

FORTRESS BIOENERGY LTD.

as Borrower

FORTRESS PAPER LTD.

as Parent Guarantor (Limited Recourse)

and

FORTRESS SPECIALTY CELLULOSE INC.

as Affiliate Guarantor

and

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP

as Administrative Agent

and

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP

as Lender together with those other

Lenders from time to time Party Hereto

\$40,000,000 CREDIT FACILITY

CREDIT AGREEMENT

DATED AS OF JANUARY 19, 2017

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CREDIT AGREEMENT dated as of January 19, 2017

BETWEEN:

FORTRESS BIOENERGY LTD.

as Borrower

FORTRESS PAPER INC.

as Parent Guarantor

and

FORTRESS SPECIALTY CELLULOSE INC.

as Affiliate Guarantor

and

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP

as Administrative Agent and Lender

and

THE LENDERS FROM TIME TO TIME PARTY HERETO

RECITALS:

- A. **WHEREAS** IAM Infrastructure Private Debt Fund LP, as administrative agent ("**Agent**") and a Lender, has agreed to establish term loan credit facilities for the Borrower, and the Borrower has agreed to avail itself of such term loan credit facilities, on the terms and conditions as set out in this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Formal Date

For the purpose of convenience this Agreement may be referred to as bearing the formal date of the 19th day of January, 2017, irrespective of the actual date of execution thereof.

1.2 Definitions

For the purposes of this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings and words defined elsewhere in this Agreement shall have the meaning ascribed to them therein:

- a) **“Advance”** or **“Advances”** means collectively all those advances of monies made by the Lenders to the Borrower under this Agreement.
- b) **“Affiliate”** means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.
- c) **“Affiliate Guarantor”** means Fortress Specialty Cellulose Inc.
- d) **“Agent”** means IAM Infrastructure Private Debt Fund LP in its capacity as administrative agent for all of the Lenders.
- e) **“Agreement”** means this Credit Agreement, including all Schedules to this Credit Agreement. In any other Loan Document, **“Agreement”** means the Loan Document in which the term is used.
- f) **“Applicable Canada Bond”** means with respect to a prepayment of an Advance the non-callable Government of Canada bond denominated in Canadian currency determined by the Lenders as having a remaining term to maturity closest to the remaining term to maturity of the Advance in respect of which the prepayment is to be made.
- g) **“Applicable Canada Bond Yield”** means with respect to the prepayment of an Advance, the arithmetic average (rounded to the nearest 1/100th of 1%) of the respective percentages determined by the Lenders, calculated in accordance with the generally accepted financial practices, assuming semi-annual compounding, to be the yield to maturity, expressed as an annual rate of interest, on the Applicable Canada Bond on the 3rd Business Day preceding the date of such prepayment.
- h) **“Applicable Law”** means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise); (b) any judgment, order, writ, injunction, decision, ruling, decree or award; (c) any regulatory policy, practice, guideline or directive; or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, in each case binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person.
- i) **“Applicable Percentage”** means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.
- j) **“Associate”** has the meaning defined in the *Canada Business Corporations Act* as of the date of this Agreement.
- k) **“Business”** means
 - i. the business as it is currently carried on by the Borrower, namely development, transmission and distribution of power, and other activities in connection with the Facility, and
 - ii. all activities related or ancillary to the foregoing.
- l) **“Business Day”** means, in connection with any Advance, a day of the year, other than a Saturday or a Sunday, on which the Agent is open for normal business at its

principal office in Toronto, Canada and, for all other purposes, any day of the year, other than a Saturday or a Sunday or any other day that is a civic holiday in Ontario or Quebec.

- m) **"Canadian Dollar"**, **"C\$"**, **"CAD"** and **"\$"** each mean the lawful currency of Canada.
- n) **"Change in Law"** means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Applicable Law, (b) any change in any Applicable Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any Applicable Law by any Governmental Authority.
- o) **"Change of Control"** means the Borrower is not wholly-owned directly or indirectly by the Parent.
- p) **"Closing"** means the date of the Advance of the Loan after satisfaction of all conditions precedent including delivery of this Agreement and the Security.
- q) **"Cogeneration Assets"** means all assets and undertakings relating to and comprising the Facility all of which are owned by the Borrower.
- r) **"Commitment"** means the portion of the Loan for which a Lender is responsible as set out in Schedule A hereof, subject to modifications based on assignments permitted hereunder.
- s) **"Commitment Letter"** means that certain commitment letter dated November 8, 2016 between Integrated Private Debt LPs and the Borrower.
- t) **"Compliance Certificate"** means a certificate in the form of Schedule E.
- u) **"Conditions Precedent"** means those funding requirements set out in Section 3.3.
- v) **"Constating Documents"** means, with respect to any Person, as applicable:
 - i. its certificate, notice of articles and/or articles of incorporation, association, amalgamation or continuance, memorandum of association, charter, declaration of trust, trust deed, partnership agreement, limited liability company agreement or other similar document;
 - ii. its articles or by-laws; and
 - iii. all unanimous shareholder agreements, other shareholder agreements, voting trust agreements and similar arrangements applicable to such Person's Equity Interests;

all as in effect from time to time.
- w) **"Contract"** means any agreement, contract, indenture, lease, deed of trust, licence, option, undertaking, promise or other commitment or obligation, whether oral or written, expressed or implied, other than a Permit.
- x) **"Control"** means the possession by one Person or by a group of Persons acting collectively, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting

power, by contract or otherwise. “**Controlling**” and “**Controlled**” have corresponding meanings.

- y) “**Debt**” means (i) all indebtedness of such person for borrowed money, including borrowings by way of bankers’ acceptances or letters of credit and contingent reimbursement obligations including letters of guarantee and the maximum amount of all such Debt which is directly or indirectly guaranteed by such person (contingently or otherwise) (eliminating from such calculation where it is duplicative of another person’s debt, any guarantee by such person of another person’s obligations); (ii) preferred shares classified as debt according to IFRS; (iii) obligations issued or assumed in connection with the acquisition of property in respect of the deferred purchase price of such property; (iv) capital lease obligations and obligations secured by Purchase Money Mortgages; and (v) contingent liabilities in respect of borrowed money and excluding, in any event (a) trade accounts payable, current taxes payable, dividends payable and accrued interest payable (b) future taxes, (c) asset retirement obligations, and (d) derivative (negative value) financial instruments.
- z) “**Debt Service Coverage Ratio**” or “**DSCR**” means the trailing twelve months earnings before interest, taxes, depreciation, amortization, expenses permitted to be paid by MMRFA, payment for biomass, steam, electricity and other charges made to the Affiliate Guarantor and any other non-cash expenses acceptable to the Lenders, divided by the total of scheduled principal repayments and interest payments on the Loan plus required payments into the MMRFA for the forward twelve months, if any.
- aa) “**Default**” means any event or condition that constitutes an Event of Default or that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition not an Event of Default, including giving of any notice, passage of time, or both. Without limiting the preceding sentence, it shall be a Default (but not an Event of Default) if the Borrower acknowledges that it will not be in compliance with any financial covenant contained in this Agreement at the end of the current fiscal quarter, and it shall be an Event of Default if the Borrower acknowledges that it was not in compliance with those covenants at the end of the immediately preceding fiscal quarter if it has not delivered its Compliance Certificate for that quarter.
- bb) “**Derivative**” means any transaction or combination of transactions including any agreements with respect thereto of a type commonly considered to be a derivative or hedging transaction, whether relating to one or more of interest rates, currencies, commodities, securities or any other matters, including (a) any cap, collar, floor or option, (b) any forward contract, and (c) any rate swap, basis swap, commodity swap, cross-currency swap or other swap or contract for differences.
- cc) “**Dispute**” means any suit, action, dispute, investigation, claim, arbitration, legal, insolvency or other proceeding, appeal or application for review, whether at law, in equity or before any Governmental Authority, or any industrial or labour dispute, and includes any claim by any Governmental Authority regarding payment, collection, withholding or remittance of Taxes.
- dd) “**Distribution**” or “**Distributions**” means:
 - i. the purchase, redemption (cash or otherwise) or retirement, by the Borrower of any equity interest in its capital;
 - ii. the payment by the Borrower of any amount to either of the Guarantors except for payment under the Material Contracts in an amount not to

- exceed the compensation provided for in the Material Contracts as at the date hereof;
- iii. the payment by the Borrower of any management fee, consulting fee, dividend, bonus or any other payment or distribution to unitholders, shareholders, directors, officers or other related persons other than regular and customary payments of compensation for employment services in the ordinary course of business, all in accordance with usual past practice; and
 - iv. any payment by the Borrower on account of any principal or interest on any loans or advances owing at any time to shareholders, directors, officers or other related person.
- ee) **“DSRFA” or “Debt Service Reserve Fund Account”** means the debt service reserve fund account required to be maintained pursuant to Section 4.1(e).
- ff) **“EBITDA”** means for a particular period of the Borrower the income (or loss) of the Borrower before deductions of interest, taxes, depreciation, amortization, non-cash items, including stock based compensation, extraordinary items of income or expense, one time or non-recurring items and loss/gain on disposal of assets for such period prepared in accordance with IFRS, after provision for matters and adjustments not otherwise contemplated herein.
- gg) **“Environmental Laws”** means all applicable laws, by-laws, regulations relating in full or in part to the protection of the natural environment, including the storage, use, generation, handling, manufacturing, processing, treatment, release and disposal of “hazardous substances”, “contaminants” and “industrial waste” as defined in all applicable environmental protection legislation and specifically means and includes all applicable federal, provincial or local laws, statutes, rules, regulations, ordinances and codes, together with all administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authorities, in each case relating to environmental, health, safety and land use matters.
- hh) **“Equity Interests”** means, with respect to any Person, any and all present and future shares, units, trust units, partnership, membership or other interests, participations or other equivalent rights in the Person’s equity or capital, however designated and whether voting or non-voting, and warrants, options or other rights to acquire any of the foregoing and securities convertible into or exchangeable for any of the foregoing.
- ii) **“Event of Default”** is defined in Section 7.1.
- jj) **“Facility”** means the co-generation power facility operated by the Borrower in Thurso, Quebec.
- kk) **“Fiscal Quarter”** means January 1 to March 31; April 1 to June 30; July 1 to September 30 and October 1 to December 31.
- ll) **“Fiscal Year”** means the year ended December 31 in each calendar year.
- mm) **“Foreign Lender”** means a Lender that is not organized under the laws of the jurisdiction in which the Borrower is resident for tax purposes and that is not otherwise considered or deemed in respect of any amount payable to it hereunder or under any Loan Document executed by the Borrower to be resident for income tax or

withholding tax purposes in the jurisdiction in which the Borrower is resident for tax purposes by application of the laws of that jurisdiction. For purposes of this definition Canada and each Province and Territory thereof shall be deemed to constitute a single jurisdiction and the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

- nn) **"Government of Canada Bond Yield"** means the Applicable Canada Bond Yield as defined at the stated time of determination.
- oo) **"Governmental Authority"** means the government of Canada, or of any political subdivision thereof, whether provincial, state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including a Minister of the Crown, Superintendent of Financial Institutions or other comparable authority or agency.
- pp) **"Guarantors"** means the Parent Guarantor and the Affiliate Guarantor.
- qq) **"Hazardous Materials"** means any pollutant, contaminant, or hazardous, toxic or dangerous waste, substance or material, as defined in any Applicable Law or regulated by any Governmental Authority from time to time.
- rr) **"IFRS"** means International Financial Reporting Standards developed by the International Accounting Standards Board as in effect from time to time and applied by the Borrower on a basis consistent with the preparation of the Borrower's most recent financial statements furnished to the Agent and the Lender hereunder or in connection herewith, subject to the provisions of Section 1.8 hereof.
- ss) **"Indebtedness"** means and includes all principal, interest, interest on overdue interest and premium, costs and expenses payable by the Borrower pursuant to the provisions of this Agreement and the Security, from time to time outstanding.
- tt) **"Indemnitee"** is defined in Section 9.7.
- uu) **"Independent Engineer"** means [**Reacted**].
- vv) **"Independent Insurance Advisor"** means [**Reacted**].
- ww) **"Interest Differential"** is defined as the premium equal to the difference between: (i) the present value of the remaining Loan interest and the principal payments with respect to the principal amount being prepaid discounted at the Applicable Canada Bond Yield for the Applicable Canada Bond, as determined by the Lender, acting reasonably, as at the date of prepayment; and (ii) the face value of the principal amount of the Loan being prepaid.
- xx) **"IQ"** means Investissement Québec.
- yy) **"IQ Interlender Agreement"** means that certain "Convention Inter-Créanciers" executed between IQ, the Borrower and the Agent on January 19, 2017, as may be amended from time to time.
- zz) **"IQ Loan"** means all sums owing from time to time by the Borrower and the Affiliate Guarantor to IQ pursuant to each of the *Offres de prêt* described in **Schedule C** (as may be amended, restated, supplemented or otherwise modified or replaced from time to time).

- aaa) **"knowledge"** means actual knowledge (as opposed to any constructive or imputed knowledge) of the senior officers and directors of the Borrower, but without the obligation to conduct any specific inquiry of any other person.
- bbb) **"Land Lease"** means the superficies agreement listed in **Schedule B** hereto from time to time.
- ccc) **"Lender"** or **"Lenders"** means **IAM Infrastructure Private Debt Fund LP** and each of the Lenders listed in **Schedule A** together with any Persons who have entered into an assignment agreement pursuant to Section 11.1 or, as the context permits, any of them alone.
- ddd) **"Lien"** or **"Liens"** means:
- i. with respect to any Property, any mortgage, debenture, deed of trust, lien, security interest, pledge, hypothec (including a legal hypothec), hypothecation, prior claim, encumbrance, charge, consignment, assignment by way of security, defect of title or right to set off in, on or of the Property;
 - ii. the interest of a vendor, a lender or a lessor under any conditional sale agreement, capital lease (or financial lease) or title retention agreement having substantially the same economic effect as any of the foregoing, relating to any Property;
 - iii. any other arrangement having the effect of providing an interest in property as security for payment or performance of an obligation; and
 - iv. reservations, exceptions, encroachments, easements, servitudes, rights-of-way, covenants, conditions, restrictions and other title exceptions and encumbrances (including, with respect to stock, stockholder agreements having the effect of restricting the ability, in any material respect, of a Person to fulfill its obligations hereunder, voting trust agreements and all similar arrangements) affecting property.
- eee) **"Loan"** means the loan of \$40,000,000 in favour of the Borrower that is established pursuant to Section 3.1.
- fff) **"Loan Documents"** means this Agreement and the Security.
- ggg) **"Majority Lenders"** means Lenders to who are owed at least 66-2/3% of the Commitments; if the Commitments have expired, **"Majority Lenders"** shall mean Lenders to whom are owed at least 66-2/3% of the Obligations.
- hhh) **"Material"** means (except when used as part of another term defined in a Loan Document), with reference to the matter described as Material, that it would reasonably be considered to be significant, important or material by a prudent lender in its assessment of credit extended or to be extended to a borrower.
- iii) **"Material Adverse Effect"** means a material adverse effect on (a) the business, operations, or property or financial or other condition of a person which would materially and negatively affect the ability of that person to perform and discharge its obligations under this Agreement or any of the Security, (b) the collateral covered by the Security, the Lender's Liens on such collateral or the priority of the Lender's

Liens, or (c) the Lender's ability to enforce its rights or remedies under this Agreement or any of the Security.

- jjj) **"Material Contract"** means any Contract that is listed on Schedule C.
- kkk) **"Material Permit"** means any Permit that is listed on Schedule C.
- lll) **"Maturity"** means February 2, 2031;
- mmm) **"MMRFA"** means the major maintenance reserve fund account required to be maintained pursuant to Section 4.1.
- nnn) **"Mortgaged Property"** means and includes all the undertaking, property and assets of the Borrower subject to the Security.
- ooo) **"Obligations"** means all debts, liabilities and obligations of the Borrower to the Agent and the Lenders under or in connection with this Agreement or the other Loan Documents, whether present or future, direct or indirect, absolute or contingent, matured or not, at any time owing or remaining unpaid by the Borrower to the Agent and the Lenders in any currency under or in connection with this Agreement or the other Loan Documents, whether arising from dealings between the Agent and the Lenders and the Borrower or from other dealings or proceedings by which the Agent and the Lenders may be or become in any manner whatever a creditor of the Borrower under or in connection with this Agreement or the other Loan Documents, and wherever incurred, and all interest, fees, commissions and legal and other costs, charges and expenses owing or remaining unpaid by the Borrower to the Agent and the Lenders in any currency under or in connection with this Agreement or the other Loan Documents.
- ppp) **"Operating Cash Flow"** means, for any relevant period, all revenue of the Borrower including interest earned on the DSRFA and the MMRFA, less all operating expenses, including annual contributions to the MMRFA, excluding expenses permitted to be paid from the MMRFA, depreciation and amortization, and interest payments on the Loans.
- qqq) **"Ordinary Course"** means, with respect to an action taken by a Person, that the action is consistent with the past practices of the Person and is taken in the usual course of the normal day-to-day operations of the Person, but dealing with new customers or suppliers or adopting new business methods does not, in itself, constitute a departure from past practice, and in the case of the Borrower, "Ordinary Course" includes all actions required or useful for the construction, procurement and operation of the Facility and the performance of all obligations under Material Contracts and Material Permits.
- rrr) **"Parent"** means Fortress Paper Ltd.
- sss) **"Parent Guarantor"** means Fortress Paper Ltd.
- ttt) **"Permits"** means franchises, licences, qualifications, authorizations, consents, certificates, registrations, exemptions, waivers, filings, grants, notifications, privileges, rights, orders, judgments, rulings, directives, permits and other approvals, obtained from or required by a Governmental Authority.

- uuu) **"Permitted Debt"** means:
- i. the Obligations;
 - ii. the IQ Loan;
 - iii. Debt secured by Permitted Liens;
 - iv. indebtedness listed in **Schedule G**;
 - v. Debt owing to the Parent Guarantor, Affiliate Guarantor or any Affiliate of the Parent provided the same is subordinate to the Security and as to payment of the Loan except as otherwise permitted pursuant to this Agreement;
 - vi. Debt which has no Liens against any assets of the Borrower and which is thereby subordinated to the Security as to all Obligations; and
 - vii. other Debts expressly permitted under this Agreement or expressly consented to by the Lenders in writing.
- vvv) **"Permitted Liens"** means, with respect to any Person:
- i. Liens for taxes, rates, assessments or other charges of Governmental Authorities, charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person and in respect of which that Person has made adequate provision for payment of the contested amount and provided such evidence thereof as the Agent may request;
 - ii. undetermined or inchoate Liens, rights of distress and charges incidental to current operations which have not at such time been filed or exercised and of which the Agent has not been given notice, or which relate to obligations not due or payable or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person and in respect of which that Person has made adequate provision for payment of the contested amount and provided such evidence thereof as the Agent may request;
 - iii. carriers', warehousemen's, landlords', vendors', mechanics', materialmen's, repairers', craftsmen's, workers', builders', contractors', suppliers of materials', architects', engineers' or subcontractors' and other like Liens imposed by Applicable Law or relating to the construction or renovation of any property, in all cases arising in the ordinary course of business and, if the relevant Person has received notice claiming that payment is overdue for a period of more than 30 days, which are being contested in good faith and by appropriate proceedings and in respect of which appropriate reserves have been taken,;
 - iv. reservations, limitations, provisos and conditions expressed in any original grants from the Crown or other grants of real or immovable property, or interests therein, which do not materially affect the use of the affected land for the purpose for which it is used by that Person;

- v. licences, servitudes, rights-of-way and rights in the nature of servitudes (including licences, rights-of-way and rights in the nature of servitudes for sidewalks, public ways, sewers, drains, gas, steam and water mains or electric light and power, or telephone and telegraph conduits, poles, wires and cables) and zoning, land use and building restrictions, by-laws, regulations and ordinances of federal, provincial, municipal and other Governmental Authorities which will not materially impair the use of the affected land for the purpose for which it is used by that Person;
- vi. minor title defects, encroachments or irregularities which in the aggregate will not materially impair the use of the affected property for the purpose for which it is used by that Person;
- vii. the right reserved to or vested in any municipality or Governmental Authority by the terms of any lease, license, franchise, grant or permit acquired by that person or by any statutory provision to terminate any such lease, license, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- viii. the Lien resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, unemployment insurance, surety or appeal bonds, costs of litigation when required by law, liens and claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the Ordinary Course;
- ix. security given to a public utility or any Governmental Authority when required by the utility or authority in connection with the operations of that Person in the Ordinary Course;
- x. the Lien created by a judgment of a court of competent jurisdiction, as long as the judgment is being contested diligently and in good faith by appropriate proceedings or is being satisfied by that Person and has not caused a Default and that Person has made adequate provision for payment of the contested amount and provided such evidence thereof as the Agent may request;
- xi. the Security;
- xii. the Land Lease;
- xiii. Liens in favour of IQ as long as the IQ Interlender Agreement is still in effect;
- xiv. Liens on equipment or other property and the proceeds thereof created or assumed to finance the acquisition or improvement or secure the unpaid purchase price thereof (including the principal amount of any capital lease) provided that the aggregate principal amount (or fair market value of the Property that is subject to the Lien if no principal amount is designated) in respect of all such Liens outstanding at any time does not exceed **[Redacted]**;
- xv. any legal hypothec in favour of Hydro-Québec to secure the payment of electricity supplied by Hydro-Québec provided that all amounts secured

thereby are paid when due or adequate provision has been made for the payment thereof, and letters of credit issued pursuant to the Power Purchase Agreements; and

- xvi. other Liens expressly agreed to in writing by the Agent in writing.
- www) “**Person**” or “**person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.
- xxx) “**Power Purchase Agreements**” means the *Convention relative aux modifications apportées au contrat d’approvisionnement en electricite du 5 mai 2010* between the Borrower and Hydro-Québec dated July 15, 2015 and the *Convention relative aux modifications apportées au contrat d’approvisionnement en electricite du 12 mai 2014* between the Borrower and Hydro-Québec dated July 15, 2015, and any other similar agreement that may be entered into with Hydro-Québec from time to time.
- yyy) “**Property**” means, with respect to any Person, any or all of its present and future undertaking, property and assets, whether corporeal or incorporeal, and includes rights under Contracts and Permits.
- zzz) “**Real Property**” means the real property owned directly or leased by the Borrower pursuant to the Land Lease, as applicable, each as described in **Schedule C** hereto.
- aaaa) “**Related Parties**” means, with respect to any Person, such Person’s Affiliates and the directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.
- bbbb) “**Representatives**” means, with respect to any Party, its directors, officers, employees, agents and other representatives and advisors
- cccc) “**Revenue**” means all funds which are paid in relation to the ownership or operation of the Facility and Cogeneration Assets including that received from sales under the Power Purchase Agreements, payment made in relation to any other program of any agency and all interest earned by the Borrower on deposits and interest bearing instruments.
- dddd) “**Security**” means the security interest granted by the Borrower in favour of the Agent hereunder as well as the security documents made by the Borrower in favour of or for the benefit of the Agent and the Lenders, securing all Property, real and personal, securing or intended to secure or support the repayment of the Obligations.
- eeee) “**Statutory Plan**” means any benefit plan that the Borrower is required by Applicable Law to participate in or contribute to in respect of any current or former employee, director, officer, shareholder, consultant or independent contractor of the Borrower, or any dependent of any of them, including the Canada Pension Plan, the Quebec Pension Plan and plans administered pursuant to Applicable Law regarding health, tax, workers’ compensation insurance and employment insurance.
- ffff) “**Subsidiary**” of a Person means any Person Controlled by the first Person or by any Subsidiary of the first Person.
- gggg) “**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental

Authority, including any interest, additions to tax or penalties applicable thereto, and “**Tax**” has a corresponding meaning.

1.3 Construction

The Loan Documents have been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of the Loan Documents.

1.4 Certain Rules of Interpretation

In any Loan Document:

- a) the division into articles and sections and the insertion of headings and the Table of Contents are for convenience of reference only and shall not affect the construction or interpretation of the Loan Document;
- b) unless specified otherwise or the context otherwise requires:
 - i. “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;
 - ii. all amounts expressed in this Agreement in terms of money shall refer to Canadian Dollars; and
 - iii. all references to specific times are references to Montreal time.

1.5 Terms Generally

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein (including this Agreement) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented, restated or otherwise modified (subject to any restrictions on such amendments, supplements, restatements or modifications herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all Property, including cash, securities, claims and contractual rights. For the purposes of the laws of Quebec, and the provisions of the Civil Code (Quebec) as applicable to the terms set out in this agreement, the following terms shall have the meaning as set out therein and specifically personal property shall mean and include movable property, real property shall mean and include immovable property, agent shall mean and include mandatary and perfection shall mean and include publication.

1.6 Knowledge

In any Loan Document, any reference to the knowledge of any Party means to the best of the knowledge, information and belief of the Party after reviewing all relevant records and making due inquiries regarding the relevant matter of all relevant Representatives of the Party.

1.7 Performance on Business Days

If any action is required to be taken pursuant to any Loan Document on or by a specified date that is not a Business Day, the action is valid if taken on or by the next Business Day.

1.8 Accounting Terms

Unless the Lenders shall otherwise expressly agree or unless otherwise expressly provided herein, all of the terms of this Agreement which are defined under the rules constituting IFRS shall be interpreted, and all financial statements and reports to be prepared hereunder shall be prepared, in accordance with IFRS; provided that if there occurs after the date hereof any change in IFRS from that used in the preparation of the financial statements referred to in Section 5.1(k) of this Agreement or that affects in any respect the calculation of any financial covenant contained in this Agreement, the Lenders and the Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of the Lenders and the Borrower after such change in IFRS conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the financial covenants in this Agreement shall be calculated as if no change in IFRS has occurred.

1.9 Permitted Liens

The designation of a Lien to be a Permitted Lien is not, and shall not be deemed to be, an acknowledgment by the Agent that the Lien shall have priority over the Security.

1.10 Successor Legislation

Any statute referred to herein or in the Security shall be deemed to include that statute as amended, restated and/or replaced from time to time, and any successor legislation to the same general intent and effect.

1.11 Schedules

The schedules listed in the table of contents are incorporated herein and form part of this Agreement.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties

The Borrower represents and warrants to the Agent and the Lenders, as of the date of this Agreement, and acknowledges that the Agent and Lenders are relying on such representations and warranties in entering into this Agreement and in making the Advance hereunder, as follows:

a) **Status**

The Borrower has been duly incorporated or created and organized and is a validly existing corporation, under the laws of its governing jurisdiction, and has full capacity and

power to carry on its business as presently conducted and to own or lease property and holds all necessary material licences, permits and consents to carry on such business in all jurisdictions in which it does so.

b) **Power and Authority**

It has the power to enter into, execute, deliver and perform this Agreement and the Security and is duly authorized to borrow the monies herein contemplated.

c) **Non-Violation of Other Instruments and Authorization**

(i) The borrowing of money by the Borrower, the entering into and performance of this Agreement, the Security and any other agreement collateral hereto or thereto by the Borrower, and the issue of the Security to which it is a party to be given hereunder does not conflict, and will not conflict with, and does not result, and will not result with the passage of time or otherwise, in a breach or violation of, or constitute a default under, its notice of articles or its articles, or any of the covenants or the provisions contained in any agreement to which it is a party, or by which it or its assets are subject; and

(ii) All necessary corporate steps and proceedings have been taken, and all consents have been obtained to authorize the entering into, delivery and performance of this Agreement and to create and authorize the issuance, delivery and performance of the Security.

d) **Valid Security**

This Agreement and the Security create in favour of the Agent for, and the Lenders, as applicable, valid and binding obligations of it, to the extent it is a party thereto on all of its respective right, title and interest in and to all of the collateral which is the subject matter of the Security enforceable against it in accordance with their respective terms subject to applicable bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and to equitable remedies that may be granted only in the discretion of a court of competent jurisdiction.

e) **Title to Assets and Property**

It has good and marketable title to the real properties and good title to the personal properties owned by it, free and clear of encumbrances or security interests except for Permitted Liens and no person has any agreement or right to acquire such properties out of the ordinary course of business.

f) **Financial Condition**

Since September 30, 2016, there has occurred no Material Adverse Effect affecting the Borrower's business or financial condition.

g) **Financial Information**

All balance sheets, earnings statements and other financial data of the Borrower which have been delivered to the Lenders are true and correct in all material respects as of the respective dates thereof, have been prepared in accordance with IFRS consistently applied, and do fairly present the financial position and condition of the Borrower as of the respective dates thereof, and all other information, certificates, schedules, reports and other papers and data which have been furnished by the Borrower to the Lenders

are complete, accurate and correct in all material respects at the time the same were furnished subject, in the case of interim statements, to usual year end adjustments.

h) **No Actions**

There are no actions, suits, judicial or arbitral proceedings pending or to its knowledge threatened against it in any court or before any other authority which could reasonably be expected to have a Material Adverse Effect.

i) **Judgments and Executions**

As at the date hereof, there are no judgments or executions filed or pending against it.

j) **Insolvency Proceedings**

It has not made any assignment for the benefit of creditors, nor has any receiving order been made against it under the provisions of the *Bankruptcy and Insolvency Act*, nor has any petition for such an order been served upon it, nor are there any proceedings in effect or threatened under the provisions of the *Winding-Up and Restructuring Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada), nor has any receiver, receiver and manager, monitor, custodian or official with similar powers been appointed by court order or privately respecting it or any of its assets or property; nor has it committed an act of bankruptcy; taken advantage of any act for bankrupt or insolvent debtors; filed a notice of intention to make a proposal or a proposal under the *Bankruptcy and Insolvency Act* (Canada); proposed a compromise or arrangement of its creditors generally, made any assignment for the benefit of creditors, taken any proceedings with respect to a compromise or arrangement, nor to have a receiver appointed over any part of its assets or property.

k) **Leases**

It is in good standing under all leases to which it is a party, including but not limited to the Land Lease, which have not been amended, and no right currently exists in any lessor or lessee thereunder to terminate any such lease, and each such lease is its valid and binding obligation.

l) **Taxation Procedures**

It has duly and timely filed all tax returns required to be filed by it, and it has paid all taxes which are due and payable, and has paid all assessments and reassessments, and all other taxes, penalties, interest and fines claimed against it which are due or payable by it on or before the date due and payable other than those: (i) in respect of which liability based on such returns is being contested in good faith and by appropriate proceedings where adequate reserves have been established in accordance with IFRS and (ii) the effect of such proceedings is to stay any right to exercise on any lien, charge or seizure of property. Adequate provision and installment payments have been made for taxes and governmental royalties payable for the current period for which returns are not yet required to be filed. Except as disclosed in writing to the Lenders, as at the date hereof there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return, or payment of any taxes, or deficiency.

m) **Employees**

The Borrower does not directly employ any persons.

n) **Ownership or Licence**

It owns or licenses all licences, permits, authorities, patents, industrial designs, trademarks, trade secrets, know-how, environmental technology, biotechnology, confidential information, trade-names, goodwill, copyrights, integrated circuit topographies, software and all other forms of intellectual and industrial property, and any registrations and applications for registration of any of the foregoing (collectively, the “**Intellectual Property**”), necessary for the conduct of its business and all such licenses are in good standing.

(o) **Contingent Liabilities and Debt**

It has disclosed to the Agent and Lenders all contingent liabilities as at the date hereof of which the Borrower has knowledge, and as at the date hereof it has not incurred any Debt which is not disclosed on or reflected in the financial statements provided to the Agent and Lenders, other than Debt or contingent liabilities incurred by it or credit extended to it in the ordinary course of business after the date of such financial statements.

p) **Location of Assets, Places of Business**

The location of all of its tangible and intangible property and assets and places of business are set out in **Schedule B**. Its registered and chief executive offices are set out in **Schedule B**.

q) **No Default or Event of Default**

There exists no Default or Event of Default.

r) **Compliance**

It is in compliance with its Constatting Documents and is in compliance in all material respects with all Applicable Laws, including health, safety and employment standards, transportation, customs, labour codes and Environmental Laws.

(s) **No Consents Required**

Except as contemplated in **Schedule C**, no Material Permit is required, nor is any authorization, consent, approval or notice required under any Material Contract to which it is a party, in connection with its execution, delivery and performance of the Loan Documents.

(t) **No Burdensome Restrictions**

It is not a party to any Contract, the holder of any Permit or subject to any Applicable Law, compliance with which has had or could reasonably be expected to have a Material Adverse Effect.

(u) **Property, Equity Interests, Etc.**

As of the date of this Agreement, **Schedule B**, contains a complete and accurate organizational chart for the Borrower and is a complete and accurate description of its jurisdiction of formation or incorporation, the ownership of all of its issued and outstanding Equity Interests (including the identity of all Persons or groups of Persons that directly or indirectly own or control 25% or more of its outstanding Equity Interests), the nature of the business that it carries on, the locations of its registered office (and chief executive office, if different), the Equity Interests in other Persons that it owns, the location of its leased and owned immovable property and the jurisdictions in which its

other Property is located, its deposit accounts and securities accounts and all Intellectual Property of which its interest is registered in a public office.

(v) **General Environmental Representations**

As of the date hereof, to its knowledge, (i) there are no active or abandoned underground storage tanks located on any land that it occupies or controls, except those that comply with Applicable Law, (ii) there are no Hazardous Materials located on, above or below the surface of any land that it occupies or controls or contained in the soil or water constituting such land, except those that are in compliance with Applicable Law, (iii) no release, spill, leak, emission, discharge, leaching, dumping or disposal of Hazardous Materials has occurred on or from such land, except those that are not Material or do not violate applicable Environmental Law, (iv) no land that it occupies or controls has been used as a landfill or waste disposal site, (v) Hazardous Materials generated on any land that it occupies or controls have been transported, treated and disposed of in accordance with Applicable Law, (vi) there is no action or other proceeding which has been commenced against it or any of its assets with respect to any breach of Environmental Law, (vii) there has been no material breach of the conditions or requirements as to environmental status and compliance under any Material Contract, and (viii) no other circumstance exists to its knowledge that would give rise to liability on its part under any applicable Environmental Law where such liability would have a Material Adverse Effect.

(w) **Material Contracts**

Each Material Contract has been validly authorized, executed and delivered by the Borrower and constitutes a legal, valid and binding obligation enforceable in accordance with its terms against the Borrower and, to its knowledge, against all other parties to it, subject to the availability of specific remedies and the effect of bankruptcy, insolvency and similar laws affecting the rights of creditors generally.

The Borrower is not in default in the performance or observance of any material obligation, covenant or condition contained in any Material Contract. No event has occurred and is continuing that would constitute a material breach of, or a material default under any Material Contract.

(x) **Material Permits**

To its knowledge, each Material Permit has been validly authorized and issued by the issuing authority, and is enforceable by the holder thereof, which is the operator of the equipment covered by such Material Permit, in accordance with its terms.

The permits and certifications listed in **Schedule C** hereto, held by the Affiliate Guarantor, constitute all of the material certifications required for the Borrower to carry on the Business as presently carried on and as required pursuant to the terms of the Power Purchase Agreements, each certification is validly issued, currently maintained, and there are no breaches or deficiencies to the knowledge of the Borrower which could lead to any withdrawal or material amendment of the terms, provisions and allowances of the certifications as a consequence of performance or conduct of the Borrower.

2.2 Real Estate Representations and Warranties

The Borrower also represents and warrants that the Real Property and Land Lease described in **Schedules B & C** provide (i) full and unrestricted access to such portions of the Real Property as is required for all purposes of the ownership and operation of the Facility without use of or access to any additional property, and (ii) all required access under the terms of the Material Contracts, as applicable.

2.3 Survival of Representations, Warranties and Covenants

The representations and warranties set forth in this Agreement shall survive the execution of this Agreement until the Obligations are fully paid. Unless expressly stated to be made as of a specific date, the representations and warranties shall be deemed to be repeated as of the date of the Advance and as of the date of delivery of each Compliance Certificate.

ARTICLE 3 CONDITIONS PRECEDENT, LOAN, REPAYMENT AND INTEREST

3.1 Loan

Subject to the terms and conditions hereunder, and relying upon the representations and warranties herein set forth, the Lenders hereby agree to lend to the Borrower an aggregate principal amount of Forty Million Dollars (\$40,000,000).

The records maintained by the Lenders of the amounts of the Loan advanced to the Borrower in connection with this Agreement, the amount of the Loan outstanding and the amount of interest and other fees and costs payable and paid under this Agreement shall, absent manifest error, constitute *prima facie* proof thereof in any legal proceedings or action in respect of this Agreement.

3.2 Principal Repayment

The Loan is repayable in monthly payments of principal and interest as set out in **Schedule F** based upon the 14-year straight line amortization of the Advance and any balance of the Loan being fully due and payable on the date of Maturity.

3.3 Conditions Precedent

The following conditions precedent shall be satisfied to the Agent and Lenders' sole discretion prior to Advance of the Loan:

- a) Legal opinions shall be issued by legal counsel for the Borrower and Guarantors, opining:
 - i. as to the valid existence and good standing of the Borrower and Guarantors;
 - ii. as to the due authorization, execution and delivery of the Loan Documents with respect to the Borrower and Guarantors;
 - iii. as to the enforceability and validity of the Loan Documents with respect to the Borrower and Guarantors;
 - iv. as to the enforceability and perfection of the Security granted by the Borrower; and
 - v. as to such other matters as the Lenders and their counsel reasonably may specify,

subject to customary qualifications.

- b) The Borrower shall have delivered to the Agent evidence acceptable to the Agent and Lenders confirming that the Borrower has good and marketable title to the personal properties owned or leased by it and real property owned or leased by it, including but not limited to the Real Property, free and clear of encumbrances or security interests except

for Permitted Liens and no person has any agreement or right to acquire such properties out of the ordinary course of business and the Borrower has suitable access to the real property.

- c) The Security shall be executed by the Borrower in registerable form, and all registrations and other actions required to fully perfect and maintain the priority of the Security shall have been successfully completed to the satisfaction of the Lenders' counsel.
- d) Current searches for the Borrower and Guarantors in those jurisdictions set out in **Schedule B**, together with all subordinations, releases and discharges to ensure the first priority position of the Security on the real and personal property of the Borrower (subject to Permitted Liens) shall have been completed and received.
- e) Evidence and assignments of insurance as required by this Agreement, conforming in all respects to the requirements of the Lenders, shall have been delivered.
- f) Certified copies of the Constating Documents, including, without limitation, any letters patent, articles of incorporation, memorandum of association, articles of association, certificates of amalgamation, articles of continuation, articles of amendment and borrowing by-laws of the Borrower and each Guarantor, together with a certificate of an officer of each of the Borrower and each Guarantor certifying that its Constating Documents therein described are all of its Constating Documents and that other than as therein described such Constating Documents have not been amended, shall have been delivered to the Lenders.
- g) Certified resolutions of the directors of the Borrower and each Guarantor, confirming that it has been authorized to execute, deliver and perform its obligations as applicable under this Agreement and the Loan Documents, shall have been delivered to the Lenders.
- h) A certificate of status or similar certificate for the Borrower and each Guarantor from the applicable government ministry, dated not earlier than the Closing, shall have been delivered to the Lenders.
- i) An officer's certificate for the Borrower and each Guarantor in the form previously provided to the Borrower shall have been delivered to the Lenders.
- j) The Borrower will have delivered to the Lenders a written draw notice not less than ten (10) Business Days prior to the requested draw date in the form of **Schedule D**.
- k) The representations and warranties of the Borrower and to the extent applicable each Guarantor shall be true and correct as of the date given.
- l) Except as waived in writing by the Lenders, there will be no Default or Event of Default or default under any other Loan Document.
- m) There shall be no Material Adverse Effect in the Borrower's business (including the Business) or financial condition since credit approval of the Loan.
- n) The Borrower will provide a direction to effect the payment of any reasonable applicable third party fees and expenses relating to the completion of the loan transaction documented by this Agreement, including that of insurance consultants, legal counsel, and as to the conduct of due diligence, shall be paid from the Advance.

- o) The Agent shall be satisfied that appropriate accounts for the DSRFA and the MMRFA have been established with Toronto-Dominion Bank or another financial institution designated by the Agent and that arrangements satisfactory to the Agent have been made with the financial institution so that officers of the Agent are required to co-sign cheques and other instructions relating to such accounts with the Borrower, copies of all statements relating to such accounts are provided to the Agent concurrently with the Borrower and the financial institution is authorized to act on instructions of the Agent alone regarding such accounts if the Agent certifies to the financial institution that a Default has occurred and is continuing.
- p) The Borrower shall have made arrangements satisfactory to the Agent for pre-authorized debits of the Borrower's bank account to make scheduled payments of principal and interest due under this Agreement.

3.4 Compliance with the Interest Act (Canada)

For the purposes of this Agreement, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act (Canada)* is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis of such determination.

3.5 Nominal Rate of Interest

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

3.6 Criminal Rate of Interest

Notwithstanding the foregoing provisions of this Article 3, the Borrower shall in no event be obliged to make any payments of interest or other amounts payable to the Lenders hereunder in excess of an amount or rate which would be prohibited by law or would result in the receipt by the Lenders of interest at a criminal rate (as such terms are construed under the *Criminal Code (Canada)*).

3.7 Interest and Maintenance Fee Calculation

- (a) With respect to the Loan, interest will accrue at a rate per annum to be determined ten (10) Business Days before the date of Closing equal to the greater of:
 - (i) 6.0% per annum; and
 - (ii) the Government of Canada Bond Yield denominated in Canadian currency with a term to maturity of 10 years, as determined by the Lenders, acting reasonably, plus 4.25% per annum.
- (b) Interest shall be calculated and payable monthly on the daily outstanding principal, and shall accrue both after and before Maturity, default and judgment, with interest on overdue interest at the rate set out in Section 3.14, computed from the date of the Advance calculated and payable monthly, in arrears, on the fifteenth (15th) day of each and every month in each and every year during the term commencing on the date of

Closing. Payments will be credited on the Business Day in which the Borrower has delivered the payment.

- (c) The Borrower shall pay an account maintenance fee of 0.50% per annum payable on the same basis and payment terms as set out for interest in s. 3.7(b).

3.8 Interest on Escrow Accounts

The Agent shall invest cash contributed to the DSRFA and MMRFA in such interest bearing instruments as agreed between Agent and Borrower, if agreement can be reached between the Agent and the Borrower, and otherwise as determined by the Agent. Interest accruing on the amounts in the DSRFA and MMRFA will be for the benefit of the Borrower but will be held in the DSRFA and MMRFA and paid to the Borrower only on release as a final release from the relevant account.

3.9 Increased Costs, Capital Adequacy, etc.

- (a) If any Change in Law:
 - (i) subjects the Lenders to any cost or tax or changes the basis of taxation of payments due to the Lenders or increases any existing cost or tax on payments of principal, interest or other amounts payable by the Borrower to the Lenders under this Agreement (except for increased taxes on the overall net income, assets or capital of the Lenders);
 - (ii) imposes, modifies or deems applicable any reserve, special deposit, regulatory or similar requirement against assets held by, or deposits in or for the account of, or loans by, or commitments of, or any other acquisition of funds for loans by, the Lenders or any drafts accepted by the Lender;
 - (iii) imposes on the Lenders a change in the manner in which the Lenders are required to allocate capital resources to its obligations under this Agreement; or
 - (iv) imposes on the Lenders any other cost, tax or condition with respect to this Agreement,

and the result of (i), (ii), (iii) or (iv) is, in the determination of the Lenders, acting reasonably, to increase the cost to the Lenders, or to impose a liability on or to reduce the income or return receivable by the Lenders in respect of this Agreement, the Borrower shall pay to the Lenders that amount which indemnifies the Lenders for such additional cost, liability or reduction in income or return (“**Additional Compensation**”). Upon the Lenders having determined that it is entitled to Additional Compensation, they shall promptly notify the Borrower. A certificate by a duly authorized officer of the Lenders setting forth the amount of the Additional Compensation and the basis for it shall be prima facie evidence, in the absence of manifest error, of the amount of the Additional Compensation. The Additional Compensation shall accrue from the date of delivery of the certificate to the Borrower. If the Lenders subsequently recover all or a part thereof, they will repay an amount equal to such recovery to the Borrower. For greater certainty, it is acknowledged that, if such increased cost, liability or reduction in income or return is also applicable, in part, to dealings between the Lenders and its other customers, the obligation of the Borrower under this Section to provide compensation therefor will not arise unless the Lenders, as a general practice, also require compensation therefor from such other customers and will not exceed the amount that is directly proportionate to the extent to which such increased costs, liabilities or reductions in income or return are attributable to the Borrower and the Loan made by the Lenders hereunder.

If the Lenders notify the Borrower that Additional Compensation is owed to the Lenders, the Borrower shall have the right to make payment in full to the Lenders in respect of the Loan which has given rise to the Additional Compensation on the date specified in such notice, together with all unpaid interest accrued thereon to the date of repayment and all other reasonable expenses incurred in connection with the termination, together with in any case the Additional Compensation to the date of payment together with the Interest Differential.

The Lenders shall use reasonable efforts to minimize the amount of Additional Compensation payable to them pursuant to this Section 3.9, provided that the Lenders shall have no obligation to incur costs (other than incidental costs which are not material in the aggregate and in respect of which the Lenders shall be entitled to be reimbursed by the Borrower) or take any action detrimental to their interests in connection therewith.

3.10 Taxes

The following shall apply as to Taxes payable from and after the date hereof:

Any and all payments by or on account of any obligation of the Borrower hereunder shall be made free and clear of and without deduction for any Taxes (other than Taxes imposed on the account of income or profits of the Lenders); provided that if the Borrower shall be required to deduct any Taxes (other than Taxes imposed on the account of income or profits of the Lenders) from such payments, then (i) the sum payable shall be increased as necessary so that, after making all required deductions (including deductions applicable to additional sums payable under this Section), the Lenders receive an amount equal to the sum they would have received had no such deductions been made, (ii) the Borrower shall make such deductions, and (iii) the Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with Applicable Law.

In addition, the Borrower shall pay any such Taxes to the relevant Governmental Authority in accordance with Applicable Law.

The Borrower shall indemnify the Lenders, within thirty (30) days after written demand therefor, for the full amount of any such Taxes paid by the Lenders, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lenders, shall be prima facie evidence absent manifest error.

As soon as practicable after any payment of any such Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Lenders the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lenders.

Each of the Lenders represent to the Borrower that they are not a non-resident of Canada and if any Lender becomes or is deemed a non-resident while the Loan is outstanding, the Borrower shall not be subject to Section 3.9 in respect of payments to be made to the Lender.

The Borrower will duly and timely file all tax returns, with the exception of NIL returns, required to be filed by it, and it will pay all Taxes which are due and payable, and will pay all assessments and reassessments, and all other Taxes, penalties, interest and fines claimed against it which are due or payable by it on or before the date due and payable other than those: (i) in respect of which liability based on such returns is being contested in good faith and by appropriate proceedings where adequate reserves have been

established in accordance with IFRS; and (ii) the effect of such proceedings is to stay any right to exercise any lien, charge or seizure of property. Adequate provision and installment payments have been made for Taxes and governmental royalties payable for the current period for which returns are not yet required to be filed.

3.11 Prepayment

The Borrower is permitted to prepay the Loan, in whole only at any time on thirty (30) days' prior written notice, provided such payment is made together with the Interest Differential.

3.12 Place and Manner of Payment

The Borrower shall pay to the Agent for the Lenders the principal and interest due hereunder on the date on which such principal and interest is due at 70 University Avenue, Suite 1200, Toronto, Ontario, or such other address as the Agent may advise from time to time by preauthorized chequing authority, and the Borrower will enter into any agreement and issue any payment instruction reasonably required to make payment on a direct pre-authorized debit from the Borrower's account. The receipt of funds shall satisfy and discharge the liability for the principal and interest to the extent of the sums represented thereby, unless such payment shall for any reason be reversed, stopped or otherwise not made as full and final, in which case the payment will be replaced immediately on notice from the Lenders.

3.13 No Set-Off

The obligations of the Borrower to make all payments of principal and interest and all other amounts due hereunder shall be absolute and unconditional, and shall not be affected by any circumstance, including without limitation, any set-off, compensation, counter-claim, recoupment, defence or other right which the Borrower or any other person may have against the Agent, Lenders or anyone else for any reason whatsoever.

3.14 Interest on Overdue Amounts

If the Borrower fails to pay any installment of interest or principal on the date on which the same is due, the Borrower shall pay interest on such overdue amount at a rate per annum equal to the applicable rate of interest under this Agreement then in effect. At any time, upon a default in the payment of any other amount (other than principal and interest) due under this Agreement or any Security, the Borrower shall pay interest on such overdue amount (which overdue amount, for greater certainty, shall not include overdue principal or interest) at a rate per annum equal to the applicable rate of interest under this Agreement then in effect plus 2%. Interest on overdue amounts shall be payable on demand and shall be calculated on a daily basis and compounded monthly from the date such amount becomes due and payable and for so long as such amount remains unpaid and on the basis of a year of 365 days. All interest provided for in this Agreement shall be payable both before and after Maturity, default and judgment.

3.15 Commitment Fee

A commitment fee will be paid by the Borrower to the Agent for the Lenders of **[Redacted]**. It is acknowledged that **[Redacted]** has been received, and the remainder of the commitment fee (**[Redacted]**) will be due at Closing.

ARTICLE 4 FINANCIAL COVENANTS AND RESERVES

4.1 Financial Covenants

The Borrower covenants and agrees as follows:

(a) **Debt Service Coverage Ratio:**

The Borrower shall maintain a Debt Service Coverage Ratio, calculated as hereinafter described, of not less than 1.5: 1.0.

Debt Service Coverage Ratio for any period shall be calculated on a trailing four (4) quarters basis.

(b) **Distribution Test:**

Distributions by the Borrower shall not be permitted at any time that the DSRFA is not fully funded. At any time that the DSRFA is fully funded, Distributions by the Borrower shall not be permitted except as follows:

If the DSCR is greater than 1.5:1.0 and provided the combined operations of the Affiliate Guarantor and the Borrower have achieved greater than \$12 million in annual EBITDA for the previous two consecutive years and provided that no Event of Default is continuing or will be created by such distribution, the available cash balance may be distributed by the Borrower to the Guarantors. Once the Borrower has achieved greater than \$12 million in annual EBITDA for two consecutive years, the time period for this threshold shall be reduced to trailing four quarters with the remaining provision applying *mutatis mutandis*. Any payments to a non-arms-length or related company will be considered a Distribution.

(c) **Senior Funded Debt to EBITDA**

The Borrower shall maintain a total senior funded debt (less DSRFA amount) to EBITDA ratio of not more than: 3.5:1.0 for the first year of the Loan, 3.25:1.0 for the second year of the Loan and 3.0:1.0 for the balance of the term of the Loan.

(d) **Distribution of Revenue:**

Operating cashflow of the Borrower shall be utilized by the Borrower in the following order of application:

- (i) To pay operating expenses of the Business and other working capital requirements;
- (ii) To pay interest and principal on the Loan as set out in this Agreement;
- (iii) To make the required contributions to the MMRFA to fully fund such reserve fund;
- (iv) To make the required contributions to the DSRFA to fully fund such reserve fund; and
- (v) Distributions if permitted pursuant to the terms of this Agreement.

(e) **Debt Service Reserve Fund**

The Borrower shall establish, by funding an account in the name of the Agent at the Toronto-Dominion Bank or such other bank designated by the Agent or Lenders, the DSRFA in an amount equal to nine (9) months of principal and interest payments on the Loan. The DSRFA amount will be reviewed annually by the Agent commencing after the second anniversary of the Closing and the DSRFA will be reduced to three (3) months of principal and interest payments on the Loan if the combined operations of the Affiliate Guarantor and the Borrower have achieved greater than \$12 million in annual EBITDA for the previous two consecutive years. Upon the Closing of the Loan, the Borrower shall

establish and maintain the DSRFA in an amount that will be reduced, from time to time, based on principal repayments, comprised of cash and/or an irrevocable letter of credit in favour of the Agent from a Canadian chartered bank.

If, at any time during the term of the Loan, the Borrower is unable to pay operating expenses or loan payments under the Loan, the Agent will be empowered to access the DSRFA (or draw upon the issued sight draft letter of credit, if applicable) in a sufficient amount to meet loan payments under the Loan, operating expenses and other working capital requirements on behalf of the Borrower. Release from the DSRFA will be made at the discretion and direction of the Agent in its sole discretion, acting reasonably.

If funds are withdrawn from the DSRFA for the purposes described above, the Borrower will, commencing immediately and until the DSRFA is refreshed, deposit all Revenue after loan payments, operating expenses and other working capital requirements, prior to any payment of Distributions, sufficient funds to re-establish the balance of the DSRFA as it was prior to the withdrawal of funds by the Agent.

(f) **Major Maintenance Reserve Fund**

At Closing of the Loan, the Borrower shall establish and maintain a Major Maintenance Reserve Fund Account ("**MMRFA**") by contributing a stipulated amount, as determined by the Independent Engineer during due diligence, which shall not exceed \$300,000. The required MMRFA balance will be maintained by the Borrower by contributing annually such amount as necessary to replace the eligible expenditures withdrawn from such account from time to time, if any.

The funds in the MMRFA may be used by the Borrower to fund repair / replacement / maintenance expenses of a capital nature determined in accordance with IFRS. Release from the MMRFA will be made at the discretion and direction of the Agent or Lenders, acting reasonably.

**ARTICLE 5
POSITIVE AND NEGATIVE COVENANTS**

5.1 Positive Covenants

During the term of this Agreement, the Borrower shall perform the covenants specified in this Section.

- a) Payment of Obligations. It shall duly and punctually pay the Obligations at the times and places and in the manner required by the terms of this Agreement.
- b) Maintenance of Existence and Status. It shall maintain its existence and its qualification to do business in all jurisdictions where it carries on business. The Borrower shall specifically (i) maintain existence, power and capacity; and (ii) not undertake any other Business other than development and operation of the Facility.
- c) Operation of Business.
 - i. It shall keep complete and accurate books of accounts and records.
 - ii. It shall operate its business in Material compliance with all Applicable Laws (including those regarding ownership of Persons carrying on the type of business that it carries on), Material Contracts and Material Permits.

- iii. It shall maintain in good standing and shall obtain, as and when required, all Permits and Contracts which it requires to permit it to acquire, own, operate and maintain its business and Property and perform its obligations under the Loan Documents to which it is a party.
 - iv. Keep good and marketable title to the Facility, subject only to Permitted Liens.
 - v. the Business shall at all times be managed by the Borrower, or by such other qualified person as the Borrower may engage, subject to approval by the Agent, acting reasonably, and provided the same is to the standards of the Power Purchase Agreements.
- d) Inspection. It shall at all reasonable times and from time to time on reasonable notice, permit Representatives of the Agent to inspect any of its Property and to examine and take extracts from its financial books, accounts and records, including accounts and records stored in computer data banks and computer software systems, and to discuss its financial condition with its senior officers and (in the presence of such of its Representatives as it may designate) its auditors, the reasonable expense of all of which shall be paid by the Borrower only if a Default has occurred and is continuing.
- e) Insurance. The Borrower shall maintain or cause to be maintained and shall provide the Agent with evidence of insurance and any material change in or cancellation of the insurance on its Property underwritten with financially sound and reputable insurance companies, as recommended by the Independent Insurance Advisor, acting reasonably, with minimum terms and conditions as follows:
- i. "all risks" (including the perils of earthquake, flood and sewer back up) property insurance in an amount of not less than the greater of the amount of the Obligations from time to time outstanding and the full insurable value of any Property (including coverage for foundations and footings) and including coverage on all fixtures and other property located at or related to any particular building owned by it or for which it is legally liable;
 - ii. property insurance shall be written on a replacement cost basis and the replacement cost wording shall not restrict replacement to be on the same or an adjacent site, shall be written on a stated amount basis or shall not be subject to any co-insurance, and shall include full by-laws extensions, including increased cost of construction and cost of demolition of the undamaged portion of any property;
 - iii. business interruption insurance shall cover 100% of the projected gross profits for the Facility with a period of indemnity of not less than 12 months;
 - iv. extra expense insurance for not less than **[Redacted]** covering all locations of its Business;
 - v. broad form boiler, pressure valve and machinery insurance to cover property damage and business interruption losses to the same limits as provided under Sections 5.1(e)(i), (ii), and (iii) and including by-laws extensions, covering all heating, mechanical, and electrical equipment and other insurable objects at any location of its Business;
 - vi. commercial general liability insurance with a limit of not less than **[Redacted]** per occurrence for personal injury, bodily injury and/or property damage liability and **[Redacted]** in the annual aggregate for products and completed operations

liability, or such greater amount as the Agent may require, to cover claims arising out of the ownership of and operations at any Property, including contractual liability and a severability of interests/cross liability clause; commercial general liability limits may be achieved through a combination of general, umbrella and/or excess liability policies;

- vii. policies shall provide for other forms of insurance that are available in the insurance marketplace and that would be maintained by a prudent owner of similar Property as the Agent may reasonably require;
 - viii. all property and business interruption policies of insurance shall name the Agent as first mortgagee and loss payee, subject to prior ranking rights of any other relevant creditors permitted under this Agreement, and liability insurance policies shall name the Agent as an additional insured;
 - ix. all policies shall provide the Agent with at least 30 days' prior written notice of cancellation and all property and boiler and machinery policies shall contain a standard mortgage clause in favour of the Agent;
 - x. all certificates of insurance shall be in a form acceptable to the Agent; and
 - xi. all policies may contain reasonable deductibles.
- f) Statutory Plans. It shall perform all of its obligations under and in respect of each Statutory Plan and remit or pay all payments, contributions and premiums required to be remitted or paid to or in respect of each Statutory Plan, all in a timely fashion in accordance with the terms thereof and all Applicable Laws.
- g) Taxes and Withholdings.
- i. It shall pay all Taxes as they become due and payable unless they are being contested in good faith by appropriate proceedings and it has made adequate provision for payment of the contested amount, and it shall provide such evidence of the provision for the contested amount as the Agent may require.
 - ii. It shall withhold from each payment made to any of its past or present employees, officers or directors, and to any non-resident of the country in which it is resident, the amount of all Taxes and other deductions required to be withheld therefrom and pay the same to the proper tax or other receiving officers within the time required under any Applicable Law.
 - iii. It shall collect from all Persons the amount of all Taxes required to be collected from them and remit the same to the proper tax or other receiving officers within the time required under any Applicable Law.
- h) Hazardous Materials. It shall observe and comply at all times and in all Material respects with the provisions of all Applicable Laws relating to Hazardous Materials and the environment if the failure to do so would have a Material Adverse Effect.
- i) Control Agreements. It shall notify the Agent of any securities account or deposit account that it holds from time to time, other than the MMRFA and the DSRFA, and if requested by the Agent, shall obtain a control or blocked account agreement satisfactory to the Agent (but which will not permit the Agent to exercise control unless an Event of Default has occurred and is continuing) from the relevant securities intermediary or holder of deposit account.

- j) Agreements re Material Contracts and Material Permits. As requested by the Agent, it shall obtain agreements satisfactory to the Agent, acting reasonably, for the benefit of the Lenders from its counterparties to Material Contracts to be provided for standard step in arrangements, provided however, such agreement as it relates to the Power Purchase Agreements will be in the form offered by Hydro-Quebec. It shall comply with the provisions of the Power Purchase Agreements if the failure to comply therewith would constitute a default thereunder and specifically:
- i. The Borrower shall at all times be and shall remain in full compliance in all material respects with the conditions and covenants, agreements and obligations in and diligently enforce all its rights under all Material Contracts. The Borrower shall not permit any assignment of its interests in any Material Contract except as permitted by the provisions of this Agreement. The Borrower shall forthwith following receipt thereof provide a copy to the Lenders of any and all notices or claims of any material default or breach under any Material Contract or of any condition entitling any party to terminate its obligations thereunder and of any amendments made to any Material Contract or any additions thereto. The Borrower shall not enter into any additional Contract that is Material without the prior written consent of the Lenders, which consent may not be unreasonably withheld or delayed;
 - ii. The Material Contracts will not be terminated or amended in any material manner without the prior written consent of the Agent, acting reasonably, except for any amendment, modification, waiver, consent or concession that is, in effect, unilaterally imposed on it by Hydro-Québec in connection with the respective Material Contracts to which it is a party (in which case it shall immediately notify the Lender of that occurring or being proposed); and
 - iii. The Borrower will enter into the agreements required in connection with the Power Purchase Agreements at the times required by the terms of each of the Power Purchase Agreements.
- k) Periodic Financial Reports. During the term of this Agreement, the Borrower shall deliver or cause the delivery of the following financial reports to the Agent. All financial statements shall be prepared in accordance with IFRS and other reports shall be in a form satisfactory to the Agent, acting reasonably.
- i. The Borrower shall, as soon as practicable and in any event within 60 days of the end of each Fiscal Quarter (90 days in respect of the fourth quarter), deliver interim unaudited cumulative financial statements for the Borrower as at the end of the applicable quarter, including balance sheet, statement of income and retained earnings and statement of changes in financial position.
 - ii. The Borrower shall, as soon as practicable and in any event within 120 days after the end of each Fiscal Year, deliver consolidated annual financial statements for the Borrower, including balance sheet, statement of income and retained earnings and statement of changes in financial position for the Fiscal Year. The annual financial statements shall be audited by an internationally recognized accounting firm and shall include copies of the auditor's opinion.
 - iii. The Borrower shall deliver a Compliance Certificate concurrently with the delivery of each of its quarterly financial statements.
 - iv. The Borrower shall, as soon as practicable and in any event not later than 30 days prior to the beginning of each Fiscal Year, cause to be prepared and delivered to the Agent its operating budget for the Facility for the fiscal year on a

month by month basis, which budget shall include a forecast of the Debt Service Coverage Ratio for the coming year.

- v. Upon request by the Agent, the Borrower shall deliver a report comparing the Borrower's year to date financial results with those of the previous year and the budgeted results, together with written explanations of differences of more than 20%.
- vi. The Borrower shall provide an annual report on equipment purchased and sold of a Material nature (including cost and application of proceeds of sale) within 120 days after the Fiscal Year.
- vii. The Borrower shall promptly provide the Agent with all other information reasonably requested by the Agent from time to time concerning the Business, financial condition and Property of the Borrower.

l) Specific Requirements for Notice.

- i. The Borrower shall promptly notify the Agent on becoming aware of any Default and shall from time to time provide the Agent with all information reasonably requested by the Agent concerning the status thereof.
- ii. The Borrower shall promptly notify the Agent on becoming aware of any Material default under any Material Contract or Material Permit or of any other event that allows the termination of any Material Contract or Material Permit or the imposition of any Material sanction on any party to a Material Contract or Material Permit (either by the Borrower or by any other party), or of any event that, if not cured after the giving of notice, lapse of time or any other condition subsequent, would be a Material default or would otherwise allow the termination of any Material Contract or Material Permit or the imposition of any Material sanction on any party to a Material Contract or Material Permit, and shall from time to time provide the Agent with all information reasonably requested by the Agent concerning the status thereof. Specifically, if the Borrower is provided with a notice of default, breach or suspension under a Power Purchase Agreement or the Land Lease, including any relating to access or interconnection (each a "**Default Notice**"), the Borrower shall provide as soon as reasonably possible thereafter, a copy of such Default Notice to the Agent with a description of the applicable default or circumstance giving rise thereto and a report indicating the status of such default or circumstance and the steps taken and to be taken (as applicable) to cure such default or circumstance. If such default or circumstance is not cured within ten (10) days after the receipt by the Borrower, the Borrower will so advise the Agent and thereafter will co-operate and work with the Agent and the Lenders to attempt to cure such default promptly and within the then remaining cure period available to the Borrower, if any, under the applicable Power Purchase Agreement.
- iii. The Borrower shall promptly notify the Agent on becoming aware of the occurrence of any Material Dispute affecting the Borrower, and of any other circumstance affecting the Borrower, the result of which has had or the Borrower reasonably expects could have a Material Adverse Effect, and shall from time to time provide the Lenders with all information reasonably requested by the Agent concerning the status thereof.
- iv. The Borrower shall promptly notify the Agent on (i) the occurrence of any reportable release, spill, leak, emission, discharge, leaching, dumping or disposal of Hazardous Materials that has occurred on or from such land and might, if not

renewed or cleaned up, have a Material Adverse Effect, and shall provide the Lenders with details, including cost, of the work required to remove, clean up or otherwise remedy the matters referred to in the notice, (ii) of any special investigations, control orders, stop orders, injunctions, prosecutions or lawsuits under any federal, provincial, state, municipal or other laws relating to pollution of the environment, the handling of toxic or hazardous materials and waste or any other environmental or public health and safety laws; and which, in any case, would have a Material Adverse Effect on the business or financial condition of the Borrower or which would adversely affect the ability of the Borrower to meet its Obligations. The Borrower shall establish and maintain procedures for monitoring its continued compliance with applicable Environmental Laws, which procedures shall include periodic reviews of such compliance.

- v. The Borrower shall promptly notify the Agent and provide copies of all relevant documentation on becoming aware of the taking of any action by any Person or the occurrence of any event with respect to any Statutory Plan that could reasonably be expected to give rise to a Lien under any Applicable Law, other than a Permitted Lien, or result in the incurrence by the Borrower of any liability, fine or penalty, that would have a Material Adverse Effect.
- vi. The Borrower will give the Agent and Lenders prompt written notice of any material adverse change in the business or condition of the Borrower, financial or otherwise, or of any loss, destruction or damage of or to any properties or assets of the Borrower which could have a Material Adverse Effect.

m) Maintenance of the Facility

The Borrower shall (i) maintain the Facility in good repair, order and condition in accordance with reasonable industry practices, so as to maintain the Facility as required for the validity of the Material Contracts and compliance with the Power Purchase Agreements and Land Lease; (ii) make all repairs, renewals, replacements, additions and improvements to the Facility as it determines may be necessary; and (iii) refrain from doing or causing to be done anything which would or could reasonably be expected to impair or diminish in any material way any rights created by any Security in favour of the Agent.

n) Environmental

The Borrower shall at all times comply in all material respects with all applicable Environmental Laws and the requirements as to environmental status and compliance as set out in the Material Contracts and occupational health and safety laws, regulations and orders which affect it or any of its assets to the standards required by the applicable law.

o) Auditors

The Borrower shall promptly give notice to the Agent of any change in its auditors and the reasons for the change.

p) Use of Proceeds

The Borrower will use the Loan only for the repayment of convertible debentures issued by the Parent Guarantor and for general corporate purposes.

5.2 Negative Covenants

During the term of this Agreement, the Borrower shall not do any of the things specified in this Section:

- a) Liens.
 - i. It shall not create, incur, assume, cause or permit any Lien upon or in respect of any of its Property, except for Permitted Liens.
 - ii. It shall not do or permit anything to adversely affect the ranking or validity of the Security except by incurring a Permitted Lien.

- b) Debt and Payments of Debt.
 - i. It shall not create, incur, assume or permit the existence of any Debt other than Permitted Debt.
 - ii. It shall not shall prepay, redeem, defease, repurchase or otherwise acquire any of its Debt, or make other payments in respect of any of its Debt if a Default would result therefrom.

- c) Financial Assistance. It shall not make loans to any other Person, guarantee, endorse or otherwise become liable for any debts, liabilities or obligations of any other Person, or give other financial assistance of any kind to any other Person if a Default would result therefrom, where the aggregate of such financial assets is in excess of \$500,000 when the Borrower is not in Default, provided that if the Borrower is in Default that is ongoing, no such financial assistance may be granted, except for any such financial assistance described in financial statements delivered to the Agent prior to the date of this Agreement or existing as of the date of this Agreement and of which the Agent has been informed.

- d) Investments. If it incorporates or acquires any Subsidiaries or holds or acquires Equity Interests or other securities of any other Person, it shall notify the Agent, and the Agent may require that the Equity Interest be pledged as part of the Security and any Subsidiary become a guarantor of the Obligations, grant Liens over its Property as part of the Security and become a party to this Agreement (in which case the parties shall conclude such amendments to this Agreement as are necessary to provide for a guarantor).

- e) Derivative Transactions. It shall not enter into any Derivative except for the purposes of prudent management of its interest rate, foreign currency and commodity price exposure and not for speculative purposes.

- f) Dispositions of Property. It shall not sell, lease, sell and lease-back or otherwise dispose of any of its Property or any rights or interests therein or agree to do so except for:
 - i. sales of electricity, steam and inventory in the Ordinary Course;
 - ii. sales or dispositions of obsolete or redundant equipment;
 - iii. dispositions required under any Material Contract or Material Permit; and
 - iv. provided that no Default has occurred and is continuing or would result from the disposition, dispositions of Property having an aggregate value of less than \$500,000 in any fiscal year.

- g) Business. It shall not carry on any business other than the Business, comprising the ownership and operation of the Facility and related activities. It shall make no Material change to the Facility other than in the Ordinary Course or if such Material change would constitute a Material Adverse Effect without the Agent's prior written consent, which

consent may not be reasonably withheld. It shall not enter into any partnership or joint venture with any other Person.

- h) Arm's Length Transactions. It shall not enter into any transaction of any kind with an Affiliate, Associate, or Person of which it is an Associate, except the Material Contracts or otherwise on a commercially reasonable basis as if it were dealing with such Person on an arm's length basis and provided that fees or other payments made under any non-arm's length agreement for goods or services are 130% or less than comparable payments paid under an arm's length agreement for such goods or services.
- i) Corporate Changes. It shall not consolidate, amalgamate or merge with any other Person, enter into any reorganization or other transaction intended to effect or otherwise permit a change in its existing Constating Documents, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution.
- j) Change of Name. It shall not change its name without providing the Agent with reasonable advance notice of the change and promptly taking other steps, if any, as the Agent reasonably requests to maintain the Security and the other Loan Documents so that the Agent's position is not adversely affected.
- k) Change of Location. It shall not permit its chief executive office, its registered office or any of its corporeal Property to be located out of the respective jurisdictions specified in **Schedule B** as of the date of this Agreement (except for goods in transit, and goods that are normally used in more than one jurisdiction if the latter goods are equipment or are inventory leased or held for lease by it) without providing the Agent with reasonable advance notice of the change and promptly taking other steps, if any, as the Agent reasonably requests to maintain the Security and the other Loan Documents so that the Agent 's position is not adversely affected.
- l) Change of Year End. It shall not change the end of its Fiscal Year.
- m) Change of Auditors. It shall not change its auditors, unless an internationally recognized accounting firm is appointed.
- n) Change of Control. It shall not enter into, or agree to enter into, any transaction that would result in, nor shall it otherwise cause or permit, a Change of Control.
- o) Material Contracts.

It shall not amend in any materially adverse manner or assign (except as part of the Security) or terminate any Material Contract (other than at the expiry of its term by lapse of time) or accept the surrender of any Material Contract to which it is a party.
- p) Operating Line of Credit. Create an operating line of credit greater than \$100,000, when such an operating line of credit exists at the time of this Agreement, it must be on terms satisfactory to the Lender and be subject to an intercreditor agreement satisfactory to the Lender.
- q) Management Services. Other than the amended and restated management and operating services agreement dated effective January 1, 2016 between the Borrower and the Affiliate Guarantor, enter into any agreement for the provision of operating and/or management services for the Facility without the consent of the Agent and the Lender, which consent may not be unreasonably withheld.

5.3 Use of Insurance Proceeds

- a) Unless otherwise specified in this Section, all proceeds of insurance required to be maintained by the Borrower under the terms of this Agreement shall be paid to the Agent to be applied by it on account of the Obligations.
- b) Proceeds of liability insurance shall be paid to the Person to whom the Borrower is liable. Proceeds of insurance covering loss of or damage to Property (i) in an amount of less than **[Redacted]** per claim may be paid by the insurer directly to the Borrower unless, if a Default has occurred and is continuing, the Agent requires that payment be made to the Agent to be applied by it on account of the Obligations, and (ii) in any greater amount, shall be paid by deposit into the MMRFA. Subject to the rights of any holder of a Permitted Lien that has priority over the Security, proceeds paid to the Borrower into the MMRFA shall be used to fully repair or replace the property in respect of which the insurance proceeds are payable or, if in the opinion of the Borrower, acting reasonably, that is not prudent, shall be paid by the Borrower to the Agent to reduce the principal amount of the Obligations.
- c) Unless an Event of Default has occurred and is continuing, the proceeds of business interruption insurance shall be paid to the Agent and the Borrower jointly and shall be applied first to provide for the Obligations as they fall due from time to time (including as a result of any demand for payment of the Obligations) and, to the extent of any surplus, shall be released to the Borrower and used to carry on the business of the Borrower as long as the Agent is satisfied, acting reasonably and without delay, that adequate provision has been made for payment of the Obligations when due.
- d) All insurance proceeds held by the Agent shall, unless and until the proceeds are applied to payment of the Obligations or released to the Borrower, be held as part of the Security. The Agent shall place all proceeds in an interest-bearing account with the interest accruing to the benefit of the Borrower.

ARTICLE 6 SECURITY

6.1 Security

- a) The Security is comprised of the following documents and instruments in favour of the Agent, all in form and substance satisfactory to the Agent, acting reasonably, and subject to Permitted Liens:
 - i. security over all present and future Property of the Borrower in the form of (A) a general security agreement over all present and after acquired personal property of the Borrower, (B) a deed of hypothec in the amount of \$50,000,000 on all movable and immovable property of the Borrower, present and future, and/or (C) other documents appropriate for the type of Property and jurisdictions in which the Property is located.
- b) In order to render the Security enforceable against third parties and in connection with the delivery of any Security, the Borrower shall, in consultation with the Agent, and as directed by the Agent in the case of any uncertainty:
 - i. concurrently with the execution of any document forming part of the Security, arrange to register, file or record the document and/or, if applicable, financing statements or other prescribed statements in respect thereof, obtain agreements of other persons and take other actions, as may from time to time

be necessary or desirable in rendering opposable, preserving or protecting the Security, wherever such registration, filing, recording, agreement or other action may be necessary or desirable;

- ii. whenever necessary or desirable, arrange to renew or amend such registrations, filings and recordings and make additional registrations, filings and recordings and take other actions as are necessary or desirable to maintain the Security as valid and effective security with the priority required by this Agreement; and
 - iii. when reasonably requested by the Agent, cause documents, including title insurance policies, opinions of counsel and other supporting documents satisfactory to the Agent, acting reasonably, to be delivered to the Agent evidencing such action and confirming that the provisions of this Section have been complied with.
- c) Nothing in this Section 6.1 that contemplates the Borrower owning or acquiring Property shall in any way modify any restriction on doing so elsewhere in this Agreement.

ARTICLE 7 EVENTS OF DEFAULT

7.1 Default

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

- a) the Borrower fails to pay any amount of principal or interest within five (5) Business Days of when due; or
- b) the Borrower fails to pay any other Obligations within ten (10) Business Days after receiving notice from the Agent or otherwise learning that payment has not been made when due; or
- c) the Borrower or the Guarantor makes any representation, warranty or certification under any Loan Document that is incorrect when made or deemed to be made, is not corrected to the satisfaction of the Agent, acting reasonably, within 30 days from the date the misrepresentation becomes known, and the incorrectness is Material unless the representation, warranty or certification incorporates a standard of materiality by its terms; or
- d) a Change of Control occurs; or
- e) if the Borrower shall neglect to carry out or observe any covenant or condition (other than those relating to the payment of principal and interest as set forth in Sections 7.1(a) and 7.1(b)) or if the Borrower shall neglect to carry out or observe any covenant or condition under the Security provided the Borrower shall, in each case, have thirty (30) days after receipt of notice from the Lender to remedy such default before the Borrower shall be in Default hereunder, or provided that such default cannot be cured within such thirty (30) day period and the Borrower so advises the Lender prior to the termination of such thirty (30) day period and provided further that such default is capable of being cured and the Lender in its sole discretion, acting reasonably, is satisfied that the Borrower is diligently proceeding to cure such default, the Lender may provide the Borrower an additional thirty (30) days to remedy such default before the Borrower shall be in Default hereunder; or

- f) a default or other event or circumstance occurs in connection with Debt of the Borrower in a principal amount in excess of **[Redacted]** other than the Obligations, if the effect is to cause or permit the acceleration of the due date of that Debt or to require the prepayment, repurchase, redemption or defeasance of that Debt before its scheduled maturity, or the Borrower fails to pay any such Debt when due and in each instance the cure period related thereto has expired without a written agreement to forebear which by its terms delays the exercise of such rights of the lender; or
- g) the Borrower or either Guarantor denies its obligations under any Loan Document or claims any Loan Document to be invalid, unenforceable or withdrawn in whole or in part; or
- h) the performance of any Loan Document becomes unlawful, any Loan Document is invalidated or made unenforceable by any Applicable Law, or any Loan Document is determined to be invalid or unenforceable by any Governmental Authority, in each case in whole or in any Material part, and such has a material adverse effect on the security granted or rights of the Agent thereunder and is not cured or replaced within 30 days from the effective date of such event which resulted in unlawful effect; or
- i) any Lien purported to be created by the Security ceases to be, or is claimed by the Borrower not to be, a valid and enforceable Lien in the collateral described in the relevant document, having first priority but for Permitted Liens, except as a result of any action by the Agent or the Lenders and it is impossible to remedy or correct the Loan Document within a reasonable period of time; or
- j) the Borrower or either Guarantor does not, is unable to, or admits its inability to meet or pay its obligations as they generally become due, ceases or threatens to cease to carry on its business (except as expressly permitted in this Agreement), declares any moratorium on its obligations, proposes a compromise or arrangement between it and any creditor, or otherwise becomes insolvent; or
- k) the Borrower or either Guarantor makes an assignment in bankruptcy, makes a proposal to its creditors or files notice of its intention to do so, institutes any other proceeding under Applicable Law seeking to adjudicate it a bankrupt or an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors, composition of it or its debts or any other similar relief; or
- l) the Borrower or either Guarantor applies for the appointment of, or the taking of possession by, a receiver, interim receiver, receiver/manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official for it or a substantial part of its Property; or
- m) any petition is filed, application made or other proceeding instituted against or in respect of the Borrower or either Guarantor in any jurisdiction seeking any of the results described in Sections 6.1(j) or (l), and the Borrower or either Guarantor files an answer admitting the material allegations made against it or fails to defend the proceeding diligently, in good faith and by appropriate proceedings, or the relief sought in the proceeding is granted and not immediately stayed pending appeal, or the proceeding is not dismissed or stayed within 90 days of being instituted; or
- n) one or more final judgments, writs of execution, seizures, garnishments or attachments or similar processes representing claims in an aggregate of **[Redacted]** or more at any time are issued or levied against any Property of the Borrower and are not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within forty-five (45) days after their entry, rendering, commencement or levy; or

- o) possession of Property of the Borrower having an aggregate value of **[Redacted]** or more is taken by or at the instance of the holder of a Lien, whether by seizure, hypothecary recourse, appointment of a receiver, or otherwise and such procedure is not discharged or stayed within forty-five (45) days; or
- p) any Material Permit expires or is withdrawn, cancelled, terminated, or modified, other than as a result of a change in Applicable Law resulting in any such Material Permit no longer being required or provided it has been replaced, to the Material detriment of the Borrower or its Property or Business, and is not reinstated or replaced within 90 days thereafter without Material impairment to the Borrower or its Property or Business; or
- q) a Material Contract terminates (other than at the expiry of its term by lapse of time) or a default by any party to any Material Contract other than the Borrower occurs and continues beyond all applicable cure periods, if the termination or default would have a Material Adverse Effect; or
- r) any party to any Material Contract other than the Borrower notifies the Borrower of a default or other event under any Material Contract that would result in the imposition of a sanction on the Borrower that would have a Material Adverse Effect or would result in the termination of the Material Contract, and (i) the Borrower does not proceed diligently, in good faith and by appropriate proceedings to contest the notice and/or cure the default or other event or (ii) the default or sanction is not cured, waived or cancelled within 60 days without causing a Material Adverse Effect; or
- s) any amendment, modification, waiver, consent or concession is, in effect, unilaterally imposed on the Borrower by Hydro-Québec in connection with the Material Contracts to which it is a party, has a Material Adverse Effect and is not cancelled, lifted or remedied within 60 days or any longer period provided or granted under the relevant Material Contract; or
- t) the audited annual financial statements of the Borrower are qualified by the Borrower's auditors with a "going concern" or similar qualification or exception or contain a qualification or exception as to the scope of the audit that would have a Material Adverse Effect; or
- u) there is a breach of any other provision of any Loan Document that is not corrected or otherwise satisfied within 60 days after the Borrower learns of the breach or the Agent gives written notice of the breach, whichever is earlier.

7.2 Acceleration and Termination of Rights

Upon the occurrence of an Event of Default, then without prejudice to the other rights of the Agent and the Lenders, without any notice or action of any kind by the Agent and the Lenders, and without presentment, demand or protest, the Lenders' obligation to make the Advance or the disbursement shall immediately terminate, and the Agent may in its discretion give notice to the Borrower declaring the Obligations or any of them to be due and payable, whereupon they shall immediately become due and payable. Notwithstanding the foregoing, upon the occurrence of an Event of Default in Sections 7.1(k), (l) or (m), then without prejudice to the other rights of the Agent and the Lenders, without any notice or action of any kind by the Agent and the Lenders, and without presentment, demand or protest, the Lenders' obligation to make the Advance or the disbursement shall immediately terminate and the Obligations shall immediately become due and payable.

7.3 Remedies

Upon an Event of Default which is continuing, subject to the provisions hereof:

- (a) The Agent or Lenders may proceed to enforce its rights by any action, suit, remedy or proceeding authorized or permitted by law or by equity, and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Borrower;
- (b) The Agent or Lenders may enter into and upon and take possession of all or any part of the Mortgaged Property, with full power to carry on, manage and conduct the Business, including the power to borrow monies or advance its own monies for the purpose of such business operations, the maintenance and preservation of the Mortgaged Property or any part thereof, the payment of taxes, wages and other charges ranking in priority to the Indebtedness and operating expenses. The Agent or Lenders shall specifically have the right to exercise the rights and remedies of the Borrower under any joint venture, limited partnership, trust or equivalent agreement or arrangement relating to the Borrower or the Facility. The monies so borrowed or advanced shall be repaid by the Borrower on demand and until repaid with interest thereon at the rate per annum provided in Section 3.15 hereunder calculated monthly, in arrears, shall form a charge upon the Mortgaged Property in priority to the Indebtedness and shall be secured by the Security. The Agent or Lenders shall have the right to demand and to receive the revenues, incomes, issues and profits of the Mortgaged Property and to pay therefrom all of its expenses, charges and advances in carrying on the Business, and the payment of all taxes, assessments and other charges against the Mortgaged Property ranking in priority to the Indebtedness, or payment of which may be necessary to preserve the Mortgaged Property, and to apply the remainder of the monies so received in accordance with the provisions hereof;
- (c) The Agent or Lenders may, either after entry as provided herein, or without any entry, and with or without possession or control of the Mortgaged Property sell and dispose of all the Mortgaged Property, either as a whole or in separate parcels at public auction, by tender, or by private contract at such time and on such terms and conditions, having first given such notice of the time and place of such sale, as it may think proper. The Agent or Lenders may make such sale whether by auction, tender or private contract, either for cash, upon credit, or in exchange for bonds, mortgages, stocks or other securities of another corporation, or partly for one and partly for the other upon such reasonable conditions as to terms of payment as it may deem proper, and upon any such sale, shall be obliged to account to the Borrower only in relation to monies actually received and only at the time of receipt. It shall be lawful for the Agent or Lenders to rescind or vary any contract of sale that may have been entered into, and resell with or under any of the powers conferred herein, to adjourn any such sale from time to time, and to execute and deliver to the purchaser or purchasers of the said property, or any part thereof, good and sufficient deed or deeds for the same, the Agent and each Lender being hereby irrevocably constituted an attorney of the Borrower for the purpose thereof, any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Borrower and its assigns and all other persons claiming the said property or any part or parcel thereof, by, from, through, or under the Borrower or its assigns, and the proceeds of any such sale shall be distributed in the manner hereinafter provided; and
- (d) the Agent, any Lender or any agent or representative thereof, may become the purchaser at any sale of the Mortgaged Property whether made under the power of sale herein contained, pursuant to foreclosure, or other judicial proceedings.

7.4 Remedies Not Prejudiced by Delay

No delay or omission of the Agent or Lenders to exercise any remedy shall impair any such remedy, or shall be construed to be a waiver of any Event of Default hereunder or under the Security, or acquiescence therein.

7.5 Yield Possession

Upon the occurrence of an Event of Default which is continuing, and subject to all statutory and legal rights and remedies, applicable procedures, process and notice periods available to the Borrower, the Borrower shall yield possession of the Mortgaged Property and the conduct of its business in connection therewith to the Agent and agrees to put no obstacles in the way of, but to facilitate by all legal means, the actions of the Agent or Lender hereunder, and not to interfere with the carrying out of the powers hereby granted to it. The Borrower shall forthwith, at any time upon the occurrence of an Event of Default which is continuing, and requested in writing by the Agent or the Lender, and subject to all statutory and legal rights and remedies, applicable procedures, process and notice periods available to the Borrower, execute such documents and transfers as may be necessary to place the Agent in legal possession of the Mortgaged Property and its business in connection therewith, and thereupon all the powers and functions, rights and privileges of each and every of its directors and officers shall cease and determine solely with respect to the possession of the Mortgaged Property, unless specifically continued in writing by the Agent, or unless the property shall have been restored to the Borrower.

7.6 The Agent as Lender and Power of Attorney

Upon the occurrence of an Event of Default which is continuing, and upon written notification by the Lenders, the Borrower hereby irrevocably appoints the Agent to be its attorney, and in its name and on its behalf, to execute and carry out any deeds, documents, transfers, conveyances, assignments, assurances, consents and things which the Borrower ought to, or may, sign, execute and do hereunder, and generally to use its name in the exercise of all or any of the powers hereby conferred on the Agent or Lenders, with full power of substitution and revocation. In the exercise of all of its rights hereunder, the Agent shall be, so far as concerns responsibility for its action or inaction, the agent of the Borrower.

7.7 For the Protection of the Agent and Lenders

In realizing upon the Mortgaged Property, the Agent and Lenders shall not be responsible for any loss occasioned by any demand, collection, enforcement, sale or other realization thereof, or the failure to, or delay in, demand, collect, enforce or sell any portion, and the Agent and Lenders shall not be bound to protect the Mortgaged Property from depreciating in value. Upon any sale or realization of the Mortgaged Property by way of public auction, the Agent or Lenders may become purchaser free from any right or equity of redemption, which right or equity is expressly waived by the Borrower and the Lenders may, in paying the purchase price, apply so much of the obligations of the Borrower hereunder on account of the purchase price as may be necessary for such purpose.

7.8 Agents

The Agent may appoint any agent or representative to exercise any of its rights hereunder, and it is specifically acknowledged and agreed that the Agent may appoint a related entity to act as agent or representative of the Agent at any time without formal appointment or notice to the Borrower provided it is at no additional cost to the Borrower.

7.9 Responsibility for Collateral

The Agent and the Lenders shall not be under any obligation to the Borrower or any other Person to realize any collateral that is subject to the Security or enforce the Security or any part thereof or to allow any of the collateral to be sold, dealt with or otherwise disposed of. The Agent and the Lenders shall not be responsible or liable to the Borrower or any other Person for any loss or damage upon the realization or enforcement of, the failure to realize or enforce the Security or any part of it, the failure to allow any of the collateral to be sold, dealt with or otherwise disposed of or any act or omission on their respective parts or on the part of any director, officer, mandatary, employee or adviser in connection with any of the foregoing, except that they may be responsible or liable for any loss or damage arising from their gross or intentional fault.

7.10 Perform Obligations

If an Event of Default has occurred and is continuing and if the Borrower has failed to perform any of its covenants or agreements in the Loan Documents, the Agent may, but shall be under no obligation to, perform any such covenants or agreements in any manner deemed fit by the Agent without thereby waiving any rights to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Agent in respect of the foregoing shall be secured by the Security unless otherwise ordered by a final and non-appealable judgment of a court of competent jurisdiction.

7.11 Third Parties

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

7.12 Remedies Cumulative

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

7.13 Set-Off or Compensation

If an Event of Default has occurred and is continuing, the Agent and the Lenders and each of their respective Affiliates is hereby authorized at any time and from time to time to set off, compensate 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 each of them or their Affiliates to or for the credit or the account of the Borrower against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to them, irrespective of whether or not any demand has been made under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of the Agent or such Lender different from the

branch or office holding such deposit or obligated on such indebtedness. The rights of the Agent and the Lenders and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off, compensation, consolidation of accounts and security) that they or its Affiliates may have. The Agent and each of the Lenders agrees to promptly notify the Borrower after any such set-off, compensation and application, but the failure to give such notice shall not affect the validity of such set-off and application.

7.14 Waiver of Default

The Agent may at any time waive in writing any Default or Event of Default which may have occurred, provided that no such waiver shall extend to, or be taken in any manner whatsoever to affect, any subsequent Event of Default or the rights or remedies resulting therefrom. No delay or failure by the Lenders to exercise any right or remedy hereunder shall impair any such right or remedy, or shall be construed to be a waiver of any Event of Default hereunder or under the Security, or acquiescence therein.

7.15 Appointment of Receiver

If the Security shall become enforceable, the Agent may appoint a receiver, manager, or receiver and manager of the Borrower and/or Mortgage Property, or any part thereof (hereinafter called the "**Receiver**"), and may remove any Receiver so appointed and appoint another in his stead, and the following provisions shall take effect:

- a) such appointment may be made at any time after the Security shall have become enforceable and either before or after the Agent shall have entered into or taken possession of the Mortgaged Property or any part thereof, but such appointment may be revoked upon the direction in writing of the Lenders;
- b) every such Receiver shall be vested with all or any of the powers and discretions of the Agent;
- c) such Receiver may carry on the business of the Borrower or any part thereof, and may exercise all the powers conferred upon the Agent hereby;
- d) the Agent may from time to time fix the remuneration of every such Receiver, which remuneration shall be reasonable, and direct the payment thereof out of the Mortgaged Property or the proceeds thereof in priority to payment of the Indebtedness;
- e) the Agent may from time to time require any such Receiver to give security for the performance of his duties, and may fix the nature and amount thereof, but shall not be bound to require such security;
- f) every such Receiver may, with the consent in writing of the Agent, borrow money for the purpose of carrying on the business of the Borrower, for the maintenance of the Mortgaged Property or any part or parts thereof, or for any other purposes approved by the Lenders, and may issue security on the Mortgaged Property in priority to the Security and in the amounts from time to time required to carry out the duties of the Receiver appointed hereunder, which shall bear interest as shall be reasonably determined by the Receiver;
- g) save so far as otherwise directed by the Agent, all monies from time to time received by such Receiver shall be paid over to the Agent for the Lenders; and
- h) every such Receiver shall so far as concerns responsibility for his acts and omissions in exercising all or any of the powers and discretions conferred upon him hereunder, be

deemed the agent of the Borrower and not of the Agent or Lenders and neither the Agent or Lenders shall be responsible for any act or default of any Receiver.

7.16 Application of Funds

The monies arising from any enforcement of the Security shall be applied as follows:

- a) firstly, in payment of, or reimbursement to the Agent and Lenders of, the expenses, disbursements, Interest Differential, and advances of the Agent or Lenders (including the fees and expenses of any Receiver, agent or representative appointed pursuant hereto or under the Security and any legal fees with respect thereto, on a solicitor and client basis) incurred or made in connection with the enforcement of this Agreement or the realization of the Security;
- b) secondly, in payment of outstanding interest on overdue interest, interest and principal payable pursuant to the Indebtedness, in that order of priority; and
- c) the surplus, if any, shall be paid to the Borrower or its assigns.

7.17 Deficiency

If the monies received by the Agent or any Receiver are insufficient to repay to the Lenders all monies due to it, the Borrower shall forthwith pay or cause to be paid to the Agent such deficiency.

ARTICLE 8 GUARANTEE OF PARENT GUARANTOR

8.1 Parent Guarantee

The Parent Guarantor:

- a) subject to Section 8.2, unconditionally guarantees to the Agent the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of all of the Obligations, including, without limitation, the repayment of the Loan and interest and expenses thereon as provided herein (including interest on interest) and all other moneys and obligations owing hereunder as and when the same become due and payable according to the terms hereof;
- b) acknowledges the terms and conditions of the Loan as set out herein and confirms and acknowledges the same are fully acceptable for the purpose of the guarantee herein, including the granting of the Security by the Borrower to the Agent pursuant hereto. The guarantee herein contained shall take effect and be binding upon the Parent Guarantor, notwithstanding any defect in the authorization, execution and delivery of this Agreement; and
- c) shall be held to and be bound to the Agent directly as principal debtor, and not as surety only, in respect of payment of the amounts hereby guaranteed, and any demand made by the Agent to the Parent Guarantor shall not release the Borrower or any other person to whom a demand was not made by the Agent from any of the respective obligations and liabilities under this guarantee, this Agreement generally, or the Security.

8.2 Limited Recourse of Parent Guarantor Guarantee

Despite any other provision of this Agreement or any other document related hereto, the rights of recourse of the Agent to the Parent Guarantor and to the assets of the Parent Guarantor are limited in all respects to the amount equal to the lesser of: (i) forty million dollars (\$40,000,000); and (ii) the principal amount of the Loan outstanding from time to time plus 20%.

8.3 Redacted

[Redacted – Confidential Business Information]

8.4 Parent Guarantee Default and Enforcement

- a) Upon an Event of Default, then the Parent Guarantor shall, forthwith on demand by the Agent, pay to the Agent the principal and interest (including interest on amounts in default) and other moneys owing as provided herein.
- b) If the Parent Guarantor shall fail forthwith after demand by the Agent to pay as required hereunder, the Agent may, in its discretion, proceed with the enforcement of the payments required pursuant to these guarantee provisions by any remedy provided by law to recover from the Parent Guarantor such sums as the Parent Guarantor may be liable to pay hereunder. Without limitation of the foregoing, the Agent may proceed to enforce such rights prior to, or contemporaneously with, or after, any action taken by the Agent against the Borrower or the Affiliate Guarantor hereunder.
- c) Any payment made to, or moneys received by, the Agent pursuant to the provisions of this Article 8 shall be apportioned by it to any portion of the liabilities of the Borrower hereby guaranteed in such order as the Agent may determine. Such appropriation may be revoked or altered from time to time, at the discretion of the Agent.
- d) The Agent may waive in writing any Default of the Borrower hereunder or any default of the Affiliate Guarantor or the Parent Guarantor hereunder upon such terms and conditions as it may determine; provided that, no such waiver shall extend, or be taken in any manner whatsoever to affect, any subsequent default or the rights resulting therefrom.
- e) The Parent Guarantor agrees that the records of the Agent as to the amount of its liability to the Agent, or any judgment determining such amount obtained by the Agent against the Borrower, shall be prima facie evidence against the Parent Guarantor as to the amount of such liability.
- f) Upon the bankruptcy, winding-up or other distribution of assets and property of the Borrower or of the Parent Guarantor, the rights of the Agent hereunder shall not be affected or impaired by the omission of the Agent to prove its claim or to prove its full claim, and the Agent may prove such claim as it sees fit and it may refrain from proving any claim. Until all the Obligations have been fully paid and fulfilled as required hereunder, the Agent, in its discretion, shall have any and all right to prove and rank for the claims of the Parent Guarantor in any such proceeding and to receive the full amount of all payments in respect of such claim as proved, such rights being hereby assigned and transferred to the Agent.

8.5 Release And Discharge

- a) No obligation or liability of the Parent Guarantor hereunder, or under any instrument collateral hereto, shall be limited, released, discharged or in any way affected by any

release, loss, alteration in, or dealing with the Loan or the Security, by an extension of time given to the Borrower or to any person whomsoever by the Agent, by any amendment to this Agreement, by any demand made by the Agent, by any compromise, arrangement, composition or plan of re-organization affecting the Borrower or the Security, by the release of any person liable directly or as surety or otherwise, by waiver of any default, by any dealings whatsoever between the Agent and the Borrower or any other person or persons whomsoever, or by any other act, omission or proceedings in relation to this Agreement, the Security or this guarantee even if the Parent Guarantor and the Borrower might otherwise be released or exonerated or the liabilities and obligations of the Parent Guarantor hereunder be limited or affected.

- b) It is understood and agreed that, when the Loan and all Obligations of the Borrower to the Agent have been paid in full, these presents and the rights hereby granted shall cease and become null and void and the Agent shall, at the request and at the expense of the Parent Guarantor, execute and deliver to the Parent Guarantor a release from the guarantee obligations herein contained.

8.6 Representations and Warranties

The Parent Guarantor represents and warrants to the Agent and the Lenders, as of the date of this Agreement, and acknowledges that the Agent and Lenders are relying on such representations and warranties in entering into this Agreement, as follows:

a) **Status**

It has been duly incorporated or created and organized and is a validly existing corporation, under the laws of its governing jurisdiction, and has full capacity and power to carry on its business as presently conducted and to own or lease property and holds all necessary material licences, permits and consents to carry on such business in all jurisdictions in which it does so.

b) **Power and Authority**

It has the power to enter into, execute, deliver and perform this Agreement.

c) **Non-Violation of Other Instruments and Authorization**

(i) The entering into and performance of this Agreement, and any other agreement collateral hereto or thereto to which it is a party to be given hereunder does not conflict, and will not conflict with, and does not result, and will not result with the passage of time or otherwise, in a breach or violation of, or constitute a default under, its articles of incorporation or its by-laws, or any of the covenants or the provisions contained in any agreement to which it is a party, or by which it or its assets are subject; and

(ii) All necessary corporate steps and proceedings have been taken, and all consents have been obtained to authorize the entering into, delivery and performance of this Agreement.

d) **No Actions**

There are no actions, suits, judicial or arbitral proceedings pending or to its knowledge threatened against it in any court or before any other authority which could reasonably be expected to have a Material Adverse Effect.

e) **Judgments and Executions**

As at the date hereof, there are no judgments or executions filed or pending against it.

f) **Insolvency Proceedings**

It has not made any assignment for the benefit of creditors, nor has any receiving order been made against it under the provisions of the Bankruptcy and Insolvency Act, nor has any petition for such an order been served upon it, nor are there any proceedings in effect or threatened under the provisions of the Winding-Up and Restructuring Act (Canada) or the Companies' Creditors Arrangement Act (Canada), nor has any receiver, receiver and manager, monitor, custodian or official with similar powers been appointed by court order or privately respecting it or any of its assets or property; nor has it committed an act of bankruptcy; taken advantage of any act for bankrupt or insolvent debtors; filed a notice of intention to make a proposal or a proposal under the Bankruptcy and Insolvency Act (Canada); proposed a compromise or arrangement of its creditors generally, made any assignment for the benefit of creditors, taken any proceedings with respect to a compromise or arrangement, nor to have a receiver appointed over any part of its assets or property.

g) **Title to Assets and Property**

It indirectly owns all of the issued and outstanding voting shares of Landqart AG.

8.7 Survival

The representations and warranties of the Parent Guarantor set forth in this Agreement shall survive the execution of this Agreement until the Obligations guaranteed in accordance with this Article 8 are fully paid.

**ARTICLE 9
GUARANTEE OF AFFILIATE GUARANTOR**

9.1 Affiliate Guarantor Guarantee

The Affiliate Guarantor:

- a) unconditionally guarantees to the Agent the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of all of the Obligations, including, without limitation, the repayment of the Loan and interest and expenses thereon as provided herein (including interest on interest) and all other moneys and obligations owing hereunder as and when the same become due and payable according to the terms hereof;
- b) acknowledges the terms and conditions of the Loan as set out herein and confirms and acknowledges the same are fully acceptable for the purpose of the guarantee herein, including the granting of the Security by the Borrower to the Agent pursuant hereto. The guarantee herein contained shall take effect and be binding upon the Affiliate Guarantor, notwithstanding any defect in the authorization, execution and delivery of this Agreement; and
- c) shall be held to and be bound to the Agent directly as principal debtor, and not as surety only, in respect of payment of the amounts hereby guaranteed, and any demand made by the Agent to the Affiliate Guarantor shall not release the Borrower or any other person to whom a demand was not made by the Agent from any of the respective obligations and liabilities under this guarantee, this Agreement generally, or the Security.

9.2 Affiliate Guarantor Default And Enforcement

- a) Upon an Event of Default, then the Affiliate Guarantor shall, forthwith on demand by the Agent, pay to the Agent the principal and interest (including interest on amounts in default) and other moneys owing as provided herein.
- b) If the Affiliate Guarantor shall fail forthwith after demand by the Agent to pay as required hereunder, the Agent may, in its discretion, proceed with the enforcement of the payments required pursuant to these guarantee provisions by any remedy provided by law to recover from the Affiliate Guarantor such sums as the Affiliate Guarantor may be liable to pay hereunder. Without limitation of the foregoing, the Agent may proceed to enforce such rights prior to, or contemporaneously with, or after, any action taken by the Agent against the Borrower or the Parent Guarantor hereunder.
- c) Any payment made to, or moneys received by, the Agent pursuant to the provisions of this Article 9 shall be apportioned by it to any portion of the liabilities of the Borrower hereby guaranteed in such order as the Agent may determine. Such appropriation may be revoked or altered from time to time, at the discretion of the Agent.
- d) The Agent may waive in writing any Default of the Borrower hereunder or any default of the Affiliate Guarantor or the Parent Guarantor hereunder upon such terms and conditions as it may determine; provided that, no such waiver shall extend, or be taken in any manner whatsoever to affect, any subsequent default or the rights resulting therefrom.
- e) The Affiliate Guarantor agrees that the records of the Agent as to the amount of its liability to the Agent, or any judgment determining such amount obtained by the Agent against the Borrower, shall be prima facie evidence against the Affiliate Guarantor as to the amount of such liability.
- f) Upon the bankruptcy, winding-up or other distribution of assets and property of the Borrower or of the Affiliate Guarantor, the rights of the Agent hereunder shall not be affected or impaired by the omission of the Agent to prove its claim or to prove its full claim, and the Agent may prove such claim as it sees fit and it may refrain from proving any claim. Until all the Obligations have been fully paid and fulfilled as required hereunder, the Agent, in its discretion, shall have any and all right to prove and rank for the claims of the Affiliate Guarantor in any such proceeding and to receive the full amount of all payments in respect of such claim as proved, such rights being hereby assigned and transferred to the Agent.

9.3 Release And Discharge

- a) No obligation or liability of the Affiliate Guarantor hereunder, or under any instrument collateral hereto, shall be limited, released, discharged or in any way affected by any release, loss, alteration in, or dealing with the Loan or the Security, by an extension of time given to the Borrower or to any person whomsoever by the Agent, by any amendment to this Agreement, by any demand made by the Agent, by any compromise, arrangement, composition or plan of re-organization affecting the Borrower or the Security, by the release of any person liable directly or as surety or otherwise, by waiver of any default, by any dealings whatsoever between the Agent and the Borrower or any other person or persons whomsoever, or by any other act, omission or proceedings in relation to this Agreement, the Security or this guarantee even if the Affiliate Guarantor and the Borrower might otherwise be released or exonerated or the liabilities and obligations of the Affiliate Guarantor hereunder be limited or affected.

- b) It is understood and agreed that, when the Loan and all Obligations of the Borrower to the Agent have been paid in full, these presents and the rights hereby granted shall cease and become null and void and the Agent shall, at the request and at the expense of the Affiliate Guarantor, execute and deliver to the Affiliate Guarantor a release from the guarantee obligations herein contained.

9.4 Representations and Warranties

The Affiliate Guarantor represents and warrants to the Agent and the Lenders, as of the date of this Agreement, and acknowledges that the Agent and Lenders are relying on such representations and warranties in entering into this Agreement, as follows:

- a) **Status**

It has been duly incorporated or created and organized and is a validly existing corporation, under the laws of its governing jurisdiction, and has full capacity and power to carry on its business as presently conducted and to own or lease property and holds all necessary material licences, permits and consents to carry on such business in all jurisdictions in which it does so.

- b) **Power and Authority**

It has the power to enter into, execute, deliver and perform this Agreement.

- c) **Non-Violation of Other Instruments and Authorization**

- (i) The entering into and performance of this Agreement, and any other agreement collateral hereto or thereto to which it is a party to be given hereunder does not conflict, and will not conflict with, and does not result, and will not result with the passage of time or otherwise, in a breach or violation of, or constitute a default under, its articles of incorporation or its by-laws, or any of the covenants or the provisions contained in any agreement to which it is a party, or by which it or its assets are subject; and

- (ii) All necessary corporate steps and proceedings have been taken, and all consents have been obtained to authorize the entering into, delivery and performance of this Agreement.

- d) **No Actions**

There are no actions, suits, judicial or arbitral proceedings pending or to its knowledge threatened against it in any court or before any other authority which could reasonably be expected to have a Material Adverse Effect.

- e) **Judgments and Executions**

As at the date hereof, there are no judgments or executions filed or pending against it.

f) **Insolvency Proceedings**

It has not made any assignment for the benefit of creditors, nor has any receiving order been made against it under the provisions of the Bankruptcy and Insolvency Act, nor has any petition for such an order been served upon it, nor are there any proceedings in effect or threatened under the provisions of the Winding-Up and Restructuring Act (Canada) or the Companies' Creditors Arrangement Act (Canada), nor has any receiver, receiver and manager, monitor, custodian or official with similar powers been appointed by court order or privately respecting it or any of its assets or property; nor has it committed an act of bankruptcy; taken advantage of any act for bankrupt or insolvent debtors; filed a notice of intention to make a proposal or a proposal under the Bankruptcy and Insolvency Act (Canada); proposed a compromise or arrangement of its creditors generally, made any assignment for the benefit of creditors, taken any proceedings with respect to a compromise or arrangement, nor to have a receiver appointed over any part of its assets or property.

g) **Title to Assets and Property**

It has good and marketable title to the dissolving pulp facility located at Thurso, Quebec.

9.5 Survival

The representations and warranties of the Affiliate Guarantor set forth in this Agreement shall survive the execution of this Agreement until the Obligations guaranteed in accordance with this Article 9 are fully paid.

**ARTICLE 10
THE AGENT AND THE LENDERS**

10.1 Authorization of Agent

Each Lender hereby irrevocably appoints and authorizes the Agent to act for all purposes as its agent hereunder and under the other Loan Documents with such powers as are expressly delegated to the Agent by the terms of this Agreement, together with such other powers as are reasonably incidental thereto and undertakes not to take any action on its own. Notwithstanding the provisions of the Civil Code of Quebec relating to contracts generally and to mandate, the Agent shall have no duties or responsibilities except those expressly set forth in this Agreement. As to any matters not expressly provided for by this Agreement, the Agent shall act hereunder or in connection herewith in accordance with the instructions of the Lenders in accordance with the provisions of this Article, but, in the absence of any such instructions, the Agent may (but shall not be obliged to) act as it shall deem fit in the best interests of the Lenders, and any such instructions and any action taken by the Agent in accordance herewith shall be binding upon each Lender. The Agent and its Related Parties shall not, by reason of this Agreement, be deemed to be a trustee or fiduciary for the benefit of any Lender, the Borrower or any other Person, irrespective of whether a Default or Event of Default may have occurred. Neither the Agent nor any of its Related Parties shall be responsible to the Lenders for (a) any recitals, statements, representations or warranties contained in this Agreement or any other Loan Document or in any certificate or other document referred to, or provided for in, or received by any of them under, this Agreement, (b) the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or any collateral provided for thereby, (c) the satisfaction of any condition specified in this Agreement, other than to confirm receipt of items expressly required to be delivered to the Agent, or (d) any failure by the Borrower or any other Person to perform its obligations hereunder or under any other Loan Documents. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Agent from among the Lenders (including the Person serving as Agent) and their respective Affiliates. The Agent may

employ agents and attorneys-in-fact. Neither the Agent nor any of its Related Parties shall be responsible for any action taken or omitted to be taken by it or them or any sub-agents or attorneys-in-fact under or in connection herewith, except for its or their own gross negligence or intentional fault.

10.2 Agent's Responsibility

- a) The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Advance that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received notice to the contrary from such Lender prior to the making of such Advance. The Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. The Agent may deem and treat each Lender as the holder of the Commitment in the Obligations made by such Lender for all purposes hereof unless and until an assignment has been completed in accordance with Section 11.1.
- b) The Agent shall not be deemed to have knowledge of the occurrence of a Default or Event of Default unless the Agent has received notice from a Lender or the Borrower describing such a Default or Event of Default and stating that such notice is a "Notice of Default". In the event that the Agent receives such a notice of the occurrence of a Default or Event of Default or otherwise becomes aware that a Default or Event of Default has occurred, the Agent shall promptly give notice thereof to the Lenders. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Lenders in accordance with the provisions of this Article provided that, unless and until the Agent shall have received such directions, the Agent may (but shall not be obliged to) take such action, or refrain from taking such action, with respect to such a Default or Event of Default as it shall deem advisable in the best interest of the Lenders. The Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or Applicable Law.
- c) Except (in the case of the Agent) for notices, reports and other documents and information expressly required to be furnished to the Lenders by the Agent hereunder, the Agent shall have no duty or responsibility to provide any Lender with any credit or other information concerning the affairs or financial condition of the Borrower which may come to the attention of the Agent, except where provided to the Agent for the Lenders, provided that such information does not confer any advantage to the Agent as a Lender over the other Lenders. Nothing in this Agreement shall oblige the Agent to disclose any information relating to the Borrower if such disclosure would or might, in the opinion of the Agent, constitute a breach of any Applicable Law or duty of secrecy or confidence.
- d) The Agent shall have no responsibility, (a) to the Borrower on account of the failure of any Lender to perform its obligations hereunder, or (b) to any Lender on account of the failure of the Borrower to perform its obligations hereunder.
- e) Each Lender jointly represents and warrants to the Agent that it has made its own independent investigation of the financial condition and affairs of the Borrower in

connection with the making and continuation of its Commitment in the Obligations hereunder and has not relied on any information provided to such Lender by the Agent in connection herewith, and each Lender represents and warrants to the Agent that it shall continue to make its own independent appraisal of the creditworthiness of the Borrower while the Obligations are outstanding or the Lenders have any obligations hereunder.

10.3 Rights of Agent as Lender

With respect to its Commitment in the Obligations, the Agent in its capacity as a Lender shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not acting as the Agent and the term "Lender" shall, unless the context otherwise indicates, include the Agent in its capacity as a Lender. The Agent may (without having to account therefor to any Lender) accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower as if it were not acting as the Agent and may accept fees and other consideration from the Borrower for customary services in connection with this Agreement and the Loan Obligations and otherwise without having to account for the same to the Lenders.

Any reference in this Agreement to the Agent means, where the Agent is also a Lender, the agency department of such Lender specifically responsible for acting as Agent under and in connection with this Agreement. In acting as Agent, the agency department will be treated as a separate entity from any other department or division of the Lender in question. Without limiting the foregoing, the Agent shall not be deemed to have notice of a document or information received by any other department or division of that Lender, nor will the Lender concerned be deemed to have notice of a document or information received by the Agent.

10.4 Indemnity by Lenders

Each Lender agrees to indemnify the Agent and hold it harmless, to the extent not otherwise reimbursed by the Borrower, rateably in accordance with its Applicable Percentage and not solidarily, for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever (including the fees, charges and disbursements of counsel) which may be imposed on, incurred by or asserted against the Agent in any way relating to or arising out of this Agreement or any other Loan Documents or the transactions contemplated hereby or thereby (excluding, unless a Default or Event of Default is apprehended or has occurred and is continuing, normal administrative costs and expenses incidental to the performance of its agency duties hereunder) or the enforcement of any of the terms hereof or of any other Loan Documents, provided that no Lender shall be liable for any of the foregoing to the extent they arise from the Agent's gross or intentional fault.

10.5 Notice by Agent to Lenders

As soon as practicable after its receipt thereof, the Agent will forward to each Lender a copy of each report, notice or other document required by this Agreement to be delivered to the Agent for such Lender.

10.6 Protection of Agent - Advances and Payments

- a) Unless the Agent shall have been notified in writing or by fax by any Lender prior to the date of an Advance requested hereunder that such Lender does not intend to make available to the Agent such Lender's Applicable Percentage of such Advance, the Agent may assume that such Lender has made such Lender's Applicable Percentage of such Advance available to the Agent on the date of such Advance and the Agent may, in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Agent by such Lender,

the Agent shall be entitled to recover such amount (together with interest thereon at the highest rate applicable to the Advances) on demand from such Lender or, if such Lender fails to reimburse the Agent for such amount on demand, from the Borrower, in such case with interest thereon at the rate applicable to the Advance in question. Any such payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that has failed to make such payment to the Agent.

- b) Unless the Agent shall have been notified in writing by the Borrower prior to the date on which any payment is due hereunder that the Borrower does not intend to make such payment, the Agent may assume that the Borrower has made such payment when due and the Agent may, in reliance upon such assumption, make available to each Lender on such payment date an amount equal to such Lender's pro rata share of such assumed payment. If it is established that the Borrower has not in fact made such payment to the Agent, each Lender shall forthwith on demand repay to the Agent the amount made available to such Lender (together with interest thereon at the rate applicable to the Advance in question).

10.7 Notice by Lenders to Agent

Each Lender shall endeavour to use its best efforts to notify the Agent of the occurrence of any Default or Event of Default forthwith upon becoming aware of such event, but no Lender shall be liable if it fails to give such notice to the Agent.

10.8 Sharing Among the Lenders

Each Lender agrees that as amongst themselves, except as otherwise provided for by the provisions of this Agreement, all amounts received by the Agent, in its capacity as agent of the Lenders pursuant to this Agreement or any other Loan Document (whether received by voluntary payment, by the exercise of the right of set-off or compensation or by counterclaim, cross-claim, separate action or as proceeds of realization of any security, other than agency fees), shall be shared by each Lender *pro rata*, in accordance with their respective Applicable Percentage and each Lender undertakes to do all such things as may be reasonably required to give full effect to this Section 10.8. If any amount so shared is later recovered from the Lender who originally received it, each other Lender shall restore its proportionate share of such amount to such Lender, without interest.

As a necessary consequence of the foregoing, each Lender shall share, in a percentage equal to its Applicable Percentage, any losses incurred as a result of any Default or Event of Default by the Borrower, and shall pay to the Agent, within two (2) Business Days following a request by the Agent, any amount required to ensure that such Lender bears its Applicable Percentage of such losses, if any. Such obligation to share losses shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (1) any set-off, compensation, counterclaim, recoupment, defence or other right which such Lender may have against the Agent, the Borrower or any other Person for any reason whatsoever; (2) the occurrence or continuance of any Default or Event of Default; (3) any adverse change in the condition (financial or otherwise) of the Borrower or any other Person; (4) any breach of this Agreement by the Borrower or any other Person; or (5) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. Where necessary or useful to give effect to this Section 10.8, a Lender shall purchase a participation in the Obligations of other Lenders. If any Lender does not make available the amount required hereunder, the Agent shall be entitled to recover such amount on demand from such Lender, together with interest thereon at the rate applicable to the Advance(s) from the date of non-payment until such amount is paid in full.

The provisions of this Section shall not be construed to apply to (a) any payment made by any Person pursuant to and in accordance with the express terms of this Agreement, (b) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in

any of its Obligations to any assignee, other than to the Borrower (as to which the provisions of this paragraph shall apply), (c) any payment made while no Event of Default has occurred and is continuing in respect of obligations of the Borrower to such Lender that do not arise under or in connection with the Loan Documents, (d) any payment made in respect of an obligation that is secured by a Permitted Lien or that is otherwise entitled to priority over any Person's obligations under or in connection with the Loan Documents, or (e) any payment to which such Lender is entitled as a result of any form of credit insurance obtained by such Lender.

10.9 Procedure With Respect to Advances

Subject to the provisions of this Agreement, upon receipt of a Notice of Advance (in the form of **Schedule D**) from the Borrower, the Agent shall, without delay, advise each Lender of the receipt of such notice, of the date of such Advance, of its Applicable Percentage of the amount of such Advance and of the relevant details of the Agent's account(s). Each Lender shall disburse its Applicable Percentage of each Advance, taking into account its Commitment, and shall make it available to the Agent (no later than 10:00 A.M. (EST)) on the date of the Advance fixed by the Borrower, by depositing its Applicable Percentage of the Advance in the Agent's account. Once the Borrower has fulfilled the conditions stipulated in this Agreement, the Agent will make such amounts available to the Borrower on the date of the Advance, at the Branch of Account, and, in the absence of other arrangements made in writing between the Agent and the Borrower, by transferring or causing to be transferred an equivalent amount in the case of an Advance in accordance with the instructions of the Borrower which appear in the Notice of Advance with respect to each Advance; however, the obligation of the Agent with respect hereto is limited to taking the steps judged commercially reasonable in order to follow such instructions, and once undertaken, such steps shall constitute conclusive evidence that the amounts have been disbursed in accordance with the applicable provisions. The Agent shall not be liable for damages, claims or costs imputed to the Borrower and resulting from the fact that the amount of an Advance did not arrive at its agreed-upon destination.

10.10 Accounts Kept by Each Lender

Each Lender shall keep in its books, in respect of its Commitment, accounts for the Advances and other amounts payable by the Borrower under this Agreement. These accounts shall constitute (in the absence of manifest error or of contradictory entries in the accounts of the Agent) *prima facie* evidence of their content against the Borrower.

10.11 Binding Determinations

The Agent shall proceed in good faith to make any determination that is required in order to apply this Agreement and, once made, such determination shall be final and binding upon all parties, except in the case of manifest error.

10.12 Amendment of Article 10

The provisions of this Article 10 relating to the rights and obligations of the Lenders and the Agent *inter se*:

- a) shall be operative as between the Lenders and Agent only, and the Borrower shall not have any rights or obligations under or be entitled to rely for any purposes upon such provisions, except where such provisions expressly so provide.
- b) may be amended or added to, from time to time, by the execution by the Agent and the Lenders of an instrument in writing and such instrument in writing shall validly and effectively amend or add to any or all of the provisions of this Article affecting the Lenders

without requiring the execution of such instrument in writing by the Borrower, provided that the Borrower be notified of any such amendment or addition.

10.13 Decisions, Amendments and Waivers of the Lenders

When the Lenders may or must consent to an action or to anything or to accomplish another act in applying this Agreement, the Agent shall request that each Lender give its consent in this regard. Subject to the provisions of Section 10.14, all decisions taken by the Lenders shall be taken as follows: (a) if there are two Lenders, by unanimous consent; (b) if there are three or more Lenders, by the Majority Lenders. The Agent shall confirm such consent to each Lender and to the Borrower.

10.14 Authorized Waivers, Variations and Omissions

If so authorized in writing by the Lenders, the Agent, on behalf of the Lenders, may grant waivers, consents, vary the terms of this Agreement and the other Loan Documents and do or omit to do all acts and things in connection herewith or therewith. Notwithstanding the foregoing, except with the prior written agreement of each of the Lenders, nothing in Section 10.13 or this Section shall authorize (i) any extension of the date for, or alteration in the amount, currency or mode of calculation or computation of any payment of principal or interest or other amount, (ii) any increase in the Commitment of a Lender, (iii) any extension of any maturity date, (iv) any change in the terms of this Article 10, (v) any change in the manner of making decisions among the Lenders, including the definition of Majority Lenders, (vi) the release of any Person, (vii) the release, in whole or in part, of any of the Loan Documents, or of the Security over any of the assets of any Person except those assets specifically permitted to be sold in accordance with the provisions of this Agreement, in which case no Lenders' consent shall be required, (viii) any change in or any waiver of the conditions precedent; or (ix) any amendment to this Section 10.14.

10.15 Power of Attorney for Quebec Purposes

Without limiting the powers of the Agent hereunder or under the other Loan Documents, each of the Lenders hereby irrevocably constitutes the Agent as its hypothecary representative within the meaning of Article 2692 of the *Civil Code of Quebec* in order to hold hypothecs and security granted by the Borrower on property pursuant to the laws of the Province of Québec in order to secure obligations of the Borrower hereunder and under the other Loan Documents. The execution by the Agent, acting as hypothecary representative, prior to this Agreement of any Security in Québec is hereby ratified and confirmed. The constitution of the Agent as hypothecary representative shall be deemed to have been ratified and confirmed by each Person accepting an assignment of, a participation in or an arrangement in respect of, all or any portion of any rights and obligations of a Lender under this Agreement by the execution of an assignment or other agreement pursuant to which it becomes such assignee or participant, and by each successor Agent by the compliance with such formalities pursuant to which it becomes a successor Agent under this Agreement. The Agent acting as hypothecary representative shall have the same rights, powers, immunities, indemnities and exclusions from liability as are prescribed in favor of the Agent in this Agreement, which shall apply *mutatis mutandis* to the Agent acting as hypothecary representative.

10.16 Assignment by Agent to an Affiliate

The Agent may, at any time and from time to time, assign its rights and transfer its obligations hereunder, in whole or in part, to an Affiliate acceptable to the Borrower, acting reasonably, upon notice to the Lenders, provided that such assignment does not result in an increase in the amounts payable by the Borrower hereunder.

10.17 Collective Action of the Lenders

Each of the Lenders hereby acknowledges that to the extent permitted by Applicable Law, any Security and the remedies provided under the Loan Documents to the Lenders are for the benefit of the Lenders collectively and acting together and not severally and further acknowledges that its rights hereunder and under any Security are to be exercised not severally, but by the Agent upon the decision of the requisite majority of Lenders as contemplated in the relevant Loan Document. Accordingly, notwithstanding any provision of any Loan Document, each of the Lenders covenants and agrees that it shall not be entitled to take any action under any of the Loan Documents including any declaration of Default hereunder, such that any such action may only be taken in accordance with the provisions hereof or upon the prior written agreement of the Majority Lenders. Each of the Lenders agrees to cooperate with the Agent as reasonably requested from time to time.

10.18 Resignation of Agent

- a) The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Majority Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a Lender having an office in Toronto, Ontario or Montreal, Quebec, or an Affiliate of any such Lender with an office in Toronto or Montreal. The Agent may also be removed at any time by the Majority Lenders upon 30 days' notice to the Agent and the Borrower as long as the Majority Lenders, in consultation with the Borrower, appoint and obtain the acceptance of a successor within such 30 days, which shall be a Lender having an office in Toronto or Montreal, or an Affiliate of any such Lender with an office in Toronto or Montreal.
- b) If no such successor shall have been so appointed by the Majority Lenders and shall have accepted such appointment within 30 days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications specified in this Section, provided that if the Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time as the Majority Lenders appoint a successor Agent as provided for above in the preceding paragraph.
- c) Upon a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Agent, and the former Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided in the preceding paragraph). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the termination of the service of the former Agent, the provisions of this Section and of Section 10.6 shall continue in effect for the benefit of such former Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the former Agent was acting as Agent.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 Successors and Assigns

- a) The Loan Documents shall be binding upon and enure to the benefit of the Agent, the Lenders, the Borrower and the Guarantors, as applicable, and their respective successors and assigns, except that the Borrower and the Guarantors shall not assign any rights or obligations with respect to this Agreement or any of the other Loan Documents to which they are a party, without the prior written consent of the Agent.
- b) Any assignment by a Lender shall become effective when the Borrower has consented to the assignment or, after the occurrence and during the continuance of any Default, when the Borrower has been notified of the assignment and, in each case, the assignee has given an undertaking to the Borrower to be bound by this Agreement and to perform all of the obligations assigned to it. Any assignee shall be treated as if it were a Lender, shall be entitled to the benefit of the Loan Documents and shall be subject to the obligations of a Lender as if it were an original signatory to this Agreement, in each case to the extent of the rights and obligations assigned to it. A Lender shall be released and discharged of the obligations it has assigned.
- c) The Agent shall maintain a copy of each assignment delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.
- d) Notwithstanding any other provision of this Agreement, no assignment may be made by a Lender without the prior written consent of the Borrower unless a Default is continuing.

11.2 Severability, Etc.

If, in any jurisdiction, any provision of any Loan Document or its application to any circumstance is restricted, prohibited or unenforceable, that provision shall, as to that jurisdiction, be ineffective only to the extent of that restriction, prohibition or unenforceability without invalidating the remaining provisions of the affected Loan Document, without affecting the validity or enforceability of that provision in any other jurisdiction and, if applicable, without affecting its application to other circumstances.

11.3 Responsibility of the Lenders

Each Lender shall be solely responsible for the performance of its own obligations hereunder. Accordingly, no Lender is in any way solidarily responsible for the performance of the obligations of any other Lender.

11.4 Amendment, Supplement or Waiver

No amendment, supplement or waiver of any provision of any Loan Document, nor any consent to any departure by the Borrower and the Guarantors therefrom, as applicable, shall in any event be effective unless it is in writing, makes express reference to the affected provision and is signed by the Agent on behalf of the Lenders. It shall be effective only in the specific instance and for

the specific purpose for which it is given. No waiver or act or omission of the Agent or the Lenders shall extend to or be taken in any way to affect any subsequent Default or other matter or the rights resulting therefrom.

11.5 Governing Law

Each of the Loan Documents executed by Borrower and the Guarantors, except for those that expressly provide otherwise, shall be conclusively deemed to be a contract made under, and shall for all purposes be governed by and construed in accordance with, the laws of the Province of Quebec and the laws of Canada applicable in Quebec. Each of the Borrower and the Guarantors irrevocably and unconditionally submits, for itself and its Property, to the non-exclusive jurisdiction of the courts of the Province of Quebec, and any appellate court from any of those courts, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document executed by the Borrower and the Guarantors, or for recognition or enforcement of any judgment, and each Party irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such court. Each Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Agent or the Lenders may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or the Guarantors or their Property in the courts of any jurisdiction. Each of the Borrower and the Guarantors irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document executed by the Borrower and the Guarantors in court any of the Province of Quebec. Each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

11.6 Currency

All payments made hereunder shall be made in Canadian Dollars. Unless the context otherwise requires, all amounts expressed in this Agreement in terms of money shall refer to Canadian Dollars. Except as otherwise expressly provided in this Agreement, wherever this Agreement contemplates or requires the calculation of the equivalent in one currency of an amount expressed in another currency for a purpose that does not involve the actual purchase of currency, the calculation shall be made on the basis of the most recently quoted noon spot rate of the Bank of Canada at the effective time of the calculation.

11.7 Expenses and Indemnity

- a) The Borrower shall pay (i) all reasonable documented out-of-pocket expenses incurred by the Agent, the Lenders and their respective Affiliates, including the reasonable fees, charges and disbursements of counsel for the Agent and the Lenders, any independent engineering consultant and any other person engaged by the Agent and the Lenders (with the approval of the Borrower if a Default does not then exist), in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby are consummated) and (ii) unless otherwise ordered by a final and non-appealable judgment of a court of competent jurisdiction, all reasonable documented out-of-pocket expenses incurred by the Agent and the Lenders, including the reasonable fees, charges and disbursements of counsel, in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section, or in connection with the Advance made hereunder, including all such

documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of the Obligations.

- b) The Borrower shall indemnify the Agent, the Lenders and each Related Party thereto (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by a third party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance or non-performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation or non-consummation of the transactions contemplated hereby or thereby, (ii) any actual or alleged presence or release, spill, leakage, emission, deposit, discharge, leaching, migration or disposition of any Hazardous Material on or from any property owned or operated by Borrower, or any remedial action taken by the Agent with respect thereto, or any breach of Applicable Law with respect thereto that is related in any way to the Borrower (including the assertion of any Lien under Applicable Law), or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, delict or any other theory, whether brought by a third party or by the Borrower and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or intentional fault of such Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and non-appealable judgment in its favour on such claim as determined by a court of competent jurisdiction. .
- c) All amounts due under this Section shall be payable promptly after demand therefor. A certificate of the Agent or a Lender specifying the amount or amounts owing to it or a Related Party, as the case may be, as specified in this Section, including reasonable detail of the basis of calculation of the amount or amounts, and delivered to the Borrower shall be *prima facie* evidence of the amount or amounts owing.

11.8 Currency Indemnity

If a judgment or order is rendered by any court or tribunal for the payment of any amount owing to the Agent or a Lender under any Loan Document or for the payment of damages in respect of any breach of any Loan Document or under or in respect of a judgment or order of another court or tribunal for the payment of such amounts or damages, and the judgment or order is expressed in a currency ("the **Judgment Currency**") other than the currency payable under the relevant Loan Document (the "**Agreed Currency**"), the party against whom the judgment or order is made shall indemnify and hold the Agent or such Lender harmless against any deficiency in terms of the Agreed Currency in the amounts received by the Agent or such Lender arising or resulting from any variation as between (a) the actual rate of exchange at which the Agreed Currency is converted into the Judgment Currency for the purposes of the judgment or order, and (b) the actual rate of exchange at which the Agent or such Lender is able to purchase the Agreed Currency with the amount of the Judgment Currency actually received by the Agent or such Lender on the date of receipt. The indemnity in this Section shall constitute a separate and independent obligation from the other obligations of the Borrower under the Loan Documents, shall apply irrespective of any indulgence granted by the Agent or such Lender, shall be secured by the Security and shall survive the termination of this Agreement and the cancellation of the Credit.

11.9 Notices

- a) Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to the addresses or telecopier numbers specified beside the respective signatures of the parties to this Agreement or on any assignment to a new Lender.
- b) Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given on a Business Day between 9:00 a.m. and 5:00 p.m. local time where the recipient is located, shall be deemed to have been given at 9:00 a.m. on the next Business Day for the recipient). Notices delivered through electronic communications shall be effective as provided in this Section.
- c) The Agent, a Lender, the Borrower or the Guarantors may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, but approval of such procedures may be limited to particular notices or communications.
- d) Unless the Agent or a Lender otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), except that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause i) of notification that such notice or communication is available and identifying the website address therefor.
- e) Any party to this Agreement may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

11.10 Time of the Essence

Time is of the essence of this Agreement.

11.11 Further Assurances

The Borrower and the Guarantors shall, at the request of the Agent, promptly do, execute, deliver or cause to be done, executed or delivered all such further acts, documents and matters as may, in the reasonable opinion of the Agent, be necessary or desirable in order to fully perform and carry out the purpose and intent of the Loan Documents.

11.12 Term of Agreement

Except as otherwise provided herein, this Agreement shall remain in full force and effect until the indefeasible payment and performance in full in cash of all of the Obligations. The obligations of the Borrower in Sections 11.7 and 11.8 shall continue for the benefit of those to whom the obligations are owed notwithstanding the termination of this Agreement or the termination of any particular person's role as Borrower, Agent or Lender.

11.13 Counterparts and Facsimile

Any Loan Document may be executed in counterparts (and by different parties in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when it has been executed by the Agent and each Lender and when they have received counterparts hereof that, when taken together, bear the signatures of each of the other parties. Delivery of an executed counterpart of a signature page of this Agreement by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

11.14 Waiver of Indirect Damages Etc.

- a) To the fullest extent permitted by Applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for indirect or punitive damages (as opposed to direct damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby (or any breach thereof), the transactions contemplated hereby or thereby, the Advance or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.
- b) The Borrower acknowledges and agrees that the Agent and the Lenders shall have no liability to it in relation to any due diligence investigations conducted by them in connection with the transactions contemplated hereby or be under any obligation whatsoever to disclose to it any information received or facts disclosed by any such investigations. The Borrower further acknowledges and agrees that it is not relying, will not rely, and will not be deemed, in any respect whatsoever, to have relied upon the facts received by and information disclosed to the Agent and the Lenders under or in connection with such due diligence investigations.
- c) Each Party (a) certifies that no Representative of any other person has represented, expressly or otherwise, that such other person would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and the other parties hereto have been induced to enter into this Agreement and the other Loan Documents by, among other things, the mutual waivers and certifications in this Section.

11.15 Entire Agreement

This Agreement and the other Loan Documents constitute the entire agreement between the parties pertaining to the subject matter of this Agreement and supersede all prior correspondence, agreements, negotiations, discussions and understandings, whether written or oral. Except as specifically specified in this Agreement and the other Loan Documents, there are no representations, warranties, conditions or other agreements or acknowledgments, whether direct or collateral, express or implied, written or oral, statutory or otherwise, that form part of or affect this Agreement or the agreements referred to herein, or which induced any Party to enter into this Agreement or the agreements referred to herein or on which reliance is placed by any Party. Without limiting the foregoing, the Commitment Letter is cancelled and superseded.

11.16 This Agreement to Govern

In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any other Loan Document, the provisions of this Agreement shall govern to the extent necessary to remove the conflict or inconsistency.

11.17 English Language

The parties acknowledge that they have required that this Agreement, as well as all documents, notices and legal proceedings entered into, given or instituted pursuant hereto or relating directly or indirectly hereto be drawn up in English. *Les parties reconnaissent avoir exigé la rédaction en anglais de la présente convention ainsi que de tous documents exécutés, avis donnés et procédures judiciaires intentées, directement ou indirectement, relativement ou à la suite de la présente convention.*

[signature pages follow]

IN WITNESS OF WHICH, the parties hereto have duly executed this Agreement.

Address for Notice:

Fortress Bioenergy Ltd.
451 Victoria Street
Thurso, Quebec
J0X 3B0

Attention: President
Fax No: **[Reacted]**

FORTRESS BIOENERGY LTD.

By: /s/ "Yvon Pelletier"
Name: Yvon Pelletier
Title: Chief Executive Officer

By: /s/ "Kurt Loewen"
Name: Kurt Loewen
Title: Chief Financial Officer

Address for Notice:

Fortress Specialty Cellulose Inc.
451 Victoria Street
Thurso, Quebec
J0X 3B0

Attention: President
Fax No: **[Reacted]**

FORTRESS SPECIALTY CELLULOSE INC.

By: /s/ "Yvon Pelletier"
Name: Yvon Pelletier
Title: Director

By: /s/ "Danial Buckle"
Name: Danial Buckle
Title: Chief Financial Officer

Address for Notice:

Fortress Paper Ltd.
2nd Floor, 157 Chadwick Court
North Vancouver, British Columbia
V7M 3K2

Attention: Chief Executive Officer
Fax No: **[Reacted]**

FORTRESS PAPER LTD.

By: /s/ "Yvon Pelletier"
Name: Chief Executive Officer
Title: Yvon Pelletier

By: /s/ "Kurt Loewen"
Name: Kurt Loewen
Title: Chief Financial Officer

[IPD Fortress BioEnergy - Signature page for Credit Agreement.]

Address for Notice Agent

IAM Infrastructure Private Debt Fund LP

70 University Avenue
Suite 1200
Toronto, Ontario
M5J 2M4

Attention: **[Reacted]**
Fax No.: **[Reacted]**

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, by its general partner, Integrated Private Debt Fund GP Inc., as Agent

By: /s/ "Philip S. Robson"
Name: Philip S. Robson
Position: President

By: /s/ "Douglas E. Zinkewich"
Name: Douglas E. Zinkewich
Position: Managing Director

Address for Notice Lender

IAM Infrastructure Private Debt Fund LP

70 University Avenue
Suite 1200
Toronto, Ontario
M5J 2M4

Attention: **[Reacted]**
Fax No.: **[Reacted]**

IAM INFRASTRUCTURE PRIVATE DEBT FUND LP, by its general partner, Integrated Private Debt Fund GP Inc., as Lender

By: /s/ "Philip S. Robson"
Name: Philip S. Robson
Position: President

By: /s/ "Douglas E. Zinkewich"
Name: Douglas E. Zinkewich
Position: Managing Director

[IPD Fortress BioEnergy - Signature page for Credit Agreement.]

**SCHEDULE A
COMMITMENTS**

[Redacted – Confidential Business Information]

**SCHEDULE B
DETAILS OF EQUITY INTERESTS, PROPERTY, ETC.**

[Redacted – Confidential Business Information]

**SCHEDULE C
MATERIAL CONTRACTS AND MATERIAL PERMITS**

[Redacted – Confidential Business Information]

**SCHEDULE D
NOTICE OF ADVANCE FORM**

[Redacted – Confidential Business Information]

**SCHEDULE E
COMPLIANCE CERTIFICATE FORM**

[Redacted – Confidential Business Information]

**SCHEDULE F
AMORTIZATION TABLE**

[Redacted – Confidential Business Information]

**SCHEDULE G
INDEBTEDNESS**

[Redacted – Confidential Business Information]