acreage or reserve basis) to the interest contributed by it and is not materially less than the Borrower’s direct or indirect interest in such oil and gas properties prior to such pooling or unitization and its obligations in respect thereof are not greater than its proportional share based on the interest acquired by it;
- (d) to the extent a Lien is created thereby, farmout interests or overriding royalty interests, net profit interests, reversionary interests and carried interests in respect of P&NG Rights that are or were entered into with or granted to arm’s length third parties in the ordinary course of business and in accordance with sound industry practice;

- (e) Liens for penalties arising under non-participation provisions of operating agreements in respect of P&NG Rights or any related facilities, if such Liens would not reasonably be expected to have a Material Adverse Effect;
- (f) easements, rights-of-way, servitudes, zoning or other similar rights or restrictions in respect of land (including rights-of-way and servitudes for railways, sewers, drains, pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) which, either alone or in the aggregate, would not reasonably be expected to have a Material Adverse Effect;
- (g) any Lien or trust arising in connection with worker's compensation, employment insurance, pension and employment Law;
- (h) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit acquired or by any statutory provision to terminate any such lease, license, franchise, grant or permit or to require annual or other periodic payments as a condition of the continuance thereof;
- (i) all reservations in the original grant from the Crown of any lands and premises or any interests therein and all statutory exceptions, qualifications and reservations in respect of title;
- (j) any right of first refusal in favour of any Person, other than a Loan Party, granted in the ordinary course of business with respect to all or any of the P&NG Rights or related facilities;
- (k) public and statutory Liens not yet due and similar Liens arising by operation of Law;
- (l) the Security;
- (m) Liens for Taxes, assessments or governmental charges not at the time due or delinquent or, if due or delinquent, the validity of which is contested at the time by a Permitted Contest;
- (n) Liens under or pursuant to any judgment rendered, or claim filed, against the Borrower or Subsidiary, which the Borrower is contesting at the time by a Permitted Contest;
- (o) Liens granted to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or other authority in connection with the operations of the Loan Parties, all in the ordinary course of its business which individually or in the aggregate do not materially detract from the value of the asset concerned or materially impair its use in the operation of the business of the Loan Parties, taken as a whole;
- (p) bankers' liens, rights of set-off and other similar Liens existing solely with respect to cash and cash equivalents on deposit in one or more accounts maintained by the Loan Parties, in each case, granted in the ordinary course of business in favour of a Lender or Lenders with which such accounts are maintained, securing amounts owing to such

Lender or Lenders with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements;

- (q) pledges or deposits to secure performance of (i) bids, tenders, contracts (other than contracts for the payment of money) or (ii) leases of real property, in each case, to which a Loan Party is a party;
- (r) any Lien in favour of the Second Lien Creditors in respect of Second Lien Indebtedness and for so long as such Liens shall be subordinated and postponed to the Liens constituted by the Security in accordance with, and shall be subject to, the Second Lien Intercreditor Agreement;
- (s) any Lien from time to time which is consented in writing to by the Lenders;
- (t) any other Liens (including Purchase Money Liens and capital leases) which are not otherwise Permitted Liens; provided that the aggregate principal amount of Indebtedness or other obligations secured thereby does not the Threshold Amount; and
- (u) any extension, renewal or replacement (or successive extensions, renewals or replacements), as a whole or in part, of any Lien referred to in the preceding paragraphs (a) to (t) inclusive of this definition, so long as any such extension, renewal or replacement of such Lien is limited to all or any part of the same property that secured the Lien extended, renewed or replaced (plus improvements on such property) and the Indebtedness, liability or obligation secured thereby is not increased.

“**Person**” means an individual, a partnership, a corporation, a company, a trust, an unincorporated organization, a union, a government or any department or agency thereof (collectively an “entity”) and the heirs, executors, administrators, successors, or other legal representatives, as the case may be, of such entity.

“**Petrobank**” means Petrobank Energy and Resources Ltd.

“**Petroleum Substances**” means petroleum, natural gas, natural gas liquids, bitumen, related hydrocarbons and any and all other substances, whether liquid, solid or gaseous, whether hydrocarbons or not, produced or producible in association with any of the foregoing.

“**POA Letter of Credit**” has the meaning ascribed thereto in Section 10.1.

“**Pricing Table**” means the pricing table labelled “Pricing Table” set forth in Section 3.8(a).

“**Principal Repayment**” means the repayment by or for and on behalf of the Borrower to the Lenders of all or a portion of any Aggregate Principal Amount under any Credit Facility.

“**Proved Reserves**” has the meaning given to that term in the COGEH Definitions.

“**Purchase Money Lien**” means a Lien, whether given to a vendor, lender or any other Person, securing Indebtedness assumed or incurred as, or to provide, all or part of the purchase price or other acquisition cost of property, other than P&NG Rights, which Lien is limited exclusively to

such property and any proceeds thereof and any extension, renewal, refinancing or replacement thereof.

**“Rateable Portion”** means, at any time and from time to time with respect to each Lender and each Credit Facility and subject to adjustment pursuant to Section 6.3:

- (a) in respect of the Syndicated Facility, the proportion of the Individual Syndicated Facility Commitment Amount of such Syndicated Facility Lender relative to the Syndicated Facility Commitment Amount of all Syndicated Facility Lenders;
- (b) in respect of the Operating Facility, the Rateable Portion for the Operating Lender shall be 100% unless the Operating Lender has assigned a portion of its interest in the Operating Facility pursuant to Article 16 in which case the Rateable Portion shall be determined in accordance with the percentage interest held by each Operating Lender in the Operating Facility; and
- (c) in respect of all Credit Facilities, the portion of the Individual Commitment Amount of a Lender relative to the Commitment Amount of all Lenders,

provided that in respect of all Credit Facilities, the Rateable Portion after an Event of Default has occurred and is continuing shall be the portion of the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount owing to a Lender relative to the Canadian Dollar Exchange Equivalent of the Aggregate Principal Amount owing to all Lenders.

**“Release”** includes releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

**“Request for Offer of Extension”** means a request by the Borrower for an offer by the Lenders to extend the Termination Date pursuant to Section 3.2, substantially in the form of Schedule E executed by a senior officer of the Borrower.

**“Request Period”** has the meaning ascribed thereto in Section 3.2(a).

**“Resignation Notice”** has the meaning attributed to it in Section 19.10.

**“Restricted Subsidiary”** means (a) any Subsidiary of the Borrower that has been designated as a “Restricted Subsidiary” by the Borrower and (b) any other Subsidiary that owns Borrowing Base Properties. As of the Closing Date, the only Restricted Subsidiaries are as set forth in Schedule H.

**“Rollover”** means, with respect to an Advance:

- (a) in relation to a LIBOR Based Loan, the continuation of all or any portion of such LIBOR Based Loan for an additional LIBOR Period subsequent to the initial or any subsequent LIBOR Period applicable thereto; and
- (b) in relation to maturing Banker’s Acceptances, the issuance of new Bankers’ Acceptances in respect of all or any portion of such Bankers’ Acceptances at their Maturity Date.

**“Sanctions”** means the economic sanctions laws, regulations, 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) or the United Nations 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 *U.S.A 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.

**“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 OFAC, the United States Department of State, and Her Majesty's Treasury of the United Kingdom; **“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 law 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.

**“Scheduled Borrowing Base Date”** has the meaning attributed it in Section 3.10(b).

“**Second Currency**” has the meaning attributed to it in Section 20.4.

“**Second Lien Creditors**” means, collectively, the lenders, and any administrative or collateral agents or trustees from time to time under any Second Lien Financing Agreement, and includes any replacements thereof in connection with a Second Lien Refinancing.

“**Second Lien Financing Agreement**” means any credit agreement or other principal financing document by and between the Borrower and the Second Lien Creditors governing the terms and conditions of the Second Lien Indebtedness as such agreement may be amended, restated, supplemented or replaced from time to time as permitted hereunder and under the Second Lien Intercreditor Agreement.

“**Second Lien Indebtedness**” means all Indebtedness incurred by the Borrower from the Second Lien Creditors pursuant to the terms of a Second Lien Financing Agreement.

“**Second Lien Intercreditor Agreement**” means an intercreditor agreement by and between the Borrower, the Second Lien Creditors (or a representative thereof), and the Agent on behalf of the Secured Parties, as amended, restated, supplemented or replaced from time to time, which intercreditor agreement shall incorporate the material terms set forth in Schedule N attached hereto with such amendments as may be agreed to by (a) the Agent in the case of amendments that are solely administrative in nature, or (b) in all other cases, the Majority Lenders, acting reasonably.

“**Second Lien Refinancing**” means any Indebtedness of the Borrower issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund the Second Lien Indebtedness, *provided* that:

- (a) the principal amount (or accreted value, if applicable) of such permitted refinancing indebtedness does not exceed the maximum principal amount (or accreted value, if applicable) of the then current Second Lien Indebtedness (excluding, for certainty all accrued and unpaid interest on the such indebtedness and the amount of all costs, fees, expenses and premiums incurred in connection therewith);
- (b) such permitted refinancing indebtedness has a final maturity date not earlier than the final maturity date of the Second Lien Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded;
- (c) such permitted refinancing indebtedness is subject to the terms of the Second Lien Intercreditor Agreement; and
- (d) the covenants and terms of such permitted refinancing indebtedness are no more restrictive, taken as a whole, than the terms of the Second Lien Financing Agreement in respect of the Second Lien Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded (and the amendments thereto permitted under the Second Lien Intercreditor Agreement).

“**Secured Obligations**” means, collectively, the Obligations, the Swap Indebtedness and the Cash Management Obligations.

“Secured Parties” means, collectively, the Agent, the Lenders, the Swap Lenders, and each Cash Manager.

“Security” has the meaning attributed to it in Section 4.1 and includes any other Lien hereafter granted to secure the payment of the Secured Obligations.

“Subsidiary” means any Person of which more than 50% of the outstanding Voting Securities are owned, directly or indirectly by or for a Loan Party, provided that the ownership of such securities confers the right to elect at least a majority of the board of directors of such Person, or a majority of Persons serving similar roles, and includes any legal entity in like relationship to a Subsidiary.

“Subordinated Convertible Bonds” means any convertible subordinated bonds or debentures issued (or assumed) by a Loan Party which have all of the following characteristics:

- (a) an initial final maturity or due date in respect of repayment of principal extending beyond the latest Termination Date of any Lender under this Agreement in effect at the time such debentures or notes are created, incurred, assumed or guaranteed;
- (b) no scheduled or mandatory payment or repurchase of principal thereunder (other than acceleration following an event of default in regard thereto or payments which can be satisfied by the delivery of securities of the Borrower as contemplated in (g) below and other than on a change of control of the Borrower where a Change of Control also occurs by reason of the definition thereof in this Agreement) prior to the latest Termination Date in effect at the time such debentures or notes are created, incurred, assumed or guaranteed;
- (c) such bonds or debentures shall be unsecured;
- (d) upon and during the continuance of any Default or Event of Default or acceleration of the time for repayment of any of the Indebtedness under this Agreement which has not been rescinded: (i) such bonds or debentures shall be postponed, subordinate and junior in right of payment to all payment obligations under this Agreement or any guarantee thereof and (ii) no enforcement steps or enforcement proceedings may be commenced in respect of such bonds or debentures;
- (e) upon any distribution of the assets of the applicable Loan Party on any dissolution, winding up, total liquidation or reorganization of 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 Indebtedness under this Agreement 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 debentures or notes;
- (f) the occurrence of a Default or Event of Default hereunder or the acceleration of the time for repayment of any of the Indebtedness under this Agreement or enforcement of the rights and remedies of the Agent and the Lenders hereunder or under any other Loan Document shall not in and of themselves:

- (i) cause a default or event of default (with the passage of time or otherwise) under such debentures or notes or the indenture governing the same; or
  - (ii) cause or permit the obligations under such debentures or notes to be due and payable prior to the stated maturity thereof; and
- (g) payments of interest or principal due and payable under such bonds or debentures can be satisfied, at the option of the applicable Loan Party, by delivering capital stock in accordance with the indenture or agreement governing such bonds or debentures (whether such capital stock is received by the holders of such bonds or debentures as payment or are sold by a trustee or representative under such indenture or agreement to provide cash for payment to holders of such bonds or debentures).

“**Subordinated Debt**” means all Indebtedness created, incurred, assumed or guaranteed by a Loan Party and which is owing to a Person or Persons other than another Loan Party, provided the holders of such debt enter into a subordination and postponement agreement with the Agent, which Indebtedness has all of the following characteristics:

- (a) an initial final maturity in respect of repayment of principal extending beyond the latest Termination Date of any Lender under this Agreement at the time such Subordinated Debt is created, incurred, assumed or guaranteed;
- (b) no scheduled cash principal payments thereunder prior to the latest Termination Date of any Lender under this Agreement at the time such Subordinated Debt is created, incurred, assumed or guaranteed;
- (c) such Indebtedness shall be unsecured;
- (d) upon the occurrence and during the continuance of any Default or Event of Default or the commencement of any proceedings in relation to dissolution, winding up, liquidation, receivership, insolvency or bankruptcy of the applicable Loan Party, such indebtedness shall be postponed, subordinate and junior in right of payment to all payment obligations under this Agreement or any guarantee thereof;
- (e) such indebtedness may be repaid at any time from: (i) the issuance of new Subordinated Debt that meets all of the criteria in the definition thereof; or (ii) the issuance of additional capital stock;
- (f) upon the occurrence of any Default or Event of Default, such indebtedness shall have a standstill period of not less than six months; and
- (g) such indebtedness shall not have any covenants, events of default or other terms and conditions (except for pricing) which are more restrictive than those contained in this Agreement,

but does not in any event include Convertible Bonds or Second Lien Indebtedness.

“**Successor Agent**” has the meaning attributed to it in Section 19.10.



“**Swap Documents**” means all Hedge Agreements and related confirmations, amendments and supplements thereto between a Loan Party and a Swap Lender.

“**Swap Indebtedness**” means the actual Indebtedness or other liabilities or obligations of any Loan Party to a Swap Lender under or pursuant to a Swap Document, including the Existing Swaps.

“**Swap Lender**” means any Lender or any Affiliate thereof that is a hedge provider under a Swap Document entered into prior to such Swap Lender or relevant Affiliate ceasing to be a Lender (and, for certainty, includes each financial institution or its affiliate that is a counterparty to any Existing Swap). For greater certainty, any Person who enters into a Swap Document after such Person ceases to be a Lender is not a Swap Lender.

“**Syndicated Facility**” means the credit facility established in favour of the Borrower pursuant to Section 3.1(a).

“**Syndicated Facility Commitment Amount**” means, initially, Cdn. \$700,000,000, as such amount may be reduced in accordance with this Agreement or increased or with the unanimous consent of the Syndicated Facility Lenders.

“**Syndicated Facility Lenders**” means, each of the Lenders listed in Schedule B as having an Individual Syndicated Facility Commitment Amount and thereafter, each Lender which may become a Party to this Agreement, as a lender, by executing and delivering to the Agent and to the Borrower an Assignment, and each of their respective successors and permitted assigns.

“**Taxes**” means all taxes of any kind or nature whatsoever including income taxes, capital taxes, minimum taxes, levies, imposts, stamp taxes, royalties, duties, charges to tax, value added taxes, commodity taxes, goods and services taxes, and all fees, deductions, compulsory loans, withholdings and restrictions or conditions resulting in a charge imposed, levied, collected, withheld or assessed as of the date hereof or at any time in the future by any governmental or quasi-governmental authority of or within any jurisdiction whatsoever having power to tax, together with penalties, fines, additions to tax and interest thereon and any instalments in respect thereof.

“**TD**” means The Toronto-Dominion Bank, a Canadian chartered bank, and its successors and permitted assigns.

“**Termination Date**” means, initially June 2, 2017, as the same may be extended from time to time in accordance with Section 3.2.

“**Threshold Amount**” means the greater of: (a) 5% of the Borrowing Base at the time of determination; and (b) Cdn. \$35,000,000, or the Canadian Dollar Exchange Equivalent thereof if a determination is being made in another currency.

“**UK Bribery Act**” means the *United Kingdom Bribery Act 2010*, including any subordinate legislation thereunder.

“**Uniform Customs**” has the meaning given to it in Section 10.3(e).

**“U.S. Base Rate”** means the greatest of (a) variable rate of interest quoted by the Agent from time to time as the reference rate of interest which it employs to determine the interest rate it will charge for demand loans in U.S. Dollars to its customers in Canada and which it designates as its **“U.S. Base Rate”**; (b) the Federal Funds Rate plus 100 Basis Points; and (c) LIBOR for an interest period of one month plus the applicable margin indicated in the Pricing Table for a LIBOR Based Loan (commencing on the date of determination or, if such day is not a Banking Day, commencing on the immediately preceding Banking Day).

**“U.S. Base Rate Loan”** means an Advance bearing interest at a fluctuating rate determined by reference to the U.S. Base Rate.

**“U.S. Dollars”** or **“U.S. \$”** each means such currency of the United States of America which, as at the time of payment or determination, is legal tender therein for the payment of public or private debts.

**“Voting Securities”** means securities of capital stock of any class of any corporation, partnership units in the case of a partnership, trust units in the case of a trust, or other evidence of ownership serving similar purposes, carrying voting rights under all circumstances, provided that, for the purposes of this definition, shares which only carry the right to vote conditionally on the happening of an event will not be considered Voting Securities, whether or not such event will have occurred, nor will any securities be deemed to cease to be Voting Securities solely by reason of a right to vote accruing to securities of another class or classes by reason of the happening of such event.



**SCHEDULE B**  
**LIGHTSTREAM RESOURCES LTD.**  
**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**  
**DATED MAY 29, 2015**

**INDIVIDUAL COMMITMENT AMOUNTS**  
**(Cdn. \$)**

| Lenders  | Syndicated Facility<br>Commitment Amount | Operating Facility<br>Commitment<br>Amount |
|--|--|--|
| The Toronto-Dominion Bank                      | \$37,486,569                             | \$50,000,000                               |
| Royal Bank of Canada                           | \$76,550,371                             |  |
| The Bank of Nova Scotia                        | \$76,550,371                             |  |
| Canadian Imperial Bank of Commerce             | \$72,391,304                             |  |
| Wells Fargo Bank N.A., Canadian Branch         | \$52,673,560                             |  |
| Bank of America, N.A., Canada Branch           | \$47,934,783                             |  |
| Credit Suisse AG, Toronto Branch               | \$47,934,783                             |  |
| HSBC Bank Canada                               | \$42,391,304                             |  |
| Union Bank, Canada Branch                      | \$41,739,130                             |  |
| Caisse Centrale Desjardins                     | \$37,826,087                             |  |
| Alberta Treasury Branches                      | \$34,565,217                             |  |
| Sumitomo Mitsui Banking Corporation of Canada  | \$29,347,826                             |  |
| Canadian Western Bank                          | \$26,739,130                             |  |
| United Overseas Bank Limited, Vancouver Branch | \$26,739,130                             |  |
| National Bank of Canada                        | \$25,000,000                             |  |
| Business Development Bank of Canada            | \$24,130,435                             |  |
| <b>Total</b>                                   | <b>\$700,000,000</b>                     | <b>\$50,000,000</b>                        |



SCHEDULE C  
LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF ENVIRONMENTAL CERTIFICATE

TO: The Toronto-Dominion Bank ("TD"), as Agent

AND TO: The Lenders

RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent")

DATE: [•]

---

Capitalized words and phrases used but not otherwise defined herein have the meanings attributed thereto in the Credit Agreement.

This Environmental Certificate is delivered pursuant to Section 13.2(c) of the Credit Agreement.

The undersigned, \_\_\_\_\_, being the [insert name of office] of the Borrower, hereby certifies as an officer of the Borrower and not in any personal capacity:

1. The following certifications in sections 1 to 9 are made to the best of my knowledge after due enquiry. My due enquiry has been limited to discussions and correspondence with responsible officers and staff of the Loan Parties to confirm that the internal environmental reporting and response procedures of the Loan Parties have been followed in all material respects as they relate to the certifications made herein and that the matters herein set forth are true and correct, and that matters reported on by such officers and staff are true and correct.
2. The following certifications in sections 3 to 9 are qualified as to: (a) the matters, if any, disclosed in Exhibit 1 hereto; and (b) any breach of, or failure to comply with, any Environmental Laws, provided that the breach or failure to comply has not had, or could not reasonably be expected to have (whether on an individual or cumulative basis), a Material Adverse Effect.
3. The property of the Loan Parties is owned, leased, managed, controlled or operated, in compliance with Environmental Laws.
4. There are no existing, pending or threatened (by written notice):
  - (a) claims, complaints, notices or requests for information received from an Administrative Body by any of the Loan Parties, or of which any of the Loan

EXHIBIT 1  
DISCLOSURE

Parties are otherwise aware, with respect to any alleged violation of or alleged liability under any Environmental Laws by any of the Loan Parties; or

- (b) stop, cleanup or preventative orders, direction or action requests, notice of which has been received from an Administrative Body by any of the Loan Parties or of which any of the Loan Parties are otherwise aware, relating to the Environment which as a result thereof, requires any work, repair, remediation, cleanup, construction or capital expenditure with respect to any property owned, leased, managed, controlled or operated by any of the Loan Parties.
- 5. Except in compliance with Environmental Laws, no Contaminant has been received, handled, used, stored, treated or shipped at or from, and there has been no discharge or Release of a Contaminant at, on, from or under any property owned, leased, managed, controlled or operated by any of the Loan Parties.
- 6. None of the lands and facilities owned, leased, managed, controlled or operated by any of the Loan Parties, have been used as a landfill site or, except in compliance with Environmental Laws, as a waste disposal site.
- 7. No condition exists, at, on or under any of the premises or facilities owned, leased, managed, controlled or operated by any of the Loan Parties, which with the passage of time, or the giving of notice or both, has given rise to or could reasonably be expected to give rise to a violation or liability under any Environmental Laws.
- 8. The Loan Parties have obtained all permits, licenses and other authorizations (collectively the "Permits") which are required under Environmental Laws and are in compliance with all terms and conditions of all Permits and each of the Permits is in full force and effect and unrevoked as of the date of this Certificate.
- 9. The Loan Parties are not aware of any matter affecting the Environment which has had or could reasonably be expected to have a Material Adverse Effect.

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

**LIGHTSTREAM RESOURCES LTD.**

Per: \_\_\_\_\_

Name: [•]

Title: [•]





SCHEDULE D  
LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF COMPLIANCE CERTIFICATE

TO: The Toronto-Dominion Bank ("TD"), as Agent on behalf of the Lenders.

RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent")

DATE: [●] \_\_\_\_\_

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

This Compliance Certificate is delivered pursuant to Section 13.2(c) of the Credit Agreement.

I, \_\_\_\_\_, am the duly appointed [insert name of office] of the Borrower and hereby certify in such capacity for and on behalf of the Borrower, and not in my personal capacity and without assuming any personal liability whatsoever, after making due inquiry:

1. This Compliance Certificate applies to the Fiscal [Quarter/Year] ending \_\_\_\_\_, \_\_\_\_\_ (the "Calculation Date").
2. I am familiar with and have examined the provisions of the Credit Agreement and I have made such reasonable investigations of corporate records and inquiries of other officers and senior personnel of each of the Loan Parties as I have deemed necessary for purposes of this Compliance Certificate.
3. Based on the foregoing, no Default or Event of Default has occurred and is continuing.
4. The cumulative proceeds received by the Loan Parties in respect of sales, conveyances and dispositions of its assets and other properties, other than Permitted Dispositions, since the effective date of the last Borrowing Base Determination is \$ \_\_\_\_\_.
5. The cumulative proceeds received by the Loan Parties in respect of Hedge Monetizations since the effective date of the last Borrowing Base Determination is \$ \_\_\_\_\_.
6. Consolidated EBITDA for the four Fiscal Quarter period ended as at the Calculation Date is \$ \_\_\_\_\_.

7. The Consolidated First Lien Debt to EBITDA Ratio as at the Calculation Date is \_\_\_\_\_ :1.0, the calculations of which are outlined in Exhibit 1 hereto, as adjusted for Material Acquisitions and Material Dispositions during the applicable period. Based on this reported Consolidated First Lien Debt to EBITDA Ratio, the interest rates and fees applicable to the Credit Facility determined in accordance with the Pricing Table will [remain unchanged] [or] [increase/decrease to Level \_\_\_] effective \_\_\_\_\_, 20\_\_.
8. The Hedging Agreements that are subsisting as at the Calculation Date are as set out in Exhibit 2 hereto.
9. As of the date hereof, the Borrower has no Subsidiaries other than those listed in Schedule H to the Credit Agreement. [or] [Schedule H to the Credit Agreement is revised as follows: (list changes here)].

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

**LIGHTSTREAM RESOURCES LTD.**

Per: \_\_\_\_\_  
Name: [•]  
Title: [•]

EXHIBIT 1

CONSOLIDATED FIRST LIEN DEBT TO EBITDA RATIO

Applicable to the Fiscal Quarter Ending \_\_\_\_\_

[attach calculations]

EXHIBIT 2  
HEDGING AGREEMENTS



SCHEDULE E

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF REQUEST FOR OFFER OF EXTENSION

TO: The Toronto-Dominion Bank, as Agent  
Royal Trust Tower  
77 King Street West, 18<sup>th</sup> Floor  
Toronto, Ontario  
M5K 1A2

Attention: Vice President, Loan Syndications - Agency  
Telecopier No.: (416) 982-5535

DATE: [•]

Dear Sirs/Mesdames:

Lightstream Resources Ltd. (the "Borrower"), The Toronto-Dominion Bank ("TD"), and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Agent") are parties to a Third Amended and Restated Credit Agreement dated May 29, 2015 (such credit agreement, as it may be amended, supplemented or otherwise modified or restated from time to time, the "Credit Agreement").

We hereby give notice of our request for an offer of extension of the Termination Date to [•] pursuant to Section 3.2 of the Credit Agreement.

As of the date hereof, there exists no Default or Event of Default, except those set out below which have been expressly disclosed to and waived or agreed to by the Lenders.

Yours very truly,

LIGHTSTREAM RESOURCES LTD.

Per: \_\_\_\_\_

Name: [•]

Title: [•]

SCHEDULE F

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF NOTICE OF BORROWING

**TO:** The Toronto-Dominion Bank ("TD"), as Agent

**RE:** Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent")

**DATE:** [•] \_\_\_\_\_

1. THE DRAWDOWN DATE IS THE \_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_.
2. Pursuant to Section 5.2 of the Credit Agreement, the undersigned hereby irrevocably requests that the following Advances be made available under the applicable Credit Facility noted below:

Syndicated Facility:

| <u>TYPE OF ADVANCE</u>   | <u>PRINCIPAL AMOUNT</u> | <u>TERM</u> |
|--------------------------|-------------------------|-------------|
| Canadian Prime Rate Loan |                         | N/A         |
| U.S. Base Rate Loan      |                         | N/A         |
| Bankers' Acceptances     |                         |             |
| LIBOR Based Loan         |                         |             |
| Letters of Credit        |                         |             |

[Issuing Bank:] \_\_\_\_\_

Operating Facility:

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



3. As of the date of this Notice of Borrowing, no Default, Event of Default or Borrowing Base Shortfall has occurred and is continuing and each of the representations and warranties of the Borrower set forth in the Loan Documents deemed to be made on each Drawdown is true and correct as of the date of the requested Drawdown.
4. Capitalized terms used herein and not otherwise defined herein have the meanings given to them by the Credit Agreement.

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

LIGHTSTREAM RESOURCES LTD.

Per: \_\_\_\_\_

Name: [•]

Title: [•]



SCHEDULE G

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

NOTICE OF ROLLOVER OR NOTICE OF  
CONVERSION OR NOTICE OF REPAYMENT

TO: The Toronto-Dominion Bank ("TD"), as Agent  
[AND TO: The Toronto-Dominion Bank, as Operating Lender] [include if appropriate]  
RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated  
May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and  
those other financial institutions which are or hereafter become lenders thereunder  
(the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent")  
DATE: [•] \_\_\_\_\_

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

1. Pursuant to Section 5.4 of the Credit Agreement, the undersigned hereby irrevocably notifies the Agent that it will be:

(a) rolling over part or all of the Accommodation under the [Syndicated/Operating] Facility described as:

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

into the same Accommodation under the same Credit Facility described as:

Date of Maturity: \_\_\_\_\_

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

or;

(b) converting part or all of the Accommodation under the [Syndicated/Operating] Facility described as:

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

into an Accommodation under the same Credit Facility described as:

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

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

effective the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(c) Repaying part or all of the Advance under the [Syndicated/Operating] Facility described as:

Type of Accommodation: \_\_\_\_\_

\*Principal Amount: \_\_\_\_\_

Date of Maturity: \_\_\_\_\_

(1) If only part of maturing Advance is being repaid, please indicate the applicable amount being repaid including the details provided above in respect thereof and whether the balance will be rolled over or Converted

2. This Notice is irrevocable.
3. No Default or Event of Default has occurred and is continuing.

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

**LIGHTSTREAM RESOURCES LTD.**

Per: \_\_\_\_\_

Name: [•]

Title: [•]



SCHEDULE H

LIGHTSTREAM RESOURCES LTD.  
 THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
 DATED MAY 29, 2015

LOAN PARTY INFORMATION

| Borrower and its Subsidiaries               |  |                                    |   |  |             |
|---|--|------------------------------------|---|--|-------------|
| Legal Name                                  | Jurisdiction of Incorporation or Formation | Location of Chief Executive Office | Location of Business and Assets   | Ownership of Issued Voting Securities  | Designation |
| Lightstream Resources Ltd. (the "Borrower") | Alberta                                    | Alberta                            | Alberta, British Columbia, Saskatchewan, Manitoba and the Northwest Territories | Publicly Held Shares   | N/A         |
| 1863359 Alberta Ltd.                        | Alberta                                    | Alberta                            | Alberta, British Columbia and Manitoba  | 100% owned by the Borrower   | Restricted  |
| LTS Resources Partnership                   | Alberta                                    | Alberta                            | Alberta, British Columbia and Manitoba  | All general partnership interests owned by the Borrower and 1863359 Alberta Ltd. | Restricted  |
| 1863360 Alberta Ltd.                        | Alberta                                    | Alberta                            | Alberta, British Columbia, Saskatchewan and Manitoba                            | 100% owned by the Borrower   | Restricted  |
| Bakken Resources Partnership                | Alberta                                    | Alberta                            | Alberta, British Columbia, Saskatchewan and Manitoba                            | All general partnership interests owned by the Borrower and 1863360 Alberta Ltd. | Restricted  |



SCHEDULE I

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF DESIGNATION OF RESTRICTED SUBSIDIARY

TO: The Toronto-Dominion Bank ("TD"), as Agent

RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD as administrative agent for the Lenders (the "Agent").

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1. Unless otherwise indicated, capitalized terms have the same meanings when used herein.
2. [Pursuant to Section 14.1(a) of the Credit Agreement, the Borrower hereby designates [Name of Subsidiary] as a Restricted Subsidiary under and for the purposes of the Credit Agreement and the other Loan Documents.

-or-

Pursuant to Section 14.1(a) of the Credit Agreement, the Borrower hereby designates [Name of Subsidiary] (currently a Restricted Subsidiary) as a Non-Restricted Subsidiary under and for the purposes of the Credit Agreement and the other Loan Documents.]

3. No Default or Event of Default has occurred and is continuing unless the exercise of the Borrower's discretion under paragraph 2 above would cause such Default or Event of Default to be cured and no Default or Event of Default would result from or exist immediately after such a designation.
4. The Borrower is entitled pursuant to the terms of the Credit Agreement to make the designation referenced in this Certificate.
5. The Restricted Subsidiaries under and for the purposes of the Credit Agreement and the Loan Documents as of the date hereof are as set forth in Exhibit 1 hereto.

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

LIGHTSTREAM RESOURCES LTD.

Per: \_\_\_\_\_  
Name:  
Title:





SCHEDULE J

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF ASSIGNMENT

TO: The Toronto-Dominion Bank ("TD"), as Agent

AND TO: The Lenders

AND TO: The Borrower

RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent")

DATE: [•] (the "Effective Date")

---

Unless otherwise indicated, capitalized terms defined in the Credit Agreement have the same meanings when used herein.

1. [Name of assignee lender] (the "Assignee") acknowledges that its proper officers have received and reviewed a copy of the Credit Agreement and the other Loan Documents and further acknowledges the provisions of the Credit Agreement and the other Loan Documents.
2. The Assignee desires to become a Lender under the Credit Agreement. Effective on the Effective Date, [Name of assigning lender] (the "Assignor") has agreed to and does hereby sell, assign and transfer to the Assignee, and the Assignee hereby irrevocably purchases and assumes, an interest in the Credit Facility, the Assignee assumes the obligations of the Assignor in respect of the Assignor's Individual Commitment Amount to the extent of Cdn. \$[•] of such commitment (the "Assigned Commitment"), and a share of the rights of the Assignor as a Lender under the Credit Agreement to the extent of the Assigned Commitment, including without limitation, a share (the "Pro Rata Share") of the rights of the Assignor with respect to the Aggregate Principal Amount owing to the Assignor under the Credit Facility equal to the proportion that the amount of the Assigned Commitment bears to Cdn. \$[•] (being the amount of the Individual Commitment Amount of the Assignor on the Effective Date prior to the assignment and transfer under this Assignment) (the Assigned Commitment and such Pro Rata Share are referred to herein as the "Assigned Interest"); and, accordingly, the Assignee has agreed to execute this Assignment and deliver an original of it to the Agent.
3. The Assignee, by its execution and delivery of this Assignment, agrees that from and after the date hereof it will be a Lender under the Credit Agreement to the extent of the

Assigned Commitment and the Pro Rata Share and agrees to be bound by and to perform, where required, all of the terms, conditions and covenants of the Credit Agreement and the other Loan Documents applicable to a Lender; but its liability to make Advances will be limited to its share of such Advances based upon its Individual Commitment Amount identified in paragraph 4 below, subject to the provisions of the Credit Agreement.

4. The Assignee confirms that its Individual Commitment Amount under the Credit Agreement will be as follows:

**[State amount in Canadian Dollars.]**

5. The Assignee agrees to assume all liabilities and obligations of the Assignor as a Lender under the Credit Agreement and the other Loan Documents to the extent of the Assigned Interest as provided for herein and the Assignor is hereby released and discharged from such obligations and liabilities to the same extent but only in respect of such obligations and liabilities arising from and after the Effective Date.
6. The Assignor: (a) represents and warrants that: (i) it is the legal and beneficial owner of the Assigned Interest; (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim; and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to: (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document; (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents; (iii) the financial condition of any of the Loan Parties or any other Person obligated in respect of any Loan Document; or (iv) the performance or observance by any of the Loan Parties or any other Person of any of their respective obligations under any Loan Document.
7. The Assignee: (a) represents and warrants that: (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement; and (ii) it has received a copy of the Credit Agreement, copies of the most recent financial statements of the Trust delivered pursuant to the Credit Agreement and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Agent or any other Lender; and (b) agrees that: (i) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder; (ii) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents; and (iii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

8. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

9. Notices will be given to the Assignee in the manner provided for in the Credit Agreement at the following address:

[•]

Attention: [•]

Telecopier: [•]

10. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and permitted assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Assignment. This Assignment shall be governed by, and construed in accordance with, the Laws in force in the Province of Alberta from time to time.

**DATED** effective the date and year first above written.

[Name of Assignee]

Per: \_\_\_\_\_

Name:

Title:

\* \* \*

The Assignor hereby acknowledges the above Assignment and agrees that its Individual Commitment Amount is reduced by an amount equal to the commitment assigned to the assignee hereby.

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

[Name of Assignor]

Per: \_\_\_\_\_

Name:

Title:

Consented to and acknowledged effective the date and year first above written by:

THE TORONTO-DOMINION BANK, LIGHTSTREAM RESOURCES LTD.  
as Agent [while no Event of Default exists]

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

[ISSUING BANK]

Per: \_\_\_\_\_  
Name:  
Title:



SCHEDULE K

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF POA LETTER OF CREDIT

[Letterhead of Issuing Bank or  
Form for Letters of Credit]

Irrevocable Letter of Credit No.:

Date of Issue:

Expiry Date:

Place of Expiry:

Amount:

Beneficiary: Name: \_\_\_\_\_

Applicant: Name:

Address: \_\_\_\_\_

Address:

Attn: \_\_\_\_\_

Attn:

Fax No.:

The banks and other financial institutions named under the heading "Issuing Lenders" on the signature pages (collectively, the "Issuing Lenders" and, individually, an "Issuing Lender") hereby establish this irrevocable Letter of Credit in your favour as beneficiary for drawings up to [Canadian Dollars or US Dollars] in aggregate amount. This Letter of Credit is issued, presentable and payable at our office at [address], or other address of which notice is given as described below, and expires at our close of business 5:00 P.M. (local time) on \_\_\_\_\_ (the "Expiry Date"). The aggregate amount available under this Letter of Credit shall be reduced immediately following the honouring of any draft drawn hereunder in an amount equal to the amount of such draft. This Letter of Credit cannot be modified or revoked without your consent. The Toronto-Dominion Bank, in addition to acting in its individual capacity as an Issuing Lender hereunder, is acting as an agent for the other Issuing Lenders hereunder (in such capacity, together with its successors in such capacity, the "Agent").

Funds shall be available under this Letter of Credit upon presentation to the Agent of a draft substantially in the form of Exhibit A attached hereto, the original of this Letter of Credit and the following: [describe any other requirements for a drawing].

Each Issuing Lender hereby undertakes, severally according to the percentage set forth next to its signature below (such Issuing Lender's "Applicable Percentage") and not jointly or jointly and severally with any other Issuing Lender, that drafts drawn under and in strict compliance with the terms of this Letter of Credit will be duly honoured by paying to the Agent such Issuing Lender's share (according to its Applicable Percentage) of the amount of such draft. The Agent hereby

undertakes that any amount so received by it will be made available to you promptly by remitting the payment so received, in like funds, in accordance with your instructions.

The obligation of each Issuing Lender under this Letter of Credit is several and not joint or joint and several and shall at all times be an amount equal to such Issuing Lender's Applicable Percentage of the aggregate undrawn amount of this Letter of Credit (and of each drawing under this Letter of Credit).

This Letter of Credit has been executed and delivered by the Agent in the name and on behalf of, and as attorney-in-fact for, each Issuing Lender. The Agent is authorized to act under this Letter of Credit as the agent of each Issuing Lender in order to:

- (a) receive drafts, other demands for payment and other documents presented by you under this Letter of Credit;
- (b) determine whether such drafts, demands and documents are in compliance with the terms and conditions of this Letter of Credit;
- (c) notify such Issuing Lender and the applicant that a valid drawing has been made and the date that the related disbursement is to be made;
- (d) notify you that this Letter of Credit will not be renewed. [Note: insert this clause only if the Letter of Credit provides that it will be renewed automatically unless notice to the contrary is given]

The Agent undertakes that it will promptly notify each Issuing Lender and the applicant of any valid drawing under this Letter of Credit.

You agree that the Agent shall have no obligation or liability to honour any drawing under this Letter of Credit (subject to the liability of The Toronto-Dominion Bank in its capacity as an Issuing Lender and the obligation of the Agent to remit funds paid to the Agent from an Issuing Lender, as set forth above) and that neither any Issuing Lender nor the Agent shall be responsible for the failure of any other Issuing Lender to make a payment to be made by such other Issuing Lender hereunder.

This Letter of Credit sets forth in full the terms of our and each Issuing Lender's undertaking, and such undertaking is not subject to any agreement, requirement or qualification and shall not in any way be amended, modified, amplified or limited by reference to any document, instrument or agreement referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates (other than the annexes attached hereto, if any); and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement. The obligation of each Issuing Lender under this Letter of Credit is the individual obligation of such Issuing Lender and is in no way contingent upon reimbursement of any drawing hereunder or upon any Issuing Lender's ability to perfect a lien or security interest.

Each Issuing Lender's obligation to pay is irrevocable and, subject to compliance with the requirements hereof, unconditional and, in furtherance and support thereof and without limiting the irrevocable and unconditional nature of each Issuing Lender's obligations to the beneficiary



hereunder, any demand by the beneficiary shall be honoured without any inquiry as to the rights, claims or defences (legal or equitable) of the applicant against the beneficiary and without regard to any other defence to the beneficiary's demand for payment, arising as a result of any dispute between the beneficiary and the applicant or between the applicant and the Issuing Lenders.

This Letter of Credit shall be governed by and construed in accordance with the law of the Province of Alberta (without reference to choice of law doctrine) and is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (the "Uniform Customs"). In the event of any conflict between the law of the Province of Alberta and the Uniform Customs, the Uniform Customs shall control. Notwithstanding Article 36 of the Uniform Customs, if this Letter of Credit expires during an interruption of business as described in said Article 36, each Issuing Lender agrees to effect payment if this Letter of Credit is drawn against within 30 days after the resumption of business by the Agent. [insert the immediately preceding sentence, if and as applicable]

This Letter of Credit [may not be assigned or transferred, except that it] [insert the immediately preceding clause, if and as applicable] shall inure to the benefit of any successor by operation of law of the named beneficiary hereof, including, without limitation, any liquidator, receiver or trustee for such named beneficiary.

All communications regarding this Letter of Credit should be addressed to The Toronto-Dominion Bank, [address], Attention: \_\_\_\_\_, referencing Irrevocable Letter of Credit No. \_\_\_\_\_. Upon or in anticipation of closure of the place where this Letter of Credit is presentable and payable, the Agent may give notice to the beneficiary, not less than 30 days before the Expiry Date, of another reasonable place where this Letter of Credit shall be presentable and payable, and if the Agent does so then this Letter of Credit shall be presentable and payable at that place and not any previously designated place.

An Issuing Lender may, subject to the replacement thereof with a new Lender having the minimum credit rating set forth below or with your consent (as applicable), cease to be a party to, and a new Lender may become a party to, this Letter of Credit, and the Applicable Percentage of an Issuing Lender may change, but no such event will reduce the then available amount under this Letter of Credit. Upon the occurrence of any such event, the Agent will provide prompt notice to you of such event, including any change in the identities of the Issuing Lenders severally but not jointly or jointly and severally liable in respect of the aggregate undrawn amount of this Letter of Credit (based upon their respective Applicable Percentages thereof) and any change in such Applicable Percentages. If a new Lender becomes a party to this Letter of Credit and the credit rating of such new Lender (or its parent) is lower than A3 as rated by Moody's Investors Service, Inc. or the equivalent by any other nationally recognized rating agency, the consent of the beneficiary to such change shall be required. A change in Applicable Percentages or Issuing Lenders shall be documented by an amendment of this Letter of Credit substantially in the form attached as Exhibit B.

Very truly yours,

THE TORONTO-DOMINION BANK, as Agent

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

Applicable  
Percentage

ISSUING LENDERS

\_\_\_\_\_ %

[NAME OF LENDER]

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_ %

[NAME OF LENDER]  
by [●], as Attorney-in-Fact

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_ %

[NAME OF LENDER]  
by [●], as Attorney-in-Fact

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

EXHIBIT A  
to  
FORM OF POA LETTER OF CREDIT  
FORM OF DRAFT

[Date, place]

At sight pay to the order of \_\_\_\_\_ the sum of \_\_\_\_\_  
[Canadian Dollars] [United States Dollars]

To The Toronto-Dominion Bank (insert address) as Agent for the financial institutions listed immediately below ("Issuing Lenders"), each severally and not jointly or jointly and severally and each with respect to only the percentage of the amount drawn herein set out opposite its name:

%            [name of Issuing Lender]

%            [name of Issuing Lender]

%            [name of Issuing Lender]

%            [name of Issuing Lender]

Except in its individual capacity as an Issuing Lender, the Agent shall have no obligation or liability hereunder.

Drawn under letter of credit no. \_\_\_\_\_.

[Beneficiary]

(signature)

EXHIBIT B  
to  
FORM OF POA LETTER OF CREDIT  
FORM OF AMENDMENT

[Date]

Irrevocable Letter of Credit No.:

Date of Issue:

Expiry Date:

Place of Expiry:

Amount:

|                          |                        |
|--------------------------|------------------------|
| Beneficiary: Name: _____ | Applicant: Name: _____ |
| Address: _____           | Address: _____         |
| Attn: _____              | Attn: _____            |
| Fax No.: _____           |                        |

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Reference is made to the above-noted letter of credit (the "**Letter of Credit**"). Please be advised that the Letter of Credit is hereby amended in accordance with the final paragraph thereof, as follows:

1. Change of Issuing Lenders [**Insert if applicable**]

[**Insert name of financial institution**], which has a credit rating of [**insert rating and rating agency**], has become a party to the Letter of Credit and an Issuing Lender.

The following banks and financial institutions have ceased to be parties to the Letter of Credit and are no longer Issuing Lenders:

[**Insert names**]

2. Change in Applicable Percentages

As of the date of this amendment, the Issuing Lenders and their respective Applicable Percentages are as set out below.

All other terms and conditions of the Letter of Credit remain unchanged. Kindly return the duplicate copy of this letter to acknowledge your receipt of this amendment.

Very truly yours,

THE TORONTO-DOMINION BANK, as Agent

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

Applicable  
Percentage

ISSUING LENDERS

\_\_\_\_\_ %

[NAME OF LENDER]

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_ %

[NAME OF LENDER]  
by [●], as Attorney-in-Fact

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_ %

[NAME OF LENDER]  
by [●], as Attorney-in-Fact

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:



SCHEDULE L

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF POWER OF ATTORNEY

RECITALS:

A. The undersigned (the “**Issuing Lender**”) is party to a Third Amended and Restated Credit Agreement between Lightstream Resources Ltd. and the Lenders from time to time party thereto and The Toronto-Dominion Bank in its capacity as administrative agent (the “**Agent**”) dated as of May 29, 2015 (as amended, supplemented, restated and replaced from time to time, the “**Credit Agreement**”).

B. Capitalized terms used in this Power of Attorney and not otherwise defined have the meanings defined in the Credit Agreement.

C. The Issuing Lender has agreed, pursuant to Section 10.3 of the Credit Agreement, to appoint the Agent, acting through any duly authorized officer of the Agent, as its attorney-in-fact to execute and deliver certain letters of credit to be issued by the Issuing Lender under the Credit Agreement in the name of and on behalf of the Issuing Lender.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby makes the following appointment:

**1. Appointment.**

The Issuing Lender hereby appoints the Agent (the “**Attorney**”) as its attorney-in-fact, acting through any duly authorized officer of the Attorney, with full authority to execute and deliver letters of credit applied for by Lightstream Resources Ltd. under the Credit Agreement, and to do such other things relating to the administration and payment of such letters of credit as may be specified in them or incidental thereto.

**2. Interpretation.**

This power of attorney for property shall be read with such changes of gender or number as the context may require.

**3. Effective Immediately.**

This Power of Attorney becomes effective on the date of execution specified below.

**4. Proof of Attorney’s Authority.**

The presentation of this power of attorney, or of a notarial copy of this power, by an officer of the Agent is sufficient proof to a person to whom such power or notarial copy is presented, without further investigation by such person, of the Attorney's authority to act.

The Attorney's assertion, whether in speech or writing, that any document executed by the Attorney or any act taken by the Attorney is authorized by this power of attorney, shall be sufficient proof to a person to whom such assertion is made, without further investigation by such person, of the Attorney's authority to execute such document or perform such act.

**IN WITNESS WHEREOF** the Issuing Lender has on [date] signed this Power of Attorney written on this and the preceding page and confirms that it has the authority to make this Power of Attorney, and that all acts taken hereunder by the Attorney are binding on the Issuing Lender.

[NAME OF LENDER]

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name:  
Title:





SCHEDULE M

LIGHTSTREAM RESOURCES LTD.  
THIRD AMENDED AND RESTATED CREDIT AGREEMENT  
DATED MAY 29, 2015

FORM OF OIL AND GAS OWNERSHIP CERTIFICATE

TO: The Toronto-Dominion Bank ("TD"), as Agent

DATE: ■

RE: Third Amended and Restated Credit Agreement (the "Credit Agreement") dated May 29, 2015 among Lightstream Resources Ltd. (the "Borrower"), TD and those other financial institutions which are or hereafter become lenders thereunder (the "Lenders"), and TD, as administrative agent for the Lenders (the "Agent").

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The undersigned, \_\_\_\_\_, being the \_\_\_\_\_, of the Borrower, hereby certifies in such capacity for and on behalf of the Borrower, and not in any personal capacity and without assuming any personal liability whatsoever, as follows:

1. I have made or caused to be made due inquiries and review of all documents, correspondence and other material (the "Title Enquiries") relating to the hydrocarbons and lands or interests in lands (the "Lands") described in the reports of \_\_\_\_\_ (the "Engineering Report") addressed to the Borrower and each dated effective [■].
2. Based upon the Title Enquiries, I have no knowledge, information or belief that there exists any provision in any agreement, contract or document pertaining to the Lands which prevents any Loan Party from granting security in the nature of a fixed or floating charge or security interest over such Lands to the Agent, for its own benefit and on behalf of the Lenders, or which would prevent the Agent from enforcing and realizing on such security in the event of a default thereunder other than the requirement to obtain the consent and waiver of a right of first refusal in the event of the sale of the Lands on the realization and enforcement of such security.
3. Based upon the Title Enquiries, to the best of my knowledge, information and belief, the Loan Parties are, effective the date hereof, possessed of and are beneficial owners of the respective working, royalty and other interests set forth in the Engineering Report with respect to the Lands, subject to any Permitted Encumbrances and to minor defects of title which in the aggregate do not materially affect their rights of ownership therein or the value thereof or to which the Lenders have consented in writing.
4. To the best of my knowledge, information and belief, based on the due and reasonable enquiries, there is no default (by the Loan Parties or for which the Loan Parties are liable, including, without limitation, by any operation of the Lands) of payment of royalties in connection with the Lands, which have accrued due by reason of production since any royalty payment dates, as prescribed by statute or agreement, immediately preceding the

date of this Certificate and no Loan Party nor any Person on behalf of a Loan Party (including, without limitation, any operator of the Lands) has received notice of default of any obligation imposed on it by any farmout, operating agreement or any other contract or agreement in respect of the Lands which, in any case, could reasonably be expected to have a Material Adverse Effect and, to the best of my knowledge, information and belief, based on the due and reasonable enquiries, there is no default of any such obligation which could reasonably be expected to have a Material Adverse Effect.

5. To the best of my knowledge, information and belief, based on the due and reasonable enquiries, the Lands are now free and clear of all Liens and adverse claims created by, through or under the Loan Parties, other than the Permitted Encumbrances, and no Loan Party nor any Person on behalf of a Loan Party (including, without limitation, any operator of the Lands) has received notice of any claim adverse to Loan Party's working, royalty and other interests in the Lands and there are no Liens or adverse claims, other than the Permitted Encumbrances, which materially and adversely affect the title of any Loan Party to their respective interests in the Lands.
6. To the best of my knowledge, information and belief, based on the due and reasonable enquiries, there are at present no outstanding unfulfilled obligations being enforced under any lease or contract pertaining to the Lands and any Loan Party's working, royalty and other interests in the Lands are not subject to any contractual obligations or conditions, except those which are permitted under the Credit Agreement or which are accounted for in the Engineering Report which are reasonably expected to result in the diminishment or forfeiture of those working, royalty and other interests.
7. No Loan Party has assigned its share of production proceeds or other moneys due to it in respect of its working, royalty or other interests in the Lands to any party other than the Agent, for its own benefit and on behalf of the Lenders.
8. All of the working, royalty and other interests of the Loan Parties in respect of petroleum and natural gas rights described in the Engineering Report and evaluated by the Lenders in determining the Borrowing Base are accurately reflected in the Engineering Report in all material respects.
9. Capitalized words and phrases used herein and not otherwise defined herein have the meanings given to them in the Credit Agreement.

**THIS CERTIFICATE** effective the date first mentioned above.

**LIGHTSTREAM RESOURCES LTD.**

Per: \_\_\_\_\_  
Name:  
Title:



## SCHEDULE N

### LIGHTSTREAM RESOURCES LTD. THIRD AMENDED AND RESTATED CREDIT AGREEMENT DATED MAY \_\_, 2015

#### MATERIAL TERMS OF SECOND LIEN INTERCREDITOR AGREEMENT

#### 1. Priority of Liens

Any Lien now or hereafter held by or for the benefit of the Secured Parties (or any of them) shall be senior in right, priority, operation, effect and all other respects to any and all Liens now or hereafter held by or for the benefit of the Second Lien Creditors (or any of them).

#### 2. Additional Liens

- (a) Until such time as the Secured Obligations have been unconditionally and irrevocably repaid in full and the Credit Facilities have been cancelled, no Loan Party shall grant or permit any additional Liens on any of its property, assets or undertaking to secure any Second Lien Indebtedness unless it has granted, or concurrently therewith grants, a senior Lien on such assets, property or undertaking to secure the Secured Obligations.
- (b) Until such time as the Second Lien Indebtedness has been unconditionally and irrevocably repaid in full and the commitments under the Second Lien Financing Agreement have been cancelled, no Loan Party shall grant or permit any additional Liens on any of its property, assets or undertaking to secure any Secured Obligations unless it has granted, or concurrently therewith grants, a junior Lien on such assets, property or undertaking to secure the Second Lien Indebtedness.
- (c) Unless the Secured Parties are concurrently taking action to effect a registration of a fixed charge and the Second Lien Creditors are permitted to do so under the Second Lien Financing Agreement, the Second Lien Creditors shall not register any fixed charge against any petroleum and natural gas assets of any Loan Party in respect of or as security for the Second Lien Indebtedness until 10 Banking Days after they have given to the Secured Parties written notice of their intention to register such fixed charge security.

#### 3. Proceeds

- (a) In the event of any insolvency or bankruptcy proceeding or any receivership, interim-receivership, liquidation, arrangement, reorganization, restructuring or similar proceedings the Secured Parties shall first be entitled to receive from the proceeds of the Collateral indefeasible payment in full of the Secured Obligations in cash or otherwise before the Second Lien Creditors shall be entitled to receive

and retain any payment or distribution on account of the Second Lien Indebtedness from proceeds of the Collateral.

- (b) Until such time as the Secured Obligations have been unconditionally and irrevocably repaid in full and the Credit Facilities have been cancelled, and regardless of whether an event described in paragraph (a) above has occurred, any Collateral or proceeds thereof received by the Secured Parties in connection with any disposition of, or collection on, such Collateral following an enforcement action by either the Secured Parties or the Second Lien Creditors shall be applied by the Secured Parties to the Secured Obligations, together with concurrent and permanent reduction of any revolving credit commitment thereunder in an amount equal to the amount of such payment. After the Secured Obligations have been unconditionally and irrevocably repaid in full and the Credit Facilities have been cancelled, the Secured Parties shall deliver to the Second Lien Creditors any remaining Collateral and any proceeds thereof then held by them in the same form as received, together with any necessary endorsement or assignment, or as a court of competent jurisdiction may otherwise direct, to be applied to the Second Lien Indebtedness.
- (c) If, after the issuance of a notice of an event of default by either the Secured Parties or the Second Lien Creditors that has not been rescinded in writing, any Secured Party or Second Lien Creditor receives any payment, benefit, Collateral or distribution, whether voluntary or involuntary, all or part of which payment, benefit, Collateral or distribution (the "**Reallocable Payment**") should have been paid to the Secured Parties or the Second Lien Creditors, as the case may be, then the applicable receiving Person shall hold the Reallocable Payment received by it in trust for such other Persons (in the case of a payment received by the Second Lien Creditors, in trust for the Secured Parties or in the case of receipt by the Secured Parties, in trust for the Second Lien Creditors) and shall forthwith notify and pay to such other Person, in the form received with any necessary endorsement or assignment, the Reallocable Payment.

#### 4. Standstill

- (a) The Second Lien Creditors shall not take any enforcement action until at least 180 days (the "**Standstill Period**") after the date the Second Lien Creditors have given to the Secured Parties a written notice (i) of the occurrence of an event of default under and as defined in the Second Lien Financing Agreement, (ii) that repayment of all of the Second Lien Indebtedness has been accelerated and (iii) that the Second Lien Creditors are seeking to enforce, exercise, institute or commence (as the case may be) their rights against the Loan Parties; provided that in no event shall any Second Lien Creditors be entitled to enforce or exercise any rights of enforcement against the Loan Parties if, notwithstanding the expiration of the Standstill Period, the Secured Parties: (i) shall have commenced and be diligently pursuing the exercise of their rights or remedies with respect to all or substantially all of the Collateral; or (ii) are stayed or otherwise precluded from

pursuing the rights or remedies pursuant to applicable laws or insolvency proceedings.

- (b) The Second Lien Creditors may at any time: (i) accelerate the Second Lien Indebtedness in accordance with the Second Lien Financing Agreement; (ii) file any proof of claim with respect to the Second Lien Indebtedness in an insolvency proceeding (provided that such proof of claim shall not include a claim to priority that is equal to or in priority to the Secured Obligations); (iii) take any action in order to perfect Liens against the Collateral; (iv) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of any Second Lien Creditor; (v) file any pleadings, objections, motions or agreements which assert rights or interests available to unsecured creditors of the Loan Parties arising under any insolvency law or other applicable law, so long as no action or proceeding for enforcement, realization, foreclosure, collection, seizure, garnishment or execution (in any case in respect of the Collateral and, for certainty, whether as a secured or an unsecured creditor) is instituted or commenced; in each case, to the extent, but only to the extent, that any of the foregoing: is in compliance with and does not contravene the other provisions of the Second Lien Intercreditor Agreement; and is not adverse to, or does not adversely affect, the Liens in favour of the Secured Parties or the priority thereof or the rights or claims of the Secured Parties.

## 5. Amendments

- (a) The Loan Documents may be amended, restated, supplemented or otherwise modified in accordance with their terms, and refinancing Indebtedness in respect of the Secured Obligations may be incurred, in each case, without the consent of the Second Lien Creditors; provided, however, that without the consent of the Second Lien Creditors, no such amendment, restatement, supplement, modification or refinancing (or successive amendments, restatements, supplements, modifications or refinancings) shall contravene any provision of the Second Lien Intercreditor Agreement.
- (b) The Second Lien Financing Agreement may not be amended, restated, supplemented or otherwise modified, or entered into, or refinanced to the extent such amendment, restatement, supplement or modification, or the terms of such new Second Lien Financing Agreement, or such refinancing would (i) contravene the provisions of the Second Lien Intercreditor Agreement, (ii) result in an increase of the aggregate principal amount of the loans thereunder, (iii) increase the applicable rate of interest thereunder without the Borrower offering an equivalent increase in the interest rate or similar component thereof to the Lenders, (iv) add or increase any fees thereunder to those in effect on the initial closing date, (v) change to earlier dates any scheduled dates for payment of principal or of interest, (vi) change any default or event of default provisions, (vii) change the redemption, prepayment, repurchase, tender or defeasance provisions set forth thereunder in a manner that would require a redemption, prepayment,

repurchase, tender or defeasance not required thereunder as of the date hereof or in a manner otherwise adverse to Secured Creditors, (viii) modify any financial covenant or negative covenant to make it more restrictive than the Credit Agreement, or (ix) otherwise materially increase the obligations of the Borrower thereunder or confer additional rights on the Second Lien Creditors (or any of them) in a manner materially adverse to the Secured Parties.

#### 6. Default Notices

If the Secured Parties or the Second Lien Creditors (a) accelerate any Indebtedness under their respective agreements, (b) commence any action or proceeding to enforce, collect or receive payment of its respective obligations, or (c) has actual knowledge of the occurrence of a continuing event of default under their credit facilities, then such Person(s) shall, as soon as is practicable in the circumstances with the occurrence of any of the events referred to above, notify the other creditor group of such event, together with reasonable particulars thereof.

#### 7. Right to Purchase the Secured Obligations

Upon the occurrence of: the acceleration of the Secured Obligations, an enforcement action undertaken by the Secured Parties, the termination of all commitments under the Credit Facilities, or a disposition of all or substantially all of the Collateral that results in the release of the Liens of the Secured Parties thereon; then the Second Lien Creditors shall have 45 days after receiving written notice of any such occurrence to unconditionally and irrevocably purchase in full all (but not less than all) of the Secured Obligations at par (including, without limitation, any accrued and unpaid interest and fees thereon).

#### 8. DIP Financing

In the event of an insolvency proceeding regarding any Loan, whether voluntary or involuntary, no Second Lien Creditor shall propose, agree to provide or support any debtor in possession financing (a "**DIP Financing**") which is secured by a charge or other Lien that ranks in priority to or *pari passu* with the Liens in respect of the Secured Obligations. If any Loan Party obtains DIP Financing from any First Lien Lenders, then the Second Lien Creditor agrees it will subordinate the Liens securing the Second Lien Indebtedness to: (i) the Liens securing any such DIP Financing and (ii) any administrative or other court-ordered charges (provided that the amounts secured by all such charges, when taken together with the aggregate principal amount of the DIP Financing will not exceed an amount equal to a percentage of the aggregate principal amount of Secured Obligations outstanding immediately prior to the commencement of such insolvency proceeding, which percentage is to be determined by the Majority Lenders).

For the purposes of this Schedule N, "**Collateral**" means any kind of property, asset, undertakings, rights and interests, whether real, personal, mixed or profits a prendre, or tangible or intangible, of a Loan Party, whether real, personal or mixed, now or at any time hereafter subject to any Lien securing the Secured Obligations or the Second Lien Indebtedness.



## CONSENT AND FIRST AMENDING AGREEMENT

THIS CONSENT AND FIRST AMENDING AGREEMENT (this "Agreement") is made as of July 2, 2015 (the "Effective Date") between Lightstream Resources Ltd. (the "Borrower"), the Lenders (as defined below) and The Toronto-Dominion Bank, as Administration Agent (the "Agent").

### PREAMBLE:

- A. The Borrower, the lenders party thereto (collectively, the "Lenders") and the Agent have entered into a third amended and restated credit agreement made as of May 29, 2015 (the "Credit Agreement").
- B. The Borrower intends to enter into a note indenture providing for the issuance of Second Lien Indebtedness up to an aggregate principal amount of U.S. \$650,000,000 in the form of second lien secured notes due June 15, 2019 (the "Second Lien Notes").
- C. (a) On or about July 2, 2015 (the "Initial Second Lien Closing Date"), the Borrower intends to issue Second Lien Notes in the aggregate principal amount of U.S. \$395,250,000 to certain holders of Existing Unsecured Notes in exchange for Existing Unsecured Notes in an aggregate principal amount of U.S. \$465,000,000 (the "First Tranche of Second Lien Notes"), and (b) the Borrower intends to issue additional Second Lien Notes in the aggregate principal amount of U.S. \$200,000,000 to such holders on or before July 31, 2015, the net proceeds of which shall be used to repay the Aggregate Principal Amount under the Credit Agreement (the "Second Tranche of Second Lien Notes").
- D. Each of the First Tranche of Second Lien Notes and Second Tranche of Second Lien Notes has a coupon of 9.875% per annum.
- E. The Borrower may issue up to an additional US\$54,750,000 of Second Lien Notes in exchange for Existing Unsecured Notes having the same terms in all respects as the First Tranche of Second Lien Notes, or in all respects except with respect to interest paid or payable on or prior to the first interest payment date after the issuance of such additional notes (the "Additional Second Lien Notes").
- F. The consent of all of the Lenders is required for the Borrower to issue the Second Tranche of Second Lien Notes.
- G. The Borrower has requested and the Lenders have agreed to confirm that following the issuance of the First Tranche of Second Lien Notes, Second Tranche of Second Lien Notes and the Additional Second Lien Notes the Borrowing Base shall remain at Cdn. \$750,000,000.

**AGREEMENT:**

NOW THEREFORE in consideration of the premises, the covenants and the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement will, unless otherwise defined herein, have the meanings attributed to such terms in the Credit Agreement.
2. **Amendments.** Effective as of the Effective Date:
  - (a) Section 13.4(a)(i) of the Credit Agreement is hereby amended by deleting the words “and (H)” and replacing them with “(H) the Second Lien Notes (provided that (y) the proceeds of the Second Tranche of Second Lien Notes are used by the Borrower as a partial repayment of Aggregate Principal Amount and (z) such notes are subject to the Second Lien Note Intercreditor Agreement); and (I)”.
  - (b) Section 13.5 of the Credit Agreement is hereby amended by deleting each reference to the words “Second Lien Lenders” and replacing them with “Second Lien Creditors”.
  - (c) Schedule A of the Credit Agreement is hereby amended by adding the following definition in the appropriate alphabetical order:

“**Second Lien Note Intercreditor Agreement**” means the Intercreditor and Priority Agreement dated as of July 2, 2015, among the Agent, the Loan Parties and Computershare Trust Company of Canada as the Second Lien Representative (as defined therein), as it may be amended, restated, supplemented or otherwise modified from time to time in accordance therewith.

“**Second Lien Notes**” has the meaning ascribed thereto in the Consent and First Amending Agreement to this Agreement made as of July 2, 2015 between the Parties.

“**Second Tranche of Second Lien Notes**” has the meaning ascribed thereto in the Consent and First Amending Agreement to this Agreement made as of July 2, 2015 between the Parties.
  - (d) Notwithstanding anything else set forth herein or in the Credit Agreement, for the purposes of Sections 4.1(e), 13.2(m), 13.5, 16.1(h) and 19.16(a)(ix) of the Credit Agreement and the definitions of “Consolidated First Lien Debt”, “Permitted Encumbrances” and “Second Lien Refinancing” in Schedule A of the Credit Agreement, each reference therein to (i) “Second Lien Indebtedness” shall include all Indebtedness incurred by the Borrower pursuant to the Second Lien Notes, (ii) “Second Lien Creditors” shall include the holders of the Second Lien Notes, (iii) “Second Lien Financing Agreement” shall include the Second Lien Notes and the indenture pursuant to which they were issued, and (iv) “Second Lien Intercreditor Agreement” shall include the Second Lien Note Intercreditor Agreement.

3. **Consent.** The Lenders hereby consent to the issuance of the Second Tranche of Second Lien Notes and for certainty the other Second Lien Notes subject to the satisfaction by the Borrower of following conditions:

- (a) prior to, or concurrent with, the issuance of any Second Lien Notes, delivery to the Agent of (in each case in form and substance satisfactory to the Agent, acting reasonably):
  - (i) a fully executed copy of the Second Lien Note Intercreditor Agreement; and
  - (ii) a certified true and complete copy of the Second Lien Financing Agreement, and each other material agreement, in respect of the Second Lien Notes;
- (b) prior to, or concurrent with, the issuance of the Second Tranche of Second Lien Notes, delivery of a direction to pay, which has been executed by the Borrower, directing the Second Lien Creditors or their representative(s) to pay the proceeds of the Second Tranche of Second Lien Notes to the Agent in partial repayment of Aggregate Principal Amount; and
- (c) immediately following the issuance of the Second Tranche of Second Lien Notes, and in any case within 1 Business Day thereof, the Agent shall have received (i) the net proceeds from the issuance of the Second Tranche of Second Lien Notes as partial repayment of Aggregate Principal Amount (but, for certainty, without reducing the Commitment Amount or the Borrowing Base); and (ii) all such fees as the Borrower has agreed to pay to the Agent and the Lenders in respect of the foregoing consent and the issuance of the Second Tranche of Second Lien Notes.

The foregoing consent shall not constitute an agreement, waiver or consent to any other event, circumstances, matter or thing other than the issuance of the Second Lien Notes and is without prejudice to any of the rights or remedies of the Agent or the Lenders under the Credit Agreement or any Loan Document with respect thereto, and shall not extend to any other matter, provision or breach of, or Default or Event of Default under, the Credit Agreement.

4. **Amendments to Second Lien Notes.** The Borrower will not, without the prior consent of the Majority Lenders, amend, restate, supplement or otherwise modify the Second Lien Notes or any Second Lien Financing Agreement pursuant to which they were issued, or enter into any Second Lien Refinancing in respect thereof to the extent such amendment, restatement, supplement or modification, or the terms of such new Second Lien Refinancing would (a) contravene the provisions of the Credit Agreement or the Second Lien Note Intercreditor Agreement, (b) result in the aggregate principal amount of the Second Lien Notes exceeding the amount set out in the definition thereof, (c) increase the applicable rate of interest under the Second Lien Notes (excluding increases resulting from the accrual of interest at the default rate thereunder, if applicable), (d) add or increase any fees to the Second Lien Notes from those fees set forth in the Second

Lien Financing Agreements applicable thereto (as in effect on the date hereof), (e) increase the default rate that becomes due in connection with an event of default thereunder, (f) change to earlier dates any scheduled dates for payment of principal or of interest in respect thereof, (g) change any default or event of default provisions set forth in the Second Lien Financing Agreements applicable thereto, including any security documents entered into in connection therewith, in a manner adverse to the Secured Parties, (h) change the redemption, prepayment, repurchase, tender or defeasance provisions set forth in the Second Lien Financing Agreements applicable thereto (other than extensions in the times therefor) in a manner that would require a redemption, prepayment, repurchase, tender or defeasance not required pursuant to the terms of the Second Lien Notes as of the date hereof or in a manner otherwise adverse to Secured Parties, (i) add to the collateral over which a Lien has been granted to the holders of the Second Lien Notes other than as specifically contemplated by the Second Lien Note Intercreditor Agreement, (j) modify any financial covenant or negative covenant to make it more restrictive than those set forth in the Credit Agreement, or (k) otherwise materially increase the obligations of the Loan Parties thereunder or confer additional rights on the holders of the Second Lien Notes (or any of them) in a manner materially adverse to the Secured Parties; provided that, for certainty, none of the foregoing subsections of this Section 4 shall prohibit the execution of supplemental agreements in respect of the Second Lien Financing Agreement applicable to the Second Lien Notes to provide for the issuance of Second Lien Notes or to add guarantors if required by the terms thereof provided that any such guarantor is also Loan Party.

5. **Representations and Warranties.** To confirm each Lender's understanding concerning the Borrower, each other Loan Party and each of their businesses, properties and obligations, and to induce the Agent and each Lender to enter into this Agreement, the Borrower hereby reaffirms to the Agent and each Lender that, as of the date hereof, its representations and warranties contained in Section 12.1 of the Credit Agreement, except to the extent such representations and warranties relate solely to an earlier date, are true and correct in all material respects and additionally represents and warrants as follows on the Effective Date:
- (a) the execution and delivery of this Agreement and the performance by it of its obligations under this Agreement (i) are within its corporate powers, (ii) have been duly authorized by all necessary corporate action, (iii) have received all necessary governmental approvals (if any required), and (iv) do not and will not contravene or conflict with any provision of applicable Law or of its constituting documents or by-laws;
  - (b) this Agreement is a legal, valid and binding obligation of it, enforceable in accordance with its terms except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, winding-up, moratorium or similar laws relating to the enforcement of creditors' rights generally and by general principles of equity;
  - (c) no Default or Event of Default has occurred and is continuing or would result from the issuance of the Second Lien Notes; and

- (d) the issuance of the Second Lien Notes does not result in a default or breach of any provision of any of the documents governing or relating to the Existing Unsecured Notes.
6. **Borrowing Base Confirmation.** The Lenders hereby confirm that following the issuance of any Second Lien Notes, the Borrowing Base shall be and remain at Cdn. \$750,000,000, subject only to any redeterminations that may be made by the Lenders in accordance with Section 3.10 of the Credit Agreement.
7. **Continuing Effect.** Each of the Parties acknowledges and agrees that the Credit Agreement (as amended by this Agreement), the Loan Documents and all other documents entered into in connection therewith, will be and continue in full force and effect and are hereby confirmed and the rights and obligations of all parties thereunder will not be affected or prejudiced in any manner except as specifically provided herein. For the avoidance of doubt, the Borrower hereby acknowledges and agrees that all Security granted by it to the Agent for its own benefit and on behalf of the Lenders and Swap Lenders in connection with the Credit Agreement continue in full force and effect, without in any way impairing or derogating from any of the Liens and covenants therein contained or thereby constituted, as continuing security for all Secured Obligations of the Borrower under the Loan Documents.
8. **Further Assurances.** The Borrower will from time to time promptly at the Agent's request and at the Borrower's own cost and expense, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, assignments, acts, matters and things which may be reasonably required by the Agent and as are consistent with the intention of the parties as evidence herein, with respect to all matters arising under this Agreement.
9. **Expenses.** The Borrower will be liable for all expenses of the Agent and the Lenders, including, without limitation, reasonable legal fees (on a solicitor and his own client basis) and other out-of-pocket expenses in connection with the negotiation, preparation, establishment, operation or enforcement of the Credit Agreement and this Agreement by the Agent or the Lenders.
10. **General.** The provisions of this Agreement shall be binding upon each of the parties hereto and their respective successors and assigns and shall enure to the benefit of each of the Borrower, the Agent and the Lenders and their respective successors and assigns. This Agreement is a Loan Document for purposes of the Credit Agreement. This Agreement shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein.
11. **Counterparts.** This Agreement may be executed in any number of counterparts (including by facsimile or other electronic delivery) and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

- signature pages follow -

IN WITNESS WHEREOF each of the undersigned has duly executed this Agreement effective as of the date first written above.

LIGHTSTREAM RESOURCES LTD.

Per: 

Name:

**Peter D. Scott**

Title:

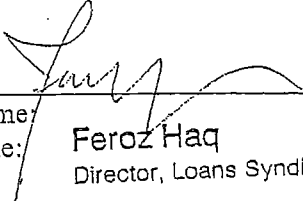
**Senior Vice President & CFO**

THE TORONTO-DOMINION BANK, as Agent

Per:

Name:

Title:

  
Feroz Haq

Director, Loans Syndications - Agency

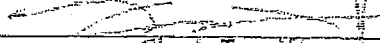
Per:

Name:


Title:

THE TORONTO-DOMINION BANK, as Lender

Per:

  
Name: Clark Terriff  
Title: Managing Director

Per:

  
Name: DAVID KADOMSKY  
Title: DIRECTOR



**ROYAL BANK OF CANADA, as Lender**

Per: \_\_\_\_\_

Name:

Title:


  
Bryn R. Davies  
Authorized Signatory

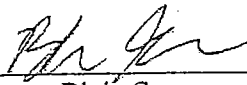
Per: \_\_\_\_\_

Name:

Title:


THE BANK OF NOVA SCOTIA, as Lender

Per:   
Name: Michael Linder  
Title: Director

Per:   
Name: Blair Graves  
Title: Associate

CANADIAN IMPERIAL BANK OF COMMERCE, as Lender

Per:   
Name: *Jdelle Chatwin*  
Title: *Executive Director*

Per:   
Name: *Chris Perks*  
Title: *Managing Director*

WELLS FARGO BANK N.A., CANADIAN BRANCH, as Lender

Per:   
Name: **DAN LINDQUIST**  
Title: **Managing Director**

Per: \_\_\_\_\_  
Name:  
Title:

BANK OF AMERICA, N.A., CANADA BRANCH, as Lender

Per:   
Name: \_\_\_\_\_  
Title: **Marc Ahlers**  
**Vice President**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CREDIT SUISSE AG, TORONTO BRANCH, as Lender

Per:

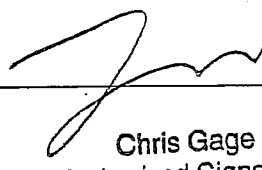
Name:  
Title:



Alain Daoust  
Authorized Signatory

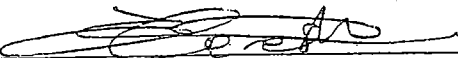
Per:

Name:  
Title:



Chris Gage  
Authorized Signatory

HSBC BANK CANADA, as Lender

Per:   
Name: **Edil Qereshniku**  
Title: **Analyst, Large Corporate Oil & Gas**

Per:   
Name: **Danton Levy**  
Title: **Director, Oil & Gas Corporate**

UNION BANK, CANADA BRANCH, as Lender

Per:   
Name: **Matt Schwann**  
Title: **Director**

Per: \_\_\_\_\_  
Name:  
Title:

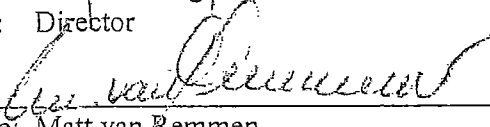


CAISSE CENTRALE DESJARDINS, as Lender


Per: \_\_\_\_\_

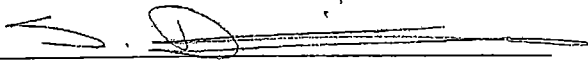
  
Name: Oliver Sumugod  
Title: Director

Per: \_\_\_\_\_

  
Name: Matt van Remmen  
Title: Managing Director

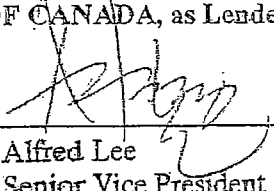
ALBERTA TREASURY BRANCHES, as Lender

Per:   
Name: \_\_\_\_\_  
Title: **Kevin Kynoch**  
**Senior Director Energy**

Per:   
Name: \_\_\_\_\_  
Title: **Simon Briggs**  
**Associate Director**

SUMITOMO MITSUI BANKING  
CORPORATION OF CANADA, as Lender

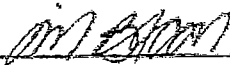
Per: \_\_\_\_\_

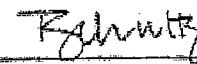
  
Name: Alfred Lee  
Title: Senior Vice President

Per: \_\_\_\_\_

Name:  
Title:

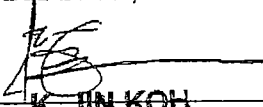
CANADIAN WESTERN BANK, as Lender

Per:   
Name: Tim Bacon  
Title: Director, Energy Lending

Per:   
Name: Tracey M. Schultz  
Title: Senior Manager, Energy Lending

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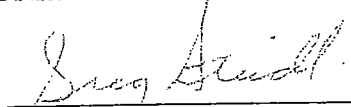
UNITED OVERSEAS BANK LIMITED,  
VANCOUVER BRANCH, as Lender

Per:   
Name: K. JIN KOH  
Title: GENERAL MANAGER

Per: \_\_\_\_\_  
Name:  
Title:

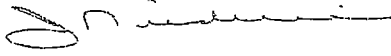
NATIONAL BANK OF CANADA, as Lender

Per:



Name: Greg Steidl  
Title: Authorized signatory

Per:



Name: John Niedermier  
Title: Authorized Signatory

BUSINESS DEVELOPMENT BANK OF CANADA, as Lender

Per: 

\_\_\_\_\_  
Name: Scott Overes  
Director, Specialized Credit Group  
Corporate Financing  
Title: Directeur, Groupe financement spécialisé  
Financement corporatif

Per: 

\_\_\_\_\_  
Name:  
Title: **Colin Ermann**  
Director, Corporate Financing

**CONFIRMATION**

For good and valuable consideration (the receipt and sufficiency of which are hereby conclusively acknowledged), each of the undersigned hereby (a) consents to the provisions contained in the Agreement to which this Confirmation is attached to the extent necessary, (b) confirms and agrees that each Loan Document (as defined in the Credit Agreement) to which it is a party is and shall remain in full force and effect in all respects notwithstanding the terms of the Agreement and hereby restates the terms set forth in such Loan Documents to the extent necessary under applicable Law to give effect to the foregoing, and (c) further acknowledges and agrees that all Security granted by it to the Agent on behalf of the Lenders in connection with such Loan Documents, the Credit Agreement and any other documents executed and delivered pursuant thereto or in connection therewith, continue in full force and effect, without in any way impairing or derogating from any of the Liens and covenants therein contained or thereby constituted, as continuing security for all Secured Obligations of each of the undersigned. This Confirmation is in addition to and shall not limit, derogate from or otherwise adversely affect the provisions of any other Loan Document (as defined in the Credit Agreement).

Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement.

**1863359 ALBERTA LTD.**

By: \_\_\_\_\_  
Name: **Peter D. Scott**  
Title: **Senior Vice President & CFO**

**LTS RESOURCES PARTNERSHIP, by its  
managing partner, LIGHTSTREAM  
RESOURCES LTD.**

By: \_\_\_\_\_  
Name: **Peter D. Scott**  
Title: **Senior Vice President & CFO**

**1863360 ALBERTA LTD.**

By: \_\_\_\_\_  
Name: **Peter D. Scott**  
Title: **Senior Vice President & CFO**

**BAKKEN RESOURCES PARTNERSHIP, by  
its managing partner, LIGHTSTREAM  
RESOURCES LTD.**

By: \_\_\_\_\_  
Name: **Peter D. Scott**  
Title: **Senior Vice President & CFO**







## SECOND AMENDING AGREEMENT

THIS SECOND AMENDING AGREEMENT (this "Agreement") is made as of December 2, 2015 (the "Effective Date") between Lightstream Resources Ltd. (the "Borrower"), the Lenders (as defined below) and The Toronto-Dominion Bank, as Administration Agent (the "Agent").

### PREAMBLE:

- A. The Borrower, the lenders party thereto (collectively, the "Lenders") and the Agent have entered into a third amended and restated credit agreement made as of May 29, 2015 (as amended to the date hereof, the "Credit Agreement").
- B. The Parties wish to amend the Credit Agreement on the terms and conditions herein provided

### AGREEMENT:

NOW THEREFORE in consideration of the premises, the covenants and the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement will, unless otherwise defined herein, have the meanings attributed to such terms in the Credit Agreement.
2. **Amendments.** Effective as of the Effective Date:
  - (a) Section 3.10(a) of the Credit Agreement is hereby amended by replacing the reference therein to "as of the Closing Date is Cdn. \$750,000,000" with "as of the Second Amendment Date is Cdn. \$550,000,000".
  - (b) Section 13.4(a)(ii) of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

"(ii) create, incur, assume, or suffer to exist any Lien upon any of its property, whether now owned or hereafter acquired, except for Permitted Encumbrances;"
  - (c) Section 13.4 of the Credit Agreement is hereby amending by adding the following as a new subsection 13.4(l):

"(l) The Borrower will not, and will not permit any other Loan Party to, use the proceeds of any Accommodation to accumulate or maintain cash or cash equivalents in one or more depository or investment accounts maintained by the Loan Parties in an amount, in the aggregate, greater than Cdn.\$10,000,000 (excluding therefrom amounts accumulated or maintained therein in the ordinary course of business), and (for certainty) the Lenders may refuse to make any requested Drawdown which the Lenders, acting reasonably, determine would result in a contravention of this Section 13.4(l)."

- (d) Section 16.1(d) of the Credit Agreement is hereby deleted in its entirety and replaced with the following:
- “(d) Breach of Certain Covenants. If the Borrower fails to observe or perform either of the covenant in Section 13.2(e) or the covenant in Section 13.4(l), and such failure is not remedied within a period of 5 Banking Days of the failure by the Borrower to observe or perform the same.”
- (e) The following new Section 16.3(e) is hereby added to the Credit Agreement:
- “(e) After all Obligations are declared by the Agent to be due and payable pursuant to Section 16.2, (i) each Lender agrees that it will at any time or from time to time thereafter at the request of the Agent as required by any Lender, purchase at par on a non-recourse basis a participation in the Aggregate Principal Amount owing to each of the other Lenders and make any other adjustments as are necessary or appropriate, in order that the Aggregate Principal Amounts owing to each of the Lenders, as adjusted pursuant to this Section 16.3(e), will be in the same proportion as each Lender’s Individual Commitment Amount was to the Commitment Amount immediately prior to the Event of Default resulting in such declaration, and (ii) the amount of any repayment made by or on behalf of the Loan Parties under the Loan Documents or any proceeds received by the Agent or the Lenders pursuant to Section 16.6(c) will be applied by the Agent in a manner such that to the extent possible the amount of the Aggregate Principal Amount owing to each Lender after giving effect to such application will be in the same proportion as each Lender’s Individual Commitment Amount was to the Commitment Amount immediately prior to the Event of Default resulting in such declaration.”
- (f) The definition of “Commitment Amount” in Schedule A to the Credit Agreement is amended by deleting the reference therein to “\$750,000,000” and replacing it with “\$550,000,000”.
- (g) The definition of “Syndicated Facility Commitment Amount” in Schedule A to the Credit Agreement is amended by deleting the reference therein to “\$700,000,000” and replacing it with “\$500,000,000”.
- (h) Schedule A to the Credit Agreement is amended by adding the following defined term in the proper alphabetical order:
- “**Second Amendment Date**” means December 2, 2015.
- (i) Schedule B to the Credit Agreement is deleted in its entirety and replaced with Exhibit I hereto.
3. Confirmation of Borrowing Base. Each of the Parties agrees and confirms that the Borrowing Base as of the Second Amendment Date is \$550,000,000.

4. **Confirmation of Individual Commitment Amounts.** Each of the Parties agrees and confirms that as of the Second Amendment Date, the Individual Commitment Amounts of the Operating Lender and the Syndicated Facility Lenders are those listed in Exhibit 1 hereto.
5. **Outstanding Advances.** In order to give effect to the reduction in the Syndicated Facility Commitment Amount contemplated hereby, the Lenders hereby agree to take all steps and actions and execute and deliver all agreements, instruments and other documents as may be required by the Agent (including the assignment of interests in, or the purchase of participations in, existing Advances) to give effect to the decrease in the Syndicated Facility and reduced Syndicated Facility Commitment Amount and to ensure that the aggregate Obligations owing to each Syndicated Facility Lender are outstanding in proportion to each Lender's Rateable Portion of all outstanding Obligations under the Syndicated Facility after giving effect to such decrease and the reduced Syndicated Facility Commitment Amount.
6. **Representations and Warranties.** To confirm each Lender's understanding concerning the Borrower, each other Loan Party and each of their businesses, properties and obligations, and to induce the Agent and each Lender to enter into this Agreement, the Borrower hereby reaffirms to the Agent and each Lender that, as of the date hereof, its representations and warranties contained in Section 12.1 of the Credit Agreement, except to the extent such representations and warranties relate solely to an earlier date, are true and correct in all material respects and additionally represents and warrants as follows on the Effective Date:
  - (a) the execution and delivery of this Agreement and the performance by it of its obligations under this Agreement (i) are within its corporate powers, (ii) have been duly authorized by all necessary corporate action, (iii) have received all necessary governmental approvals (if any required), and (iv) do not and will not contravene or conflict with any provision of applicable Law or of its constating documents or by-laws;
  - (b) this Agreement is a legal, valid and binding obligation of it, enforceable in accordance with its terms except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, winding-up, moratorium or similar laws relating to the enforcement of creditors' rights generally and by general principles of equity; and
  - (c) no Default or Event of Default has occurred and is continuing.
7. **Continuing Effect.** Each of the Parties acknowledges and agrees that the Credit Agreement (as amended by this Agreement), the Loan Documents and all other documents entered into in connection therewith, will be and continue in full force and effect and are hereby confirmed and the rights and obligations of all parties thereunder will not be affected or prejudiced in any manner except as specifically provided herein. For the avoidance of doubt, the Borrower hereby acknowledges and agrees that all Security granted by it to the Agent for its own benefit and on behalf of the Lenders and

Swap Lenders in connection with the Credit Agreement continue in full force and effect, without in any way impairing or derogating from any of the Liens and covenants therein contained or thereby constituted, as continuing security for all Secured Obligations of the Borrower under the Loan Documents.

8. **Further Assurances.** The Borrower will from time to time promptly at the Agent's request and at the Borrower's own cost and expense, make, execute and deliver, or cause to be done, made, executed and delivered, all such further documents, financing statements, assignments, acts, matters and things which may be reasonably required by the Agent and as are consistent with the intention of the parties as evidence herein, with respect to all matters arising under this Agreement.
9. **Expenses.** The Borrower will be liable for all expenses of the Agent and the Lenders, including, without limitation, reasonable legal fees (on a solicitor and his own client basis) and other out-of-pocket expenses in connection with the negotiation, preparation, establishment, operation or enforcement of the Credit Agreement and this Agreement by the Agent or the Lenders.
10. **General.** The provisions of this Agreement shall be binding upon each of the parties hereto and their respective successors and assigns and shall enure to the benefit of each of the Borrower, the Agent and the Lenders and their respective successors and assigns. This Agreement is a Loan Document for purposes of the Credit Agreement. This Agreement shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable therein.
11. **Counterparts.** This Agreement may be executed in any number of counterparts (including by facsimile or other electronic delivery) and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

- signature pages follow -

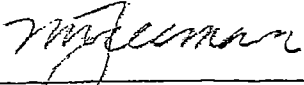
IN WITNESS WHEREOF each of the undersigned has duly executed this Agreement effective as of the date first written above.

LIGHTSTREAM RESOURCES LTD.

Per:           *Annie Belecki*            
Name: Annie Belecki  
Title: General Counsel

THE TORONTO-DOMINION BANK, as Agent

Per: \_\_\_\_\_

  
Name: Michael A. Freeman  
Title: Vice President, Loan Syndications - Agency

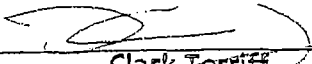
Per: \_\_\_\_\_

Name:  
Title:

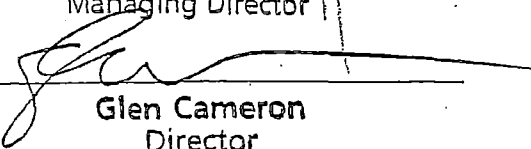


THE TORONTO-DOMINION BANK, as Agent

Per:

  
Name: **Clark Terriff**  
Title: **Managing Director**

Per:

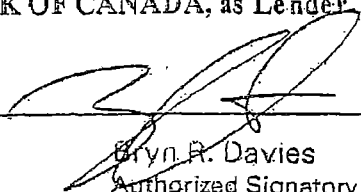
  
Name: **Glen Cameron**  
Title: **Director**

ROYAL BANK OF CANADA, as Lender

Per: \_\_\_\_\_

Name:

Title:

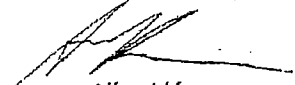
  
Bryn R. Davies  
Authorized Signatory

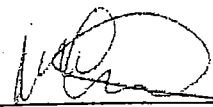
Per: \_\_\_\_\_

Name:

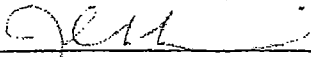
Title:

THE BANK OF NOVA SCOTIA, as Lender

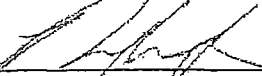
Per:   
Name: Albert Kwan  
Title: Director

Per:   
Name: Michael Linder  
Title: Director

CANADIAN IMPERIAL BANK OF COMMERCE, as Lender

Per: 

Name: *Joelle Chatwin*  
Title: *Executive Director*

Per: 

Name: *Randy Geislinger*  
Title: *Executive Director*

WELLS FARGO BANK N.A., CANADIAN BRANCH, as Lender

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: **DAN ANDRUSI**  
**Managing Director**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BANK OF AMERICA, N.A., CANADA BRANCH, as Lender

Per: \_\_\_\_\_

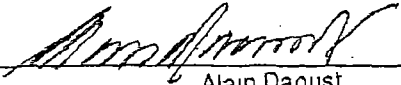
Name: JAMES K.G. CAMPBELL  
Title: DIRECTOR

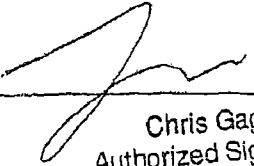
Per: \_\_\_\_\_

Name:  
Title:

{Second Amending Agreement - Lightstream}

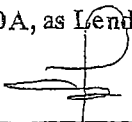
CREDIT SUISSE AG, TORONTO BRANCH, as Lender

Per:   
Name: Alain Daoust  
Title: Authorized Signatory

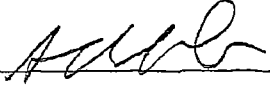
Per:   
Name: Chris Gage  
Title: Authorized Signatory

HSBC BANK CANADA, as Lender

Per:

  
Name: **Oyewole Fasehun**  
Title: **Analyst, Large Corporate Oil & Gas**

Per:

  
Name: **ADAM LAMB**  
Title: **Assistant Vice President  
Oil & Gas Large Corporate**

[Second Amending Agreement - Lightstream]



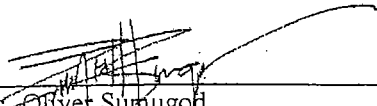
UNION BANK, CANADA BRANCH, as Lender

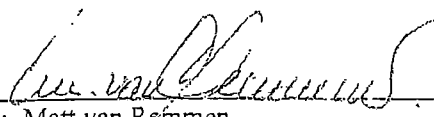
Per: \_\_\_\_\_

Name: Beau Pitkowski  
Title: Vice President

[Second Amending Agreement - Lights team]

CAISSE CENTRALE DESJARDINS, as Lender

Per:   
Name: Oliver Sumugod  
Title: Director

Per:   
Name: Matt van Refnmen  
Title: Managing Director

ALBERTA TREASURY BRANCHES, as Lender

Per: 

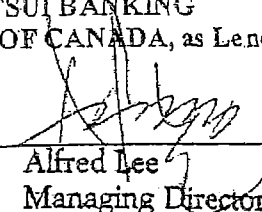
Name: Kevin Kynoch  
Title: Senior Director Energy

Per: 

Name: Simon Briggs  
Title: Associate Director

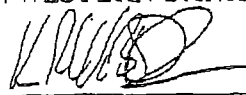
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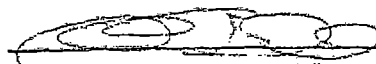
SUMITOMO MITSUI BANKING  
CORPORATION OF CANADA, as Lender

Per:   
Name: Alfred Lee  
Title: Managing Director

Per: \_\_\_\_\_  
Name:  
Title:

CANADIAN WESTERN BANK, as Lender

Per:   
Name: K. Ryckborst  
Title: SVR MGR. OIL GAS

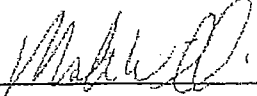
Per:   
Name: Arden Buskell  
Title: AVP & Manager, Energy Lending  
& Corporate Banking

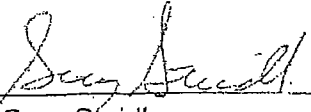
UNITED OVERSEAS BANK LIMITED,  
VANCOUVER BRANCH, as Lender

Per: Jane Taylor  
Name:  
Title: **Jane Taylor**  
**VP, Corporate Banking**

Per: \_\_\_\_\_  
Name:  
Title:

NATIONAL BANK OF CANADA, as Lender

Per:   
Name: Mark Williamson  
Title: Authorized Signatory

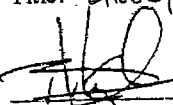
Per:   
Name: Greg Steidl  
Title: Authorized Signatory

[Second Amending Agreement - Lightstream]

BUSINESS DEVELOPMENT BANK OF CANADA, as Lender

Per:  \_\_\_\_\_

Name: COLIN ERRMANN  
Title: DIRECTOR, SPECIALIZED CREDIT

Per:  \_\_\_\_\_

Name: BOBBY CHAN  
Title: MANAGER, SPECIALIZED CREDIT.



CONFIRMATION

For good and valuable consideration (the receipt and sufficiency of which are hereby conclusively acknowledged), each of the undersigned hereby (a) consents to the provisions contained in the Agreement to which this Confirmation is attached to the extent necessary, (b) confirms and agrees that each Loan Document (as defined in the Credit Agreement) to which it is a party is and shall remain in full force and effect in all respects notwithstanding the terms of the Agreement and hereby restates the terms set forth in such Loan Documents to the extent necessary under applicable Law to give effect to the foregoing, and (c) further acknowledges and agrees that all Security granted by it to the Agent on behalf of the Lenders in connection with such Loan Documents, the Credit Agreement and any other documents executed and delivered pursuant thereto or in connection therewith, continue in full force and effect, without in any way impairing or derogating from any of the Liens and covenants therein contained or thereby constituted, as continuing security for all Secured Obligations of each of the undersigned. This Confirmation is in addition to and shall not limit, derogate from or otherwise adversely affect the provisions of any other Loan Document (as defined in the Credit Agreement).

Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement.

**1863359 ALBERTA LTD.**

By: *Annie Belecki*  
Name: Annie Belecki  
Title: General Counsel

**LTS RESOURCES PARTNERSHIP, by its  
managing partner, LIGHTSTREAM  
RESOURCES LTD.**

By: *Annie Belecki*  
Name: Annie Belecki  
Title: General Counsel

**1863360 ALBERTA LTD.**

By: *Annie Belecki*  
Name: Annie Belecki  
Title: General Counsel

**BAKKEN RESOURCES PARTNERSHIP, by  
its managing partner, LIGHTSTREAM  
RESOURCES LTD.**

By: *Annie Belecki*  
Name: Annie Belecki  
Title: General Counsel

Exhibit 1  
to the Second Amending Agreement  
Dated December 2, 2015

**SCHEDULE B**  
**LIGHTSTREAM RESOURCES LTD.**  
**THIRD AMENDED AND RESTATED CREDIT AGREEMENT**  
**DATED MAY 29, 2015**

**INDIVIDUAL COMMITMENT AMOUNTS**  
**(Cdn. \$)**

| Lenders  | Syndicated Facility<br>Commitment Amount | Operating Facility<br>Commitment<br>Amount |
|--|--|--|
| The Toronto-Dominion Bank                      | \$14,156,815                             | \$50,000,000                               |
| Royal Bank of Canada                           | \$56,136,939                             |  |
| The Bank of Nova Scotia                        | \$56,136,939                             |  |
| Canadian Imperial Bank of Commerce             | \$53,086,957                             |  |
| Wells Fargo Bank N.A., Canadian Branch         | \$38,627,277                             |  |
| Bank of America, N.A., Canada Branch           | \$35,152,174                             |  |
| Credit Suisse AG, Toronto Branch               | \$35,152,174                             |  |
| HSBC Bank Canada                               | \$31,086,957                             |  |
| Union Bank, Canada Branch                      | \$30,608,696                             |  |
| Caisse Centrale Desjardins                     | \$27,739,130                             |  |
| Alberta Treasury Branches                      | \$25,347,826                             |  |
| Sumitomo Mitsui Banking Corporation of Canada  | \$21,521,739                             |  |
| Canadian Western Bank                          | \$19,608,696                             |  |
| United Overseas Bank Limited, Vancouver Branch | \$19,608,696                             |  |
| National Bank of Canada                        | \$18,333,333                             |  |
| Business Development Bank of Canada            | \$17,695,652                             |  |
| <b>Total</b>                                   | <b>\$500,000,000</b>                     | <b>\$50,000,000</b>                        |