



This is the 1<sup>st</sup> affidavit  
of Philippe Arrata in this case  
and was made on 13/Sep/2020

S-209201

No. \_\_\_\_\_  
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO  
LIMITED

Petitioners

#### AFFIDAVIT

I, PHILIPPE ARRATA, of 1077 Great Northern Way, Vancouver, British Columbia,  
Businessperson, AFFIRM THAT:

1. I am the Chief Executive Officer of the Petitioner, Mountain Equipment Co-operative ("MEC") and a director of the Petitioner 1314625 Ontario Limited ("**131 Limited**", together with MEC, the "**Petitioners**"), and as such, I have personal knowledge of the facts and matters hereinafter deposed to, except where stated to be based on information and belief, in which case I verily believe the same to be true.

#### INTRODUCTION

2. All references to "dollars" or "\$" herein are references to Canadian dollars.
3. This Affidavit is sworn in support of an application for an initial order (the "**Initial Order**") granting creditor protection to the Petitioners under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), to facilitate restructuring the business and affairs of the Petitioners. If the Initial Order is granted, this Affidavit will also provide background for a proposed comeback hearing (the "**Comeback Hearing**") on or about September 24, 2020 for extended and additional relief.
4. I am authorized to make this affidavit on behalf of the Petitioners, and the boards of directors of the Petitioners (the "**Boards**") have authorized the filing of this Affidavit and the corresponding Petition.

5. For the reasons set out herein, I verily believe that the Petitioners are insolvent and are entities to which the CCAA applies.
6. MEC is currently in the midst of a liquidity crisis, primarily due to difficult retail marketing conditions, especially for “brick and mortar” retailers as exacerbated by the COVID-19 pandemic. These factors have restricted MEC’s cash flows and prevented it from refinancing and threaten mid and long-term planning.
7. As at September 11, 2020, MEC had an outstanding borrowings of approximately \$74 million and a credit facility with a current borrowing base of approximately \$93 million. In addition, there are rent deferrals on MEC’s various leases in the total amount of approximately \$4.6 million.
8. 131 Limited is a holding company that is liable under the Guarantee (defined below).
9. As a result of these factors and based on current cash balances, the Petitioners will be unable to fund their financial commitments in 2020 absent a restructuring of their affairs. Accordingly, the Petitioners believe it is in the best interests of the Petitioners’ stakeholders to apply for relief under the CCAA.

## THE PETITIONERS’ BACKGROUND

### The Petitioners

10. MEC is a cooperative association incorporated under the *Cooperative Association Act*, S.B.C. 1999, c 28 (the “**Cooperative Association Act**”), and was formed in 1971. Attached hereto and marked as **Exhibit “A”** to this my Affidavit are true copies of cooperative association registrations for MEC dated September 10, 2020.
11. MEC is a member owned and directed retail consumer co-operative, specializing in outdoor activity equipment and clothing. Its head office is located at 1077 Great Northern Way, Vancouver, B.C. (the “**Head Office**”).
12. 131 Limited is a company incorporated pursuant to the laws of Ontario. MEC is the sole shareholder of 131 Limited, which operates as a holding company that owns the parcel of land that comprises the parking lot at the site of MEC Store 14002 located at 366 Richmond Road, Ottawa, ON (the “**Ottawa Store**”). MEC owns the other two parcels of land that comprise that property. Attached hereto and marked as **Exhibit “B”** to this my Affidavit is a true copy of a corporate search for 131 Limited dated September 10, 2020.

### Corporate Organization

13. In addition to 131 Limited, MEC owns shares or has an ownership interest in the following entities:
  - (a) 50% of the shares of Park Towns Developments GP Inc.; and
  - (b) 49.5% interest in Park Towns Developments Limited Partnership.

14. Attached hereto and marked as **Exhibit "C"** to this my Affidavit are true copies of corporate searches of these entities dated September 10, 2020.
15. Park Towns Developments Limited Partnership was formed to build a residential townhouse project behind the MEC store in North York, Ontario. At this time, what remains of that project is the sale of some final parking spots at the development and final close-out. MEC is expected to receive some *de minimis* funds through its interest in the Park Towns partnership when the townhouse development closes.

### **Cooperative Organization**

16. MEC currently has approximately 5,700,000 members each who have paid a \$5 membership fee for rights to shop at MEC and participate in governance as a cooperative member.
17. MEC is a member-owned and directed retail consumer co-operative, specializing in outdoor activity equipment and clothing. MEC supports an active outdoor lifestyle with a broad product offering across a variety of sports and activities, including hiking, climbing, cycling, running, snow and watersports, camping and travel.
18. In 2019 and 2020, MEC was named one of Canada's most trusted brands by Gustavson Brand Trust Index. In 2018, 2019 and 2020, MEC was also named as one of B.C.'s top 100 employers by MediaCorp.
19. MEC has a history of community involvement, including its "MEC All Out" program focused on connecting people to their community, free or low-cost workshops at MEC locations, and MEC races, bike meet-ups, festivals, gear swaps and club nights. MEC has also contributed approximately \$44 million since 1987 to organizations focused on conservation and outdoor recreation.
20. MEC is a key Canadian retail partner with global outdoor brands including Patagonia, The North Face, Arc'teryx, Salomon, Cannondale, Birkenstock, Black Diamond, Garmin, Osprey, Shimano, Blundstone and many more.
21. Further, MEC's private label has a history of being trusted by members for its premium quality, competitive price point and sustainability. MEC's private label includes 80 Fair Trade Certified products, the most of any Canadian retailer.

### **Assets and Operations**

22. As noted above, MEC operates as an outdoor equipment and clothing retail co-operative that sells products exclusively to its members. A lifetime membership in MEC is available to anyone for the price of \$5.
23. It currently operates online and in 22 retail locations across Canada. In total it has five stores in B.C., four in Alberta, one in Manitoba, seven in Ontario, four in Quebec and one in Nova Scotia.

24. MEC has entered into lease agreements for most of its retail stores across Canada (the "**Leases**"). The Leases are for stores located at the following locations:
- (a) Store No. 10001 - 111 East 2nd Ave, Vancouver, B.C. (the "**East 2<sup>nd</sup> Ave Store**");
  - (b) Store No. 10003 - 1450 Government St, Victoria, B.C. (the "**Victoria Store**");
  - (c) Store No. 10004 - 6121 200 St #1, Langley City, B.C. the "**Langley Store**";
  - (d) Store No. 10006 - 1876 Cooper Rd #100, Kelowna, B.C. (the "**Kelowna Store**");
  - (e) Store 11002 - 11904 104th Ave NW, Edmonton, AB (the "**Edmonton Brewery Store**");
  - (f) Store 11003 - 1624 99 Street NW, Edmonton, AB (the "**South Edmonton Store**");
  - (g) Store 11004 - 710-19587 Seton Crescent SE, Calgary, AB (the "**Calgary South Store**");
  - (h) Store 11005 - 460 Na'a CM SW, Calgary, AB (the "**Calgary North West Store**");
  - (i) Store 12001 – 201 1 Avenue S, Saskatoon, SK (the "**Saskatoon Store**");
  - (j) Store 14001 - 300 Queen St West, Toronto, ON (the "**Toronto Store**");
  - (k) Store 14004 - 61 Bryne Drive, Barrie, ON (the "**Barrie Store**");
  - (l) Store 14005 - 1051 Wellington Road, London, ON (the "**London Store**");
  - (m) Store 14007 - 10 Manitou Drive, Kitchener, ON (the "**Kitchener Store**");
  - (n) Store 15001 - 8989 de l'Acadie Boulevard, Montréal, QC (the "**Montreal Store**");
  - (o) Store 15002 - 1475 Boulevard Lebourgneuf, Québec City, QC (the "**Quebec City Store**");
  - (p) Store 15003 - 4869 Taschereau Boulevard, Greenfield Park, QC (the "**Longueuil Store**");
  - (q) Store 15005 - 2615 Boulevard Daniel-Johnson, Laval, QC (the "**Laval Store**");  
and
  - (r) Store 16001 - 1550 Granville Street, Halifax, N.S. (the "**Halifax Store**").
25. MEC also has leases for the following properties:
- (a) its Eastern Distribution Centre located at 8875 Torbram Road, Brampton, ON (the "**Eastern Distribution Centre**");

- (b) the Head Office, in Vancouver, B.C.; and
  - (c) Store 15004 - Rue Saint-Denis, Montréal, QC (the “**Saint-Denis Store**”), which has permanently closed.
26. In addition to the permanently closed Saint-Denis Store, the Saskatoon Store and the Calgary North West Store have not yet opened.
27. The profitability across the above listed stores varies considerably. In particular, the terms of the respective Leases for some of these locations have a significant impact on the profitability of these stores.
28. As of September 4, 2020, and primarily due to the Covid-19 pandemic, there was approximately \$4.6 million in rent deferrals or arrears in respect of the Leases, and MEC has agreed to rent deferral plans with some of its various landlords to repay these arrears by late 2021. Further, MEC has significant past due amounts owed to merchandise suppliers and other vendors.
29. MEC also owns the real property at some stores and other locations as follows:
- (a) Store 10002 - 212 Brooksbank Avenue, North Vancouver, B.C. (the “**North Vancouver Store**”);
  - (b) Western Distribution Centre located at 13340 76<sup>th</sup> Avenue, Surrey, B.C. (the “**Western Distribution Centre**”);
  - (c) Store 11001 - 830 10<sup>th</sup> Avenue SW, Calgary, AB (the “**10<sup>th</sup> Avenue Store**”);
  - (d) Store 13001 - 303 Portage Avenue, Winnipeg, MB (the “**Winnipeg Store**”);
  - (e) Store 14003 - 1030 Brant Street, Burlington, ON (the “**Burlington Store**”);
  - (f) Store 14006 - 784 Sheppard Avenue E, North York, ON (the “**North York Store**”); and
  - (g) the Ottawa Store.
30. Attached hereto and marked as **Exhibit “D”** to this my Affidavit are true copies of land title office searches for the above properties owned by MEC dated September 10, 2020.
31. As noted above, 131 Limited owns the parcel of land on which the parking lot for the Ottawa Store is located and MEC owns the two parcels of land for the Ottawa Store itself.

### **Employees and Senior Management**

32. 131 Limited has no employees. The directors of 131 Limited are me and Joanna Ban.
33. As of September 7, 2020, MEC has approximately 1516 employees, consisting of:

- (a) 1143 active employees;
  - (b) 176 employees who have been laid off;
  - (c) 118 employees on the Canada Emergency Wage Subsidy program; and
  - (d) 79 employees on unpaid "protected" leave.
34. As of September 10, 2020, MEC's senior management consists of:
- (a) myself, as Chief Executive Officer;
  - (b) Joanna Ban, as Chief Financial Officer;
  - (c) Nancy Blair, as Chief Transformation Officer;
  - (d) Catherine Lau, as General Counsel;
  - (e) Deb Paulsen, as Chief Human Resources Officer;
  - (f) Nicole Watt, as Chief Retail Operations Officer; and
  - (g) Charmaine Claasens, as Chief Marketing Officer,
- (collectively, the "**Management**").
35. MEC has eight directors on its Board, consisting of Judith Lynn Richardson (Chair), Matthew Robert Handford, Roderic Jardine Macdonald, Ellen Gail Pেকেles, Alison Kay Simpson, Kathy Lynne Uher, Robert Brian Wallis, and Kathryn Lee Weston. Graham Allen and Judy Martin were also selected to participate in MEC's governance as members-at-large after an interview process conducted by the Board and MEC's governance office.
36. MEC has a number of committees comprised of members of its Board and the Management, consisting of the following:
- (a) the finance and audit committee, comprising Mr. Wallis, Mr. Handford, Ms. Simpson and Ms. Weston;
  - (b) the human resources and compensation committee, comprised of Ms. Weston, Mr. Handford, Ms. Pেকেles and Ms. Uher;
  - (c) the governance committee, comprised of Mr. Macdonald, Ms. Pেকেles, Mr. Wallis and Ms. Uher;
  - (d) the nomination committee, comprised of Mr. Handford, Ms. Pেকেles, Ms. Simpson, Mr. Allen and Ms. Martin; and
  - (e) a special committee, comprised of Mr. Wallis, Ms. Richardson and Mr. Handford (the "**Special Committee**"), which was established to make recommendations to

the MEC Board on strategic alternatives, including: transactions with a view to sell all or substantially all or any portion of MEC's assets (or a merger, amalgamation or some other strategic alliance involving MEC); pursuit of organic growth; recapitalization, restructuring or reorganization; or any other strategic alternative in the best interests of MEC.

37. The Boards and the Management have been and remain engaged in the initiatives and actions set out herein. It is contemplated that many of the Petitioners' directors will continue in their roles during the CCAA proceeding, if the Petitioners' application is granted.
38. Directors to MEC's Board are elected by the members for three-year terms and ordinarily MEC's Board is comprised of nine directors.
39. On June 1, 2020, as permitted by the Registrar in British Columbia for all cooperative associations, MEC announced that its AGM (originally scheduled for June 23, 2020) would be postponed by up to six months due to the impact of COVID-19 and to allow MEC to focus on acute, urgent and time sensitive challenges impacting MEC's business. The AGM is now currently scheduled to be held on December 10, 2020.
40. The Petitioners have arranged and funded standard director and officer liability insurance.

#### **Recent Market Circumstances**

41. Since 2015, MEC embarked on a significant growth plan, highlighted by six new stores (the Kelowna Store, the South Edmonton Store, the South Calgary Store, the North York Store, the Kitchener Store and the Laval Store) and two new relocated stores in Vancouver and Toronto, a new head office, new Eastern distribution centre as well as significant investments in online retail resources such as the back-end enterprise resource planning (ERP) system. There have also been two additional new store commitments (Calgary North West and Saskatoon) which have yet to be opened.
42. This growth plan was successful from a market expansion and sales perspective (top line growth of over \$98 million or 27%), but it also resulted in a higher fixed cost structure and increased debt levels.
43. These dynamics resulted in a challenging fiscal 2019 underscored by a reduction in year-over-year EBITDA from the inflated cost structure and certain under-performing stores and continued liquidity tightness due to capex investment and excess merchandise purchases.
44. As a result, the MEC Board brought in a new management team to spearhead a transformation and focus on cost reduction and a return to profitability. This pre-Covid-19 transformation plan included focusing on the member experience, improving merchandise assortment, reducing annual costs through efficiencies in technology spend, supply chain improvements and operations. In addition, efforts were initiated to

find a subtenant for the Head Office with the goal of moving to a more appropriate space for MEC's needs.

45. During the Covid-19 period of March to September 2020, while there was a considerable increase in online sales in that period (increasing by 86% compared to last year), MEC experienced a reduction in sales of \$90 million compared to last year, and all MEC stores were closed as of March 18, 2020.
46. While MEC has re-opened many of its stores, five remain closed as a result of Covid-19. The stores that have re-opened are operating at a reduced sales volume.

## ASSETS AND LIABILITIES

### Recent Financial Statements

47. Attached hereto and marked as **Exhibit "E"** to this my Affidavit are true copies of MEC's 2019 and 2020 Financial Statements.

### Net Losses

48. MEC's total normalized losses since 2015 were approximately \$80 million. In 2017 and 2018, real estate sale transactions shored up MEC's finances and generated approximately \$49 million in capital gains. The net earnings and losses from 2017 to 2020 reflected capital gains from these transactions (\$4,413,000, \$26,696,000, \$15,546,000 and \$1,867,000 respectively) offsetting MEC's operating losses.
49. In the last five years, MEC's reported net earnings or losses can be summarized as follows:

Fiscal Year	Net Earnings or Operating Loss (in thousands)
December 2014 to December 2015	53
December 2015 to February 2017	(4,652) Normalized (9,065)
February 2017 to February 2018	11,745 Normalized (14,951)
February 2018 to February 2019	(15,893) Normalized (31,439)
February 2019 to February 2020	(22,668) Normalized (24,535)



## Assets

50. The Petitioners' assets consist primarily of owned and leased real property, equipment, inventory, accounts receivable, and intangible assets including certain trademarks on trade names, membership lists and goodwill. As at February 23, 2020, the Petitioners recorded a book value of \$388,994,000 in current and long-term assets, which included:
- (a) \$114,124,000 in current assets, mainly comprised of inventory, accounts receivable, and prepaids and deposits;
  - (b) \$262,306,000 in property and equipment; and
  - (c) \$12,564,000 in intangible assets.

## Liabilities

51. The Petitioners' liabilities are comprised primarily of amounts owed to suppliers, governments and employees, the Credit Facility (defined below), capital lease obligations and deferred lease liabilities, and gift cards and provision for sales returns.
52. The Petitioners' current and long-term liabilities, as reported in its February 2020 Financial Statements, totalled \$229,568,000. This amount consists of:
- (a) \$156,205,000 in current liabilities, including \$55,001,000 for amounts owing to suppliers, governments and employees, \$81,055,000 under the Credit Facility, and \$15,221,000 in relation to gift cards and sales returns; and
  - (b) \$73,363,000 in long-term liabilities, including \$35,556,000 in relation to capital lease obligations, and \$37,419,000 for deferred lease liabilities.
53. The Petitioners' financial obligations are discussed in further detail below. Capitalized terms not otherwise defined take their meaning from those financial agreements.

## The Credit Facility

54. On August 3, 2017, MEC, as borrower, and 131 Limited, as guarantor, entered into a credit agreement (the "**Credit Agreement**") with Royal Bank of Canada ("**RBC**"), as agent (RBC in such capacity, the "**Agent**"), lead arranger and sole bookrunner and RBC, Canadian Imperial Bank of Commerce ("**CIBC**") and the Toronto-Dominion Bank ("**TD**" with RBC and CIBC, the "**Lenders**") as Lenders for a senior secured asset-based revolving credit facility (the "**Credit Facility**"). Attached hereto and marked as **Exhibit "F"** to this my Affidavit is a true copy of the Credit Agreement for the Credit Facility.
55. The Credit Facility allowed MEC to borrow up to a maximum of \$130,000,000 with an additional \$20,000,000 accordion, and had a maturity date of August 3, 2020. The Credit Facility availability is determined by the borrowing base, being eligible inventory, credit card receivables, and a real estate component, less inventory reserves and relevant liabilities, and is reduced by committed loans drawn on the facility.

56. The Credit Agreement was amended by an amending agreement dated January 31, 2020 (the "**Amended Credit Agreement**"), which amended certain terms of the Credit Agreement. Attached hereto and marked as **Exhibit "G"** to this my Affidavit is a true copy of the Amended Credit Agreement.
57. The Amended Credit Agreement was further amended by an amending and waiver agreement dated June 18, 2020 (the "**Second Amended Credit Agreement**"), which amended certain terms of the Amended Credit Agreement and the Credit Agreement. Attached hereto and marked as **Exhibit "H"** to this my Affidavit is a true copy of the Second Amended Credit Agreement.
58. As noted above, the term of the Credit Agreement, as amended by the Amended Credit Agreement and the Second Amended Credit Agreement, was set to expire on August 3, 2020.
59. Accordingly, the Second Amended Credit Agreement was further amended by a third amending and waiver agreement on July 31, 2020 (the "**Third Amended Credit Agreement**", which is collectively referred to herein with the Credit Agreement, the Amended Credit Agreement, and the Second Amended Credit Agreement, as the "**Updated Credit Agreement**"), which, among other things, extended the maturity date of the Credit Facility to September 30, 2020, reduced the borrowing limit under the facility from \$130 million to \$110 million, and removed the \$20 million accordion. Attached hereto and marked as **Exhibit "I"** to this my Affidavit is a true copy of the Third Amended Credit Agreement.
60. As of September 11, 2020, approximately \$74 million has been borrowed under the Credit Facility, leaving approximately \$19 million available under the borrowing base.
61. MEC is unable to repay the Credit Facility by the maturity date of September 30, 2020.
62. Security for MEC's obligations under the Updated Credit Agreement include a first priority general security interest over all present and after-acquired personal property, and mortgages on eligible real property (the "**Lenders' Security**"). Attached hereto and marked as **Exhibit "J"** to this my Affidavit is a list summary of the Lenders' Security.
63. Pursuant to the terms of the Credit Agreement, as continued to the Updated Credit Agreement, 131 Limited provided a guarantee of MEC's obligations in respect of the Credit Facility in favour of the Lenders (the "**Guarantee**").
64. The Lenders have confirmed their support for the filing of this CCAA proceeding and the relief sought herein, and as discussed further below, have agreed to provide interim financing to the Petitioners to allow them to maintain operations and complete the restructuring. The Lenders' support is premised on the Petitioners seeking approval of the restructuring transaction described herein, and that transaction being sufficient to see the Lenders paid in full.

### Other Liabilities/Security

65. The Petitioners have other secured creditors with security registrations (mainly relating to equipment such as printers and computers, as well as several vehicles) in various personal property registries across the country. Attached hereto and marked as **Exhibit "K"** to this my Affidavit are true copies of personal property registry searches for the Petitioners in B.C., Alberta, Manitoba, Ontario, Quebec and Nova Scotia dated September 10, 2020.
66. Further, MEC owes amounts to trade creditors, suppliers, landlords, and other creditors.

### **Membership Holdings**

67. The authorized capital of MEC is an unlimited number of shares with a par value of \$5.00 per share. Each new member is required to purchase one share for cash. Each year in which they make purchases at MEC, and in which MEC declares a patronage return, their portion of the return is applied to purchase patronage shares on their behalf in proportion to the amount spent by them in purchasing goods or services from MEC, so that their overall share balance will grow.
68. Patronage returns have historically been an element of MEC's business model. As permitted by the *Cooperative Association Act* and MEC's consolidated Memorandum & Rules (the "**Rules**"), the MEC Board may allocate some or all of MEC's annual surplus to its membership, in proportion to each member's purchases during the year. The Rules require that this return be converted into additional shares or patronage shares at MEC.
69. Since this portion has been credited to members, MEC is not subject to income taxes on the amount of the patronage return.
70. Members have also benefited from share redemptions. The Rules allow the MEC Board to decide to redeem all or part of any member's patronage share balance, and pay this amount in money or any other form. Members may also apply to have all of their shares but one bought back. Otherwise, the shares cannot be sold or traded.
71. As through 2017, MEC has issued 16 share redemptions and returned \$35 million to its members.
72. Since 2017, as MEC has not had surplus profits, MEC has not issued any share redemptions, aside from where a member has requested their shares be redeemed or when MEC was notified of a member's death. As noted above, although MEC reported a profit in 2018, that profit was the result of real estate sales, not from retail business performance.

## CCAA RELIEF AND THE INSOLVENCY OF THE PETITIONERS

### Circumstances Preceding CCAA Filing

73. The Petitioners are currently in the midst of a liquidity crisis, primarily due to difficult retail conditions, as exacerbated by the Covid-19 pandemic, all of which have made it necessary for the Petitioners to refinance, downsize operations, conduct a review of strategic alternatives including an assessment of refinancing and/or recapitalization options as well as a potential sale of the MEC business or a combination thereof. In addition, the term of the Credit Agreement, was set to expire on August 3, 2020 before being extended to September 30, 2020. These factors, together with MEC's ongoing lease, contractual and trade creditor obligations, have necessitated a restructuring of the Petitioners' affairs.

### Statutory Requirements of the CCAA

74. The Petitioners are entities to which the CCAA applies and have debts in excess of \$5,000,000.
75. As set out above, and as shown in the Petitioners' financial statements, on a consolidated basis, the Petitioners are in the midst of a liquidity crisis. They are (on a consolidated basis) insolvent on a cash flow basis and will shortly be unable to meet their obligations as they generally come due.
76. Alvarez & Marsal Canada Inc. (the "**Proposed Monitor**") is an affiliate of the Financial Advisor to the Petitioners (as defined below), and is prepared to act as Court-appointed Monitor should an Initial Order be obtained. The Petitioners in conjunction with the Proposed Monitor have provided a 13-week cash flow statement (the "**Cash Flow Statement**"), which is attached hereto and marked as **Exhibit "L"** to this my Affidavit. Although the Cash Flow Statement is the best forecast currently available, there is an expectation that there will be some changes and/or adjustments as the path forward becomes clearer.
77. I have reviewed the Cash Flow Statement with the Proposed Monitor and believe it is accurate. As set out in the Cash Flow Statement, the Petitioners are forecasted to require approximately \$89 million in order to meet their obligations through to the end of the Cash Flow Statement period.
78. The Petitioners have formulated the outline of a restructuring plan designed to allow them to continue their business. Specifically, during the course of these proceedings, the Petitioners intend to:
- (a) immediately stabilize their cash flows and operations;
  - (b) develop a strategy that will address the liquidity issues faced by the Petitioners that will generate sufficient revenue to sustain themselves through the CCAA process;

- (c) continue the Petitioners' present efforts to restructure and streamline operations;
- (d) obtain a Sale Approval and Vesting Order (the "**SAVO**") to approve a transaction with the successful bidder selected by the MEC Board in the sale and investment solicitation process ("**SISP**") the Petitioners concluded on August 28, 2020, which will provide for the repayment to the Lenders and to allow MEC to emerge as a better capitalized operation with as little disruption as practicable; and
- (e) establish an efficient claims process, which the Petitioners intend to address at a future hearing, by which all claims against the Petitioners can be identified and resolved with a view to formulating a plan of compromise and arrangement for presentation to their creditors.

### **Stay of Proceedings**

79. A stay of proceedings is essential to maintaining the status quo in order to preserve the value of the Petitioners' business and to ensure that no creditor of the Petitioners receives preferential treatment relative to other creditors. Such a stay would provide the Petitioners with the opportunity to complete the transaction resulting from the SISP, obtain the SAVO and prepare a CCAA plan of arrangement.

### **Interim Financing**

80. As noted above, during these CCAA proceedings, it is anticipated that the Petitioners will require incremental financing that will see aggregate indebtedness approach \$89 million (before letters of credit exposure).
81. Without interim financing and the cooperation of the Lenders, the Petitioners will not have sufficient cash on hand or receipts generated to continue operating and complete the proposed transaction with the successful bidder. Without continued operations as a major retail operation, the value of the Petitioners' assets would significantly diminish and many stakeholders, including significant numbers of MEC's employees, suppliers, landlord and customers, would be adversely affected.
82. In order to support certain near-term liquidity requirements, and on the premise that the proposed transaction to sell MEC's business as a going concern will be completed, the Lenders have agreed to act as interim lenders (the "**Interim Lenders**") during these CCAA proceedings, and to provide an interim financing facility (the "**Interim Financing Facility**") under a restructuring support agreement between the Petitioners and the Lenders, among others, dated as of September 11, 2020 (the "**Restructuring Support Agreement**") and a fourth amending agreement to the Updated Credit Agreement (the "**Fourth Amending Agreement**", and together with the Restructuring Support Agreement, the "**Interim Financing Credit Agreement**"). Attached as **Exhibit "M"** to this my Affidavit is a true copy of the Interim Financing Credit Agreement, with only commercially sensitive information redacted.

83. It is a condition of the Interim Financing Credit Agreement that advances made to the Petitioners be secured by a court-ordered security interest, lien and charge over all of the assets and undertakings of the Petitioners (the “**Interim Financing Charge**”).
84. The key financial terms of the Interim Financing Credit Agreement include:
- (a) subject to a calculation of borrowing availability, a maximum principal amount of \$100 million under the combined Updated Credit Agreement and the Interim Financing Facility, to be funded in progressive advances on an as-needed basis;
  - (b) an initial advance of \$15 million (the “**Initial Advance**”) will be funded on the date that the conditions precedent to funding the Initial Advance, described below, are satisfied or waived, which is anticipated to occur prior to the Comeback Hearing, with subsequent advances provided following drawdown requests, subject to approval by the Monitor;
  - (c) interest is payable on the outstanding principal amount at the applicable rate per annum for the Prime Rate, BA Rate and LIBO Rate Loans, any unused line fee, and the Default Rate for past due payments (all as defined in the Updated Credit Agreement), plus a rate of 2% per annum, payable on the Maturity Date (defined below);
  - (d) an amendment fee of \$250,000 shall be earned on the execution of the Interim Financing Credit Agreement and paid on the date of CCAA Court approval of the Interim Financing Credit Agreement;
  - (e) the Petitioners shall reimburse the Interim Lenders for all reasonable and documented expenses in connection with the Interim Financing Facility and Interim Financing Credit Agreement; and
  - (f) the Credit Facility will continue to operate in accordance with its terms, and post-filing receipts of the Petitioners will be applied to repay the existing indebtedness under the Updated Credit Agreement. The Interim Financing Facility will not be used to pay any pre-filing obligations of the Petitioners.
85. In addition to the above financial terms, the Interim Financing Credit Agreement provides for a maturity date that is the earlier of (i) November 30, 2020; (ii) the completion of a Transaction, which in aggregate is for all or substantially all of the Petitioners’ assets, is sufficient to repay the Lenders in full, and is approved by the CCAA Court; and (iii) at the Agent and Lenders’ option upon the occurrence of any Event of Default (other than the commencement of these CCAA proceedings) (the “**Maturity Date**”).
86. Further, the Interim Financing Credit Agreement contains, among others, the following key provisions:
- (a) the Petitioners must meet certain conditions precedent to funding the Initial Advance, which include the Petitioners obtaining the Initial Order;

- (b) the parties agree to a budget in accordance with the Cash Flow Statement under the Interim Financing Credit Agreement (the “**Interim Financing Budget**”), which the Petitioners are required to comply with, within the parameters of agreed variances;
  - (c) in addition to the agreed uses of the Interim Financing Facility for normal operating purposes and as set out in the Interim Financing Budget, the Petitioners shall use advances under the Interim Financing Facility to:
    - (i) pay (i) the reasonable and documented legal fees and expenses of the Interim Lenders and (ii) the reasonable and documented fees and expenses of the Monitor and its legal counsel; and
    - (ii) pay the fees and interest owing to the Interim Lenders under the Interim Financing Credit Agreement.
  - (d) it is an Event of Default under the Interim Financing Credit Agreement to, among other things, fail to obtain court approval of a Transaction that is satisfactory to the Interim Lenders, pay amounts when due under the Interim Financing Credit Agreement, and fail to comply with the Interim Financing Budget on the terms as set out in the Interim Financing Credit Agreement;
  - (e) the Interim Financing Charge will not secure any obligations other than post-filing obligations; and
  - (f) as discussed in further detail below, the Petitioners must seek and obtain the Interim Financing Charge.
87. Further, the Lenders and the Petitioners do not intend to seek priority over certain purchase money security interests with the Interim Financing Charge, and will carve out the collateral that is subject to such encumbrances from that charge (the “**Carve Out**”). Generally, the Carve Out is with respect to specific equipment that does not form part of the Lenders’ Security under the Updated Credit Agreement.
88. The Petitioners and their financial and legal advisors have considered different financing options, and in consultation with the MEC Board, have determined it would be very difficult to obtain the requisite financing for these CCAA proceedings with another third-party lender, as opposed to the Lenders, as any such financing would likely have to involve a priming of the Lenders’ security position, security subordinate to the Lenders’ Security or on an unsecured basis, all of which would likely be problematic or not feasible. Further, the Petitioners have been working on a very tight time-frame, given the timeline to complete a transaction and restructure their business.
89. Accordingly, the Petitioners have focused efforts on negotiating interim financing with the Lenders, which has resulted in the Interim Financing Credit Agreement. As there are no other significant secured creditors, the Petitioners believe no stakeholder is prejudiced by the facility.

90. As set out in the Cash Flow Statement, the Petitioners anticipate that approximately \$15 million will be required for their operations and restructuring efforts from the date of the Initial Order to the date of the Comeback Hearing. The Petitioners believe this amount is reasonable given what is required to operate MEC in the ordinary course, and to fund the various costs of the restructuring and SAVO process during that period.
91. The Petitioners anticipate returning to Court for the Comeback Hearing on or about September 24, 2020, to seek approval to request subsequent advances under the Interim Financing Facility, to obtain the SAVO to approve the transaction with the successful bidder, and for such further and other relief as may be requested.

### **Charges on Assets, Properties and Undertakings of the Petitioners**

92. It is contemplated that the Proposed Monitor, counsel to the Proposed Monitor, and counsel to the Petitioners will be granted a first-priority Court-ordered charge on the assets, property and undertakings of the Petitioners in priority to all other charges up to a maximum amount of \$1.0 million (the “**Administration Charge**”).
93. The Petitioners require the expertise, knowledge and continuing participation of the above professionals in order to complete a successful restructuring. The Petitioners believe that the Administration Charge is necessary to ensure their important continued participation in this process, and is fair and reasonable in the circumstances.
94. In addition, it is contemplated that the Interim Lenders be granted, in respect of the Interim Financing Credit Agreement and Interim Financing Facility provided for therein, the Interim Financing Charge, being a fourth-priority Court-ordered charge on the assets, property and undertakings of the Petitioners in priority to all other charges other than the Administration Charge, the D&O Charge, the Key Employee Charge, and the Carve Out, up to a maximum amount of \$15 million for the initial ten day stay period.
95. Given the Petitioners’ urgent need for funding during the initial period of CCAA proceedings, in large part to pay out the Petitioners’ obligations to the Lenders and other essential creditors and contractors, the Petitioners believe that the Interim Financing Charge as requested is fair and reasonable in the circumstances.
96. It is also contemplated that the Petitioners’ directors and officers will be granted a second-priority Court-ordered charge on the assets, property and undertakings of the Petitioners in priority to all other charges other than the Administration Charge, up to a maximum amount of \$4.5 million (the “**D&O Charge**”).
97. A successful restructuring of the Petitioners’ affairs requires the continued participation of the Petitioners’ directors and officers. These individuals have specialized expertise, decades of combined experience with the Petitioners, and key relationships with the Petitioners’ stakeholders. The directors and officers have knowledge that cannot be easily replaced or replicated. The Petitioners therefore believe the D&O Charge is fair and reasonable in the circumstances.



98. Further, several of the Petitioners' directors and officers have expressed the need for certainty with respect to potential personal liability if they continue in their current capacities for the benefit of the Petitioners' stakeholders during the CCAA proceedings.
99. The Petitioners maintain an insurance policy in respect of the potential liability of directors and officers, the limit of which is \$10,000,000 for all claims. The D&O Charge is not intended to duplicate insurance coverage, but only to apply in the event that coverage limitations or exclusions were to become an issue.
100. Finally, with respect to Court-ordered charges, it is contemplated that at the Comeback Hearing, the Petitioners will seek a proposed Key Employee Retention Plan ("**KERP**"), together with an order that the beneficiaries be granted a third-priority Court-ordered charge on the assets, property and undertakings of the Petitioners in priority to all other charges other than the Administration Charge and the D&O Charge (the "**Key Employee Charge**").

#### **Proposed KERP**

101. Without the retention of certain key employees, the Petitioners' ability to successfully maintain their business operations, complete restructuring and preserve asset value while it restructures would be seriously compromised.
102. In July and September 2020, the MEC Board approved retention agreements (the "**Retention Agreements**") for a limited number of key management employees (less than 14). Copies of the Retention Agreements are attached as an Exhibit to my Confidential Affidavit sworn 13/Sep/2020. The total payable under the Retention Agreements in aggregate, is \$778,000.
103. The Retention Agreements include provision for payment of retention compensation upon the earlier of certain dates, including a sale of all or substantially all of MEC's assets (or the merger, amalgamation or consolidation of MEC with another entity), the employee's termination without cause, or by certain dates in December 2020, depending on the employee.
104. The Retention Agreements also include confidentiality provisions with respect to the content of the same. Without the key employees subject to the proposed KERP and the Retention Agreements, the Petitioners would likely not be able to obtain the necessary management experience to maintain business operations at a satisfactory level and continue the restructuring.
105. It is not certain that all executives offered Retention Agreements will remain through to conclusion of the restructuring.
106. I am advised that the Proposed Monitor has reviewed the terms of the Retention Agreements and has concluded that the terms and the proposed Key Employee Charge are reasonable in the circumstances and customary in similar CCAA proceedings. The

Lenders have confirmed they are agreeable to the Retention Agreements and proposed Key Employee Charge as well.

107. The Petitioners are hopeful that a CCAA plan will be approved and implemented promptly, and that these proceedings can be successfully concluded as soon as possible. Accordingly, when the Petitioners seek Court-approval of the KERP at the Comeback Hearing, they will also seek approval of the Key Employee Charge to protect the beneficiaries of the Retention Agreements.

#### **Payment of Outstanding Accrued Vacation and Banked Overtime Pay**

108. MEC has calculated the amounts of accrued but unpaid vacation pay and required remittances for its employees up to August 29, 2020, as well as total banked overtime owing for its employees up to August 29, 2020. The total amounts for MEC's employees as of that date was \$1,701,608.43 for accrued but unpaid vacation pay and \$39,450.25 for banked overtime. On September 11, 2020, in preparation for the filing of this Petition, MEC initiated payment and distribution of outstanding accrued but unpaid vacation pay and banked overtime to all employees. MEC intends to continue to process such payments after the Initial Order is granted as necessary. The Proposed Monitor is aware of the payment, the Purchaser (defined below) has confirmed its support for this plan, and the Lenders are aware of this plan.
109. I understand that in some provinces where MEC operates, there may be deemed trusts or deemed priority for unpaid wages including vacation pay. Further, I understand that personal liability on directors and officers can be imposed for accrued but unpaid vacation pay, and since the Petitioners need to retain MEC's directors and senior management to complete their restructuring efforts, removing that potential personal liability is important.

#### **SISP**

110. By an engagement letter dated February 10, 2020, (the "**Engagement**"), the Petitioners engaged Alvarez and Marsal Canada Securities ULC (the "**Financial Advisor**") initially to assist in a review of strategic alternatives, provide assistance to obtain and negotiate new financing and, once the impact of Covid-19 became apparent, to provide assistance with liquidity management to maintain operations during the Covid-19 period. Attached hereto and marked as **Exhibit "N"** to this my Affidavit is a true copy of the engagement letter.
111. In accordance with the Engagement, the Financial Advisor initially attempted to identify a satisfactory refinancing alternative, by, among other things, contacting numerous financial institutions and government entities. That effort was occurring concurrent with the outbreak of COVID-19 and its significant negative impact on both MEC's business and the retail sector in general. In this regard, the Financial Advisor:
- (a) established a data room;

- (b) contacted 66 potential lenders, including traditional, non-bank and alternative lenders;
  - (c) entered into non-disclosure agreements with 46 of these lenders and provided access to the data room to those lenders; and
  - (d) received five term sheets for refinancing, none of which in isolation provided for a complete refinancing.
112. Despite the significant efforts to obtain a suitable refinancing source that would allow MEC to meet its financing needs, and as noted above, none of the term sheets received would have achieved that result.
113. Given the results of that refinancing process, by a further engagement letter signed on June 10, 2020, the Petitioners and the Financial Advisor then expanded the original Engagement to include, in addition to assistance with the Petitioners' attempts to continue to identify potential viable refinancing options, the initiation of an investment or sale initiatives for some or all of their businesses and assets to assist in rectifying the Petitioners' financial predicament as set out herein. Attached hereto and marked as **Exhibit "O"** to this my Affidavit is a true copy of this further engagement letter.
114. The Engagement does not include any success fee nor is the compensation based upon the pricing obtained in any transaction.
115. In this regard, the Financial Advisor:
- (a) established a data room;
  - (b) identified potential interested purchasers and distributed an initial "teaser" letter to 158 parties;
  - (c) entered into Confidentiality Agreements with 39 interested parties;
  - (d) distributed a process letter on June 30, 2020;
  - (e) requested Non-Binding Indicative Letters of Intent (the "**LOIs**") to be received by July 15, 2020;
  - (f) received nine LOIs and reviewed and conducted due diligence on each parties' LOI; and
  - (e) met with the Special Committee to review and discuss the LOIs.
116. The Financial Advisor presented the LOIs to the Special Committee on July 16, 2020, and provided a fulsome review of the LOIs on July 21, 2020, as well as its recommendations of the bidders to move onto the second phase ("**Phase 2**") of the SISP process.

117. A meeting of the MEC Board was held on July 24, 2020 to consider the recommendation of the Special Committee with respect to the LOIs.
118. On August 6, 2020, the Financial Advisor issued Phase 2 process letters to the five recommended bidders who had submitted LOIs, formally advancing these bidders into Phase 2. During Phase 2, these five bidders continued extensive diligence with the Financing Advisor and MEC, participated in management meetings and engaged legal, financing and other advisor to assist in their review of the opportunity. The Phase 2 process letter established a final bid deadline of August 28, 2020 (the "**Final Bid Deadline**").
119. The Petitioners received four bids by the Final Bid Deadline and the Special Committee and the Financial Advisor reviewed each of them. On September 4, 2020, the MEC Board, with the input of their advisors, identified Kingswood Capital Management LP ("**Kingswood**") as the successful bidder and negotiations ensued to finalize a form of purchase and sale agreement.
120. In the view of the Petitioners and the Financial Advisor, the SISP carried out by the Petitioners was extensive and properly canvassed the market to identify the best and highest value for the Business. The SISP was run prior to the filing of these proceedings, with the support of the Lenders, to maintain stability in the Business and to promote a going concern solution.
121. In addition to representing the highest consideration and reflecting the lowest closing risks, Kingswood's bid included the other advantages discussed below in paragraph 125.
122. On September 11, 2020, the Petitioners entered into an asset purchase and sale agreement (the "**Sale Agreement**") with Kingswood (the "**Purchaser**"), under which agreement the Purchaser (through a Canadian-based subsidiary) agreed to purchase and the Petitioners agreed to sell, the Petitioners' right, title, benefit and interest in to and under, or relating to, the assets, property and undertaking owned or used or held for use by the Petitioners (the "**Purchased Assets**") in connection with the business and operations of MEC (the "**Business**"), as applicable, but excluding certain assets, liabilities, employees, contracts and real estate properties leased by MEC, as specified in or determined pursuant to the Sale Agreement (the "**Excluded Assets**"). The Sale Agreement is conditional on court approval through this proceeding. Attached hereto and marked as **Exhibit "P"** to this my Affidavit is a true copy of the Sale Agreement, with only the commercially sensitive terms redacted. Attached hereto and marked as **Exhibit "Q"** to this my Affidavit are true copies of the schedules to the Sale Agreement, with only the commercially sensitive terms redacted.
123. As part of the Sale Agreement, the Petitioners and the Purchaser also entered into an escrow agreement dated September 11, 2020 (the "**Escrow Agreement**") and a transition services agreement that will be executed on the closing of the Sale Agreement (the "**Transition Services Agreement**"). Attached hereto and marked as **Exhibit "R"** to

this my Affidavit is a true copy of the Escrow Agreement, with only the commercially sensitive terms redacted.

124. Some of the key aims and elements of the Sale Agreement (along with the Escrow Agreement and the Transition Services Agreement), include the following:
- (a) the Purchaser will continue to operate the Business as a going concern under a similar name to MEC and will maintain the goodwill of the retail business;
  - (b) the Purchased Assets comprise almost all of the assets currently used by MEC for the Business;
  - (c) the Purchaser will retain at least 75% of the active employees of MEC, and will acquire, or assume the leases for, at least 17 of MEC's retail locations;
  - (d) the Purchaser will assume liabilities including with respect to warranties, existing gift cards, and employees who accept offers of employment;
  - (e) in order to protect goodwill with existing suppliers and contractors, the Purchaser will assume liability for payments to certain inventory and other key vendors and suppliers and will seek assignment of certain contracts. The liabilities and contracts that the Purchaser will assume will be confirmed by the Purchaser through a process set out in the Sale Agreement; and
  - (f) the Sale Agreement is not conditional on any financing or third-party approvals.
125. Significantly, the Sale Agreement is for a price that will repay the Lenders in full, will maximize the ongoing number of operating stores and retention of a majority number of employees, and is expected to leave the Petitioners with additional funds to support a CCAA plan and/or claims process for a distribution to unsecured creditors.
126. Under the Sale Agreement, the Petitioners and the Purchaser will not seek the assignment of three of the Leases, being the Calgary North West Store Lease, the Saskatoon Store Lease, and the Saint-Denis Store Lease. These Leases relate to future store sites not yet opened or, in the case of the Saint-Denis Store Lease, a store that was permanently closed by MEC, and are expected to be disclaimed by the Petitioners because they are not included in the Sale Agreement and such disclaimers are required to allow a successful CCAA plan.
127. If the Petitioners receive approval from the Proposed Monitor (once appointed as Monitor), the Petitioners intend to serve notices of disclaimer to the landlords for those Leases immediately after the hearing of the Initial Order.
128. The Purchaser supports the initiation of these CCAA proceedings to effect the Sale Agreement.
129. It is the Petitioners' view that the SISP was thorough and that it canvassed the market broadly. The transaction obtained through that process is acceptable to the MEC Board

and the Lenders, and will result in the repayment in full of the Lenders, continued employment for a majority of MEC's employees, an ongoing tenant for most of MEC's landlords, and a continued customer for suppliers.

130. As noted above, at the Comeback Hearing, the Petitioners anticipate requesting that this Court confirm the Engagement and approve the transaction resulting from the SISP, while giving the Financial Advisor a fifth priority charge with respect to their fees.

#### **Payments during the CCAA Proceedings**

131. As noted above, the Sale Agreement includes the Purchaser assuming the obligation to pay certain pre-filing inventory suppliers and other key trade creditors.
132. In addition, an inability to keep trade accounts and contracts current would prejudice the Petitioners' operations, decrease or limit revenue, and may result in unwanted interruptions in sales. Therefore, the Petitioners seek authorization, subject to review by the Proposed Monitor (once appointed as Monitor), to pay certain third party creditors for having supplied pre-filing goods and services in the ordinary course of the Petitioners' business, as reviewed and approved by the Proposed Monitor. The Petitioners should also be authorized to pay essential post-filing trade accounts.
133. Any such anticipated payments would relate to merchandise suppliers, contract operators, and other essential parties necessary to maintain operations.

#### **Position of Secured Creditors**

134. These CCAA proceedings and the intended transaction will see the indebtedness to the Lenders under the Updated Credit Agreement, together with all amounts advanced under the Interim Financing Facility, paid out in full upon the closing of the Sale Agreement. I do verily believe the Lenders support the Petitioners' proposed CCAA filing and the Charges as proposed herein given this premise.

#### **Monitor**

135. I believe that the Proposed Monitor has acted as a monitor in this and other Canadian jurisdictions, and is qualified and competent to act as the Monitor of the Petitioners. The Proposed Monitor has advised the Petitioners that it is willing to so act as Monitor, if appointed. Attached hereto and marked as **Exhibit "S"** to this my Affidavit is a true copy of the Proposed Monitor's signed form of consent to act as the Monitor.

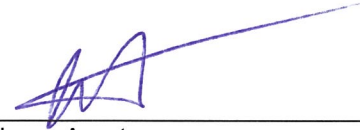
#### **CONCLUSION AND RELIEF SOUGHT**

136. I swear this Affidavit in support of the granting of an Initial Order for the Petitioners under the CCAA, including a stay of proceedings, for the purposes of providing the Petitioners with an opportunity to restructure their affairs, including by completing the Sale Agreement, allowing them to develop a plan of arrangement for the benefit of their creditors.

137. The Petitioners require the relief sought on an urgent basis, as absent these proceedings, they will have very little funds to meet their current and upcoming financial obligations. Without the stay of proceedings and other relief provided by the CCAA, the Petitioners will not be able to repay the Credit Facility by the Maturity Date, and complete the restructuring necessary to improve their financial position, to the benefit of all stakeholders.

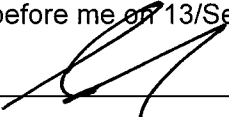
AFFIRMED BEFORE ME at Vancouver, )  
British Columbia, on 13/Sep/2020. )

  
\_\_\_\_\_  
A Commissioner for taking )  
Affidavits for British Columbia )

  
\_\_\_\_\_  
Philippe Arrata

**SCOTT BOUCHER**  
*BARRISTER & SOLICITOR*  
NORTON ROSE FULBRIGHT CANADA LLP  
SUITE 1800 - 510 WEST GEORGIA STREET  
VANCOUVER, B.C. V6B 0M3  
(604) 641-4920

This is **Exhibit "A"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia





### BC Registry Services

### Selection List

For: [ PK77494 ] [ NORTON ROSE FULBRIGHT CANADA L ]

Sep 10, 2020

09:13:05 AM

Main Menu Return Page Back Page Forward Search Again Help ?

Folio: [ ] Submit Reset BC OnLine Mailbox

CS05 - MAKE A SELECTION....NO MORE COMPANIES AVAILABLE

### Select an Entity

Entity Name	Type	Number
<input checked="" type="radio"/> MOUNTAIN EQUIPMENT CO-OPERATIVE	CP	0000852

Submit Reset

Main Menu Return [ ] [ ] [ ] Help ?

### Search Again

- Active, Co-ops, and Miscellaneous Entities
- Historical, Co-ops, and Miscellaneous Entities

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE Search Again



### BC Registry Services

### Details

For: [ PK77494 ] [ NORTON ROSE FULBRIGHT CANADA L ]

Sep 10, 2020

09:13:59 AM

Folio:

CS73 - CLICK APPROPRIATE BUTTON FOR MORE INFORMATION  
COOPERATIVE ASSOCIATION

Name: MOUNTAIN EQUIPMENT CO-OPERATIVE

Incorporation No: CP -0000852

Incorporation Date: 02 AUG., 1971

Last Annual Report Date: 20 JUN., 2019

Nbr of Principals: 8

In Liq: NO Receiver: NO

Community Service Assoc: NO

Registered Office: 1077 GREAT NORTHERN WAY  
VANCOUVER BC  
V5T 1E1

Records Office:



## Rechercher une entreprise au registre

État des informations

Administrateurs, dirigeants  
et fondé de pouvoir

Établissements

Index des documents

Index des noms

Historique



## État de renseignements d'une personne morale au registre des entreprises

[Retour aux résultats](#)

Renseignements en date du 2020-09-10 12:49:46

## État des informations

## Identification de l'entreprise

Numéro d'entreprise du Québec (NEQ)	1161097184
Nom	COOPÉRATIVE MOUNTAIN EQUIPMENT
Version du nom dans une autre langue	MOUNTAIN EQUIPMENT CO-OPERATIVE

## Adresse du domicile

Adresse	1077 . Great Northern Way Vancouver BC V5T1E1 Canada
---------	--

## Adresse du domicile élu

<b>Nom de l'entreprise</b>	Mountain Equipment Co-operative
<b>Nom de la personne physique</b>	
Nom de famille	Lau
Prénom	Catherine

Adresse	1077 RD Great Northern Way Vancouver BC V5T1E1 Canada
---------	---

## Immatriculation

Date d'immatriculation	2002-10-18
Statut	Immatriculée
Date de mise à jour du statut	2002-10-18
Date de fin d'existence prévue	Aucune date de fin d'existence n'est déclarée au registre.

## Forme juridique

Forme juridique	Coopérative
Date de la constitution	1971-08-02 Constitution
Régime constitutif	Autre loi étrangère
Régime courant	Autre loi canadienne

## Dates des mises à jour

Date de mise à jour de l'état de renseignements	2020-08-11
Date de la dernière déclaration de mise à jour annuelle	2020-08-11 2020
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2020	2020-09-30
Date de fin de la période de production de la déclaration de mise à jour annuelle de 2019	2019-08-26

## Faillite

L'entreprise n'est pas en faillite.

## Fusion et scission

Aucune fusion ou scission n'a été déclarée.

#### Continuation et autre transformation

Aucune continuation ou autre transformation n'a été déclarée.

#### Liquidation ou dissolution

Aucune intention de liquidation ou de dissolution n'a été déclarée.

#### Activités économiques et nombre de salariés

##### 1<sup>er</sup> secteur d'activité

Code d'activité économique (CAE)	6541
Activité	Commerce de détail d'articles de sport
Précisions (facultatives)	OUTDOOR SPECIALTY RETAILING

##### 2<sup>e</sup> secteur d'activité

Aucun renseignement n'a été déclaré.

#### Nombre de salariés

Nombre de salariés au Québec	De 250 à 499
------------------------------	--------------

#### Administrateurs, dirigeants et fondé de pouvoir

##### Liste des administrateurs

Nom de famille	Pekeles
Prénom	Ellen
Date du début de la charge	2013-04-26
Date de fin de la charge	
Fonctions actuelles	Président
Adresse	3568 DR Indian River North Vancouver BC V7G2R7 Canada

Nom de famille	Richardson
Prénom	Judi
Date du début de la charge	2015-04-24
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	920 ST Adderley North Vancouver BC V7L1T1 Canada

Nom de famille	Uher
Prénom	Kathy
Date du début de la charge	2016-04-15
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	602-205 ST Frederick Toronto ON M5A4V3 Canada

Nom de famille	Wallis
Prénom	Robert
Date du début de la charge	2017-06-22
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	Lot 8-12877 RD Kidston Vernon British Columbia V1B1Z4 Canada

Nom de famille	Weston
Prénom	Kathryn
Date du début de la charge	2017-06-22
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	73 DR Glenellen E Toronto Ontario M8Y2H2 Canada

Nom de famille	Handford
Prénom	Matthew
Date du début de la charge	2018-06-21
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	328 . Beachview Drive North Vancouver BC V7G1P6 Canada

Nom de famille	Macdonald
Prénom	Roddy
Date du début de la charge	2019-06-20
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	86 . Johnson Cresent Lower Sackville Nova Scotia B4C3A4 Canada

Nom de famille	Simpson
Prénom	Alison
Date du début de la charge	2019-06-20
Date de fin de la charge	
Fonctions actuelles	Administrateur
Adresse	1886 BLVD Lake Shore E Toronto Ontario L5W1L8 Canada

[Historique](#)

#### Dirigeants non membres du conseil d'administration

Nom de famille	Arrata
Prénom	Philippe
Fonctions actuelles	Président
Adresse	3020 , Promenade Mews Vancouver British Columbia V5Z4N4 Canada

Nom de famille	Shahvarani
Prénom	Nilou
Fonctions actuelles	Secrétaire
Adresse	2303-1225 ST Richards Vancouver BC V6B1E6 Canada

#### Fondé de pouvoir

Nom	DLA Piper (Canada) LLP
Adresse	1400 -1501,avenue McGill College Montréal (Québec) Canada H3A3M8

#### Administrateurs du bien d'autrui

Aucun administrateur du bien d'autrui n'a été déclaré.
--

#### Établissements

Numéro et nom de l'établissement	Adresse	Activités économiques (CAE)
<b>0001 - COOPÉRATIVE MOUNTAIN EQUIPMENT</b>	8989, BOULEVARD DE L'ACADIE MONTRÉAL (QUÉBEC) H4N3K1	Commerce de détail d'articles de sport (6541)
<b>(Établissement principal)</b>		
0007 - COOPÉRATIVE MOUNTAIN EQUIPMENT	1475 boul. Lebourgneuf Québec (Québec) G2K2G3 Canada	Commerce de détail d'articles de sport (6541)
0006 - COOPÉRATIVE MOUNTAIN EQUIPMENT	2615 boul. Daniel-Johnson Laval (Québec) H7T1S8 Canada	Commerce de détail d'articles de sport (6541)
0004 - COOPÉRATIVE MOUNTAIN EQUIPMENT	4869 boul. Taschereau Longueuil (Québec) J4V3K3 Canada	Commerce de détail d'articles de sport (6541)

#### Documents en traitement

Aucun document n'est actuellement traité par le Registraire des entreprises.

### Index des documents

#### Documents conservés

Type de document	Date de dépôt au registre
DÉCLARATION DE MISE À JOUR ANNUELLE 2020	2020-08-11
Déclaration de mise à jour courante	2020-01-14
Déclaration de mise à jour courante	2019-08-20
DÉCLARATION DE MISE À JOUR ANNUELLE 2019	2019-08-20
DÉCLARATION DE MISE À JOUR ANNUELLE 2018	2019-08-19
DÉCLARATION DE MISE À JOUR ANNUELLE 2017	2017-08-30
DÉCLARATION DE MISE À JOUR ANNUELLE 2016	2017-07-10
DÉCLARATION DE MISE À JOUR ANNUELLE 2015	2016-06-22
Déclaration de mise à jour courante	2015-07-06
DÉCLARATION DE MISE À JOUR ANNUELLE 2014	2015-05-25
Déclaration de mise à jour courante	2014-07-23
DÉCLARATION DE MISE À JOUR ANNUELLE 2013	2014-07-14
Déclaration de mise à jour courante	2013-11-18
DÉCLARATION DE MISE À JOUR ANNUELLE 2012	2013-07-24
DÉCLARATION DE MISE À JOUR ANNUELLE 2011	2012-06-12
Déclaration de mise à jour courante	2011-07-22
Déclaration annuelle 2010	2011-06-18
Modification correction / Acte de régularisation	2010-12-02
Déclaration annuelle 2009	2010-06-29
Déclaration annuelle 2008	2009-12-22
Avis de défaut	2009-10-05
Déclaration annuelle 2007	2008-12-17
Déclaration annuelle 2006	2008-12-17
Déclaration annuelle 2005	2006-03-23
Déclaration modificative	2005-07-13
Déclaration annuelle 2004	2005-01-27
Déclaration modificative	2004-07-28
Déclaration annuelle 2003	2003-12-11
Déclaration modificative	2003-05-28
Déclaration d'immatriculation	2002-10-18

### Index des noms

Date de mise à jour de l'index des noms 2013-11-18

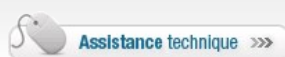
#### Nom

Nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
COOPÉRATIVE MOUNTAIN EQUIPMENT	MOUNTAIN EQUIPMENT CO-OPERATIVE	2002-10-18		En vigueur

#### Autres noms utilisés au Québec

Autre nom	Versions du nom dans une autre langue	Date de déclaration du nom	Date de déclaration du retrait du nom	Situation
LA COOPÉRATIVE DE PLEIN AIR		2004-07-28		En vigueur
MEC		2004-07-28		En vigueur
MEC ®		2013-11-18		En vigueur
MOUNTAIN EQUIPMENT CO-OP ®		2004-07-28		En vigueur

[Retour aux résultats](#)




Sécurité | Confidentialité | Configuration nécessaire

Québec

© Gouvernement du Québec

This is **Exhibit "B"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
1314625	1314625 ONTARIO LIMITED	1998/09/14
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address		Date Amalgamated
400 KING STREET WEST		NOT APPLICABLE
		Amalgamation Ind.
		NOT APPLICABLE
		New Amal. Number
TORONTO ONTARIO CANADA M5V 1K2		NOT APPLICABLE
		Notice Date
		NOT APPLICABLE
		Letter Date
		NOT APPLICABLE
Mailing Address		Revival Date
100 KING STREET WEST		NOT APPLICABLE
		Continuation Date
		NOT APPLICABLE
<b>Suite # 6000</b> TORONTO ONTARIO CANADA M5X 1E2		Transferred Out Date
		NOT APPLICABLE
		Cancel/Inactive Date
		NOT APPLICABLE
		EP Licence Eff.Date
		NOT APPLICABLE
		EP Licence Term.Date
		NOT APPLICABLE
		Date Commenced in Ontario
		NOT APPLICABLE
		Date Ceased in Ontario
		NOT APPLICABLE
		Number of Directors
		Minimum Maximum
		00001 00010
		Activity Classification
		NOT AVAILABLE

# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1314625	1314625 ONTARIO LIMITED

Corporate Name History	Effective Date
1314625 ONTARIO LIMITED	1998/09/14

Current Business Name(s) Exist:	NO
Expired Business Name(s) Exist:	NO

Administrator: Name (Individual / Corporation)	Address
PHILIPPE ARRATA	1077 GREAT NORTHERN WAY  VANCOUVER BRITISH COLUMBIA CANADA V5T 1E1

Date Began	First Director	
2019/10/21	NOT APPLICABLE	
Designation	Officer Type	Resident Canadian
DIRECTOR		Y

# CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	
1314625	1314625 ONTARIO LIMITED	
<b>Administrator: Name (Individual / Corporation)</b>	<b>Address</b>	
JOANNA BAN	1077 GREAT NORTHERN WAY  VANCOUVER BRITISH COLUMBIA CANADA V5T 1E1	
<b>Date Began</b>	<b>First Director</b>	
2020/01/06	NOT APPLICABLE	
<b>Designation</b>	<b>Officer Type</b>	<b>Resident Canadian</b>
DIRECTOR		Y

# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name
1314625	1314625 ONTARIO LIMITED


Last Document Recorded		Form	Date
Act/Code	Description		
CIA	ANNUAL RETURN 2019	1C	2020/07/12 (ELECTRONIC FILING)

**THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.**

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

This is **Exhibit "C"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

# CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Incorporation Date
2374871	PARK TOWNS DEVELOPMENTS GP INC.	2013/05/29
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
120 ADELAIDE STREET WEST	NOT APPLICABLE	NOT APPLICABLE
<b>Suite #</b> 1000 TORONTO ONTARIO CANADA M5H 3V1	New Amal. Number	Notice Date
	NOT APPLICABLE	NOT APPLICABLE
Mailing Address	Letter Date	NOT APPLICABLE
120 ADELAIDE STREET WEST		
<b>Suite #</b> 1000 TORONTO ONTARIO CANADA M5H 3V1	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
	Transferred Out Date	Cancel/Inactive Date
	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors	
	Minimum	Maximum
	00001	00010
Activity Classification	Date Commenced in Ontario	Date Ceased in Ontario
NOT AVAILABLE	NOT APPLICABLE	NOT APPLICABLE

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Corporate Name History**

PARK TOWNS DEVELOPMENTS GP INC.

**Effective Date**

2013/05/29

**Current Business Name(s) Exist:**

NO

**Expired Business Name(s) Exist:**

NO

**Administrator:  
Name (Individual / Corporation)**

PHILIPPE  
ARRATA

**Address**

120 ADELAIDE STREET WEST  
  
Suite # 1000  
TORONTO  
ONTARIO  
CANADA M5H 3V1

**Date Began**

2019/11/01

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Administrator:**

**Name (Individual / Corporation)**

PHILIPPE

ARRATA

**Address**

120 ADELAIDE STREET WEST

Suite # 1000  
TORONTO  
ONTARIO  
CANADA M5H 3V1

**Date Began**

2019/11/01

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

PRESIDENT

**Resident Canadian**

Y

**Administrator:**

**Name (Individual / Corporation)**

NANCY

BLAIR

**Address**

120 ADELAIDE STREET WEST

Suite # 1000  
TORONTO  
ONTARIO  
CANADA M5H 3V1

**Date Began**

2019/11/01

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y



# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Administrator:**

**Name (Individual / Corporation)**

NANCY

BLAIR

**Address**

120 ADELAIDE STREET WEST

Suite # 1000  
TORONTO  
ONTARIO  
CANADA M5H 3V1

**Date Began**

2019/11/01

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

OTHER

**Resident Canadian**

Y

**Administrator:**

**Name (Individual / Corporation)**

MICHAEL

BROCCOLINI

**Address**

16766 TRANSCANADIENNE

Suite # 500  
KIRKLAND  
QUEBEC  
CANADA H9H 4M7

**Date Began**

2013/05/29

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Administrator:  
Name (Individual / Corporation)**

MICHAEL  
BROCCOLINI

**Address**

16766 TRANSCANADIENNE  
  
**Suite # 500**  
KIRKLAND  
QUEBEC  
CANADA H9H 4M7

**Date Began**

2013/05/29

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

SECRETARY

**Resident Canadian**

Y

**Administrator:  
Name (Individual / Corporation)**

MICHAEL  
BROCCOLINI

**Address**

16766 TRANSCANADIENNE  
  
**Suite # 500**  
KIRKLAND  
QUEBEC  
CANADA H9H 4M7

**Date Began**

2013/05/29

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

TREASURER

**Resident Canadian**

Y

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Administrator:  
Name (Individual / Corporation)**

JOSEPH  
BROCCOLINI

**Address**

16766 TRANSCANADIENNE  
  
**Suite # 500**  
KIRKLAND  
QUEBEC  
CANADA H9H 4M7

**Date Began**

2013/05/29

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

CHIEF EXECUTIVE OFFICER

**Resident Canadian**

**Name (Individual / Corporation)**

JOSEPH  
BROCCOLINI

**Administrator:  
Address**

16766 TRANSCANADIENNE  
  
**Suite # 500**  
KIRKLAND  
QUEBEC  
CANADA H9H 4M7

**Date Began**

2013/05/29

**First Director**

NOT APPLICABLE

**Designation**

DIRECTOR

**Officer Type**

**Resident Canadian**

Y

# CORPORATION PROFILE REPORT

**Ontario Corp Number**

2374871

**Corporation Name**

PARK TOWNS DEVELOPMENTS GP INC.

**Last Document Recorded**

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2020/06/10 (ELECTRONIC FILING)

**THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.**

**PLEASE NOTE THAT WHEN THE SAME INDIVIDUAL HOLDS MULTIPLE 'OTHER UNTITLED' OFFICER POSITIONS, AS INDICATED ON A FORM 1 UNDER THE *CORPORATIONS INFORMATION ACT*, ONLY ONE OF THESE 'OTHER UNTITLED' POSITIONS HELD BY THAT INDIVIDUAL WILL BE REFLECTED ON THIS REPORT.**

**ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.**

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

Request ID: 024987902  
Transaction ID: 76522902  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 22 2020/09/10  
Time Report Produced: 12:20:10  
Page: 1

# LIMITED PARTNERSHIPS REPORT

**Firm name registered under the *Limited Partnerships Act***

PARK TOWNS DEVELOPMENTS LIMITED  
PARTNERSHIP

**Business Identification Number**

280788233

**Business Type**

LIMITED PARTNERSHIP

---

**Mailing Address**

120 ADELAIDE STREET WEST

No. 1000  
TORONTO  
ONTARIO  
CANADA, M5H 3V1

**Address of Principal Place of Business in Ontario**

120 ADELAIDE STREET WEST

No. 1000  
TORONTO  
ONTARIO  
CANADA, M5H 3V1

**General Nature of Business**

REAL ESTATE OWNERSHIP DEVELOPMENT/SALE

**Jurisdiction of Formation**

ONTARIO

**Declaration Date**

2018/07/20

**Expiry Date**

2023/07/19

**Renewal Date**

NOT APPLICABLE

**Change Date(s)**

NOT APPLICABLE

**Last Document Filed**

NEW DECLARATION

**Dissolution/Withdrawal Date**

NOT APPLICABLE

**Last Document Filed Date**

2018/07/20

**Current Partnership Business Names Exist:**

NO

**Expired Partnership Business Names Exist:**

NO

**Former Names**

NOT APPLICABLE

**Date of Name Change**

Request ID: 024987902  
Transaction ID: 76522902  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 23 020/09/10  
Time Report Produced: 12:20:10  
Page: 2

# LIMITED PARTNERSHIPS REPORT

**Firm name registered under the *Limited Partnerships Act***

PARK TOWNS DEVELOPMENTS LIMITED  
PARTNERSHIP

**Business Identification Number**

280788233

**Business Type**

LIMITED PARTNERSHIP

---

**Information Regarding General Partner(s)**

**Name (Individual/Corporation/Other)**

PARK TOWNS DEVELOPMENTS GP INC.

Corporate Number: 2374871

**Address**

120 ADELAIDE STREET WEST

No. 1000  
TORONTO  
ONTARIO  
CANADA, M5H 3V1

**Name of Signatory**

BROCCOLINI, MICHAEL

**Power of Attorney**

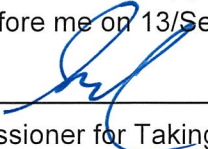
NO

**Former Limited Partnership Names will only be displayed for Declarations registered on or after April 1, 1994.**

**This Report sets out the most recent information registered on or after April 1, 1994 and recorded in the Ontario Business Information System as of the last business day.**

**The issuance of this report in electronic form is authorized by the Ministry of Government Services.**

This is **Exhibit "D"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**TITLE SEARCH PRINT**

File Reference: 1001118436

**25**  
2020-09-10, 08:49:42  
Requestor: Taylor Thurston

\*\*CURRENT AND CANCELLED INFORMATION SHOWN\*\*

**Land Title District**

Land Title Office

VANCOUVER

VANCOUVER

**Title Number**

From Title Number

CA6180378

CA1773343

**Application Received**

2017-07-28

**Application Entered**

2017-08-08

**Registered Owner in Fee Simple**

Registered Owner/Mailing Address:

MOUNTAIN EQUIPMENT CO-OPERATIVE, INC.NO. CP852  
1077 GREAT NORTHERN WAY  
VANCOUVER, BC  
V5T 1E1

**Taxation Authority**

North Vancouver, The Corporation of the City of

**Description of Land**

Parcel Identifier:

011-388-391

Legal Description:

LOT A (EXPLANATORY PLAN 11193) BLOCK 31 DISTRICT LOT 272 PLAN 4692

**Legal Notations**

NOTICE OF INTEREST, BUILDERS LIEN ACT (S.3(2)), SEE CA1773344  
FILED 2010-10-20

**Charges, Liens and Interests**

Nature:

RIGHT OF WAY

Registration Number:

556246M

Registration Date and Time:

1972-05-29 13:53

Registered Owner:

THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Remarks:

PART IN EXPLANATORY PLAN 11341

Nature:

RIGHT OF WAY

Registration Number:

G15282

Registration Date and Time:

1979-03-12 09:47

Registered Owner:

THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Remarks:

PART IN EXPLANATORY PLAN 14241



**TITLE SEARCH PRINT**

File Reference: 1001118436

26  
2020-09-10, 08:49:42  
Requestor: Taylor Thurston

Nature: COVENANT  
Registration Number: BB1176148  
Registration Date and Time: 2010-07-29 11:43  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: COVENANT  
Registration Number: CA2060961  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: COVENANT  
Registration Number: CA2060962  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: COVENANT  
Registration Number: CA2060963  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2060964  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: COVENANT  
Registration Number: CA2060965  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2060966  
Registration Date and Time: 2011-06-17 11:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: COVENANT  
Registration Number: CA2314556  
Registration Date and Time: 2011-12-14 15:09  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2314557  
Registration Date and Time: 2011-12-14 15:09  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

**TITLE SEARCH PRINT**

File Reference: 1001118436

2020-09-10, 08:49:42  
Requestor: Taylor Thurston

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2391685  
Registration Date and Time: 2012-02-14 13:42  
Registered Owner: BRITISH COLUMBIA HYDRO AND POWER AUTHORITY

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2391686  
Registration Date and Time: 2012-02-14 13:42  
Registered Owner: TELUS COMMUNICATIONS INC.  
INCORPORATION NO. A55547

Nature: COVENANT  
Registration Number: CA2737044  
Registration Date and Time: 2012-08-27 13:07  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: STATUTORY RIGHT OF WAY  
Registration Number: CA2752086  
Registration Date and Time: 2012-09-04 11:25  
Registered Owner: THE CORPORATION OF THE CITY OF NORTH VANCOUVER

Nature: MORTGAGE  
Registration Number: CA6198144  
Registration Date and Time: 2017-08-03 09:44  
Registered Owner: ROYAL BANK OF CANADA  
Remarks: INTER ALIA  
MODIFIED BY CA8334711

Nature: ASSIGNMENT OF RENTS  
Registration Number: CA6198145  
Registration Date and Time: 2017-08-03 09:44  
Registered Owner: ROYAL BANK OF CANADA  
Remarks: INTER ALIA  
MODIFIED BY CA8334712

Nature: MODIFICATION  
Registration Number: CA8334711  
Registration Date and Time: 2020-07-30 14:27  
Remarks: INTER ALIA  
MODIFICATION OF CA6198144

Nature: MODIFICATION  
Registration Number: CA8334712  
Registration Date and Time: 2020-07-30 14:27  
Remarks: INTER ALIA  
MODIFICATION OF CA6198145

**TITLE SEARCH PRINT**

File Reference: 1001118436

28  
2020-09-10, 08:49:42  
Requestor: Taylor Thurston

**Duplicate Infeasible Title** NONE OUTSTANDING

**Transfers** NONE

**Pending Applications** NONE

**Corrections** NONE

PARCEL IDENTIFIER (PID): 011-388-391

SHORT LEGAL DESCRIPTION:S/4692///31//A

MARG:EP 11193 \*

TAXATION AUTHORITY:

1 North Vancouver, The Corporation of the City of

FULL LEGAL DESCRIPTION: CURRENT

LOT A (EXPLANATORY PLAN 11193) BLOCK 31 DISTRICT LOT 272 PLAN 4692

MISCELLANEOUS NOTES:

11340X=RW

11341X=RW

11623X=RW

PP EPP9299

SRW PLAN EPP20252

ASSOCIATED PLAN NUMBERS:

PLAN BCP46377

REFERENCE PLAN VAP11193RX

SUBDIVISION PLAN VAP4692

STATUTORY RIGHT OF WAY PLAN EPP20252

AFB/IFB: MN: Y PE: 0 SL: 1 TI: 1

**TITLE SEARCH PRINT**

File Reference: 1001118436

**30**  
2020-09-10, 08:49:42  
Requestor: Taylor Thurston

\*\*CURRENT AND CANCELLED INFORMATION SHOWN\*\*

**Land Title District**

Land Title Office

NEW WESTMINSTER

NEW WESTMINSTER

**Title Number**

From Title Number

CA6180379

BA494675

**Application Received**

2017-07-28

**Application Entered**

2017-08-08

**Registered Owner in Fee Simple**

Registered Owner/Mailing Address:

MOUNTAIN EQUIPMENT CO-OPERATIVE, INC.NO. CP852  
1077 GREAT NORTHERN WAY  
VANCOUVER, BC  
V5T 1E1

**Taxation Authority**

Surrey, City of

**Description of Land**

Parcel Identifier:

005-054-745

Legal Description:

LOT 67 EXCEPT: PART SUBDIVIDED BY PLAN 53690, SECTION 20 TOWNSHIP 2  
NEW WESTMINSTER DISTRICT PLAN 52612

**Legal Notations**

NONE

**Charges, Liens and Interests**

Nature:

RIGHT OF FIRST REFUSAL

Registration Number:

L67964

Registration Date and Time:

1975-08-15 14:43

Registered Owner:

COLUMBIA ESTATE COMPANY, LIMITED

Remarks:

SEE L67962  
EXTENDED BY N57158  
ASSIGNED TO AB200715

Nature:

RIGHT OF FIRST REFUSAL

Registration Number:

N57158

Registration Date and Time:

1977-06-08 14:32

Registered Owner:

COLUMBIA ESTATE COMPANY, LIMITED

Remarks:

SEE N57157  
EXTENSION OF L67964  
ASSIGNED TO AB200715

**TITLE SEARCH PRINT**

File Reference: 1001118436

31  
2020-09-10, 08:49:42  
Requestor: Taylor Thurston

Nature: RIGHT OF FIRST REFUSAL  
 Registration Number: AB200715  
 Registration Date and Time: 1988-09-30 09:24  
 Registered Owner: SOUTHERN RAILWAY OF BRITISH COLUMBIA LIMITED  
 INCORPORATION NO. 349002

Remarks: SEE L67962  
 ASSIGNMENT OF L67964 RECEIVED 15.08.1975 @ 14:43  
 AND N57158 (BEING AN EXTENSION OF L67964)  
 RECEIVED 08.06.1977 @ 14:32  
 SEE AB200705  
 WAIVER AS TO TRANSFER BR347062 ONLY, SEE BR347060  
 MODIFIED BY BR347063  
 WAIVER AS TO TRANSFER BA494675 ONLY, SEE BA494674  
 MODIFIED BY BA527656

Nature: RIGHT OF FIRST REFUSAL  
 Registration Number: BR347063  
 Registration Date and Time: 2001-12-20 13:43  
 Remarks: MODIFICATION OF L67964 (SEE ALSO N57158 AND  
 AB200715)

Nature: MODIFICATION  
 Registration Number: BA527656  
 Registration Date and Time: 2006-07-12 09:08  
 Remarks: MODIFICATION OF L67964 (SEE N57158 AND  
 AB200715)

Nature: COVENANT  
 Registration Number: BA603353  
 Registration Date and Time: 2006-12-22 15:03  
 Registered Owner: CITY OF SURREY

Nature: COVENANT  
 Registration Number: BA603354  
 Registration Date and Time: 2006-12-22 15:03  
 Registered Owner: CITY OF SURREY

Nature: MORTGAGE  
 Registration Number: CA5303136  
 Registration Date and Time: 2016-06-29 14:47  
 Registered Owner: ROYAL BANK OF CANADA  
**Cancelled By: CA6227641**  
**Cancelled Date: 2017-08-16**

**TITLE SEARCH PRINT**

File Reference: 1001118436

Nature:	ASSIGNMENT OF RENTS
Registration Number:	CA5303137
Registration Date and Time:	2016-06-29 14:47
Registered Owner:	ROYAL BANK OF CANADA
<b>Cancelled By:</b>	<b>CA6227642</b>
<b>Cancelled Date:</b>	<b>2017-08-16</b>

Nature:	MORTGAGE
Registration Number:	CA6198144
Registration Date and Time:	2017-08-03 09:44
Registered Owner:	ROYAL BANK OF CANADA
Remarks:	INTER ALIA MODIFIED BY CA8334711

Nature:	ASSIGNMENT OF RENTS
Registration Number:	CA6198145
Registration Date and Time:	2017-08-03 09:44
Registered Owner:	ROYAL BANK OF CANADA
Remarks:	INTER ALIA MODIFIED BY CA8334712

Nature:	MODIFICATION
Registration Number:	CA8334711
Registration Date and Time:	2020-07-30 14:27
Remarks:	INTER ALIA MODIFICATION OF CA6198144

Nature:	MODIFICATION
Registration Number:	CA8334712
Registration Date and Time:	2020-07-30 14:27
Remarks:	INTER ALIA MODIFICATION OF CA6198145

**Duplicate Infeasible Title**                      NONE OUTSTANDING

**Transfers**    NONE

**Pending Applications**                              NONE

**Corrections**    NONE

PARCEL IDENTIFIER (PID): 005-054-745

SHORT LEGAL DESCRIPTION:S/52612/////67

MARG:REM

TAXATION AUTHORITY:

1 Surrey, City of

FULL LEGAL DESCRIPTION: CURRENT

LOT 67 EXCEPT: PART SUBDIVIDED BY PLAN 53690, SECTION 20 TOWNSHIP 2  
NEW WESTMINSTER DISTRICT PLAN 52612

MISCELLANEOUS NOTES:

PP LMP40599

ASSOCIATED PLAN NUMBERS:

POSTING PLAN LMP40599

SUBDIVISION PLAN NWP52612

AFB/IFB: MN: Y PE: 0 SL: 1 TI: 1





## LAND TITLE CERTIFICATE

S  
 LINC                                      SHORT LEGAL                                      TITLE NUMBER  
 0026 686 717                              1423LK;31                                      991 373 010

## LEGAL DESCRIPTION

PLAN 1423LK  
 BLOCK 31  
 CONTAINING 0.700 HECTARES (1.73 ACRES) MORE OR LESS  
 EXCEPTING THEREOUT:

PLAN	NUMBER	HECTARES	(ACRES)	MORE OR LESS
ROAD	9610692	0.028	0.07	

EXCEPTING THEREOUT ALL MINES AND MINERALS

ATS REFERENCE: 5;1;24;16;SW

ESTATE: FEE SIMPLE

MUNICIPALITY: CITY OF CALGARY

REFERENCE NUMBER: 961 074 041

REGISTERED OWNER(S)				
REGISTRATION	DATE (DMY)	DOCUMENT TYPE	VALUE	CONSIDERATION
991 373 010	20/12/1999	TRANSFER OF LAND	\$4,830,000	\$1,225,000

## OWNERS

MOUNTAIN EQUIPMENT CO-OPERATIVE.  
 OF 1077 GREAT NORTHERN WAY  
 VANCOUVER  
 BRITISH COLUMBIA V5T 1E1

(DATA UPDATED BY: CHANGE OF ADDRESS 141328680)

## ENCUMBRANCES, LIENS &amp; INTERESTS

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
161 271 171	14/11/2016	UTILITY RIGHT OF WAY GRANTEE - THE CITY OF CALGARY. AS TO PORTION OR PLAN:1611176
171 183 782	18/08/2017	MORTGAGE

( CONTINUED )

## REGISTRATION

NUMBER	DATE (D/M/Y)	PARTICULARS
		MORTGAGEE - ROYAL BANK OF CANADA. SUITE 2100, 666 BURNARD ST VANCOUVER BRITISH COLUMBIA V6C3B1 ORIGINAL PRINCIPAL AMOUNT: \$200,000,000

171 183 783	18/08/2017	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - ROYAL BANK OF CANADA. 12TH FLOOR, SOUTH TOWER ROYAL BANK PLAZA 200 BAY STREET TORONTO ONTARIO M5J2W7 AGENT - JAY B GEERS
-------------	------------	---

201 143 810	15/08/2020	CAVEAT RE : AMENDING AGREEMENT CAVEATOR - ROYAL BANK OF CANADA. 12TH FLOOR, SOUTH TOWER ROYAL BANK PLAZA 200 BAY STREET TORONTO ONTARIO M5J2W7 AGENT - MARK KOLAPAK
-------------	------------	--

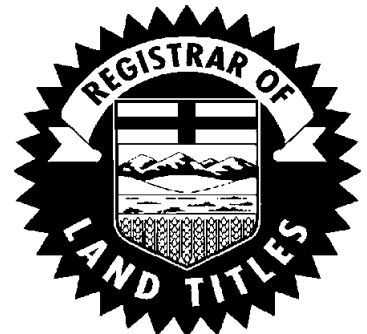
201 143 811	15/08/2020	CAVEAT RE : ASSIGNMENT OF RENTS AND LEASES CAVEATOR - ROYAL BANK OF CANADA. 12TH FLOOR, SOUTH TOWER ROYAL BANK PLAZA 200 BAY STREET TORONTO ONTARIO M5J2W7 AGENT - MARK KOLAPAL
-------------	------------	--

TOTAL INSTRUMENTS: 005

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN ACCURATE REPRODUCTION OF THE CERTIFICATE OF TITLE REPRESENTED HEREIN THIS 10 DAY OF SEPTEMBER, 2020 AT 08:53 A.M.

ORDER NUMBER: 40068774

CUSTOMER FILE NUMBER: 1001118436



\*END OF CERTIFICATE\*

( CONTINUED )

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER, SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION, APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S) .

**STATUS OF TITLE**

Title Number       **2917179/1**  
 Title Status        **Accepted**  
 Client File         110775092378502

**1. REGISTERED OWNERS, TENANCY AND LAND DESCRIPTION**

MOUNTAIN EQUIPMENT CO-OPERATIVE

IS REGISTERED OWNER SUBJECT TO SUCH ENTRIES RECORDED HEREON  
 IN THE FOLLOWING DESCRIBED LAND:

LOTS 319 AND 320 BLOCK 3 PLAN 129 WLTO (W DIV)  
 IN RL 1 PARISH OF ST JOHN

The land in this title is, unless the contrary is expressly declared, deemed to be subject to the reservations and restrictions set out in section 58 of *The Real Property Act*.

**2. ACTIVE INSTRUMENTS**

Instrument Type:       **Caveat**  
 Registration Number:   **12956/1**  
 Instrument Status:     **Accepted**

Registration Date:     1903-07-07  
 From/By:             M. FORTUNE, ETAL  
 To:

Amount:  
 Notes:                AFF: LOT 320 EX W .2 FT  
 Description:         PARTY-WALL

---

Instrument Type:       **Mortgage**  
 Registration Number:   **5196018/1**  
 Instrument Status:     **Accepted**

Registration Date:     2020-07-31  
 From/By:             MOUNTAIN EQUIPMENT CO-OPERATIVE  
 To:                    ROYAL BANK OF CANADA

Amount:                \$200,000,000.00  
 Notes:                No notes  
 Description:         No description

---

Instrument Type: **Caveat**  
 Registration Number: **5196019/1**  
 Instrument Status: **Accepted**

Registration Date: 2020-07-31  
 From/By: ROYAL BANK OF CANADA  
 To: ROBLEY GOFF as Agent

Amount:  
 Notes: No notes  
 Description: Assignments of Rents and Leases

---

Instrument Type: **Personal Property Security Notice**  
 Registration Number: **5196020/1**  
 Instrument Status: **Accepted**

Registration Date: 2020-07-31  
 From/By: Royal Bank of Canada  
 To: Robley Goff as Agent

Amount:  
 Notes: No notes  
 Description: Expires 07/30/2025 (Payments under a lease)

---

### 3. ADDRESSES FOR SERVICE

MOUNTAIN EQUIPMENT  
 CO- OPERATIVE  
 1077 GREAT NORTHERN WAY  
 VANCOUVER BC  
 V5T 1E1

### 4. TITLE NOTES

No title notes

### 5. LAND TITLES DISTRICT

Winnipeg

### 6. DUPLICATE TITLE INFORMATION

Duplicate not produced

### 7. FROM TITLE NUMBERS

2341655/1      All

**8. REAL PROPERTY APPLICATION / CROWN GRANT NUMBERS**

No real property application or grant information

**9. ORIGINATING INSTRUMENTS**

Instrument Type: **Request To Issue Title**

Registration Number: **4883353/1**

Registration Date: 2017-09-08

From/By: MOUNTAIN EQUIPMENT CO-OPERATIVE

To: ELMER J. GOMES AS AGENT

Amount:

---

**10. LAND INDEX**

Lot 319 Block 3 Plan 129

RL 1 JO (W DIV)

Lot 320 Block 3 Plan 129

RL 1 JO (W DIV)

CERTIFIED TRUE EXTRACT PRODUCED FROM THE LAND TITLES DATA STORAGE  
SYSTEM OF TITLE NUMBER 2917179/1



PROPERTY DESCRIPTION: PT LT 15, RCP PL99, PT 2, 20R6976, PTS 2-6, 20R6744 & AS IN 656180 S&E PT 17 PE118, PT 1, 20R9817 & PT 1, 20R17605; BURLINGTON. S/T THE RIGHTS OF OWNERS OF ADJOINING PARCELS, IF ANY, UNDER 381621.

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE

LT CONVERSION QUALIFIED

RECENTLY:

DIVISION FROM 07081-0250

PIN CREATION DATE:

2008/03/28

OWNERS' NAMES

MOUNTAIN EQUIPMENT CO-OPERATIVE

CAPACITY SHARE

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHRD
** PRINTOUT	INCLUDES ALL	DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2008/03/28 **				
** SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:					
**	SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *					
**	AND ESCHEATS OR FORFEITURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
** DATE OF CONVERSION TO LAND TITLES: 1997/11/24 **						
119980	1961/01/25	BYLAW				C
20R6744	1984/09/21	PLAN REFERENCE				C
20R6976	1985/04/04	PLAN REFERENCE				C
624841	1985/08/21	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
805130	1993/05/28	AGREEMENT			THE CORPORATION OF THE CITY OF BURLINGTON	C
HR567544	2007/05/16	TRANSFER	\$1,715,000	HOLLAND CHEVROLET OLDSMOBILE INC.	MOUNTAIN EQUIPMENT CO-OPERATIVE	C
		REMARKS: PLANNING ACT STATEMENTS				
HR641374	2008/02/11	NOTICE	\$1	THE CORPORATION OF THE CITY OF BURLINGTON		C
HR648712	2008/03/17	NOTICE	\$1	THE CORPORATION OF THE CITY OF BURLINGTON		C
HR1478303	2017/08/03	CHARGE	\$200,000,000	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

**PROPERTY DESCRIPTION:**

PART LOT 16, CONC 2 EYS, DES AS PARTS 1, 4, 5, 6, 9, 10, 11, 12, 13 & 14, PLAN 66R27498; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 3, PLAN 66R27498 AS IN AT3895818; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 4, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 5, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 6, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 11, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 12, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 13, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 14, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 1, 5, 10, 12, 13 & 14, 66R27498 AS IN AT4283935; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 4, 5, 6, 9, 11, 12 & 13 PL 66R27498 AS IN AT4337864; CITY OF TORONTO

**PROPERTY REMARKS:**

ESTATE/QUALIFIER:  
FEE SIMPLE  
LT CONVERSION QUALIFIED

RECENTLY:  
DIVISION FROM 10059-0027

PIN CREATION DATE:  
2015/06/17

OWNERS' NAMES  
MOUNTAIN EQUIPMENT CO-OPERATIVE

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT		INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2015/06/17 **				
** SUBJECT,		ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:				
**		SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *				
**		AND ESCHEATS OR FORFEITURE TO THE CROWN.				
**		THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF				
**		IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY				
**		CONVENTION.				
**		ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.				
** DATE OF CONVERSION TO LAND TITLES: 2002/01/28 **						
AT2974641	2012/03/26	TRANSFER	\$13,575,000	MARK'S CHOICE LTD.	MOUNTAIN EQUIPMENT CO-OPERATIVE	C
REMARKS: PLANNING ACT STATEMENTS						
66R27498	2014/06/19	PLAN REFERENCE				C
66R27980	2015/04/16	PLAN REFERENCE		*** DELETED AGAINST THIS PROPERTY ***		C
AT3895820	2015/05/28	NOTICE	\$2	PARK TOWNS DEVELOPMENTS (SHEPPARD) INC	MOUNTAIN EQUIPMENT CO-OPERATIVE	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.





# Ontario ServiceOntario

LAND  
 PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER  
 REGISTRY  
 OFFICE #66

10059-0267 (LT)

PAGE 2 OF 2  
 PREPARED FOR DstLouis  
 ON 2020/09/10 AT 12:38:02

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
AT4283934	2016/07/20	NOTICE REMARKS: SITE PLAN AGREEMENT	\$2	CITY OF TORONTO		C
AT4283935	2016/07/20	TRANSFER EASEMENT	\$2	MOUNTAIN EQUIPMENT CO-OPERATIVE	CITY OF TORONTO	C
AT4337864	2016/09/09	TRANSFER EASEMENT		MOUNTAIN EQUIPMENT CO-OPERATIVE	TORONTO HYDRO-ELECTRIC SYSTEM LIMITED	C
AT4464267	2017/01/19	CONSTRUCTION LIEN		*** COMPLETELY DELETED *** OZZ ELECTRIC INC.		
AT4473481	2017/01/30	CERTIFICATE		*** COMPLETELY DELETED *** OZZ ELECTRIC INC.	ONTARIO SUPERIOR COURT OF JUSTICE	
		REMARKS: AT4464267				
AT4531497	2017/04/06	APL DEL CONST LIEN		*** COMPLETELY DELETED *** OZZ ELECTRIC INC.		
		REMARKS: AT4464267. & AT4473481				
66R29412	2017/06/29	PLAN REFERENCE				C
AT4646897	2017/08/03	CHARGE	\$200,000,000	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
 NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



LAND  
REGISTRY  
OFFICE #4

04017-0142 (LT)

PROPERTY DESCRIPTION: PT LTS 5 & 6, PL 204, S/S OF RICHMOND RD; AS IN CR359870 ; LTS 5 & 6, PL 204, N/S OF DANFORTH AV ; OTTAWA/NEPEAN

PROPERTY REMARKS:

ESTATE/QUALIFIER: RECENTLY:  
FEE SIMPLE FIRST CONVERSION FROM BOOK 147  
LT CONVERSION QUALIFIED CAPACITY SHARE

PIN CREATION DATE:  
1996/05/27

OWNERS' NAMES  
MOUNTAIN EQUIPMENT CO-OPERATIVE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
**EFFECTIVE	2000/07/29	THE NOTATION OF THE	"BLOCK IMPLEMENTATION DATE" OF 1996/05/27 ON THIS PIN**			
**WAS REPLACED WITH THE	"PIN CREATION DATE" OF 1996/05/27**					
** PRINTOUT	INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 1996/05/24 **					
**SUBJECT,	ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:					
**	SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *					
**	AND ESCHEATS OR FORFEITURE TO THE CROWN.					
**	THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF					
**	IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY					
**	CONVENTION.					
**	ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.					
**DATE OF CONVERSION TO LAND TITLES: 1996/05/27 **						
CR359870	1957/06/05	TRANSFER		*** COMPLETELY DELETED ***	SUN LIFE ASSURANCE COMPANY OF CANADA	
CR359871	1957/06/05	LEASE		*** COMPLETELY DELETED ***	DOMINION STORES LIMITED	
N658995	1993/05/14	LIEN		*** COMPLETELY DELETED ***		
LT1189241	1999/04/12	APL (GENERAL)		*** COMPLETELY DELETED ***		
	REMARKS: N658995			*** COMPLETELY DELETED ***	SUN LIFE ASSURANCE COMPANY OF CANADA	
LT1207448	1999/06/30	APL (GENERAL)		*** COMPLETELY DELETED ***		
	REMARKS: DELETE - CR359871			*** COMPLETELY DELETED ***	SUN LIFE ASSURANCE COMPANY OF CANADA	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.



# Ontario ServiceOntario

LAND  
REGISTRY  
OFFICE #4

04017-0142 (LT)

PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

PAGE 2 OF 2  
PREPARED FOR DstLouis  
ON 2020/09/10 AT 12:34:59

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
LT1207449	1999/06/30	TRANSFER	\$800,000	SUN LIFE ASSURANCE COMPANY OF CANADA	MOUNTAIN EQUIPMENT CO-OPERATIVE	C
LT1207450	1999/06/30	APL ANNEX REST COV <i>REMARKS: EXPIRES MAY 31, 2007</i>		SUN LIFE ASSURANCE COMPANY OF CANADA		C
LT1229978	1999/09/20	NOTICE <i>REMARKS: LT1207449 &amp; LT1180465.</i>		MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	THE CORPORATION OF THE CITY OF OTTAWA	C
LT1289591	2000/06/08	REST COV APL ANNEX		THOMAS & EMMA HOLDINGS INC.		C
OC1339043	2012/03/05	NOTICE	\$1	MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	CITY OF OTTAWA	C
OC1339044	2012/03/05	NOTICE	\$1	MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	CITY OF OTTAWA	C
OC1339045	2012/03/05	NOTICE	\$10,400	MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	CITY OF OTTAWA	C
4R27018	2013/04/25	PLAN REFERENCE				C
OC1916147	2017/08/03	CHARGE	\$200,000,000	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

This is **Exhibit "E"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

Consolidated Financial Statements of

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

Period from February 26, 2018 to February 24, 2019



KPMG LLP  
PO Box 10426 777 Dunsmuir Street  
Vancouver BC V7Y 1K3  
Canada  
Telephone (604) 691-3000  
Fax (604) 691-3031

## INDEPENDENT AUDITORS' REPORT

To the Members of Mountain Equipment Co-operative

### ***Opinion***

We have audited the consolidated financial statements of Mountain Equipment Co-operative (the "Entity"), which comprise:

- the consolidated balance sheet as at February 24, 2019
- the consolidated statement of earnings and surplus (deficit) for the period from February 26, 2018 to February 24, 2019
- the consolidated statement of cash flows for the period from February 26, 2018 to February 24, 2019
- and notes to the consolidated financial statements, including a summary of significant accounting policies

(Hereinafter referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the consolidated financial position of the Entity as at February 24, 2019, and its consolidated results of operations and its consolidated cash flows for the period from February 26, 2018 to February 24, 2019 in accordance with Canadian accounting standards for private enterprises.

### ***Basis for Opinion***

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the "***Auditors' Responsibilities for the Audit of the Financial Statements***" section of our auditors' report.

We are independent of the Entity in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.



### ***Responsibilities of Management and Those Charged with Governance for the Financial Statements***

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Entity's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Entity or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Entity's financial reporting process.

### ***Auditors' Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.

We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.



- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

*KPMG LLP*

Chartered Professional Accountants

Vancouver, Canada  
June 7, 2019



# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Balance Sheet  
(Expressed in thousands of dollars)

	February 24, 2019	February 25, 2018
<b>Assets</b>		
Current assets:		
Accounts receivable (note 3)	\$ 1,142	\$ 955
Inventory (note 4)	96,531	100,431
Prepays and deposits	4,704	4,962
Investment in joint arrangement	204	492
	<u>102,581</u>	<u>106,840</u>
Property and equipment (note 6)	247,944	229,374
Intangible assets (note 7)	21,237	20,586
Future income tax asset (note 11)	-	5,355
	<u>\$ 371,762</u>	<u>\$ 362,155</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities:		
Amounts owing to suppliers, governments and employees (note 8)	\$ 57,333	\$ 45,281
Operating loan (note 9)	35,365	19,456
Gift cards and provision for sales returns	14,978	14,661
Current portion of capital lease obligation (note 10)	1,538	1,414
Current portion of deferred gain on sale and leaseback (note 6)	1,867	16,593
Current portion of deferred lease liability	3,041	2,190
	<u>114,122</u>	<u>99,595</u>
Capital lease obligation (note 10)	37,234	38,772
Deferred gain on sale and leaseback (note 6)	-	820
Deferred lease liability	31,028	24,233
Other non-current liabilities	694	-
	<u>183,078</u>	<u>163,420</u>
Members' shares (note 12)	190,737	189,361
Contributed surplus (note 13)	894	834
Accumulated surplus (deficit)	(2,947)	8,540
	<u>188,684</u>	<u>198,735</u>
Commitments and contingencies (note 14)		
	<u>\$ 371,762</u>	<u>\$ 362,155</u>

See accompanying notes to consolidated financial statements.

Approved on behalf of the Board:

Robert Wallis Director      Ellen Pekeles Director

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Statement of Earnings and Surplus (Deficit)  
(Expressed in thousands of dollars)

	Period from February 26, 2018 to February 24, 2019	Period from February 27, 2017 to February 25, 2018
Sales	\$ 462,445	\$ 454,840
Cost of sales (note 4)	313,062	311,704
Gross margin	149,383	143,136
Selling and administration expenses (schedule)	164,345	157,398
Restructuring expenses (note 16)	8,530	-
	(23,492)	(14,262)
Other income (schedule)	17,034	29,677
Earnings (loss) before patronage return and income taxes	(6,458)	15,415
Patronage return	-	-
Earnings (loss) before income taxes	(6,458)	15,415
Provision for income taxes (recovery) (note 11):		
Current	(326)	41
Future	5,355	3,629
	5,029	3,670
Net earnings (loss)	(11,487)	11,745
Surplus (deficit), beginning of period	8,540	(3,205)
Surplus (deficit), end of period	\$ (2,947)	\$ 8,540

See accompanying notes to consolidated financial statements.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Statement of Cash Flows  
(Expressed in thousands of dollars)

	Period from February 26, 2018 to February 24, 2019	Period from February 27, 2017 to February 25, 2018
Cash provided by (used in):		
Operations:		
Net earnings (loss)	\$ (11,487)	\$ 11,745
Items not involving cash:		
Amortization	19,411	18,650
Impairment loss on intangible assets (note 7)	4,092	858
Gain on sale and leaseback transaction (note 6)	(15,546)	(21,706)
Gain on sale of land	-	(4,990)
Loss on disposal of property and equipment and intangible assets	344	347
Equity loss (income) from joint arrangement	88	(1,083)
Amortization of deferred lease expense	(2,528)	(982)
Future income tax expense	5,355	3,629
	(271)	6,468
Change in non-cash operating working capital items related to operations	17,034	(8,377)
	16,763	(1,909)
Financing:		
Repayments of capital lease	(1,414)	(1,373)
Payment received from lease inducement	10,174	24,394
Proceeds from (repayment of) operating loan, net	17,606	(9,357)
Financing fees	(1,697)	(778)
Shares issued to new members	1,416	1,470
Shares redeemed	(37)	(104)
Shares withdrawn	(3)	(1)
Contributed surplus (deficit) from unclaimed share redemptions, net	60	67
	26,105	14,318
Investing:		
Purchase of property and equipment	(34,210)	(20,941)
Purchase of intangible assets	(8,858)	(7,393)
Proceeds on disposal of asset held for sale	-	8,517
Proceeds on disposal of property and equipment	-	5,302
Proceeds from investment in joint arrangement	200	2,106
	(42,868)	(12,409)
Change in cash, being cash, end of period	\$ -	\$ -
The following non-cash transactions occurred in the period:		
Share redemption settled through issuance of gift cards	\$ -	\$ 1,758
Deferred lease inducements accrued in prior year and received in current year	-	8,176

See accompanying notes to consolidated financial statements.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

---

## 1. Operations:

Mountain Equipment Co-operative ("MEC") is a member owned and directed retail consumer co-operative. It is incorporated under the Co-operative Association Act of British Columbia and serves its members through stores across Canada as well as through a service centre and website.

## 2. Significant accounting policies:

### (a) Basis of presentation:

These consolidated financial statements have been prepared in accordance with Canadian accounting standards for private enterprises ("ASPE") and include the accounts of MEC's wholly-owned subsidiary, 1314625 Ontario Limited, a substantially inactive company.

### (b) Revenue recognition:

MEC recognizes revenue when the title of goods passes to the member. Revenue from store sales is recognized at the point of sale and revenue from online and service centre sales is recognized when the product is shipped to the member. MEC reports its revenue net of sales discounts and returns.

MEC sells gift cards which entitle the holder to use the value for purchasing products and services. Purchased gift cards are non-refundable and cannot be redeemed for cash. Gift cards have no associated fees or expiration dates. Amounts paid for gift cards are deferred and recorded on the balance sheet as a gift card liability. The balance of the gift card liability at February 24, 2019 represents MEC's outstanding obligation for these gift cards as well as gift cards that were issued by MEC as part of a redemption of shares. Revenue from gift cards is recognized as cards are redeemed.

MEC recognizes income on unredeemed gift cards when it determines that the likelihood of the gift card being redeemed is remote. Amounts recognized on unclaimed share redemption gift cards are allocated to contributed surplus and have no impact on revenue.

### (c) Inventory:

Inventory is valued at the lower of weighted average cost and net realizable value. The cost of inventory includes all costs of purchase net of vendor allowances, costs of conversion, if any, and other costs incurred in bringing the inventories to their present location and condition before distribution to retail stores. Other costs associated with acquiring, storing, and transporting inventory to retail stores are expensed as incurred and included in cost of sales.

Net realizable value is the estimated selling price in the ordinary course of business less the estimated necessary costs to make the sale.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 2. Significant accounting policies (continued):

### (d) Investment in joint arrangement:

MEC accounts for its interest in jointly controlled enterprises using the equity method. Any investments are initially recorded at cost and are increased for the proportionate share of any post acquisition earnings and decreased by any post acquisition losses and dividends received. MEC currently has a 49.995% ownership interest in the joint arrangement, Park Towns Development Limited Partnership.

### (e) Related party transactions:

Monetary related party transactions and non-monetary related party transactions that have commercial substance are measured at the exchange amount when they are in the normal course of business, except when the transaction is an exchange of a product or property held for sale in the normal course of operations. Where the transaction is not in the normal course of operations, it is measured at the exchange amount when there is a substantive change in the ownership of the item transferred and there is independent evidence of the exchange amount.

All other related party transactions are measured at the carrying amount.

### (f) Property and equipment:

Property and equipment are recorded at historical cost less accumulated amortization. Cost includes expenditures that are attributable directly to the acquisition or construction of the asset, including the purchase cost and labour. Amortization is recorded annually using the following rates and methods:

Asset	Basis	Rate
Buildings	Declining balance	4 - 6%
Furniture, fixtures and equipment	Declining balance	20 - 55%
Asset under capital lease	Straight-line	Term of lease

Leasehold improvements are amortized on a straight-line basis over the lesser of the estimated useful life of the asset or the term of the lease plus one renewal period. The amortization terms range from 1 to 25 years.

Assets under construction commence amortization when assets are put in use.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 2. Significant accounting policies (continued):

### (g) Intangible assets:

Asset	Basis	Rate
Computer software	Straight-line	5 – 10 years
Intangible assets	Declining balance	20%

### (i) Separately acquired at cost:

Intangible assets acquired at cost are comprised of computer software assets, and are stated at cost, less accumulated amortization.

### (ii) Internally generated:

Research activities are expensed as incurred. Development activities are recognized as an asset provided they meet the capitalization criteria, which include MEC's ability to demonstrate: technical feasibility of completing the intangible asset so that it will be available for use or sale; MEC's intention to complete the asset for use or for sale; MEC's ability to use or sell the asset; the adequacy of MEC's resources to complete the development; MEC's ability to measure reliably the expenditures during the development; and MEC's ability to demonstrate that the asset will generate future economic benefits.

### (h) Lease inducements:

MEC records rent as an expense on a straight-line basis over the term of the lease. Accordingly, reasonably assured rent escalations are amortized straight-line over the lease term.

Free rent periods and lease inducements are deferred and amortized straight-line over the lease term as a reduction of annual rent expenses. These lease inducements are recorded in deferred lease liability on the balance sheet.

### (i) Patronage return:

In years where a patronage return is declared, the patronage return is deducted from earnings for the year in which the return is declared by the Board of Directors and represents a refund of a portion of the current year's net surplus to the members based on their purchases during the year.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

---

## 2. Significant accounting policies (continued):

### (j) Derivative financial instruments and hedge accounting:

MEC uses foreign exchange contracts in its hedging strategy to manage its exposure to currency risks on highly probable United States ("US") dollar inventory purchases.

Where the requirements for hedge accounting are met, MEC designates and documents the foreign exchange contracts as hedges of anticipated US dollar inventory purchases. The documentation identifies the anticipated transaction being hedged, the risk that is being hedged, the type of hedging instrument used and the term of the hedging relationship. The critical terms of the hedging instrument and the hedged item must match the life of the instrument. Hedge accounting is discontinued prospectively if it is determined that the hedging instruments' critical terms no longer match the hedged item, the hedging instrument is terminated, or upon the sale or early termination of the hedge.

The foreign exchange contracts held by MEC at year-end that qualify for hedge accounting are not presented on the year-end balance sheet at their fair value. The gains and losses relating to these contracts are recognized as an adjustment to any gain or loss arising on the settlement of the hedged inventory purchases.

### (k) Foreign currency translation:

MEC translates assets and liabilities denominated in foreign currencies at exchange rates in effect at the end of the year. Exchange gains and losses from unhedged transactions denominated in foreign currencies relating to inventory purchases are included in cost of sales. Included in the current period cost of sales was a foreign exchange gain of \$2,279 (February 25, 2018 - \$3,262).

### (l) Employee benefits:

MEC contributes to a defined contribution plan to assist employees with retirement savings. The cost is included in salaries, wages and employee benefits expense. Contributions of \$1,758 (February 25, 2018 - \$1,737) were made during the current period.

### (m) Income taxes:

MEC follows the asset and liability method of accounting for income taxes. Under this method, income tax liabilities and assets are recognized for the estimated tax consequences attributable to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities.

Future tax assets and liabilities are measured using enacted or substantively enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on future tax assets and liabilities of a change in tax rates is recognized in income in the year that includes the date of enactment or substantive enactment. A valuation allowance is recorded against any future income tax asset if it is more likely than not that the asset will not be realized. Income tax expense or recovery is the sum of MEC's provision for current income taxes and the difference between the opening and ending balances of future income tax assets and liabilities.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 2. Significant accounting policies (continued):

### (n) Use of estimates and measurement uncertainty:

In preparing MEC's financial statements, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and reported amounts of revenue and expenses during the period. Actual results could differ from these estimates. Areas of measurement uncertainty include carrying value of property and equipment and intangible assets, inventory valuation, allowance for sales returns, warranty liabilities, valuation of future income taxes, restructuring costs, and the amount of gift certificates likely to be redeemed.

### (o) Financial instruments:

Financial instruments are recorded at fair value on initial recognition. Freestanding derivative instruments that are not in a qualifying hedging relationship and equity instruments that are quoted in an active market are subsequently measured at fair value. All other financial instruments are subsequently measured at cost or amortized cost, unless management has elected to carry the instruments at fair value. MEC has not elected to carry any such financial instruments at fair value.

Transaction costs incurred on the acquisition of financial instruments measured subsequently at fair value are expensed as incurred. All other financial instruments are adjusted by transaction costs incurred on acquisition and financing costs. These costs are amortized using the straight-line method.

Financial assets are assessed for impairment on an annual basis at the end of the fiscal year if there are indicators of impairment. If there is an indicator of impairment, MEC determines if there is a significant adverse change in the expected amount or timing of future cash flows from the financial asset. If there is a significant adverse change in the expected cash flows, the carrying value of the financial asset is reduced to the highest of the present value of the expected cash flows, the amount that could be realized from selling the financial asset or the amount MEC expects to realize by exercising its right to any collateral. If events and circumstances reverse in a future period, an impairment loss will be reversed to the extent of the improvement, not exceeding the initial impairment charge.

## 3. Accounts receivable:

	February 24, 2019	February 25, 2018
Accounts receivable	\$ 1,034	\$ 816
Real estate and lease inducement receivables	244	215
Allowance for doubtful accounts	(136)	(76)
	<u>\$ 1,142</u>	<u>\$ 955</u>



# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 4. Inventory:

	February 24, 2019	February 25, 2018
Raw materials	\$ 157	\$ 235
Finished goods	98,154	101,636
Inventory provision	(1,780)	(1,440)
	<b>\$ 96,531</b>	<b>\$ 100,431</b>

The amount of inventory recognized as a component of cost of sales during the period was \$263,180 (February 25, 2018 - \$264,311).

Also included within cost of sales for the period ended February 24, 2019 are charges to inventory in the normal course of business, made throughout the period, of \$4,773 (February 25, 2018 - \$4,551). These charges include the disposal of obsolete and damaged product, shrinkage, and permanent markdowns to net realizable value.

## 5. Foreign exchange contracts:

MEC holds a number of option-dated forward contracts that are intended to settle future US dollar purchases. At the balance sheet date, MEC had contracts to purchase US currency outstanding totaling USD\$35,000 (February 25, 2018 - USD\$86,000) at an average rate of CAD\$1.28 (February 25, 2018 - CAD\$1.29) that mature at various dates to December 27, 2019 (February 25, 2018 - to August 2, 2019) when the inventory purchases are expected to occur. Hedge accounting has been elected on all of these forward contracts, and as a result the contracts are not recorded on the balance sheet as at period end.

## 6. Property and equipment:

			February 24, 2019	February 25, 2018
	Cost	Accumulated amortization	Net book value	Net book value
Land	\$ 38,425	\$ -	\$ 38,425	\$ 38,425
Buildings	88,784	31,900	56,884	60,019
Furniture, fixtures and equipment	57,275	39,134	18,141	20,628
Leasehold improvements	80,806	22,444	58,362	59,829
Asset under capital lease	44,712	9,644	35,068	37,314
	310,002	103,122	206,880	216,215
Assets under construction	41,064	-	41,064	13,159
	<b>\$ 351,066</b>	<b>\$ 103,122</b>	<b>\$ 247,944</b>	<b>\$ 229,374</b>

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 6. Property and equipment (continued):

Amortization for the period amounted to \$15,296 (February 25, 2018 - \$15,301) and is recorded in cost of sales and selling and administration expenses in the consolidated statement of earnings and surplus (deficit).

On December 15, 2016, MEC sold the land and building for the Toronto retail store for net proceeds of \$49,434 and entered into a leaseback transaction for a maximum term of 42 months. The total gain on the sale and leaseback transaction was \$43,532 of which \$15,546 has been recognized in the current year (February 25, 2018 - \$21,706). The remaining \$1,867 of the gain is deferred and is being amortized over the remaining lease term.

## 7. Intangible assets:

			February 24 2019	February 25, 2018
	Cost	Accumulated amortization	Net book value	Net book value
Computer software	\$ 35,916	\$ 19,292	\$ 16,624	\$ 15,393
Intangible assets	686	578	108	190
	36,602	19,870	16,732	15,583
Assets under development	4,505	-	4,505	5,003
	\$ 41,107	\$ 19,870	\$ 21,237	\$ 20,586

Amortization for the period amounted to \$4,115 (February 25, 2018 - \$3,349) and is recorded in cost of sales and selling and administration expenses in the consolidated statement of earnings and surplus (deficit). During the year, MEC reviewed development costs incurred within computer software and assets under development and determined that \$4,092 (February 25, 2018 - \$858) were impaired, which are recorded as an impairment loss within selling and administration expenses.

## 8. Amounts owing to suppliers, governments and employees:

Government remittances payable at February 24, 2019 in the amount of \$4,318 (February 25, 2018 - \$5,349) relating to federal and provincial sales taxes, payroll taxes, and workers' safety insurance are included in amounts owing to suppliers, governments, and employees.

## 9. Operating loan:

On August 3, 2017, MEC entered into a senior secured asset-based revolving credit facility. The credit facility allows MEC to borrow up to a maximum of \$130,000 with an additional \$20,000 accordion, and has a maturity date of August 3, 2020.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 9. Operating loan (continued):

The credit facility can be drawn through CAD banker's acceptance ("BA") rate loans, CAD prime rate loans, USD base rate loans, USD LIBOR loans, or letters of credit. BA rate loans accrue interest at the BA rate plus 1.5%; LIBOR loans accrue interest at LIBOR plus 1.5%; prime rate loans accrue interest at prime rate; and base rate loans accrue interest at base rate. During the period, the interest rate on the credit facility ranged from 3.1 - 6.0% (February 25, 2018 – 2.4 - 5.0%).

The credit facility availability is determined by the borrowing base, being eligible inventory, credit card receivables, and a real estate component, less inventory reserves and relevant liabilities, and is reduced by committed loans drawn on the facility. As at February 24, 2019, MEC had \$62,576 (February 25, 2018 - \$60,844) in availability under the credit facility.

The facility is secured by a first priority general security interest in all present and future property, and mortgages on eligible real property.

The draws on the facility as at February 24, 2019 were outstanding letters of credits, BA rate loans and prime rate operating loans (notes 14(b) and (c)).

## 10. Capital lease obligation:

Capital lease repayments are due as follows:

	February 24, 2019	February 25, 2018
2018	\$ -	\$ 2,597
2019	2,677	2,677
2020	2,906	2,906
2021	2,857	2,857
2022	2,857	2,857
2023	2,854	2,854
Thereafter	35,035	35,035
Total minimum lease payments	49,186	51,783
Less amount representing interest at 3%	(10,414)	(11,597)
Present value of net minimum capital lease payments	38,772	40,186
Less current portion of obligation under capital lease	(1,538)	(1,414)
	<b>\$ 37,234</b>	<b>\$ 38,772</b>

Interest of \$1,180 (February 25, 2018 - \$1,221) relating to the capital lease obligation has been included in interest expense within selling and administration expenses. The total amount of asset under capital lease is \$35,068 (February 25, 2018 - \$37,314) net of accumulated amortization of \$9,644 (February 25, 2018 - \$7,398).

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 11. Income taxes:

- (a) The reconciliation of income tax computed at the statutory tax rates to the income tax provision is set out below.

The statutory income tax rate applicable to MEC is 26.86% (February 25, 2018 - 26.91%).

	Period from February 26, 2018 to February 24, 2019	Period from February 27, 2017 to February 25, 2018
Provision for income taxes (recovery) based on statutory rates	\$ (1,735)	\$ 4,148
Permanent differences	78	(550)
Effect of change in income tax rates	9	(153)
Valuation allowance of non-capital loss carryforward	6,206	-
Other adjustments/recoveries of over accruals	471	225
	<u>\$ 5,029</u>	<u>\$ 3,670</u>

- (b) The tax effect of temporary differences that give rise to significant components of the future income tax assets and future income tax liabilities is presented below.

	February 24, 2019	February 25, 2018
Future income tax assets:		
Gain on sale and leaseback transaction	\$ 502	\$ 4,686
Deferred lease inducements	9,152	7,111
General reserves and accruals	1,956	1,310
Capital lease obligation	10,416	10,815
Non-capital loss carryforward	7,320	2,296
Other assets	417	355
	<u>29,763</u>	<u>26,573</u>
Valuation allowance of non-capital loss carryforward	(6,206)	-
	<u>23,557</u>	<u>26,573</u>
Future income tax liabilities:		
Property and equipment and intangible assets	(23,557)	(21,188)
Other assets	-	(30)
Future income tax asset (liability)	<u>\$ -</u>	<u>\$ 5,355</u>

MEC has approximately \$25,926 (February 25, 2018 - \$5,644) of non-capital losses available for income tax purposes to reduce taxable income of future years that begin to expire in 2038.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 12. Members' shares:

The authorized capital of MEC is an unlimited number of shares with a par value of \$5.00 per share. Each member is required to purchase one share for cash. MEC distinguishes separately the number of outstanding shares issued for cash and the number issued by application of patronage return.

As set out in the rules of MEC, membership entitles each member to one vote in the governance of MEC and the right to purchase goods. Also, as set out in the rules, member-initiated withdrawals are limited to 1% of the total share capital, subject to the discretion of the Board of Directors.

The cumulative shares issued by source are as follows:

	February 24, 2019		February 25, 2018	
	Number of shares	Amount	Number of shares	Amount
Membership shares issued	5,448	\$ 27,240	5,165	\$ 25,827
Shares, and partial shares, issued by application of patronage return	32,699	163,497	32,707	163,534
	<b>38,147</b>	<b>\$ 190,737</b>	<b>37,872</b>	<b>\$ 189,361</b>

A summary of shares issued and redeemed during the year is as follows:

	February 24, 2019		February 25, 2018	
	Number of shares	Amount	Number of shares	Amount
Balance, beginning of year	37,872	\$ 189,361	37,951	\$ 189,754
Shares issued to new members	283	1,416	294	1,470
Shares, and partial shares, issued by application of patronage return	-	-	-	-
Shares redeemed	(7)	(37)	(373)	(1,862)
Shares withdrawn	(1)	(3)	-	(1)
	<b>38,147</b>	<b>\$ 190,737</b>	<b>37,872</b>	<b>\$ 189,361</b>

During the period ended February 24, 2019, MEC redeemed patronage shares with a total value of \$37 (February 25, 2018 - \$1,862). There was no share redemption in the current period. As at February 24, 2019, \$3,385 (February 25, 2018 - \$3,841) of historical share redemption gift cards remain outstanding on the consolidated balance sheet.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 13. Contributed surplus:

The changes in contributed surplus are as follows:

	February 24, 2019	February 25, 2018
Balance, beginning of period	\$ 834	\$ 767
Unclaimed share redemption amounts	79	83
Claims of share redemption amounts previously allocated to contributed surplus	(19)	(16)
Balance, end of period	\$ 894	\$ 834

## 14. Commitments and contingencies:

### (a) Lease commitments:

MEC has operating lease commitments for premises and certain equipment. The minimum annual lease payments scheduled for the next five years and thereafter are as follows:

2019	\$ 16,903
2020	16,600
2021	15,134
2022	14,770
2023	14,546
Thereafter	137,108
	\$ 215,061

### (b) Letters of credit:

At February 24, 2019, MEC had outstanding letters of credit in USD through its financial institutions to provide guarantees to certain suppliers of USD\$7 (CAD\$8 equivalent) (February 25, 2018 - USD\$231 (CAD\$293 equivalent)).

### (c) Capital project commitments:

MEC is committed to future construction costs of \$11,013 (February 25, 2018 - \$46,678). At February 24, 2019, MEC has standby letters of credit relating to delivery of certain municipal requirements on construction projects and real estate contracts of \$2,547 (February 25, 2018 - \$8,223). No accrual has been made for these standby letters of credit as all required deliverables are expected to be met through the projects.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 26, 2018 to February 24, 2019

## 15. Financial instruments and risk management:

MEC is exposed to the following risks related to its financial assets and liabilities:

### (a) Currency risk:

MEC is exposed to currency risk on some of its amounts owing to suppliers and expected inventory purchases, which are denominated in currencies other than Canadian dollars. MEC uses foreign exchange forward contracts to manage the majority of this exposure.

The consolidated balance sheet includes US dollar cash and cash equivalents, as well as US dollar amounts owing to suppliers. The balances in Canadian dollars and in US dollars are as follows:

	February 24, 2019		February 25, 2018	
	CAD	USD	CAD	USD
Outstanding cheques in excess of cash and cash equivalents	\$ 429	\$ 325	\$ 1,292	\$ 1,020
Amounts owing to suppliers	4,787	3,634	5,459	4,309

### (b) Interest rate risk:

MEC's exposure to interest rate risk depends upon the balance of its cash and cash equivalents and operating loan. The credit facility is subject to interest rate risk as the required cash flow to service the debt will fluctuate as a result of changing market interest rates and adherence to loan covenants.

### (c) Credit risk:

Financial instruments that potentially subject MEC to credit risk consist of cash and cash equivalents and accounts receivable. MEC uses reputable financial institutions for cash and believes the risk of loss to be remote. MEC has accounts receivable from landlords, corporate members and government agencies, none of which MEC believes represent a significant credit risk.

### (d) Liquidity risk:

Liquidity risk is the risk that MEC will not be able to meet its obligations as they become due. MEC's approach to managing liquidity risk is to ensure that it always has sufficient cash flows and cash on hand and availability within the credit facility to meet its operating obligations. The magnitude and timing of share redemptions are considered in managing liquidity risk.

There has been no change to the areas of risk exposure since prior year.

## 16. Restructuring costs:

During the period ended February 24, 2019, MEC incurred costs in connection with a reorganization. These costs were primarily amounts paid or to be paid to employees of \$7,290 and costs incurred to close both the retail store at 4394 St. Denis Street and an office in Montreal, Quebec of \$1,240.

## MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Schedules of Selling and Administration Expenses and Other Income  
(Expressed in thousands of dollars)

	Period from February 26, 2018 to February 24, 2019	Period from February 27, 2017 to February 25, 2018
<b>Selling and administration expenses:</b>		
Salaries, wages and employee benefits	\$ 86,306	\$ 83,561
Supplies and services	29,782	31,921
Rent and occupancy	23,812	21,623
Amortization	17,474	16,496
Interest (notes 9 and 10)	2,877	2,592
Loss on disposal of property and equipment and intangible assets	2	347
Impairment loss on intangible assets (note 7)	4,092	858
	<b>\$ 164,345</b>	<b>\$ 157,398</b>
<b>Other income (loss):</b>		
Gain on sale of land	\$ -	\$ 4,990
Gain on sale and leaseback transaction (note 6)	15,546	21,706
Rent and parking	523	458
Equity income (loss) from joint arrangement	(88)	1,083
Gift cards unlikely to be redeemed	670	623
Miscellaneous income	362	798
Interest	21	19
	<b>\$ 17,034</b>	<b>\$ 29,677</b>



Consolidated Financial Statements of

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

And Independent Auditors' Report thereon

Period from February 24, 2019 to February 23, 2020



KPMG LLP  
PO Box 10426 777 Dunsmuir Street  
Vancouver BC V7Y 1K3  
Canada  
Telephone (604) 691-3000  
Fax (604) 691-3031

## INDEPENDENT AUDITORS' REPORT

To the Members of Mountain Equipment Co-operative

### ***Opinion***

We have audited the consolidated financial statements of Mountain Equipment Co-operative (the "Entity"), which comprise:

- the consolidated balance sheet as at February 23, 2020
- the consolidated statement of operations and surplus (deficit) for the period from February 25, 2019 to February 23, 2020
- the consolidated statement of cash flows for the period from February 25, 2019 to February 23, 2020
- and notes to the consolidated financial statements, including a summary of significant accounting policies

(Hereinafter referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the consolidated financial position of the Entity as at February 23, 2020, and its consolidated results of operations and its consolidated cash flows for the period from February 25, 2019 to February 23, 2020 in accordance with Canadian accounting standards for private enterprises.

### ***Basis for Opinion***

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the "***Auditors' Responsibilities for the Audit of the Financial Statements***" section of our auditors' report.

We are independent of the Entity in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.



### ***Material Uncertainty Related to Going Concern***

We draw attention to Note 1 in the financial statements, which indicates that the Entity has incurred recurring net losses and has an accumulated deficit as of February 23, 2020.

As stated in Note 1 in the financial statements, these conditions along with other matters as set forth in Note 1 in the financial statements, indicate a material uncertainty exists that may cast significant doubt on the Entity's ability to continue as a going concern.

Our opinion is not modified in respect of this matter.

### ***Responsibilities of Management and Those Charged with Governance for the Financial Statements***

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian accounting standards for private enterprises, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Entity's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Entity or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Entity's financial reporting process.

### ***Auditors' Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.



We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

A handwritten signature in black ink that reads 'KPMG LLP'. The signature is written in a cursive, slightly slanted style. Below the signature is a horizontal line that starts under the 'K' and ends under the 'P', with a small upward tick at the end.

Chartered Professional Accountants

Vancouver, Canada  
July 7, 2020

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Balance Sheet  
(Expressed in thousands of dollars)

	February 23, 2020	February 24, 2019 (restated - note 2(p))
<b>Assets</b>		
Current assets:		
Accounts receivable (note 3)	\$ 1,122	\$ 1,142
Inventory (note 4)	108,503	96,531
Prepaid expenses and deposits	4,308	4,704
Investment in joint arrangement	191	204
	<u>114,124</u>	<u>102,581</u>
Property and equipment (note 6)	262,306	247,944
Intangible assets (note 7)	12,564	13,220
	<u>\$ 388,994</u>	<u>\$ 363,745</u>
<b>Liabilities and Members' Equity</b>		
Current liabilities:		
Operating loan (note 8)	\$ 81,055	\$ 35,365
Amounts owing to suppliers, governments and employees (note 9)	55,001	57,333
Gift cards and provision for sales returns	15,221	14,978
Current portion of capital lease obligation (note 10)	1,842	1,538
Current portion of deferred gain on sale and leaseback (note 6)	-	1,867
Current portion of deferred lease liability	3,086	3,041
	<u>156,205</u>	<u>114,122</u>
Capital lease obligation (note 10)	35,556	37,234
Deferred lease liability	37,419	31,028
Other non-current liabilities	388	694
	<u>229,568</u>	<u>183,078</u>
Members' shares (note 12)	192,122	190,737
Contributed surplus (note 13)	936	894
Accumulated deficit	(33,632)	(10,964)
	<u>159,426</u>	<u>180,667</u>
Nature of operations and going concern (note 1)		
Commitments and contingencies (note 14)		
Subsequent events (note 17)		
	<u>\$ 388,994</u>	<u>\$ 363,745</u>

See accompanying notes to consolidated financial statements.

Approved on behalf of the Board:

\_\_\_\_\_ Director \_\_\_\_\_ Director

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Statement of Operations and Surplus (Deficit)  
(Expressed in thousands of dollars)

	Period from February 25, 2019 to February 23,	Period from February 25, 2018 to February 24,  (restated - note 2(p))
Sales	\$ 463,436	\$ 462,445
Cost of sales (note 4)	313,772	305,899
Gross margin	149,664	156,546
Selling and administration expenses (schedule)	176,020	180,352
Net operating loss	(26,356)	(23,806)
Other income (schedule)	3,622	17,034
Impairment loss on intangible assets (note 7)	-	(4,092)
Loss before patronage return and income taxes	(22,734)	(10,864)
Patronage return	-	-
Loss before income taxes	(22,734)	(10,864)
Income tax expense (recovery) (note 11):		
Current	(66)	(326)
Future	-	5,355
	(66)	5,029
Net loss	(22,668)	(15,893)
(Deficit) / Surplus, beginning of period	(10,964)	4,929
Deficit, end of period	\$ (33,632)	\$ (10,964)

See accompanying notes to consolidated financial statements.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Statement of Cash Flows  
(Expressed in thousands of dollars)

	Period from February 25, 2019 to February 23, 2020	Period from February 25, 2018 to February 24, 2019
		(restated - note 2(p))
Cash provided by (used in):		
Operations:		
Net loss	\$ (22,668)	\$ (15,893)
Items not involving cash:		
Amortization of property and equipment and intangible assets	17,652	18,120
Amortization of deferred lease expense	(915)	(2,528)
Impairment loss on intangible assets (note 7)	-	4,092
Gain on sale and leaseback transaction (note 6)	(1,867)	(15,546)
Loss on disposal of property and equipment and intangible assets	1,023	344
Equity loss from joint arrangement	13	88
Future income tax expense	-	5,355
	(6,762)	(5,968)
Change in non-cash operating working capital items related to operations	(11,054)	17,034
	(17,816)	11,066
Financing:		
Repayments of capital lease obligations	(1,374)	(1,414)
Payment received from lease inducement	1,525	10,174
Proceeds from operating loan, net	45,690	17,606
Financing fees	(2,897)	(1,697)
Shares issued to new members	1,398	1,416
Shares redeemed	(13)	(37)
Shares withdrawn	-	(3)
Contributed surplus from unclaimed share redemptions, net	42	60
	44,371	26,105
Investing:		
Purchase of property and equipment	(23,987)	(34,210)
Purchase of intangible assets	(2,568)	(3,161)
Proceeds from investment in joint arrangement	-	200
	(26,555)	(37,171)
<b>Change in cash, being cash, end of period</b>	<b>\$ -</b>	<b>\$ -</b>
The following non-cash transactions occurred in the period:		
Increase to property and equipment and deferred lease liabilities for capitalized operating rent costs	\$ 5,826	\$ -

See accompanying notes to consolidated financial statements.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

---

## 1. Nature of operations and going concern:

Mountain Equipment Co-operative ("MEC") is a member owned and directed retail consumer co-operative. It is incorporated under the Co-operative Association Act of British Columbia and serves its members through stores across Canada as well as through a service centre and website.

These consolidated financial statements have been prepared using Canadian accounting standards for private enterprises ("ASPE") which assumes that MEC will continue in operation for the foreseeable future and be able to realize its assets and settle its liabilities in the normal course of business.

For the period ended February 23, 2020, MEC incurred a net loss of \$22,668 (February 24, 2019: \$15,893), had negative cash flow of \$17,386 (February 24, 2019: positive \$11,066) and as at February 23, 2020 had a working capital deficiency of \$42,081 (February 24, 2019: \$11,541). Subsequent to year-end, COVID-19 has impacted the financial results of MEC (see note 17).

Additionally, MEC's loan matures on August 3, 2020. A committed credit facility agreement would be necessary for MEC to finance and continue operations for the foreseeable future. An extension to the credit agreement or new facility was not in place as of the date of the auditors' report.

As a result of these conditions, a material uncertainty exists that may cast doubt about MEC's ability to continue as a going concern. The accompanying consolidated financial statements have been prepared on a going concern basis notwithstanding these conditions.

If the going concern basis was not appropriate for these consolidated financial statements, then adjustments would be necessary to the carrying value of assets and liabilities, the reported revenue and expenses and the classifications used in the balance sheet, and these adjustments may be material.

## 2. Significant accounting policies:

### (a) Basis of consolidation and presentation:

These consolidated financial statements include the accounts of MEC's wholly-owned subsidiary, 1314625 Ontario Limited, a substantially inactive company.

The fiscal year of MEC ends on the last Sunday in February. The inclusion of an extra week (from 52-weeks to 53-weeks) will occur every fifth or sixth fiscal years due to MEC's floating period-end date. The periods ended February 23, 2020 and February 24, 2019 contained 52 weeks.



# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

---

## 2. Significant accounting policies (continued):

### (b) Revenue recognition:

MEC recognizes revenue when the title of goods passes to the member. Revenue from store sales is recognized at the point of sale and revenue from online and service centre sales is recognized when the product is received by the member. MEC reports its revenue net of sales discounts and returns.

Revenue is presented net of an allowance for estimated returns, which is based on historic experience. MEC's liability for sales return refunds is recognized net within accrued liabilities.

MEC sells gift cards which entitle the holder to use the value for purchasing products and services. Purchased gift cards are non-refundable and cannot be redeemed for cash. Gift cards have no associated fees or expiration dates. Amounts paid for gift cards are deferred and recorded on the balance sheet as a gift card liability. The balance of the gift card liability at February 23, 2020 represents MEC's outstanding obligation for these gift cards as well as gift cards that were issued by MEC as part of a redemption of shares. Revenue from gift cards is recognized as cards are redeemed.

MEC recognizes income on unredeemed gift cards when it determines that the likelihood of the gift card being redeemed is remote. Amounts recognized on unclaimed share redemption gift cards are allocated to contributed surplus and have no impact on revenue.

### (c) Inventory:

Inventory is valued at the lower of weighted average cost and net realizable value. The cost of inventory includes all costs of purchase net of vendor allowances, costs of conversion, if any, and other costs incurred in bringing the inventories to their present location and condition before distribution to retail stores. Other costs associated with acquiring, storing, and transporting inventory to retail stores are expensed as incurred and included in cost of sales.

Net realizable value is the estimated selling price in the ordinary course of business less the estimated necessary costs to make the sale.

MEC periodically reviews its inventories and makes a provision as necessary to appropriately value goods that are obsolete, have quality issues, or are damaged. The amount of the provision is equal to the difference between the cost of the inventory and its net realizable value based upon assumptions about product quality, damages, future demand, selling prices, and market conditions. If changes in market conditions result in reductions in the estimated net realizable value of its inventory below its previous estimate, MEC would increase its reserve in the period in which it made such a determination.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 2. Significant accounting policies (continued):

(d) Investment in joint arrangement:

MEC accounts for its interest in jointly controlled enterprises using the equity method. Any investments are initially recorded at cost and are increased for the proportionate share of any post acquisition earnings and decreased by any post acquisition losses and dividends received. MEC currently has a 49.995% ownership interest in the joint arrangement, Park Towns Development Limited Partnership.

(e) Related party transactions:

Monetary related party transactions and non-monetary related party transactions that have commercial substance are measured at the exchange amount when they are in the normal course of business, except when the transaction is an exchange of a product or property held for sale in the normal course of operations. Where the transaction is not in the normal course of operations, it is measured at the exchange amount when there is a substantive change in the ownership of the item transferred and there is independent evidence of the exchange amount.

All other related party transactions are measured at the carrying amount.

(f) Property and equipment:

Property and equipment are recorded at historical cost less accumulated amortization. Cost includes expenditures that are attributable directly to the acquisition or construction of the asset, including the purchase cost and labour. Amortization is recorded annually using the declining balance basis and following rates:

Asset	Rate
Buildings	4 - 6%
Furniture, fixtures and equipment	20 - 55%

Assets under capital leases are depreciated over their expected useful lives on the same basis as owned assets, however, when there is no reasonable certainty that ownership will be obtained by the end of the lease term, assets are depreciated over the shorter of the lease term and their useful lives.

Leasehold improvements are amortized on a straight-line basis over the lesser of the estimated useful life of the asset or the term of the lease plus one renewal period. The amortization terms range from 1 to 25 years.

Assets under construction commence amortization when assets are put in use.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 2. Significant accounting policies (continued):

### (g) Intangible assets:

Asset	Basis	Rate
Computer software	Straight-line	5 - 10 years
Intangible assets	Declining balance	20%

#### (i) Separately acquired at cost:

Intangible assets acquired at cost are comprised of computer software assets, and are stated at cost, less accumulated amortization.

#### (ii) Internally generated:

Research activities and implementation costs related to software as a service arrangements are expensed as incurred (note 2(p)). Development activities are recognized as an asset provided they meet the capitalization criteria, which include MEC's ability to demonstrate: technical feasibility of completing the intangible asset so that it will be available for use or sale; MEC's intention to complete the asset for use or for sale; MEC's ability to use or sell the asset; the adequacy of MEC's resources to complete the development; MEC's ability to measure reliably the expenditures during the development; and MEC's ability to demonstrate that the asset will generate future economic benefits.

### (h) Leases:

Leases that MEC enters into as lessee, in which substantially all the benefits and risks of ownership are transferred to MEC, are recorded as capital leases. The assets held under capital lease are initially recorded at the lesser of the present value of minimum lease payments and the fair value of the asset at the inception of the lease. The assets held under capital lease are amortized over the shorter of the lease term and the estimated useful life.

All other leases are classified as operating leases and leasing costs are expensed on a straight-line basis over the term of the lease. Accordingly, rent escalations are amortized straight-line over the lease term.

Free rent periods and lease inducements are deferred and amortized straight-line over the lease term as a reduction of annual rent expenses. These lease inducements are recorded in deferred lease liability on the balance sheet.

### (i) Patronage return:

In years where a patronage return is declared, the patronage return is deducted from earnings for the year in which the return is declared by the Board of Directors and represents a refund of a portion of the current year's net surplus to the members based on their purchases during the period.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

---

## 2. Significant accounting policies (continued):

### (j) Derivative financial instruments and hedge accounting:

MEC uses foreign exchange contracts in its hedging strategy to manage its exposure to currency risks on highly probable United States ("US") dollar inventory purchases.

Where the requirements for hedge accounting are met, MEC designates and documents the foreign exchange contracts as hedges of anticipated US dollar inventory purchases. The documentation identifies the anticipated transaction being hedged, the risk that is being hedged, the type of hedging instrument used and the term of the hedging relationship. The critical terms of the hedging instrument and the hedged item must match the life of the instrument. Hedge accounting is discontinued prospectively if it is determined that the hedging instruments' critical terms no longer match the hedged item, the hedging instrument is terminated, or upon the sale or early termination of the hedge.

The foreign exchange contracts held by MEC at year-end that qualify for hedge accounting are not presented on the year-end balance sheet at their fair value. The gains and losses relating to these contracts are recognized as an adjustment to any gain or loss arising on the settlement of the hedged inventory purchases.

### (k) Foreign currency translation:

MEC translates assets and liabilities denominated in foreign currencies at exchange rates in effect at the end of the period. Exchange gains and losses from unhedged transactions denominated in foreign currencies relating to inventory purchases are included in cost of sales. Included in the current period cost of sales was a foreign exchange gain of \$2,641 (February 24, 2019: \$2,279).

### (l) Employee benefits:

MEC contributes to a defined contribution plan to assist employees with retirement savings. The cost is included in salaries, wages and employee benefits expense. Contributions of \$1,649 (February 24, 2019: \$1,758) were made during the current period.

### (m) Income taxes:

MEC follows the asset and liability method of accounting for income taxes. Under this method, income tax liabilities and assets are recognized for the estimated tax consequences attributable to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities.

Future tax assets and liabilities are measured using enacted or substantively enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on future tax assets and liabilities of a change in tax rates is recognized in income in the year that includes the date of enactment or substantive enactment. A valuation allowance is recorded against any future income tax asset if it is more likely than not that the asset will not be realized. Income tax expense or recovery is the sum of MEC's provision for current income taxes and the difference between the opening and ending balances of future income tax assets and liabilities.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

---

## 2. Significant accounting policies (continued):

### (n) Use of estimates and measurement uncertainty:

In preparing MEC's financial statements, management is required to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and reported amounts of revenue and expenses during the period. Actual results could differ from these estimates. Areas of measurement uncertainty include the useful lives and carrying value of property and equipment and intangible assets, inventory valuation, allowance for sales returns, warranty liabilities, valuation provision for future income taxes, restructuring costs and contingencies, and the amount of gift certificates likely to be redeemed.

### (o) Financial instruments:

Financial instruments are recorded at fair value on initial recognition. Freestanding derivative instruments that are not in a qualifying hedging relationship (note 2(j)) and equity instruments that are quoted in an active market are subsequently measured at fair value. All other financial instruments are subsequently measured at cost or amortized cost, unless management has elected to carry the instruments at fair value. MEC has not elected to carry any such financial instruments at fair value.

Transaction costs incurred on the acquisition of financial instruments measured subsequently at fair value are expensed as incurred. All other financial instruments are adjusted by transaction costs incurred on acquisition and financing costs. These costs are amortized using the straight-line method.

Financial assets are assessed for impairment on an annual basis at the end of the fiscal period if there are indicators of impairment. If there is an indicator of impairment, MEC determines if there is a significant adverse change in the expected amount or timing of future cash flows from the financial asset. If there is a significant adverse change in the expected cash flows, the carrying value of the financial asset is reduced to the highest of the present value of the expected cash flows, the amount that could be realized from selling the financial asset or the amount MEC expects to realize by exercising its right to any collateral. If events and circumstances reverse in a future period, an impairment loss will be reversed to the extent of the improvement, not exceeding the initial impairment charge.

### (p) Change in accounting policy:

During the period, MEC changed its accounting policy in accordance with ASPE Section 3064, *Goodwill and Intangible Assets* to expense internally developed intangible assets related to implementation costs associated with software as a service arrangements which were previously capitalized. This change has been applied retrospectively and accordingly, the comparative amounts in the consolidated financial statements as at and for the period ended February 24, 2019 have been adjusted to reflect the change in accounting policy to decrease intangible assets by \$8,017, increase selling and general expenses of \$4,406 (comprised of a decrease in amortization of \$1,292 and increase in supplies and service expense of \$5,698) and decrease in the beginning surplus of \$3,611.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 2. Significant accounting policies (continued):

(p) Change in accounting policy (continued):

	As previously reported	Adjustment	As restated
Consolidated balance sheet:			
Intangible assets	\$ 21,237	\$ (8,017)	\$ 13,220
Accumulated deficit	(2,947)	(8,017)	(10,964)
Consolidated statement of operations and surplus (deficit):			
Selling and administrative expenses	175,946	4,406	180,352
Surplus, beginning of period	8,540	(3,611)	4,929
Consolidated statement of cash flows:			
Cash flows from operations	16,763	(5,697)	11,066
Cash flows used for investing	(42,868)	5,697	(37,171)

## 3. Accounts receivable:

	February 23, 2020	February 24, 2019
Accounts receivable	\$ 1,135	\$ 1,034
Real estate and lease inducement receivables	44	244
Allowance for doubtful accounts	(57)	(136)
	\$ 1,122	\$ 1,142

## 4. Inventory:

	February 23, 2020	February 24, 2019
Raw materials	\$ 70	\$ 157
Finished goods	112,433	98,154
Inventory provision	(4,000)	(1,780)
	\$ 108,503	\$ 96,531

The amount of inventory recognized as a component of cost of sales during the period was \$266,967 (February 24, 2019: \$263,180).

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 5. Foreign exchange contracts:

MEC holds several option-dated forward contracts that are intended to settle future US dollar purchases. At the balance sheet date, MEC had contracts to purchase US currency outstanding totaling USD\$36,500 (February 24, 2019 - USD\$35,000) at an average rate of CAD\$1.31 (February 24, 2019 - CAD\$1.28) that mature at various dates to December 31, 2020 (February 24, 2019: to December 27, 2019) when the inventory purchases are expected to occur. Hedge accounting has been elected on all these forward contracts, and as a result the contracts are not recorded on the balance sheet as at period end. As at February 23, 2020, the unrealized gain associated with the foreign exchange contracts was \$480 (February 24, 2019: \$1,361).

## 6. Property and equipment:

			February 23, 2020	February 24, 2019
	Cost	Accumulated amortization	Net book value	Net book value
Land	\$ 38,425	\$ -	\$ 38,425	\$ 38,425
Buildings	89,226	35,207	54,019	56,884
Furniture, fixtures and equipment	59,695	40,593	19,102	18,141
Leasehold improvements	98,251	27,461	70,790	58,362
Building under capital lease	44,902	11,908	32,994	35,068
	330,499	115,169	215,330	206,880
Assets under construction	46,976	-	46,976	41,064
	\$ 377,475	\$ 115,169	\$ 262,306	\$ 247,944

Amortization for the period amounted to \$15,207 (February 24, 2019: \$15,296) with \$1,618 recorded in cost of sales and \$13,589 recorded in selling and administration expenses in the consolidated statement of operations and surplus (deficit).

During the period, MEC recognized the remaining portion of the gain on the sale and leaseback transaction relating to the Toronto retail store of \$1,867 (February 24, 2019: \$15,546).

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 7. Intangible assets:

			February 23, 2020	February 24, 2019
	Cost	Accumulated amortization	Net book value	Net book value
				(restated – note 2(p))
Computer software	\$ 27,198	\$ 19,801	\$ 7,397	\$ 10,803
Intangible assets	-	-	-	108
	27,198	19,801	7,397	10,911
Assets under development	5,167	-	5,167	2,309
	\$ 32,365	\$ 19,801	\$ 12,564	\$ 13,220

Amortization for the period amounted to \$2,445 (February 24, 2019: \$2,824) with \$330 recorded in cost of sales and \$2,115 recorded in selling and administration expenses in the consolidated statement of operations and surplus (deficit). During the prior year, MEC reviewed development costs incurred within computer software and assets under development and determined that \$4,092 were impaired, which are recorded on the consolidated statement of operations and surplus (deficit).

## 8. Operating loan:

On August 3, 2017, MEC entered into a senior secured asset-based revolving credit facility. The credit facility allows MEC to borrow up to a maximum of \$130,000 with an additional \$20,000 accordion, and has a maturity date of August 3, 2020.

The credit facility can be drawn through CAD banker's acceptance ("BA") rate loans, CAD prime rate loans, USD base rate loans, USD LIBOR loans, or letters of credit. BA rate loans accrue interest at the BA rate plus 1.5%; LIBOR loans accrue interest at LIBOR plus 1.5%; prime rate loans accrue interest at prime rate; and base rate loans accrue interest at base rate. During the period, the interest rate on the credit facility ranged from 3.4% - 6.0% (February 24, 2019: 3.1% - 6.0%). Interest expense on the credit facility was \$2,897 for the period (February 24, 2019: \$1,697) and recorded in selling and administration expenses.

The credit facility availability is determined by the borrowing base, being eligible inventory, credit card receivables, and a real estate component, less inventory reserves and relevant liabilities, and is reduced by committed loans drawn on the facility. As at February 23, 2020, MEC had \$34,182 (February 24, 2019: \$62,576) in availability under the credit facility.

The facility is secured by a first priority general security interest in all present and future property, and mortgages on eligible real property.

The draws on the facility as at February 23, 2020 were outstanding letters of credits, BA rate loans and prime rate operating loans (notes 14(b) and (c)).



# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 9. Amounts owing to suppliers, governments and employees:

Government remittances payable at February 23, 2020 in the amount of \$3,991 (February 24, 2019: \$4,318) relating to federal and provincial sales taxes, payroll taxes, and workers' safety insurance are included in amounts owing to suppliers, governments, and employees.

## 10. Capital lease obligation:

Capital lease repayments are due as follows:

	February 23, 2020	February 24, 2019
2019	\$ -	\$ 2,677
2020	2,961	2,906
2021	2,911	2,857
2022	2,911	2,857
2023	2,877	2,854
2024	2,942	2,941
Thereafter	32,094	32,094
Total minimum lease payments	46,696	49,186
Less amount representing interest at 3.0%	(9,298)	(10,414)
Present value of net minimum capital lease payments	37,398	38,772
Less current portion of obligation under capital lease	(1,842)	(1,538)
	\$ 35,556	\$ 37,234

Interest of \$1,141 (February 24, 2019: \$1,180) relating to the capital lease obligation has been included in interest expense within selling and administration expenses. The total amount of asset under capital lease is \$32,993 (February 24, 2019: \$35,068) net of accumulated amortization of \$11,908 (February 24, 2019: \$9,644).

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 11. Income taxes:

- (a) The reconciliation of income tax computed at the statutory tax rates to the income tax provision is set out below.

The statutory income tax rate applicable to MEC during the period is 26.54% (February 24, 2019: 26.86%).

	Period from February 25, 2019 to February 23, 2020	Period from February 26, 2018 to February 24, 2019'
		(restated - note 2(p))
Provision for income taxes (recovery) based on statutory rates	\$ (6,033)	\$ (2,918)
Permanent differences	61	80
Effect of change in income tax rates	105	9
Valuation allowance of non-capital loss carryforward	6,543	8,360
Other adjustments/recoveries of over accruals	(742)	(502)
	<u>\$ (66)</u>	<u>\$ 5,029</u>

- (b) The tax effect of temporary differences that give rise to significant components of the future income tax assets and future income tax liabilities is presented below.

	February 23, 2020	February 24, 2019
		(restated - note 2(p))
Future income tax assets:		
Gain on sale and leaseback transaction	\$ -	\$ 502
Deferred lease inducements	10,851	9,152
General reserves and accruals	1,598	1,956
Capital lease obligation	9,924	10,416
Non-capital loss carryforward	14,602	7,320
Other assets	654	417
	<u>37,629</u>	<u>29,763</u>
Valuation allowance of non-capital loss carryforward	(14,903)	(8,360)
	<u>22,726</u>	<u>21,403</u>
Future income tax liabilities:		
Property and equipment and intangible assets	(22,726)	(21,403)
Future income tax asset (liability)	<u>\$ -</u>	<u>\$ -</u>

MEC has approximately \$54,510 (February 24, 2019: \$26,000) of non-capital losses available for income tax purposes to reduce taxable income of future years that begin to expire in 2040.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 12. Members' shares:

The authorized capital of MEC is an unlimited number of shares with a par value of \$5.00 per share. Each member is required to purchase one share for cash. MEC distinguishes separately the number of outstanding shares issued for cash and the number issued by application of patronage return.

As set out in the rules of MEC, membership entitles each member to one vote in the governance of MEC and the right to purchase goods. Also, as set out in the rules, member-initiated withdrawals are limited to 1% of the total share capital, subject to the discretion of the Board of Directors.

The cumulative shares issued by source are as follows:

	February 23, 2020		February 24, 2019	
	Number of shares	Amount	Number of shares	Amount
Membership shares issued	5,727	\$ 28,637	5,448	\$ 27,240
Shares, and partial shares, issued by application of patronage return	32,697	163,485	32,699	163,497
	38,424	\$ 192,122	38,147	\$ 190,737

A summary of shares issued and redeemed during the year is as follows:

	February 23, 2020		February 24, 2019	
	Number of shares	Amount	Number of shares	Amount
Balance, beginning of year	38,147	\$ 190,737	37,872	\$ 189,361
Shares issued to new members	280	1,398	283	1,416
Shares, and partial shares, issued by application of patronage return	-	-	-	-
Shares redeemed	(3)	(13)	(7)	(37)
Shares withdrawn	-	-	(1)	(3)
	38,424	\$ 192,122	38,147	\$ 190,737

During the period ended February 23, 2020, MEC redeemed patronage shares with a total value of \$13 (February 24, 2019: \$37). There was no share redemption in the current period. As at February 23, 2020, \$3,169 (February 24, 2019: \$3,385) of historical share redemption gift cards remain outstanding on the consolidated balance sheet.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 13. Contributed surplus:

The changes in contributed surplus are as follows:

	February 23, 2020	February 24, 2019
Balance, beginning of period	\$ 894	\$ 834
Unclaimed share redemption amounts	62	79
Claims of share redemption amounts previously allocated to contributed surplus	(20)	(19)
<b>Balance, end of period</b>	<b>\$ 936</b>	<b>\$ 894</b>

## 14. Commitments and contingencies:

### (a) Lease commitments:

MEC has operating lease commitments for premises and certain equipment. The minimum annual lease payments scheduled for the next five years and thereafter are as follows:

2020	\$ 16,875
2021	15,581
2022	15,232
2023	15,030
2024	15,077
Thereafter	125,725
	<b>\$ 203,520</b>

### (b) Letters of credit:

At February 23, 2020, MEC had outstanding letters of credit in USD through its financial institutions to provide guarantees to certain suppliers of USD\$284 (CAD\$380 equivalent) (February 24, 2019: USD\$7 (CAD\$8 equivalent)).

### (c) Commitments:

MEC is not committed to any significant construction costs as at February 23, 2020 (February 24, 2019: \$11,013). At February 23, 2020, MEC has standby letters of credit of \$111 relating to landscaping guarantees. In the prior year MEC had standby letters of credit related to the delivery of certain municipal requirements on construction projects and real estate contracts of \$1,692 (February 24, 2019: \$2,547).

### (d) Contingencies:

Certain claims exist against MEC in the normal course of operations. These claims are not expected to have a material impact on the financial position or operating results of the Company. Settlement of accrued claims, in excess of those provided, are accounted for prospectively.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

## 15. Financial instruments and risk management:

MEC is exposed to the following risks related to its financial assets and liabilities:

### (a) Currency risk:

MEC is exposed to currency risk on some of its amounts owing to suppliers and expected inventory purchases, which are denominated in currencies other than Canadian dollars. MEC uses foreign exchange forward contracts to manage the majority of this exposure.

The consolidated balance sheet includes US dollar cash and cash equivalents, as well as US dollar amounts owing to suppliers. The balances in Canadian dollars and in US dollars are as follows:

	February 23, 2020		February 24, 2019	
	CAD	USD	CAD	USD
Outstanding cheques in excess of cash and cash equivalents	\$ 446	\$ 337	\$ 429	\$ 325
Amounts owing to suppliers	9,150	6,919	4,787	3,634

### (b) Interest rate risk:

MEC's exposure to interest rate risk depends upon the balance of its cash and cash equivalents and operating loan. The credit facility is subject to interest rate risk as the required cash flow to service the debt will fluctuate as a result of changing market interest rates and adherence to loan covenants.

### (c) Credit risk:

Financial instruments that potentially subject MEC to credit risk consist of cash and cash equivalents and accounts receivable. MEC uses reputable financial institutions for cash and believes the risk of loss to be remote. MEC has accounts receivable from landlords, corporate members and government agencies, none of which MEC believes represent a significant credit risk.

### (d) Liquidity risk:

Liquidity risk is the risk that MEC will not be able to meet its obligations as they become due. MEC's approach to managing liquidity risk is to ensure that it always has sufficient cash flows and cash on hand and availability within the credit facility to meet its operating obligations (see note 1 for assessment of going concern). The magnitude and timing of share redemptions are considered in managing liquidity risk.

Except as noted, there has been no change to the areas of risk exposure since prior year.

# MOUNTAIN EQUIPMENT CO-OPERATIVE

Notes to Consolidated Financial Statements

(Amounts expressed in thousands of dollars, unless otherwise indicated)

Period from February 25, 2019 to February 23, 2020

---

## 16. Comparative information:

Certain comparative information has been reclassified to conform with the consolidated financial statement presentation adopted in the current period.

## 17. Subsequent events:

Subsequent to the fiscal year end, the COVID-19 outbreak was declared a pandemic by the World Health Organization. This has resulted in governments worldwide, including the Canadian Federal and Provincial governments, enacting emergency measures to combat the spread of the virus. These measures have caused material disruption to businesses globally and in Canada resulting in an economic slowdown. As a result of COVID-19, MEC has taken actions to further control its costs.


The current challenging economic climate have had an adverse impact on MEC's operating results and financial position with a reduction in sales as a result of the retail store closures as well as impacting the issuance of these consolidated financial statements. The situation is dynamic and the ultimate duration and magnitude of the impact on the economy and the financial effect on MEC and other retailers is not fully known at this time.

## MOUNTAIN EQUIPMENT CO-OPERATIVE

Consolidated Schedules of Selling and Administration Expenses and Other Income  
(Expressed in thousands of dollars)

	Period from February 25, 2019 to February 23, 2020	Period from February 25, 2018 to February 24, 2019
		(restated - note 2(p))
Selling and administration expenses:		
Salaries, wages and employee benefits	\$ 87,364	\$ 93,594
Supplies and services	40,959	43,885
Rent and occupancy	26,666	23,812
Amortization	15,704	16,182
Interest (notes 8 and 10)	4,304	2,877
Loss on disposal of property and equipment and intangible assets	1,023	2
	\$ 176,020	\$ 180,352
Other income (loss):		
Gain on sale and leaseback transaction (note 6)	\$ 1,867	\$ 15,546
Rent and parking	478	523
Equity loss from joint arrangement	(13)	(88)
Gift cards breakage	660	670
Miscellaneous income	627	362
Interest	3	21
	\$ 3,622	\$ 17,034

This is **Exhibit "F"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



**CREDIT AGREEMENT**

Dated as of August 3, 2017

among

MOUNTAIN EQUIPMENT CO-OPERATIVE,  
as the Borrower

and

1314625 Ontario Limited,  
as a Guarantor

and

Royal Bank of Canada,

as Agent, Lead Arranger and Sole Bookrunner

and

The Lenders Party Hereto

---

## TABLE OF CONTENTS

<b>Article I DEFINITIONS AND ACCOUNTING TERMS .....</b>	<b>1</b>
1.1 Defined Terms .....	1
1.2 Other Interpretive Provisions .....	40
1.3 Accounting Terms .....	42
1.4 Rounding .....	42
1.5 Times of Day .....	43
1.6 Letter of Credit Amounts .....	43
1.7 Currency Equivalents Generally .....	43
1.8 Judgment Currency .....	43
1.9 Interest Calculations and Payments .....	43
1.10 Interest Act (Canada) .....	44
<b>Article II THE COMMITMENTS AND CREDIT EXTENSIONS .....</b>	<b>44</b>
2.1 Committed Loans; Reserves .....	44
2.2 Borrowings, Conversions and Continuations of Committed Loans .....	44
2.3 Letters of Credit .....	46
2.4 Prepayments .....	54
2.5 Termination or Reduction of Commitments .....	55
2.6 Repayment of Loans .....	55
2.7 Interest .....	55
2.8 Fees .....	56
2.9 Computation of Interest and Fees .....	56
2.10 Evidence of Debt .....	57
2.11 Payments Generally; Agent's Clawback .....	57
2.12 Sharing of Payments by Lenders .....	59
2.13 Settlement Amongst Lenders .....	59
2.14 Increase in Commitments .....	60
2.15 Extension of the Credit Facility .....	61
2.16 Swingline Facility .....	62
2.17 Overdrafts under the Swingline Facility .....	64
<b>Article III TAXES, YIELD PROTECTION AND ILLEGALITY .....</b>	<b>64</b>
3.1 Taxes .....	64
3.2 Illegality .....	66
3.3 Inability to Determine Rates .....	67
3.4 Increased Costs; Reserves on LIBO Rate Loans .....	67
3.5 Compensation for Losses .....	69
3.6 Mitigation Obligations; Replacement of Lenders .....	69
3.7 Survival .....	70
<b>Article IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS .....</b>	<b>70</b>
4.1 Conditions of Initial Credit Extension .....	70
4.2 Conditions to all Credit Extensions .....	73
<b>Article V REPRESENTATIONS AND WARRANTIES .....</b>	<b>74</b>
5.1 Existence, Qualification and Power .....	74
5.2 Authorization; No Contravention .....	75
5.3 Governmental Authorization; Other Consents .....	75

5.4	Binding Effect.....	75
5.5	Financial Statements; No Material Adverse Effect.....	75
5.6	Litigation.....	76
5.7	No Default.....	76
5.8	Ownership of Property; Liens.....	76
5.9	Environmental Compliance.....	77
5.10	Insurance.....	77
5.11	Taxes.....	78
5.12	Pension Plan Compliance.....	78
5.13	Subsidiaries.....	78
5.14	Disclosure.....	79
5.15	Compliance with Laws.....	79
5.16	Intellectual Property; Licenses, Etc.....	79
5.17	Labor Matters.....	80
5.18	Security Documents.....	80
5.19	Solvency.....	81
5.20	Deposit Accounts; Credit Card Arrangements.....	81
5.21	Brokers.....	81
5.22	Customer and Trade Relations.....	81
5.23	Material Contracts.....	81
5.24	Casualty.....	81
<b>Article VI AFFIRMATIVE COVENANTS.....</b>		<b>82</b>
6.1	Financial Statements.....	82
6.2	Certificates; Other Information.....	83
6.3	Notices.....	84
6.4	Payment of Obligations.....	85
6.5	Preservation of Existence, Etc.....	85
6.6	Maintenance of Properties.....	85
6.7	Maintenance of Insurance.....	86
6.8	Compliance with Laws.....	87
6.9	Books and Records; Accountants.....	87
6.10	Inspection Rights; Physical Inventories; Appraisals.....	87
6.11	Use of Proceeds.....	88
6.12	Additional Guarantors.....	88
6.13	Cash Management; Credit Card Notifications.....	89
6.14	Information Regarding the Collateral.....	90
6.15	Environmental Laws.....	91
6.16	Further Assurances.....	91
6.17	Compliance with Terms of Leaseholds.....	92
6.18	Material Contracts.....	92
<b>Article VII NEGATIVE COVENANTS.....</b>		<b>92</b>
7.1	Liens.....	93
7.2	Investments; Subsidiaries.....	93
7.3	Indebtedness.....	93
7.4	Fundamental Changes.....	93
7.5	Dispositions.....	93
7.6	Restricted Payments.....	93
7.7	Prepayments of Indebtedness.....	94

7.8	Change in Nature of Business.....	94
7.9	Transactions with Affiliates.....	94
7.10	Burdensome Agreements.....	94
7.11	Use of Proceeds.....	95
7.12	Amendment of Material Documents.....	95
7.13	Fiscal Year.....	95
7.14	Financial Covenants.....	95
7.15	Store Closings.....	96
<b>Article VIII EVENTS OF DEFAULT AND REMEDIES.....</b>		<b>96</b>
8.1	Events of Default.....	96
8.2	Remedies Upon Event of Default.....	99
8.3	Application of Funds.....	99
<b>Article IX AGENT.....</b>		<b>101</b>
9.1	Appointment and Authority.....	101
9.2	Rights as a Lender.....	101
9.3	Exculpatory Provisions.....	102
9.4	Reliance by Agent.....	102
9.5	Delegation of Duties.....	103
9.6	Resignation of Agent.....	103
9.7	Non-Reliance on Agent and Other Lenders.....	104
9.8	Agent May File Proofs of Claim.....	104
9.9	Collateral and Guarantee Matters.....	105
9.10	Notice of Transfer.....	105
9.11	Reports and Financial Statements.....	105
9.12	Agency for Perfection.....	106
9.13	Indemnification of Agent.....	106
9.14	Relation among Lenders.....	107
9.15	Defaulting Lender.....	107
<b>Article X MISCELLANEOUS.....</b>		<b>109</b>
10.1	Amendments, Etc.....	109
10.2	Notices; Effectiveness; Electronic Communications.....	111
10.3	No Waiver; Cumulative Remedies.....	112
10.4	Expenses; Indemnity; Damage Waiver.....	112
10.5	Payments Set Aside.....	114
10.6	Successors and Assigns.....	114
10.7	Treatment of Certain Information; Confidentiality.....	118
10.8	Right of Setoff.....	118
10.9	Interest Rate Limitation.....	119
10.10	Counterparts; Integration; Effectiveness.....	119
10.11	Survival.....	119
10.12	Severability.....	120
10.13	Replacement of Lenders.....	120
10.14	Governing Law; Jurisdiction; Etc.....	120
10.15	Waiver of Jury Trial.....	121
10.16	No Advisory or Fiduciary Responsibility.....	122
10.17	Foreign Asset Control Regulations.....	122
10.18	Time of the Essence.....	122

10.19	Press Releases.....	123
10.20	Additional Waivers.....	123
10.21	No Strict Construction.....	124
10.22	Attachments.....	124
10.23	Anti-Money Laundering Legislation.....	124

## SCHEDULES

1.1	Guarantors
2.1	Commitments and Applicable Percentages
4.1	Closing Date Loan Documents
5.1	Loan Parties Organizational Information
5.6	Litigation
5.8(b)(1)	Owned Real Estate
5.8(b)(2)	Leased Real Estate
5.9	Environmental Matters
5.10	Insurance
5.11	Taxes
5.12	Pension Plans
5.13	Subsidiaries; Other Equity Investments; Equity Interests in the Loan Parties
5.16	Intellectual Property Matters
5.17	Collective Bargaining Agreements
5.20(a)	DDAs
5.20(b)	Credit Card Arrangements
5.23	Material Contracts
6.2	Financial and Collateral Reporting
7.1	Existing Liens
7.2	Existing Investments
7.3	Existing Indebtedness
7.9	Existing Transactions with Affiliates
10.2	Agent's Office; Certain Addresses for Notices

## EXHIBITS

A	Committed Loan Notice
B	Revolving Credit Note
C	Compliance Certificate
D	Assignment and Assumption
E	Borrowing Base Certificate
F	Form of Credit Card Notification
G	Existing L/Cs

This CREDIT AGREEMENT (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into as of August 3, 2017, among

MOUNTAIN EQUIPMENT CO-OPERATIVE, a cooperative association duly incorporated under the laws of the Province of British Columbia (the "Borrower");

1314625 ONTARIO LIMITED, a corporation duly incorporated under the laws of the Province of Ontario, as a Guarantor;

each lender from time to time party hereto (collectively, the "Lenders" and individually, a "Lender"); and

ROYAL BANK OF CANADA, as Agent.

## INTRODUCTION

The Borrower has requested that the Lenders provide a revolving credit facility, and the Lenders have indicated their willingness to lend, the Swingline Lender has indicated its willingness to provide Swingline Loans and the L/C Issuer has indicated its willingness to issue Letters of Credit, in each case on the terms and conditions set forth herein.

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

## ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

### 1.1 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

"Accelerated Borrowing Base Delivery Event" means either (a) the occurrence and continuance of any Event of Default, or (b) the failure of the Borrower at any time to maintain Availability for [REDACTED] consecutive Business Days at least equal to the greater of (i) [REDACTED] the Loan Cap, and (ii) [REDACTED]. For purposes of this Agreement, the occurrence of an Accelerated Borrowing Base Delivery Event shall be deemed continuing only (a) so long as such Event of Default giving rise to such Accelerated Borrowing Base Event is continuing, and/or (b) if such Accelerated Borrowing Base Delivery Event arises as a result of the Borrower's failure to achieve Availability as required hereunder, until Availability has exceeded the greater of (i) [REDACTED] of the Loan Cap, and (ii) [REDACTED] in any case, for thirty (30) consecutive calendar days, in which case an Accelerated Borrowing Base Delivery Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of an Accelerated Borrowing Base Delivery Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Accelerated Borrowing Base Delivery Event in the event that the conditions set forth in this definition again arise.

"Acceptable Document of Title" means, with respect to any Inventory, a tangible, negotiable bill of lading or other Document that (a) is issued by a common carrier which is not an Affiliate of the Borrower which is in actual possession of such Inventory, (b) is issued to the order of the Borrower or, if so requested by Agent, to the order of Agent, (c) names Agent as a notify party and bears a conspicuous notation on its face of Agent's security interest and Lien therein, (d) is not subject to any Lien (other than

in favor of Agent and such common carrier, provided any such Lien in favour of a common carrier shall have been subordinated to Agent's Lien in a manner reasonably acceptable to Agent and such subordination shall permit Agent to deal with the bill of lading or other Document, as applicable, and the Collateral to the exclusion of the common carrier, who shall agree to release its Lien at Agent's request), and (e) is on terms otherwise reasonably acceptable to Agent.

"ACH Transaction" means any automated clearing house processing or electronic funds transfer.

"Account" means "accounts" as defined in the PPSA, and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, (c) for a policy of insurance issued or to be issued, (d) for a secondary obligation incurred or to be incurred, or (e) arising out of the use of a credit or charge card or information contained on or for use with the card.

"Acquisition" means, with respect to any Person (a) an Investment in, or a purchase of a Controlling interest in, the Equity Interests of any other Person, (b) a purchase or other acquisition of all or substantially all of the assets or properties of, another Person or of any business unit of another Person, or (c) any merger, amalgamation or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or a Controlling interest in the Equity Interests, of any Person.

"Additional Commitment Lender" shall have the meaning provided in Section 2.14(c).

"Adjusted LIBO Rate" means for any Interest Period with respect to any LIBO Borrowing, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of one percent) equal to (i) the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate. The Adjusted LIBO Rate will be adjusted automatically as of the effective date of any change in the Statutory Reserve Rate.

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

"Affiliate" means, with respect to any 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. Solely for purposes of Section 7.9, (i) each director, officer, or managing member of a Person shall be deemed to be an Affiliate of such Person and (ii) each partnership or joint venture in which a Person is a partner or joint venturer shall be deemed to be an Affiliate of such Person.

"Agent" means, Royal Bank in its capacity as administrative agent, collateral agent and hypothecary representative under any of the Loan Documents, or any successor thereto in such capacities.

"Agent Parties" has the meaning specified in Section 10.2(c).

"Agent's Account" means the accounts maintained by the Agent from time to time as the accounts into which the Borrower shall make all payments to Agent for the benefit of the Credit Parties under this Agreement and the other Loan Documents, as the Agent may from time to time designate by Notice to the Borrower and the Lenders.

"Agent's Office" means Agent's address and, as appropriate, account as set forth on Schedule 10.2, or such other address or account as Agent may from time to time notify the Borrower and the Lenders.

“Aggregate Commitments” means the Commitments of all the Lenders. As of the Closing Date, the Aggregate Commitments total \$130,000,000.

“Agreement” has the meaning specified in the preamble hereto.

“AML Legislation” has the meaning provided in Section 10.23.

“Applicable Lenders” means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

“Applicable Margin” means, with respect to any Loan, the applicable rate per annum expressed as a percentage set forth in the relevant column in the table below:

Applicable Margin for LIBO Rate Loans or BA Rate Loans	Applicable Margin for Prime Rate Loans or Base Rate Loans	Applicable Margin for the Letter of Credit Fee
--	---	--

“Applicable Percentage” means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender’s Commitment at such time. If the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 2.5 or Section 8.2 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

“Appraisal” means, with respect to any Mortgaged Property, an appraisal for such Mortgaged Property, the draft forms of which shall be provided to Agent for review and comment, prepared by an independent third party appraiser reasonably acceptable to Agent.

“Appraised Value” means with respect to the Borrower’s Eligible Inventory, the appraised orderly liquidation value, net of costs and expenses to be incurred in connection with any such liquidation, which value is expressed as a percentage of Cost of the Borrower’s Eligible Inventory as set forth in the Borrower’s inventory stock ledger, which value shall be determined from time to time by the most recent appraisal undertaken by an independent appraiser engaged by Agent and, provided no Event of Default has occurred and is continuing, reasonably acceptable to the Borrower.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate or branch of a Lender, (c) an entity or an Affiliate of an entity that administers or manages a Lender or (d) the same investment advisor or an advisor under common control with such Lender, Affiliate, branch or advisor, as applicable.

“Assignee Group” means two or more Eligible Assignees that are Affiliates or branches of one another or two or more Approved Funds managed by the same investment advisor.



“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.6(b)), and accepted by Agent, in substantially the form of Exhibit D or any other form approved by Agent.

“Attributable Indebtedness” means, on any date, (a) in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease or similar payments under the relevant lease or other applicable agreement or instrument that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease, agreement or instrument were accounted for as a capital lease.

“Audited Financial Statements” means the audited consolidated balance sheet of the Borrower and its Subsidiaries for a complete Fiscal Year, and the related statement of earnings (loss) and surplus (deficit) and statement of cash flows for such Fiscal Year, including the notes thereto.

“Availability” means, as of any date of determination thereof by Agent, the result, if a positive number, of:

(a) the Loan Cap as of such date

Minus

(b) the Total Outstandings as of such date.

“Availability Period” means the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Aggregate Commitments pursuant to Section 2.5, and (c) the date of termination of the commitment of each Lender to make Loans and of the obligation of the L/C Issuer to make L/C Credit Extensions pursuant to Section 8.2.

“Availability Reserves” means, without duplication of any other Reserves or items to the extent such items are otherwise addressed or excluded through eligibility criteria, such reserves as Agent from time to time determines in its Permitted Discretion as being appropriate (a) to reflect the impediments to Agent’s ability to realize upon the Collateral, (b) to reflect claims and liabilities that Agent determines in its Permitted Discretion will need to be satisfied in connection with the realization upon the Collateral, including, in respect of any Liens, choate or inchoate, which rank or are capable of ranking in priority to Agent’s Liens in the Collateral, (c) to reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, or the assets, business, financial performance or financial condition of the Borrower, or (d) to reflect that a Default or an Event of Default then exists. Without limiting the generality of the foregoing, Availability Reserves may include, in Agent’s Permitted Discretion, (but are not limited to) reserves based on: (i) rent; (ii) customs duties, and other costs to release Inventory which is being imported into Canada; (iii) outstanding and past due Taxes and other governmental charges, including, without limitation, all amounts deducted or withheld and not paid and remitted when due under the ITA, sales tax, goods and services tax, value added tax, ad valorem taxes, harmonized sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) or similar provincial legislation, government royalties, amounts currently or past due and not paid for realty, municipal or similar taxes, sales, and other Taxes which rank or are capable of ranking in priority to Agent’s Liens in the Collateral; (iv) any amounts due and not paid for salaries, wages or vacation pay (including such amounts protected by the *Wage Earner Protection Program Act* (Canada)), amounts due and not paid under any legislation relating to workers' compensation or to employment insurance and other benefits due to employees of any Loan Party, (v) Customer Credit Liabilities and Customer

Deposits, (vi) reserves for reasonably anticipated changes in the Appraised Value of Eligible Inventory between appraisals, (vii) warehousemen's or bailee's charges and other Permitted Encumbrances or Liens which rank or are capable of ranking in priority to Agent's Liens in the Collateral, (viii) amounts due to vendors on account of consigned goods, (ix) Cash Management Reserves, (x) Bank Products Reserves, (xi) payables to vendors entitled to the benefits of unpaid vendors' thirty (30) day good rights to repossess goods or exercise revendication rights, (xii) all unfunded wind-up or solvency deficiency amounts under, and all amounts currently or past due and not contributed, remitted or paid to, any Plan, the PBA or any similar legislation.

"BA Rate" means, with respect to each Interest Period for a BA Rate Loan, the rate of interest per annum equal to the average rate applicable to Canadian Dollar bankers' acceptances having an identical or comparable term as the proposed BA Rate Loan displayed and identified as such on the display referred to as the "CDOR Page" (or any display substituted therefor) of Reuters Monitor Money Rates Service as at approximately 10:00 a.m. Toronto time on such day (or, if such day is not a Business Day, as of 10:00 a.m. Toronto time on the immediately preceding Business Day); provided that if such rate does not appear on the CDOR Page at such time on such date, the rate for such date will be the annual discount rate (rounded upward to the nearest whole multiple of 1/100 of 1%) as of 10:00 a.m. Toronto time on such day at which a Canadian chartered bank listed on Schedule I of the Bank Act (Canada) as selected by Agent is then offering to purchase Canadian Dollar bankers' acceptances accepted by it having such specified term (or a term as closely as possible comparable to such specified term).

"BA Rate Loan" means a Loan that bears interest based on the BA Rate.

"Bank of Canada Overnight Rate" means the Bank of Canada overnight rate, which is the rate of interest charged by the Bank of Canada on one-day loans to financial institutions, for such day.

"Bank Products" means any services or facilities provided to any Loan Party by Agent or any of its Affiliates (but excluding Cash Management Services), including, without limitation, on account of (a) Swap Contracts, and (b) leasing arrangements.

"Bank Product Reserves" means such reserves as Agent from time to time determines in its Permitted Discretion as being appropriate to reflect the liabilities and obligations of the Loan Parties with respect to Bank Products then provided or outstanding.

"Base LIBO Rate" means for any interest rate calculation with respect to any Base Rate Loan, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of one percent) equal to (i) the LIBO Rate for an Interest Period commencing on the date of such calculation and ending on the date that is one month thereafter multiplied by (ii) the Statutory Reserve Rate.

"Base Rate" means, for any day, a fluctuating interest rate per annum equal to the highest of the Federal Funds Rate, as in effect from time to time, plus [REDACTED], (b) the Base LIBO Rate plus [REDACTED], or (c) the rate of interest in effect for such day as publicly announced from time to time by Royal Bank as its U.S. Dollar "base rate". The U.S. Dollar "base rate" is a rate set by Royal Bank based upon various factors including Royal Bank's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some U.S. Dollar loans in Canada, which may be priced at, above, or below such announced rate. Any change in such rate announced by Royal Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Loan in U.S. Dollars that bears interest based on the Base Rate.

“Borrower Materials” has the meaning specified in Section 6.2.

“Borrower” has the meaning specified in the introductory paragraph hereto.

“Borrowing” means a Committed Borrowing.

“Borrowing Base” means, at any time of calculation, an amount equal to:

(i) subject to Section 6.13(c), the face amount of Eligible Credit Card Receivables multiplied by [REDACTED]

plus

(ii) the Cost of Eligible Inventory, net of Inventory Reserves, multiplied by [REDACTED] (provided that the Borrower may elect to increase this multiplier to [REDACTED] for, in the Borrower’s discretion, (A) one (1) period of four (4) consecutive Fiscal Periods, or (B) two (2) periods of two (2) consecutive Fiscal Periods, in each Fiscal Year), multiplied by the Appraised Value of Eligible Inventory;

plus

(iii) the Real Estate Component;

minus

(iv) the amount of all Availability Reserves at such time.

“Borrowing Base Certificate” means a certificate substantially in the form of Exhibit E hereto (with such changes therein as may be reasonably required by Agent to reflect the components of and reserves against the Borrowing Base as provided for hereunder from time to time), executed and certified as accurate and complete by a Responsible Officer of the Borrower which shall include appropriate exhibits, schedules, supporting documentation, and additional reports as reasonably requested by Agent.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, Vancouver, British Columbia or Toronto, Ontario and, if such day relates to any LIBO Rate Loan, means any such day on which dealings in U.S. Dollar deposits are conducted by and between banks in the London interbank market.

“Business Plan” means the Borrower’s business plan delivered pursuant to Section 6.1(c).

“Capital Expenditures” means, with respect to any Person for any period, (a) all expenditures made (whether made in the form of cash or other property) or costs incurred for the acquisition or improvement of fixed or capital assets of such Person (excluding normal replacements and maintenance which are properly charged to current operations and any expenditures which are contractually required to be, and are, reimbursed to the Loan Parties in cash by a third party (including tenants) during such period), in each case that are (or should be) set forth as capital expenditures in a Consolidated statement of cash flows of such Person for such period, in each case prepared in accordance with GAAP, and (b) Capital Lease Obligations incurred by a Person during such period.

“Capital Lease Obligations” means, with respect to any Person for any period, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to

use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as liabilities on a balance sheet of such Person under GAAP and the amount of which obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Cash Collateral Account” means a non-interest bearing account established by the Borrower with Royal Bank, and in the name of, Agent (as Agent shall otherwise direct) and under the sole and exclusive dominion and control of Agent, in which deposits are required to be made in accordance with Section 2.3(k) or 8.2(c).

“Cash Collateral” and “Cash Collateralize” have the meanings specified in Section 2.3(k).

“Cash Equivalents” means each of the following:

(a) readily marketable obligations issued or directly and fully guaranteed or insured by the United States, the Government of Canada or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition thereof; provided that the full faith and credit of the United States or Canada is pledged in support thereof;

(b) marketable direct obligations issued by an state of the United States or any province or territory of Canada, or any political subdivision of any such state, province or territory, or any public instrumentality thereof, in each case maturing within one year after the date of acquisition thereof and having, at the time of the acquisition thereof, an investment grade rating obtainable from either Moody’s or S&P;

(c) commercial paper issued by any Person organized under the laws of any state of the United States or any province or territory of Canada and rated at least “Prime-1” (or the then equivalent grade) by Moody’s or at least “A-1” (or the then equivalent grade) by S&P, in each case with maturities of not more than 270 days from the date of acquisition thereof;

(d) time deposits with, or insured certificates of deposit or bankers’ acceptances of, any commercial bank that (i) (A) is a Lender or (B) is organized under the laws of the United States, any state thereof or the District of Columbia or is the principal banking subsidiary of a bank holding company organized under the laws of the United States, any state thereof or the District of Columbia, and is a member of the Federal Reserve System or is organized under the laws of Canada and is a member of the Canadian Deposit Insurance Corporation, (ii) issues (or the parent of which issues) commercial paper rated as described in clause (c) of this definition and (iii) has combined capital and surplus of at least [REDACTED] in each case with maturities of not more than one year from the date of acquisition thereof;

(e) fully collateralized repurchase agreements with a term of not more than [REDACTED] days for securities described in clause (a) above (without regard to the limitation on maturity contained in such clause) and entered into with a financial institution satisfying the criteria described in clause (d) above or with any primary dealer and having a market value at the time that such repurchase agreement is entered into of not less than 100% of the repurchase obligation of such counterparty entity with whom such repurchase agreement has been entered into; and

(f) Investments, classified in accordance with GAAP as current assets of the Borrower, in any money market fund, mutual fund, or other investment companies that are registered under the Investment Company Act of 1940, as amended, which are administered by financial institutions that have the highest rating obtainable from either Moody’s or S&P, and which invest primarily in one or more of the types of securities described in clauses (a) through (e) above.

“Cash Management Activation Event” means either (a) the occurrence and continuance of any Event of Default, or (b) the failure of the Borrower at any time to maintain Availability for [REDACTED] consecutive Business Days at least equal to the greater of (i) [REDACTED] the Loan Cap, and (ii) [REDACTED]. For purposes of this Agreement, the occurrence of a Cash Management Activation Event shall be deemed continuing only (a) so long as such Event of Default giving rise to such Cash Management Activation Event is continuing, and/or (b) if such Cash Management Activation Event arises as a result of the Borrower’s failure to achieve Availability as required hereunder, until Availability has exceeded the greater of (i) [REDACTED] [REDACTED] of the Loan Cap, and (ii) [REDACTED] in any case, for thirty (30) consecutive calendar days, in which case a Cash Management Activation Event shall no longer be deemed to be continuing for purposes of this Agreement; provided that a Cash Management Activation Event shall be deemed continuing (even if an Event of Default is no longer continuing and/or Availability exceeds the required amount for thirty (30) consecutive calendar days) at all times after a Cash Management Activation Event has occurred and been discontinued on three (3) occasions after the Closing Date. The termination of a Cash Management Activation Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Cash Management Activation Event in the event that the conditions set forth in this definition again arise.

“Cash Management Agreements” has the meaning specified in Section 6.13(a).

“Cash Management Reserves” means such reserves as Agent, from time to time, determines in its Permitted Discretion as reflecting the reasonably anticipated liabilities and obligations of the Loan Parties with respect to Cash Management Services then provided or outstanding.

“Cash Management Services” means any one or more of the following types or services or facilities provided to any Loan Party by Agent or any of its Affiliates: (a) ACH transactions, (b) cash management services, including, without limitation, controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) foreign exchange facilities, (d) credit or debit cards, (e) credit card processing services, and (f) purchase cards.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided, however, for purposes of this Agreement, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith, and (ii) all rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to have gone into effect and been adopted after the Closing Date.

“Change of Control” means an event or series of events by which:

(a) during any period of [REDACTED] consecutive months, a majority of the members of the board of directors of the Borrower cease to be composed of individuals (i) who were members of that board on the first day of such period, (ii) whose election or nomination to that board was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or (iii) whose election or nomination to that board was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board (in each case, other than the annual election of members of the board of directors in accordance

with Rule 10.02 of the Borrower's Rules or any change to the board of directors to replace a director who has died, become incapacitated or resigned for health or personal reasons); or

(b) any "change in control" with respect to the Borrower or "sale" or "disposition" of all or substantially all of the properties and assets of the Borrower, or similar event, in each case as defined in any Organizational Document of the Borrower or in any Material Contract, or any document governing Material Indebtedness of any Loan Party.

"Closing Date" means the first date all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 10.1, which, for certainty, shall be the date upon which the initial Credit Extensions are made hereunder.

"Collateral" means any and all "Collateral" as defined in any applicable Security Document and, for certainty, includes each Mortgaged Property.

"Collateral Access Agreement" means an agreement reasonably satisfactory in form and substance to Agent executed by (a) a bailee, warehouseman or other similar Person in possession of Collateral, or (b) a landlord of Real Estate leased by any Loan Party, pursuant to which such Person (i) acknowledges Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such Real Estate, (iii) provides Agent with access to the Collateral held by such bailee or other Person or located in or on such Real Estate, (iv) as to any landlord, provides Agent with a reasonable time to sell, remove or otherwise dispose of the Collateral from such Real Estate, and (v) makes such other agreements with Agent as Agent may reasonably require.

"Collateral Mortgages" means Mortgages of each of the Mortgaged Properties.

"Collections" means all cash, checks, credit card slips or receipts, notes, instruments, and other items of payment that arise out of the sale or other disposition of Collateral.

"Commitment" means, as to each Lender, its obligation to (a) make Committed Loans to the Borrower pursuant to Section 2.1, and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.1 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement and in accordance with Assignments and Assumptions entered into by such Lender.

"Committed Borrowing" means a borrowing consisting of simultaneous Committed Loans of the same Type and, in the case of BA Rate Loans or LIBO Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.1.

"Committed Loan" has the meaning specified in Section 2.1.

"Committed Loan Notice" means a notice of (a) a Committed Borrowing, (b) a conversion of Committed Loans from one Type to the other, or (c) a continuation of a Fixed Rate Loan, pursuant to Section 2.2(b), which, if in writing, shall be substantially in the form of Exhibit A.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Concentration Account" has the meaning specified in Section 6.13(a).

“Consent” means actual consent given by a Lender from whom such consent is sought; provided that the passage of seven (7) Business Days from receipt of written notice to a Lender from Agent of a proposed course of action to be followed by Agent without such Lender’s giving Agent written notice of that Lender’s consent to such course of action shall be deemed to constitute such Lender’s objection to such course of action.

“Consolidated” means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

“Consolidated EBITDA” means, at any date of determination, an amount equal to Consolidated Net Income of the Borrower and its Subsidiaries for the most recently completed Measurement Period, plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges, (ii) the provision for federal, provincial, territorial, municipal and local and foreign income Taxes, (iii) depreciation and amortization expense, (iv) all other non-recurring costs, charges and expenses reducing such Consolidated Net Income which do not represent a cash item in such period or any future period (in each case of or by the Borrower and its Subsidiaries for such Measurement Period), (v) all non-cash and deferred interest financing costs, and (vi) all other non-cash costs, charges and expenses reducing such Consolidated Net Income which do not represent a cash item in such period or any future period (including “Patronage Return” appearing on the consolidated statement of earnings (loss) and surplus (deficit) of the Borrower, to the extent not paid in cash), minus (b) the following to the extent included in calculating such Consolidated Net Income: (i) federal, provincial, territorial, municipal, local and foreign income tax credits and (ii) all non-cash items increasing Consolidated Net Income (in each case of or by the Borrower and its Subsidiaries for such Measurement Period), all as determined on a Consolidated basis in accordance with GAAP.

“Consolidated Fixed Charge Coverage Ratio” means, at any date of determination, the ratio of (a) Consolidated EBITDA for such period minus (i) Capital Expenditures made during such period, except for Growth Capital Expenditures to the extent the same were permitted to be incurred pursuant to Section 7.14(b), minus (ii) the aggregate amount of federal, provincial, territorial, municipal, local and foreign income Taxes paid in cash during such period to (b) the sum of (i) Debt Service Charges plus (ii) the aggregate amount of all Restricted Payments, in each case, of or by the Borrower and its Subsidiaries for the most recently completed Measurement Period, all as determined on a Consolidated basis in accordance with GAAP.

“Consolidated Interest Charges” means, for any Measurement Period, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including interest capitalized during or at the end of such period) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net costs under Swap Contracts, but excluding any non-cash or deferred interest financing costs, (b) all interest paid or payable with respect to discontinued operations and (c) the portion of rent expense with respect to such period under Capital Lease Obligations that is treated as interest in accordance with GAAP, in each case of or by the Borrower and its Subsidiaries for the most recently completed Measurement Period, all as determined on a Consolidated basis in accordance with GAAP.

“Consolidated Net Income” means, as of any date of determination, the net income of the Borrower and its Subsidiaries for the most recently completed Measurement Period, all as determined on

a Consolidated basis in accordance with GAAP, provided, however, that there shall be excluded (a) extraordinary, one-time or non-recurring gains and extraordinary, one-time or non-recurring losses for such Measurement Period, (b) the income (or loss) of any Person (other than the Borrower and its Subsidiaries) during such Measurement Period in which any other Person has a joint interest, except to the extent of the amount of cash dividends or other distributions actually paid in cash to the Borrower and its Subsidiaries during such period, (c) the income (or loss) of any Person during such Measurement Period prior to the date it became a Subsidiary or is merged into or consolidated with the Borrower or any of its Subsidiaries or that Person's assets were acquired by the Borrower or any of its Subsidiaries, and (d) the income of any direct or indirect Subsidiary of the Borrower to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its Organization Documents or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, except that the Borrower's equity in any net loss of any such Subsidiary for such Measurement Period shall be included in determining Consolidated Net Income. For greater certainty, "Consolidated Net Income" shall not include any gain recorded in respect of the sale of the property known municipally as 400 King Street West, Toronto, Ontario.

"Contractual Obligation" means, as to any Person, any provision of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. Solely for purposes of Section 7.9 hereof, any Person that directly or indirectly owns 10% or more of the securities having ordinary voting power for the election of directors or other members of the Person (other than as a limited partner of such Person) shall be deemed to Control such Person. "Controlling" and "Controlled" have meanings correlative thereto.

"Control Agreement" means an agreement (including a blocked account agreement), in form and substance reasonably satisfactory to Agent, executed and delivered by the applicable Loan Party, Agent, and the applicable securities intermediary or bank or other financial institution, which agreement shall, among other things (including, (i) the requirement, after the delivery of notice by Agent, to perform an ACH Transaction or wire transfer no less frequently than once per Business Day of all available balances therein to an account designated by Agent, (ii) a waiver by the applicable securities intermediary or bank or other financial institution of any rights and offset rights in the account (save for customary chargeback rights and administrative fees), and (iii) other customary provisions for agreements of that nature), be sufficient to give Agent "control" (as defined in the PPSA) over the subject Securities Account, other Investment Property or DDA, as applicable.

"Cost" means the lower of cost or market value of Inventory, based upon the Borrower's accounting practices, known to Agent, which practices are in effect on the Closing Date as such calculated cost is determined from invoices received by the Borrower, the Borrower's purchase journals or the Borrower's stock ledger.

"Covenant Compliance Event" means the failure of the Borrower to maintain, for a period of [REDACTED] consecutive calendar days, Availability at least equal to the greater of (A) [REDACTED] the Loan Cap, and (B) [REDACTED]. For purposes of this Agreement, the occurrence of a Covenant Compliance Event shall be deemed continuing until Availability has exceeded the greater of (A) [REDACTED] of the Loan Cap, and (B) [REDACTED] in any case, for thirty (30) consecutive calendar days, in which case a Covenant Compliance Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of a Covenant Compliance Event as provided herein shall in



no way limit, waive or delay the occurrence of a subsequent Covenant Compliance Event in the event that the conditions set forth in this definition again arise.

“Credit Card Notifications” means those certain credit card / debit card receipt notifications, each in form and substance reasonably satisfactory to Agent and each of which is sent to one of the Borrower’s Credit Card Processors by Agent and the Borrower.

“Credit Card Processor” means any Person that acts as a credit card or debit card clearinghouse or processor of credit card or debit card payments accepted by the Borrower.

“Credit Card Receivables” means each “Account” (as defined in the PPSA) together with all income, payments and proceeds thereof, owed by Visa, MasterCard and such other major credit or debit card issuer or processor approved by Agent (such approval not to be unreasonably withheld or delayed) to the Borrower resulting from charges by a customer of the Borrower on credit or debit cards issued by such issuer in connection with the sale of goods by the Borrower, or services performed by the Borrower, in each case in the ordinary course of its business.

“Credit Extensions” mean each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Credit Party” or “Credit Parties” means (a) individually, (i) each Lender and its Affiliates and branches, (ii) Agent, (iii) the L/C Issuer, (iv) the Swingline Lender, (v) each beneficiary of each indemnification obligation undertaken by any Loan Party under any Loan Document, (vi) any other Person to whom any Secured Obligations are owing, and (vii) the successors and assigns of each of the foregoing, and (b) collectively, all of the foregoing.

“Credit Party Expenses” means, without limitation, (a) all reasonable and documented out-of-pocket expenses incurred by Agent and its Affiliates and branches, in connection with this Agreement and the other Loan Documents, including without limitation (i) the reasonable and documented fees, charges and disbursements of (A) counsel for Agent, (B) outside consultants for Agent, (C) appraisers, (D) the issuer of title insurance policies relating to the Mortgaged Properties, (E) commercial finance examinations, and (F) all such out-of-pocket expenses incurred during in any workout, restructuring or negotiations in respect of the Secured Obligations, (ii) in connection with (A) the preparation, negotiation, administration, management, execution and delivery of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (B) the enforcement or protection of their rights in connection with this Agreement or the Loan Documents or efforts to preserve, protect, collect, or enforce the Collateral, or (C) any workout, restructuring or negotiations in respect of any Secured Obligations, (b) all reasonable and documented customary fees and charges (as adjusted from time to time) of Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of the Borrower (whether by wire transfer or otherwise), together with any reasonable and documented out-of-pocket costs and expenses incurred in connection therewith, and (c) with respect to the L/C Issuer, and its Affiliates and branches, all reasonable and documented out-of-pocket expenses incurred in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder.

“Customer Credit Liabilities” means at any time, the aggregate remaining value at such time of outstanding gift certificates and gift cards of the Borrower entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price for any (a) Inventory, and (b) outstanding merchandise credits of the Borrower.

“Customer Deposits” means deposits made by customers with respect to the purchase of goods or the performance of services.

“Customs Broker Agreement” means an agreement in form and substance reasonably satisfactory to Agent among the Borrower, a customs broker, freight forwarder, consolidator or other carrier, and Agent, in which the customs broker, freight forwarder, consolidator or other carrier acknowledges that it has control over and holds the documents evidencing ownership of the subject Inventory for the benefit of Agent and agrees, upon notice from Agent (which notice may be delivered only upon the occurrence and during the continuance of an Event of Default), to hold and dispose of the subject Inventory solely as directed by Agent.

“DDA” means each checking, savings or other demand deposit account maintained by the Borrower, other than any payroll, trust and tax withholding accounts maintained in the ordinary course of business. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

“Debt Service Charges” means for any Measurement Period, the sum of (a) Consolidated Interest Charges paid or required to be paid in cash for such Measurement Period, plus (b) scheduled principal payments (excluding any mandatory prepayments and bullet or balloon payment required at maturity) made or required to be made during such Measurement Period on account of Indebtedness (excluding the Obligations and any Synthetic Lease Obligations but including, without limitation, Capital Lease Obligations), and (c) an amount representing the reduction (i.e. amortization) of the Real Estate Component equal to ██████████ for such Measurement Period, in each case determined on a Consolidated basis in accordance with GAAP.

“Debtor Relief Laws” means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, arrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Declining Lender” has the meaning specified in Section 2.15(c).

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, an interest rate equal to (A) if the Obligations are denominated in U.S. Dollars, (i) the Base Rate plus (ii) the Applicable Margin applicable to Base Rate Loans, plus (iii) ██████████ per annum, and (B) if the Obligations are denominated in Dollars, (i) the Prime Rate plus (ii) the Applicable Margin applicable to Prime Rate Loans, plus (iii) ██████████ per annum; provided, however, that with respect to any Fixed Rate Loans, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Margin) otherwise applicable to such Fixed Rate Loan, plus ██████████ per annum, and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Margin for Letters of Credit, plus ██████████ per annum.

“Defaulting Lender” means any Lender that (a) has failed to fund any amounts required to be funded by it under this Agreement within one (1) Business Day of the date that it is required to do so under this Agreement (including the failure to make available to Agent amounts required pursuant to a

Settlement or to make a required payment in connection with a Letter of Credit Disbursement), (b) notified the Borrower, Agent, or any Lender in writing that it does not intend to comply with all or any portion of its funding obligations under this Agreement, (c) has made a public statement to the effect that it does not intend to comply with its funding obligations under the Agreement or under other agreements generally (as reasonably determined by Agent) under which it has committed to extend credit, (d) failed, within one (1) Business Day after written request by Agent, to confirm that it will comply with the terms of the Agreement relating to its obligations to fund any amounts required to be funded by it under the Agreement, (e) otherwise failed to pay over to the Borrower, Agent or any other Lender any other amount required to be paid by it under the Agreement within one (1) Business Day of the date that it is required to do so under the Agreement, or (f) (i) becomes or is insolvent or has a parent company that has become or is insolvent or (ii) becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, monitor, conservator, trustee, or custodian or appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, monitor, conservator, trustee, or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction), whether in one transaction or in a series of transactions, of any property (including, without limitation, any Equity Interests) by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Document” means a “document of title” as defined in the PPSA.

“Documentary Letter of Credit” means any Letter of Credit issued for the account of the Borrower for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by the Borrower or any of its Subsidiaries in the ordinary course of business of the Borrower or such Subsidiary.

“Documentary Letter of Credit Agreement” means the Documentary Letter of Credit Agreement relating to the issuance of a Documentary Letter of Credit in the form from time to time in use by the L/C Issuer.

“Dollars” and “\$” and “Canadian Dollars” and “Cdn.\$” mean lawful money of Canada.

“Drawing Document” means any Letter of Credit or other document presented for purposes of drawing under any Letter of Credit.

“Eligible Assignee” means (a) a Credit Party or any of its Affiliates or branches; (b) a bank, insurance company, or company engaged in the business of making commercial loans, which Person, together with its Affiliates and branches, has a combined capital and surplus in excess of \$ [REDACTED]; (c) an Approved Fund; (d) any Person to whom a Credit Party assigns its rights and obligations under this Agreement as part of an assignment and transfer of such Credit Party’s rights in and to a material portion of such Credit Party’s portfolio of asset based credit facilities, and (e) any other Person approved by (i) Agent, the Swingline Lender and the L/C Issuer, and (ii) unless an Event of Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed); provided that with respect to any consent of the Borrower required with respect to any assignment hereunder, the passage of five (5) Business Days from receipt of written notice by the Borrower from Agent or a Lender

of such assignment hereunder without the Borrower's giving Agent and such Lender written notice of the Borrower's consent to such assignment shall be deemed to constitute the Borrower's consent to such assignment; provided further that notwithstanding the foregoing, "Eligible Assignee" shall not include a natural Person, Loan Party or any Affiliate of a Loan Party and if the Eligible Assignee is a Foreign Lender, absent an Event of Default, it is a Qualified Lender.

"Eligible Credit Card Receivables" means Credit Card Receivables due to the Borrower on a non-recourse basis, in each case acceptable to Agent in its Permitted Discretion, as arise in the ordinary course of business, which have been earned by performance, and are deemed by Agent in its Permitted Discretion to be eligible for inclusion in the calculation of the Borrowing Base. Without limiting the foregoing, unless Agent otherwise agrees, none of the following shall be deemed to be Eligible Credit Card Receivables:

(a) Credit Card Receivables that have been outstanding for more than five (5) Business Days from the date of sale;

(b) Credit Card Receivables with respect to which the Borrower does not have good, valid and marketable title, free and clear of any Lien (other than Liens granted to Agent and other Permitted Encumbrances of the type described in clauses (a) and (e) of the definition of such term);

(c) Credit Card Receivables that are not subject to a first priority security interest and Lien in favour of Agent (it being the intent that chargebacks in the ordinary course by the credit card issuers or processors shall not be deemed violative of this clause);

(d) Credit Card Receivables which are disputed, are with recourse, or with respect to which a claim, counterclaim, offset or chargeback has been asserted (to the extent of such claim, counterclaim, offset or chargeback);

(e) Credit Card Receivables as to which the processor or issuer has the right under certain circumstances to require the Borrower to repurchase the Accounts from such issuer or processor; or

(f) Credit Card Receivables due from major debit card issuers or processors (other than Visa, and MasterCard) which Agent determines in its Permitted Discretion to be uncertain of collection.

"Eligible In-Transit Inventory" means, as of any date of determination thereof, without duplication of other Eligible Inventory, In-Transit Inventory:

(a) that has been in transit for [REDACTED] days or less from the date of shipment of such Inventory;

(b) for which the purchase order is in the name of the Borrower and title and risk of loss has passed to the Borrower;

(c) for which an Acceptable Document of Title has been issued, and in each case as to which Agent has control (as defined in the PPSA) over the Document or other bill of lading or instrument which evidence ownership of the subject Inventory (such as, if requested by Agent, by the delivery of a Customs Broker Agreement);

(d) which is insured in compliance with the provisions of Section 6.7 hereof (including, without limitation, marine cargo insurance, as applicable);

(e) for which payment of the purchase price has been made by the Borrower or the purchase price is supported by a Documentary Letter of Credit; and

(f) that otherwise would constitute Eligible Inventory;

provided that Agent may, in its Permitted Discretion, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event Agent determines that such Inventory is subject to any Person's right or claim which is (or is reasonably capable of being) senior to, or pari passu with, the Lien of Agent (such as, without limitation, a right of stoppage in transit) or which may otherwise adversely impact the ability of Agent to realize upon such Inventory.

"Eligible Inventory" means, as of the date of determination thereof, without duplication, Eligible In-Transit Inventory and items of Inventory of the Borrower that are finished goods, merchantable and readily saleable to the public in the ordinary course of the Borrower's business, in each case that, except as otherwise agreed by Agent, complies in all material respects with each of the representations and warranties respecting Inventory made by the Borrower in the Loan Documents, and that is not excluded as ineligible by virtue of one or more of the criteria set forth below. Except as otherwise agreed by Agent, the following items of Inventory shall not be included in Eligible Inventory:

(a) Inventory that is not solely owned by the Borrower or in respect of which the Borrower does not have good and valid title thereto;

(b) Inventory that is leased by or is on consignment to the Borrower or which is consigned by the Borrower to a Person which is not a Loan Party;

(c) Inventory (other than In-Transit Inventory) that is not located in Canada;

(d) Inventory at a location that is not owned or leased by a Loan Party, except to the extent that the Borrower has furnished Agent with (i) any PPSA financing statements or other documents that Agent may reasonably determine to be necessary to perfect its security interest and Lien in such Inventory at such location, and (ii) if requested by Agent (but only with respect to warehouses or distribution centers and not, for greater certainty, with respect to Stores), a Collateral Access Agreement executed by the Person owning any such location on terms reasonably acceptable to Agent;

(e) Inventory that is located in a distribution center leased by the Borrower, unless (i) the applicable lessor has delivered to Agent, if requested by Agent, a Collateral Access Agreement, or (ii) absent a Collateral Access Agreement, Agent has established an Availability Reserve therefor;

(f) Inventory that is comprised of goods which (i) are damaged, defective, "seconds", or otherwise unmerchantable, (ii) are to be returned to the vendor, (iii) are obsolete or slow moving, or custom items, work-in-process, raw materials, or that constitute spare parts, samples, promotional, marketing, labels, shopping bags that are not held for retail sale and packaging and shipping materials or supplies used or consumed in the Borrower's business, (iv) not in compliance with all standards imposed by any Governmental Authority having regulatory authority over such Inventory, its use or sale, or (v) are bill and hold goods;

(g) Inventory that is not subject to a perfected first-priority security interest and Lien in favor of Agent (other than Permitted Encumbrances of the type described in clauses (a), (e) and (j) of the definition of such term);

(h) Inventory that is not insured in compliance with the provisions of Section 5.10 hereof;

(i) Inventory that has been sold but not yet delivered or as to which the Borrower has accepted a deposit;

(j) Inventory that is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third party from which the Borrower has received notice of a dispute in respect of any such agreement;

(k) Inventory which has been received at a distribution center or warehouse and which has not yet been entered into the stock ledger on or prior to the seventh day of its receipt; or

(l) Inventory which is not acquired for the purpose of sale in a Store in the ordinary course of the Borrower's business, unless and until Agent has completed or received (A) an appraisal of such Inventory from appraisers reasonably satisfactory to Agent, establishes an advance rate for such Inventory and Inventory Reserves (if applicable) therefor, and otherwise agrees that such Inventory shall be deemed Eligible Inventory, and (B) such other due diligence as Agent may require, all of the results of the foregoing to be reasonably satisfactory to Agent.

"Eligible Real Estate" means the real property listed on Schedule 1.01 as being beneficially and, if applicable, legally owned by the Borrower on the Closing Date and in respect of which (a) an Appraisal has been delivered to Agent in form, scope and substance reasonably satisfactory to Agent, (b) a Mortgage (and, if applicable, beneficial charge) has been granted in favour of Agent, and (c) each of the conditions set forth in Sections 4.1(a)(x) through (xii) have been satisfied.

"Environmental Laws" means any and all federal, provincial, territorial, municipal, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, obligation, damage, loss, claim, action, suit, judgment, order, fine, penalty, fee, expense, or cost, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal or presence of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equipment" has the meaning set forth in the PPSA.

"Equity Interests" means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member, trust or other equity interests therein or other equivalents), whether voting or nonvoting.

"Event of Default" has the meaning specified in Section 8.1.

“Excluded Taxes” means, with respect to Agent, any Lender, the Swingline Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, and (b) any branch profits taxes imposed or any similar tax imposed by any jurisdiction in which any Loan Party is located.

“Existing L/Cs” means the letters of credit issued by Royal Bank for the account of the Borrower pursuant to the Existing RBC Facility which are outstanding on the date hereof, each of which shall be deemed to be a Letter of Credit issued by the L/C Issuer for all purposes hereof, from and after the Closing Date, and which are detailed on Exhibit G hereto.

“Existing RBC Facility” means the revolving demand credit facility established by Royal Bank in favour of the Borrower pursuant to a letter loan agreement dated October 5, 2012 between the Borrower and Royal Bank, as lender, as amended and supplemented to the date hereof.

“Extraordinary Receipt” means any cash received by or paid to or for the account of any Person not in the ordinary course of business, including tax refunds, pension plan reversions, proceeds of insurance (other than proceeds of business interruption insurance to the extent such proceeds constitute compensation for lost earnings), condemnation or expropriation awards (and payments in lieu thereof), indemnity payments and any purchase price adjustments.

“Facility Guarantee” means any guarantee, in form and substance reasonably satisfactory to Agent, made at any time by a Guarantor in favor of Agent and the other Credit Parties in respect of the Secured Obligations.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Royal Bank in the United States on such day on such transactions as determined by Agent.

“Fee Letter” means the agency fee letter agreement, dated the Closing Date, among the Borrower and Agent.

“Fiscal Period” means one of the Borrower’s 13 fiscal periods of any Fiscal Year, each of which shall consist of a 4-week period beginning on the Monday immediately following the last day of the immediately prior fiscal period and ending on a Sunday, and the last of which ending on the Sunday closest to the last day in February in each year, all in accordance with the fiscal accounting calendar of the Borrower.

“Fiscal Year” means each annual period of 13 Fiscal Periods, in accordance with the fiscal accounting calendar of the Borrower, ending on the Sunday closest to the last day of February of each calendar year. For greater certainty, the Borrower’s 2017 Fiscal Year will end on February 25, 2018.

“Fixed Rate Loans” means, as the context requires, a LIBO Rate Loan or a BA Rate Loan.

“Foreign Assets Control Regulations” has the meaning specified in Section 10.18.

“Foreign Lender” means any Lender that is organized under the laws of a jurisdiction other than Canada or a province or territory thereof.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Fee” has the meaning specified in Section 2.3(1).

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

“Funding Account” means the disbursement accounts set up for such purposes with Royal Bank.

“GAAP” means generally accepted accounting principles in Canada, which shall be deemed to be a reference to the recommendations at the relevant time of the Chartered Professional Accountants of Canada (or any successor thereto) applicable on a consolidated basis (unless otherwise specifically provided or contemplated herein) as at the date on which any determination or calculation is made or required to be made in accordance with such principles, which, for the purposes of this Agreement, is determined to be Canadian accounting standards for private enterprises (ASPE), applied on a consistent basis and subject to Section 1.3.

“Governmental Authority” means the government of Canada or any other nation, or of any political subdivision thereof, whether provincial, territorial, state, municipal, or local, and any agency, authority, instrumentality, regulatory body, court, tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Growth Capital Expenditures” means, in respect of any Measurement Period, all Capital Expenditures incurred during such Measurement Period in order to increase revenues and profits and/or expand existing operations and in any event, does not include any Maintenance Capital Expenditures.

“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably



anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantor” means each Subsidiary (if any) of the Borrower existing as of the Closing Date and identified by name on Schedule 1.1 hereto, and each other Subsidiary of the Borrower from time to time, each of which will be required to execute and deliver a Facility Guarantee pursuant to Section 6.12.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“IFRS” means International Financial Reporting Standards including International Accounting Standards and Interpretations together with their accompanying documents which are set by the International Accounting Standards Board, the independent standard-setting body of the International Accounting Standards Committee Foundation (the “**IASC Foundation**”), and the International Financial Reporting Interpretations Committee, the interpretative body of the IASC Foundation.

“Increase Effective Date” shall have the meaning provided therefor in Section 2.14(d).

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than 60 days or are being contested in compliance with Section 6.4);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) all Attributable Indebtedness in respect of Capital Lease Obligations and Synthetic Lease Obligations of such Person;
- (g) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, or any warrant, right or option to acquire such Equity Interest; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or company or limited liability company or unlimited liability company) in which such Person is a general partner or a joint venturer (but only to the extent of the Indebtedness of such partnership or joint venture for which such Person is liable), unless such Indebtedness is expressly made non-recourse to such Person.

“Indemnified Taxes” means Taxes other than Excluded Taxes.

“Indemnitees” has the meaning specified in Section 10.4(b).

“Information” has the meaning specified in Section 10.7.

“Information Certificate” means the information certificate delivered by the Borrower dated as of the Closing Date.

“Intellectual Property” means all present and future: trade secrets, know-how and other proprietary information; trademarks, trademark applications, internet domain names, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and all registrations or applications for registrations which have heretofore been or may hereafter be issued thereon throughout the world; copyrights and copyright applications; (including copyrights for computer programs) and all tangible and intangible property embodying the copyrights, unpatented inventions (whether or not patentable); patents and patent applications; industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; books, records, writings, computer tapes or disks, flow diagrams, specification sheets, computer software, source codes, object codes, executable code, data, databases and other physical manifestations, embodiments or incorporations of any of the foregoing; all other intellectual property; and all common law and other rights throughout the world in and to all of the foregoing.

“Interest Payment Date” means, (a) as to any Loan other than a Variable Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a Fixed Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Variable Rate Loan, the first day after the end of each month and the Maturity Date.

“Interest Period” means, as to each Fixed Rate Loan, the period commencing on the date such Fixed Rate Loan is disbursed or converted to or continued as a Fixed Rate Loan and ending on the date one, two, or three months (or, with the written consent of all the Lenders, any other period) thereafter, as selected by the Borrower in its Committed Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period;

(c) no Interest Period shall extend beyond the Maturity Date; and

(d) notwithstanding the provisions of clause (c) no Interest Period shall have a duration of less than one (1) month (unless otherwise permitted by Agent), and if any Interest Period applicable to a Fixed Rate Borrowing would be for a shorter period, such Interest Period shall not be available hereunder (unless otherwise permitted by Agent).

For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“In-Transit Inventory” means Inventory of the Borrower which is in the possession of a common carrier and in transit to the Borrower, which Inventory the Borrower has either paid for or is supported by a Documentary Letter of Credit.

“Inventory” has the meaning given that term in the PPSA, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under a contract of service, or (iv) consist of raw materials, work in process, or materials used or consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

“Inventory Reserves” means such reserves as may be established from time to time by Agent in Agent’s Permitted Discretion with respect to the determination of the saleability, at retail, of the Eligible Inventory or which reflect such other factors as affect the market value of the Eligible Inventory. Without limiting the generality of the foregoing, Inventory Reserves may, in Agent’s Permitted Discretion, include (but are not limited to) reserves based on:

- (a) obsolescence;
- (b) seasonality;
- (c) Shrink;
- (d) imbalance;
- (e) change in Inventory character;
- (f) change in Inventory composition;
- (g) change in Inventory mix;
- (h) markdowns (both permanent and point of sale);
- (i) retail mark-ons and markups inconsistent with prior period practice and performance, industry standards, current business plans or advertising calendar and planned advertising events;
- (j) out-of-date and/or expired Inventory;
- (k) slow moving Inventory;
- (l) Inventory which is damaged, defective and return to vendor;

- (m) work-in-process Inventory;
- (n) freight and duty charges;
- (o) reclamation claims; and
- (p) change in Inventory quality;

provided that the foregoing reserves shall not be deducted in the computation of the Borrowing Base in respect of Inventory that is not eligible for the Borrowing Base, it being the intention of the parties to avoid duplication of ineligibility and reserves.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, a loan, advance or capital contribution to, (b) Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person, or (c) any Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“Investment Property” has the meaning given to such term in the PPSA.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means with respect to any Letter of Credit, the Letter Credit Application, and any other document, agreement and instrument entered into by the L/C Issuer and the Borrower or in favor of the L/C Issuer and relating to any such Letter of Credit.

“ITA” means the *Income Tax Act* (Canada), and the regulations promulgated thereunder, as amended and in effect.

“Joinder Agreement” means an agreement, in form satisfactory to Agent pursuant to which a Person becomes a party to, and bound by the terms of, this Agreement and/or the other Loan Documents in the same capacity and to the same extent as either a Borrower or a Guarantor, as applicable.

“Laws” means each international, foreign, federal, state, provincial, territorial, municipal, and local statute, treaty, rule, guideline, regulation, ordinance, code and administrative or judicial precedent or authority, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and each applicable administrative order, directed duty, request, license, authorization and permit of, and agreement with, any Governmental Authority, in each case whether or not having the force of law.

“L/C Advance” means, with respect to each Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Committed Borrowing.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof or the renewal thereof.

“L/C Issuer” means Royal Bank in its capacity as issuer of Letters of Credit hereunder. The L/C Issuer may, in its Permitted Discretion, arrange for one or more Letters of Credit to be issued by Affiliates or branches of the L/C Issuer and/or for such Affiliate or branch to act as an advising, transferring, confirming and/or nominated bank in connection with the issuance or administration of any such Letter of Credit, in which case the term “L/C Issuer” shall include any such Affiliate or branch with respect to Letters of Credit issued by such Affiliate or branch.

“L/C Obligations” means, as at any date of determination, the aggregate undrawn amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.6. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of any rule of the ISP or any article of the UCP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Lease” means any agreement, whether written or oral, no matter how styled or structured, pursuant to which the Borrower is entitled to the use or occupancy of any space in a structure, land, improvements or premises for any period of time.

“Lender” has the meaning specified in the introductory paragraph hereto.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and Agent.

“Letter of Credit” means each Standby Letter of Credit and each Documentary Letter of Credit issued hereunder.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Disbursement” means a payment made by the L/C Issuer pursuant to a Letter of Credit.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Fee” has the meaning specified in Section 2.3(l).

“Letter of Credit Indemnified Costs” has the meaning specified in Section 2.3(f).

“Letter of Credit Related Person” has the meaning specified in Section 2.3(f).

“Letter of Credit Sublimit” means an amount equal to [REDACTED] Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments. A permanent reduction of the Aggregate Commitments shall not require a corresponding pro rata reduction in the Letter of Credit Sublimit; provided, however, that if the Aggregate Commitments are reduced to an amount less than the Letter of Credit Sublimit, then the Letter of Credit Sublimit shall be reduced to an amount equal to (or, at the Borrower’s option, less than) the Aggregate Commitments.

“LIBO Borrowing” means a Borrowing comprised of LIBO Rate Loans.

“LIBO Rate” means for any Interest Period with respect to a LIBO Rate Loan, the rate per annum which appears on the Reuters Screen LIBOR01 page as of 11:00 a.m., London time, on the second London Business Day preceding the first day of such Interest Period (or if such rate does not appear on the Reuters Screen LIBOR01 Page, then the rate as determined by Agent from another recognized source or interbank quotation), for a term, and in an amount, comparable to the Interest Period and the amount of the LIBO Rate Loan requested (whether as an initial LIBO Rate Loan or as a continuation of a LIBO Rate Loan or as a conversion of a Base Rate Loan to a LIBO Rate Loan) by the Borrower in accordance with this Agreement (and, if any such rate is below zero, the LIBO Rate shall be deemed to be zero), which determination shall be made by Agent and shall be conclusive in the absence of manifest error. If such rate is not available at such time for any reason, then the “LIBO Rate” for such Interest Period shall be the rate per annum determined by Agent to be the rate at which deposits in U.S. Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBO Rate Loan being made, continued or converted by Royal Bank and with a term equivalent to such Interest Period would be offered to Royal Bank by major banks in the London interbank Eurodollar market in which Royal Bank participates at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period.

“LIBO Rate Loan” means a Committed Loan that bears interest at a rate based on the Adjusted LIBO Rate.

“Lien” means (a) any mortgage, deed of trust, pledge, hypothecation, deed of hypothec, assignment, deposit arrangement, encumbrance, lien (statutory or other), trust (statutory, constructive, deemed or otherwise) charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale, Capital Lease Obligation, Synthetic Lease Obligation, or other title retention agreement, any easement, servitude, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing), and (b) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Liquidation” means the exercise by Agent of those rights and remedies accorded to Agent under the Loan Documents and applicable Law as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Borrower acting with the consent of Agent, of any public, private or “going out of business”, “store closing”, or other similarly themed sale or other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word “Liquidation” (such as “Liquidate”) are used with like meaning in this Agreement.

“Loan” means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan and, as applicable, an extension of credit by the Swingline Lender to the Borrower under Section 2.16 as a Swingline Loan.

“Loan Account” has the meaning assigned to such term in Section 2.10(a).

“Loan Cap” means, at any time of determination, the lesser of (a) the Aggregate Commitments and (b) the Borrowing Base.

“Loan Documents” means this Agreement, each Note, each Issuer Document, the Fee Letter, all Borrowing Base Certificates, the Cash Management Agreements, the Security Documents, each Facility

Guarantee and any other instrument or agreement now or hereafter executed and delivered in connection herewith, or in connection with any transaction arising out of any Cash Management Services and Bank Products provided by Agent or any of its Affiliates or branches, each as amended and in effect from time to time; provided that for purposes of the definition of “Material Adverse Effect” and Article VII, “Loan Documents” shall not include agreements relating to Cash Management Services and Bank Products.

“Loan Parties” means, collectively, the Borrower and any Guarantor (or, if more than one, Guarantors), and “Loan Party” means any one such Person individually.

“Local Disbursement DDA” means a DDA or Securities Account maintained by the Borrower, the only contents of which may be transfers from the Funding Account used solely for petty cash purposes and payroll.

“London Business Day” means a day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, England.

“Maintenance Capital Expenditures” means, in respect of any Measurement Period, all Capital Expenditures incurred during such Measurement Period to sustain current revenues and profits and/or to maintain and preserve the Borrower’s then existing operations.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), or financial condition of the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of the Loan Parties to perform their material obligations under any Loan Document; or (c) a material impairment of the rights and remedies of Agent or the Lenders under any Loan Document or a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.

“Material Contract” means, with respect to any Person, each contract to which such Person is a party which is material to the business, condition (financial or otherwise), operations, performance, or properties of such Person and its Subsidiaries taken as a whole, for which breach, non-performance, cancellation, termination or failure to renew could reasonably be expected to have a Material Adverse Effect.

“Material Indebtedness” means Indebtedness (other than the Obligations) of the Loan Parties in an aggregate principal amount exceeding [REDACTED] purposes of determining the amount of Material Indebtedness at any time, (a) the amount of the obligations in respect of any Swap Contract at such time shall be calculated at the Swap Termination Value thereof, (b) undrawn committed or available amounts shall be included, and (c) all amounts owing to all creditors under any combined or syndicated credit arrangement shall be included.

“Maturity Date” means the third anniversary of the Closing Date.

“Maximum Rate” has the meaning specified in Section 10.9.

“Measurement Period” means, at any date of determination, the most recently completed thirteen Fiscal Periods of the Borrower.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Mortgage” means any mortgage, immovable hypothec or other agreement which conveys or evidences a Lien in favor of Agent, for the benefit of the Credit Parties, on real property of a Loan Party, including any amendment, restatement, modification or supplement thereto.

“Mortgaged Property” means each parcel of Eligible Real Estate specified on Schedule 1.01 in respect of which a Mortgage is to be delivered, or has been delivered, by the applicable Loan Party to Agent for the benefit of the Credit Parties pursuant to this Agreement.

“Net Proceeds” means (a) with respect to any Disposition by any Loan Party, or any Extraordinary Receipt received or paid to the account of any Loan Party, the excess, if any, of (i) the sum of cash and cash equivalents received in connection with such transaction (including any cash or cash equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) the principal amount of any Indebtedness that is secured by the applicable asset by a Lien permitted hereunder which is senior to Agent’s Lien on such asset and that is required to be repaid (or to establish an escrow for the future repayment thereof) in connection with such transaction (other than Indebtedness under the Loan Documents), (B) the reasonable and customary out-of-pocket expenses incurred by such Loan Party in connection with such transaction (including, without limitation, appraisals, and brokerage, legal, title and recording or transfer tax expenses and commissions) paid by any Loan Party to third parties (other than Affiliates)); and (b) with respect to the incurrence or issuance of any Indebtedness by any Loan Party, the excess of (i) the sum of the cash and cash equivalents received in connection with such transaction over (ii) the underwriting discounts and commissions, and other reasonable and customary out-of-pocket expenses, incurred by such Loan Party in connection therewith.

“Non-Consenting Lender” has the meaning specified in Section 10.1.

“Non-Defaulting Lender” means each Lender other than a Defaulting Lender.

“Note” means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit B.

“Obligations” means all advances to, and debts (including principal, interest, fees, costs, and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit (including payments in respect of reimbursement of disbursements, interest thereon and obligations to provide cash collateral therefor), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, costs, expenses and indemnities that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees, costs, expenses and indemnities are allowed claims in such proceeding.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any jurisdiction); (b) with respect to any limited liability company or unlimited liability company, the certificate of incorporation, memorandum and articles of association or articles of formation or organization and operating agreement; (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of



such entity; and (d) in each case, all shareholder or other equity holder agreements, voting trusts and similar arrangements to which a Loan Party is a party or which is applicable to its Equity Interests and all other arrangements to which a Loan Party is a party relating to the Control or management of such Loan Party.

“Other Liabilities” means any obligation on account of (i) any Cash Management Services furnished to any of the Loan Parties or any of their Subsidiaries and/or (ii) any Bank Product entered into with any Loan Party, as each may be amended from time to time.

“Other Taxes” means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Outstanding Amount” means (a) with respect to Committed Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Committed Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

“Over-advance” means a Credit Extension to the extent that, immediately after its having been made, Availability is less than zero.

“Participant” has the meaning specified in Section 10.6(d).

“Participant Register” has the meaning specified in Section 10.6(c).

“PBA” means the *Pension Benefit Standards Act* (British Columbia), *Pension Benefits Act* (Ontario), the *Supplemental Pension Plans Act* (Québec), or similar legislation of any other applicable federal or provincial jurisdiction (or any successor statute), as amended from time to time, and includes all regulations thereunder.

“Pension Event” means (a) the filing of a notice of intent to terminate in whole or in part a Plan or the treatment of a Plan amendment as a termination or partial termination thereof, or (b) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee or third party administrator appointed to administer a Plan.

“Permitted Discretion” means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment.

“Permitted Disposition” means any of the following:

- (a) Dispositions of Inventory in the ordinary course of business;
- (b) licenses of Intellectual Property of the Borrower in the ordinary course of business, provided that any such license shall expressly provide that it is subject to the rights of Agent to use such Intellectual Property, without payment of any royalty or other amounts, in connection with any Liquidation;

(c) leases, subleases, space leases, licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower, including licenses for the conduct of licensed departments within the Borrower's Stores in the ordinary course of business; provided that, if requested by Agent, Agent shall have entered into an intercreditor agreement with the Person operating such licensed department on terms and conditions reasonably satisfactory to Agent;

(d) Dispositions of Equipment, Inventory and Intellectual Property in the ordinary course of business consistent with past practices, that is substantially worn, damaged, obsolete or, in the judgment of the Borrower, no longer useful or necessary in its business;

(e) Dispositions by a Guarantor or Subsidiary to the Borrower and by the Borrower to a Guarantor;

(f) Dispositions of Real Estate of any Loan Party (or sales of any Person or Persons created to hold such Real Estate or the Equity Interests in such Person or Persons), including sale-leaseback transactions involving any such Real Estate pursuant to leases on market terms, as long as (A) no Event of Default shall have occurred and be continuing or would result from such Disposition, (B) such Disposition is made for fair market value, (C) in the case of any sale-leaseback transaction permitted hereunder, such Loan Party shall use commercially reasonable efforts to cause, if requested by Agent, each purchaser or transferee to enter into a Collateral Access Agreement on terms and conditions reasonably satisfactory to Agent, (D) all Net Proceeds received in connection with such Disposition are applied to the Secured Obligations if then required in accordance with Section 2.4 hereof, and (E) if such Real Estate is Borrowing Base Real Estate Collateral, the Borrower shall have delivered a pro forma Borrowing Base Certificate to Agent demonstrating that, after giving effect to such Disposition, Availability is at least equal to the greater of (i) [REDACTED] of the Loan Cap and (ii) [REDACTED]

(g) Dispositions consisting of the compromise, settlement or collection of accounts receivable in the ordinary course of business, consistent with past practices;

(h) Dispositions of Cash and Cash Equivalents, in each case in the ordinary course of business; and

(i) in any Fiscal Year, Dispositions outside the ordinary course of business by the Borrower of assets with an aggregate value of up to [REDACTED] long as the Borrower applies the Net Proceeds of any such sales or other Dispositions to repay any outstanding Loan.

For the avoidance of doubt, transactions that are expressly permitted by Sections 7.1 and 7.2 of this Agreement that may be construed as constituting a "Disposition" of property by a Loan Party or any of its Subsidiaries shall not be prohibited by operation of Section 7.5.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes that are not delinquent or are being contested in compliance with Section 6.4;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by applicable Law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 6.4;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security or similar laws or regulations, other than any Lien imposed by the PBA;

(d) deposits to secure the performance of bids, trade contracts, government contracts and leases (other than Indebtedness), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) Liens in respect of attachments, awards for payment of money or judgments that are being contested in compliance with Section 6.4, in each case that would not constitute an Event of Default hereunder;

(f) easements, servitudes, covenants, conditions, restrictions, building code laws, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business of the Loan Parties, taken as a whole, and such other minor title defects or survey matters that are disclosed by current surveys that, in each case, do not materially interfere with the current use of the real property;

(g) Liens existing on the Closing Date and listed on Schedule 7.1 and any renewals or extensions thereof (including in connection with a Permitted Refinancing of Permitted Indebtedness secured thereby), provided that (i) the property covered thereby is not changed, other than after-acquired property incorporated therein and proceeds and products thereof, (ii) the amount secured or benefited thereby is not increased except to the extent permitted hereunder, (iii) the direct or any contingent obligor or obligors with respect thereto is not changed, and (iv) any refinancing, renewal or extension of the obligations secured or benefited thereby is otherwise permitted hereunder;

(h) Liens on fixed or capital assets acquired by any Loan Party that are permitted under clause (c) of the definition of Permitted Indebtedness so long as (i) such Liens and the Indebtedness secured thereby are incurred prior to or within one hundred eighty (180) days after such acquisition, (ii) the Indebtedness secured thereby does not exceed the cost of acquisition of such fixed or capital assets and (iii) such Liens shall not extend to any other property or assets of the Loan Parties;

(i) Liens in favor of Agent;

(j) statutory landlords' and lessors' Liens in respect of rent not in default or being contested in compliance with Section 6.4;

(k) possessory Liens in favor of brokers and dealers arising in connection with the acquisition or disposition of Investments owned as of the Closing Date and Permitted Investments, provided that such Liens (i) attach only to such Investments and (ii) secure only obligations incurred in the ordinary course and arising in connection with the acquisition or disposition of such Investments and not any obligation in connection with margin financing;

(l) banker's liens, liens in favor of securities intermediaries, rights of set-off or similar rights and remedies as to deposit accounts or securities accounts or other funds maintained with depository institutions or securities intermediaries arising in the ordinary course of business;

(m) Liens arising from precautionary PPSA filings regarding "true" operating leases or, to the extent permitted under the Loan Documents, the consignment of goods to the Borrower;

(n) voluntary Liens on property (other than property owned by the Borrower and of the type included in the Borrowing Base) in existence at the time such property is acquired pursuant to a Permitted Investment; provided, that such Liens are not incurred in connection with or in anticipation of such Permitted Investment and do not attach to any other assets of any Loan Party;

(o) Liens in favor of customs and revenues authorities imposed by applicable Law arising in the ordinary course of business in connection with the importation of goods and (i) securing obligations that are being contested in good faith by appropriate proceedings, (ii) the Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (iii) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation;

(p) Liens (i) on cash advances in favor of the seller of any property to be acquired in any Permitted Investment to be applied against the purchase price for such Permitted Investment, and (ii) consisting of an agreement to transfer any property in a Permitted Disposition, in each case, solely to the extent such Investment or Disposition, as the case may be, would constitute a Permitted Investment or a Permitted Disposition, as the case may be, on and as of the date of the creation of such Lien;

(q) any interest or title of a lessor or sublessor under leases or subleases or secured by a lessor's or sublessor's interests under leases entered into by the Borrower in the ordinary course of business;

(r) Liens in respect of the licensing of patents, copyrights, trademarks, trade names, other indications of origin, domain names and other forms of Intellectual Property in the ordinary course of business provided that any such license shall expressly provide that it is subject to the rights of Agent to use such Intellectual Property, without payment of any royalty or other amounts, in connection with any Liquidation;

(s) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods;

(t) Liens on insurance policies and insurance proceeds thereof incurred in the ordinary course of business in connection with the financing of insurance premiums;

(u) leases or subleases, in each case to the extent (i) permitted hereby, (ii) in the ordinary course of business, and (iii) not materially interfering with the business of the Borrower; and

(v) other Liens on assets other than those of the type included in the Borrowing Base securing obligations outstanding in an aggregate principal amount not to exceed \$ [REDACTED] at any time.

"Permitted Indebtedness" means each of the following as long as no Event of Default exists or would arise from the incurrence thereof:

(a) Indebtedness outstanding on the Closing Date and listed on Schedule 7.3 and any Permitted Refinancings thereof;

(b) Indebtedness of any Guarantor owed to the Borrower;

(c) purchase money Indebtedness of the Borrower to finance the acquisition of any fixed or capital assets, including Capital Lease Obligations and Synthetic Lease Obligations, and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, provided that the total principal amount of such Indebtedness under this

clause (c) shall not exceed in aggregate the sum of \$ [REDACTED] outstanding at any time, and any Permitted Refinancings of the foregoing;

(d) obligations (contingent or otherwise) of the Borrower existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with fluctuations in interest rates or foreign exchange rates, and not for purposes of speculation or taking a “market view”;

(e) contingent Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations, or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case provided in the ordinary course of business;

(f) Indebtedness secured by any property or asset (which would not, upon acquisition by a Loan Party, constitute Collateral) purchased in a transaction in compliance with this Agreement (other than Indebtedness incurred solely in contemplation of such acquisition);

(g) the Secured Obligations;

(h) Indebtedness constituting indemnification obligations or obligations in respect of purchase price or other similar adjustments in connection with Permitted Investments and Permitted Dispositions; and (ii) Indebtedness consisting of obligations of the Borrower under deferred compensation or other similar arrangements incurred by the Borrower in connection with any Permitted Investment;

(i) Indebtedness incurred in the ordinary course of business in connection with the financing of insurance premiums;

(j) Indebtedness representing deferred compensation to directors, officers and employees of the Borrower incurred in the ordinary course of business;

(k) to the extent constituting Indebtedness, awards for payment of money or judgments, in each case that would not constitute an Event of Default hereunder;

(l) Indebtedness in respect of netting services, overdraft protections and similar arrangements and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business; or

(m) other Indebtedness; provided that the total amount of such Indebtedness incurred pursuant to this clause (m) shall not exceed in the aggregate \$ [REDACTED] outstanding at any time.

“Permitted Investments” means each of the following:

(a) Cash Equivalents;

(b) Investments existing on the Closing Date, and set forth on Schedule 7.2, but not any increase in the amount thereof or any other modification of the terms thereof;

(c) Investments existing on the Closing Date by the Borrower in the Guarantor;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Guarantees constituting Permitted Indebtedness;

(f) Investments made to fund Capital Expenditures, to the extent such Capital Expenditures are permitted to be incurred hereunder;

(g) Investments by the Borrower in Swap Contracts entered into in the ordinary course of business and for bona fide business (and not speculative purposes) to protect against fluctuations in interest rates, commodity prices or currency exchange rates;

(h) Investments received in connection with the bankruptcy, insolvency, proposal, arrangement or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(i) advances made in connection with the purchase of goods or services in the ordinary course of business;

(j) promissory notes and other non-cash consideration received in connection with Permitted Dispositions, provided that, with respect to any Permitted Disposition of Collateral, any such promissory notes received in connection therewith shall be delivered to Agent in accordance with the Security Agreement;

(k) security, utility, and other similar deposits in the ordinary course of business;

(l) Investments approved by the Agent, acting on the instructions of the Required Lenders, in their Permitted Discretion; and

(m) other Investments of the types not described above, provided that the total amount of all such Investments, together with any Permitted Indebtedness of the type described in clause (r) of the definition of such term, shall not exceed the aggregate sum of \$ [REDACTED] outstanding at any time.

“Permitted Over-advance” means an Over-advance made by Agent, in its Permitted Discretion, which:

(a) is made to (i) maintain, protect or preserve the Collateral and/or the Credit Parties’ rights under the Loan Documents or which is otherwise for the benefit of the Credit Parties, (ii) enhance the likelihood of, or to maximize the amount of, repayment of any Secured Obligation, or (iii) pay any other amount chargeable to any Loan Party hereunder; and

(b) together with all other Permitted Over-advances then outstanding, shall not (i) exceed [REDACTED] of the Borrowing Base at any time and (ii) unless a Liquidation is occurring, remain outstanding for more than [REDACTED] consecutive Business Days, unless in each case, the Required Lenders otherwise agree;

provided however, that the foregoing shall not (A) modify or abrogate any of the provisions of Section 2.3 regarding the Lenders’ obligations with respect to Letters of Credit, or (B) result in any claim or liability against Agent (regardless of the amount of any Over-advance) for Unintentional Over

advances and such Unintentional Over-advances shall not reduce the amount of Permitted Over-advances allowed hereunder, and further provided that in no event shall Agent make an Over-advance, if after giving effect thereto, the principal amount of the Credit Extensions would exceed the Aggregate Commitments (as in effect prior to any termination of the Commitments pursuant to Section 2.5 hereof).

“Permitted Refinancing” means, with respect to any Person, any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), the Indebtedness being Refinanced (or previous refinancings thereof constituting a Permitted Refinancing); provided, that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premiums thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (b) the weighted average life to maturity of such Permitted Refinancing is greater than or equal to the weighted average life to maturity of the Indebtedness being Refinanced; (c) such Permitted Refinancing shall not require any scheduled principal payments due prior to the Maturity Date in excess of, or prior to, the scheduled principal payments due prior to such Maturity Date for the Indebtedness being Refinanced; (d) if the Indebtedness being Refinanced is subordinated in right of payment to the Secured Obligations under this Agreement, such Permitted Refinancing shall be subordinated in right of payment to such Secured Obligations on terms at least as favorable to the Credit Parties as those contained in the documentation governing the Indebtedness being Refinanced; (e) no Permitted Refinancing shall have different direct or indirect obligors, or greater guarantees or security, than the Indebtedness being Refinanced; (f) except for items described in clauses (b), (c), (d), (e) and (g), such Permitted Refinancing shall be otherwise on terms not materially less favorable to the Credit Parties than those contained in the documentation governing the Indebtedness being Refinanced, including, without limitation, with respect to amortization, maturity, financial and other covenants; (g) the interest rate applicable to any such Permitted Refinancing shall not exceed the then applicable market interest rate; and (h) at the time thereof, no Event of Default shall have occurred and be continuing.

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

“Plan” means a “registered pension plan” as such term is defined in the ITA and that is either (a) maintained or sponsored by a Loan Party for employees or former employees; or (b) maintained pursuant to a collective bargaining agreement, or other arrangement under which more than one employer makes contributions, and to which a Loan Party is making or accruing an obligation to make contributions.

“Platform” has the meaning specified in Section 6.2.

“PPSA” means the *Personal Property Security Act* (British Columbia) and the regulations promulgated thereunder, as amended from time to time, provided if validity, perfection and effect of perfection and non-perfection of Agent's security interest in or Lien on any Collateral of any Loan Party are governed by the personal property security laws of any jurisdiction other than British Columbia, PPSA shall mean those personal property security laws (including the Civil Code of Quebec) in such other jurisdiction for the purposes of the provisions hereof relating to such validity, perfection, and effect of perfection and non-perfection and for the definitions related to such provisions, as from time to time in effect.

“Prepayment Event” means (a) any Disposition (including pursuant to a sale and leaseback transaction) of any Borrowing Base Real Estate Collateral of any Loan Party, other than Dispositions described in clauses (c) and (e) of the definition of Permitted Disposition, or (b) any casualty or other insured damage to, or any expropriation or taking under power of eminent domain or by condemnation or similar proceeding of, any Borrowing Base Real Estate Collateral of any Loan Party.

“Prime Rate” means, for any day, a fluctuating interest rate per annum equal to the higher of (a) the BA Rate in effect at the time of determination for a 30-day Interest Period plus [REDACTED], or (b) the rate of interest in effect for such day as publicly announced from time to time by Royal Bank as its Canadian Dollar “prime rate”. The Canadian Dollar “prime rate” is a rate set by Royal Bank based upon various factors including Royal Bank’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some Canadian Dollar loans in Canada, which may be priced at, above, or below such announced rate. Any change in such rate announced by Royal Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

“Prime Rate Loan” means a Loan in Canadian Dollars that bears interest based on the Prime Rate.

“Qualified Lender” means a financial institution that is listed on Schedule I, II, or III of the *Bank Act* (Canada) or is not a foreign bank for purposes of the *Bank Act* (Canada), and if such financial institution is not resident in Canada and is not deemed to be resident in Canada for purposes of the ITA, that financial institution deals at arm’s length with the Borrower for purposes of the ITA.

“Real Estate” means (a) all Leases and (b) all owned real property, in each case, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned or leased by any Loan Party, including, as applicable, all leases, tenancies, and occupancies thereof and all easements, servitudes, rights-of-way, and similar rights relating thereto.

“Real Estate Appraisals” means: (a) the Appraisal dated June 23, 2017 and prepared by CBRE Limited Valuation and Advisory Services relating to 1030 Brand Street, Burlington, Ontario, (b) the Appraisal dated June 23, 2017 and prepared by CBRE Limited Valuation and Advisory Services relating to 366, 374 and 378 Richmond Road, Ottawa, Ontario, (c) the Appraisal dated June 30, 2017 and prepared by CBRE Limited Valuation and Advisory Services relating to 784 Sheppard Avenue East, Toronto, Ontario, (d) the Appraisal dated July 5, 2017 and prepared by Colliers International relating to 830 10<sup>th</sup> Avenue SW, Calgary, Alberta, (e) the Appraisal dated June 23, 2017 and prepared by Grover, Elliott and Co. Ltd. relating to 212 Brooksbank Avenue, North Vancouver, British Columbia, and (f) the Appraisal dated June 22, 2017 and prepared by Grover, Elliott and Co. Ltd. relating to 13340 76<sup>th</sup> Avenue, Surrey, British Columbia, in each case, of the respective real properties listed on Schedule 1.01 as being owned by the Borrower on the Closing Date, each of which are addressed to the Borrower and Agent (or in respect of which Agent has received a reliance letter, in form and substance satisfactory to Agent).

“Real Estate Component” means an amount equal to the lesser of (a) [REDACTED]% of the fair market value of the Borrower’s Eligible Real Estate as set forth in the Real Estate Appraisals less Reserves established by Agent in its Permitted Discretion, and (b) [REDACTED], provided that, the Real Estate Component will be amortized on a straight-line basis over [REDACTED] years, resulting in the reduction of the amount of the Real Estate Component, in each case, as follows: (i) on the second anniversary of the Closing Date, by an amount equal to [REDACTED]% of the original amount of the Real Estate Component on the Closing Date, as calculated pursuant to this definition on the Closing Date; and (ii) on the last day of each Fiscal Period



following such second anniversary, by an amount equal to [REDACTED] of the original amount of the Real Estate Component on the Closing Date, as calculated pursuant to this definition on the Closing Date.

“Receivables Reserves” means such Reserves as may be established from time to time by Agent in Agent’s Permitted Discretion with respect to the determination of the collectability in the ordinary course of Eligible Credit Card Receivables.

“Register” has the meaning specified in Section 10.6(c).

“Registered Public Accounting Firm” means a chartered professional accounting firm which shall be independent of the Borrower and its Affiliates.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Replacement Lender” has the meaning specified in Section 2.15(c).

“Reports” has the meaning specified in Section 9.11(b).

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Committed Loans, a Committed Loan Notice, and (b) with respect to an L/C Credit Extension, a Letter of Credit Application and, if required by the L/C Issuer, a Standby Letter of Credit Agreement or Documentary Letter of Credit Agreement, as applicable.

“Required Lenders” means, as of any date of determination, Lenders holding more than 66⅔% of the Aggregate Commitments or, if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.2, Lenders holding in the aggregate more than 66⅔% of the Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Lender for purposes of this definition); provided that, as long as there are two or less Lenders holding 100% of the Aggregate Commitments or, if the commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.2, as long as there are two or less Lenders holding in the aggregate 100% of the Total Outstandings (with the aggregate amount of each Lender’s risk participation and funded participation in L/C Obligations being deemed “held” by such Lender for purposes of this definition), “Required Lenders” shall mean all such Lenders; provided that the Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Reserves” means all (if any) Inventory Reserves, Availability Reserves, and Receivables Reserves.

“Responsible Officer” means the chief executive officer, president, executive vice president, chief financial officer, director of finance or controller of the Borrower (or other Loan Party, as applicable), or any of the other individuals designated in writing to Agent by an existing Responsible Officer of the Borrower as an authorized signatory of any certificate or other document to be delivered hereunder. Any document delivered hereunder that is signed by a Responsible Officer of the Borrower, or other Loan Party, shall be conclusively presumed to have been authorized by all necessary corporate action on the part of the Borrower or such other Loan Party, and such Responsible Officer shall be conclusively presumed to have acted on behalf of the Borrower or such other Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other Equity Interest of any Person or any of its Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such capital stock or other Equity Interest, or on account of any return of capital to such Person’s stockholders, partners or members (or the equivalent of any thereof), or any option, warrant or other right to acquire any such dividend or other distribution or payment. Without limiting the foregoing, “Restricted Payments” with respect to any Person shall also include all payments made by such Person with any proceeds of a dissolution or liquidation of such Person. For the avoidance of doubt, the purchase by any Loan Party of all or any part of any Equity Interest owned by another Person in a Person in which such Loan Party also owns an Equity Interest (for example, a joint venture) shall not be deemed a Restricted Payment (provided that the foregoing shall not mean that such purchase does not constitute an Investment (subject to the restrictions of this Agreement) by the Loan Party making such purchase).

“Reuters Screen LIBOR01 Page” means the display page LIBOR01 on the Reuters service or any successor display page, other published source, information vendor or provider that has been designated by the sponsor of Reuters Screen LIBOR01 page.

“Royal Bank” means Royal Bank of Canada, and its successors.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

“Secured Obligations” means collectively, the Obligations and the Other Liabilities.

“Securities Account” has the meaning given to such term in the PPSA.

“Security Agreement” means the General Security Agreement dated as of the Closing Date among the Loan Parties and Agent, together with, and as the context requires, any other security agreement or deed of hypothec executed among any Loan Party and Agent from time to time.

“Security Documents” means the Security Agreement, the Collateral Mortgages, the Control Agreements, the Credit Card Notifications, and each other security agreement, or other instrument or document executed and delivered to Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Secured Obligations.

“Settlement Date” has the meaning specified in Section 2.13(a).

“Shareholders’ Equity” means, as of any date of determination, consolidated members’ equity of the Borrower and its Subsidiaries as of that date determined in accordance with GAAP.

“Shrink” means Inventory which has been lost, misplaced, stolen, or is otherwise unaccounted for.

“Solvent” and “Solvency” means, with respect to any Person on a particular date, that on such date (a) at fair valuation, all of the properties and assets of such Person are greater than the sum of the debts, including contingent liabilities, of such Person, (b) the present fair saleable value of the properties and assets of such Person is not less than the amount that would be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person is able to realize upon its properties and assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and

does not believe that it will, incur debts beyond such Person's ability to pay as such debts mature, (e) such Person is not engaged in a business or a transaction, and is not about to engage in a business or transaction, for which such Person's properties and assets would constitute unreasonably small capital after giving due consideration to the prevailing practices in the industry in which such Person is engaged, and (f) such Person is not an "insolvent person" within the meaning of the *Bankruptcy and Insolvency Act* (Canada). The amount of all contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at the time, can reasonably be expected to become an actual or matured liability.

"Spot Rate" has the meaning given to such term in Section 1.7 hereof.

"Standard Letter of Credit Practice" means, for the L/C Issuer, any domestic or foreign Law or letter of credit practices applicable in the city in which the L/C Issuer issued the applicable Letter of Credit or, for its branch or correspondent, such Laws and practices applicable in the city in which it has advised, confirmed or negotiated such Letter of Credit, as the case may be, in each case, (a) which letter of credit practices are of banks that regularly issue letters of credit in the particular city, and (b) which laws or letter of credit practices are required or permitted under ISP or UCP, as chosen in the applicable Letter of Credit.

"Standby Letter of Credit" means any Letter of Credit that is not a Documentary Letter of Credit and that is issued for the account of the Borrower and (a) is used in lieu or in support of performance guaranties or performance, surety or similar bonds (excluding appeal bonds) arising in the ordinary course of business, (b) is used in lieu or in support of stay or appeal bonds, (c) supports the payment of insurance premiums for reasonably necessary casualty insurance carried by any of the Loan Parties, (d) supports payment or performance for identified purchases or exchanges of products or services in the ordinary course of business, or (e) supports other obligations (other than Indebtedness) of the Borrower or any of its Subsidiaries.

"Standby Letter of Credit Agreement" means the Standby Letter of Credit Agreement relating to the issuance of a Standby Letter of Credit in the form from time to time in use by the L/C Issuer.

"Stated Amount" means at any time the maximum amount for which a Letter of Credit may be honored.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the FRB). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBO Rate Loans shall be deemed to constitute Eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Store" means any "MEC" branded retail store (which may include any real property, fixtures, equipment, inventory and other property related thereto) operated, or to be operated, by the Borrower.

“Subordinated Indebtedness” means Indebtedness which is expressly subordinated in right of payment to the prior payment in full of the Secured Obligations and which is in form and on terms approved in writing by Agent.

“Subordination Provisions” has the meaning specified in Section 8.1(q).

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company, unlimited liability company or other business entity of which a majority of the Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of a Loan Party.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Swingline Amount” has the meaning set out in Section 2.16(a).

“Swingline Lender” means Royal Bank or such other Lender which has agreed in writing with the Borrower to act as Swingline Lender hereunder and to provide Swingline Loans in accordance herewith.

“Swingline Loan” has the meaning set out in Section 2.16(a).

“Syndicated Borrowing” means a Committed Borrowing other than by way of a Swingline Loan and which shall be funded by all Lenders, including, without limitation, in the circumstances contemplated by Section 2.16(i).

“Syndicated Loan” means a Committed Loan other than a Swingline Loan.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of

property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

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

“Termination Date” means the earliest to occur of (a) the Maturity Date, (b) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) and the Commitments are irrevocably terminated (or deemed terminated) in accordance with Article VIII, or (c) the termination of the Commitments in accordance with the provisions of Section 2.5 hereof.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Type” means, with respect to a Committed Loan or Swingline Loan, its character as a Base Rate Loan, Prime Rate Loan, LIBO Rate Loan or BA Rate Loan, as applicable.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any subsequent revision thereof adopted by the International Chamber of Commerce on the date such Letter of Credit is issued.

“Unfunded Pension Liability” means, at a point in time, the excess of a Plan’s benefit liabilities, over that Plan’s assets, as set forth in the most recent actuarial valuation report filed with a Governmental Authority, and includes any going concern unfunded liability or solvency deficiency as determined for the purposes of the PBA.

“Unintentional Over-advance” means an Over-advance which, to Agent’s knowledge, did not constitute an Over-advance when made but which has become an Over-advance resulting from changed circumstances beyond the control of the Credit Parties, including, without limitation, a reduction in the Appraised Value of property or assets included in the Borrowing Base or misrepresentation by the Loan Parties.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.3(e).

“U.S. Dollars” and “U.S.\$” mean lawful money of the United States.

“Variable Rate Loans” means, as the context requires, a Base Rate Loan or a Prime Rate Loan.

## **1.2 Other Interpretive Provisions.**

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) 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, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean the repayment in the currency in which the Obligation is denominated in full in cash or immediately available funds (or, in the case of contingent reimbursement obligations with respect to Letters of Credit and Bank Products (other than Swap Contracts) and any other contingent Obligation, including indemnification obligations, providing Cash Collateralization) or other collateral as may be requested by Agent of all of the Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations) under Swap Contracts) other than (i) unasserted contingent indemnification Obligations, (ii) any Obligations relating to Bank Products (other than Swap Contracts) that, at such time, are allowed by the applicable Bank Product provider to remain outstanding without being required to be repaid or Cash Collateralized or other collateral as may be requested by Agent, and (iii) any Obligations relating to Swap Contracts that, at such time, are allowed by the applicable provider of such Swap Contracts to remain outstanding without being required to be repaid.

(e) For purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (i) “personal property” shall be deemed to include “movable property”, (ii) “real property” shall be deemed to include “immovable property”, (iii) “tangible property” shall be deemed to include “corporeal property”, (iv) “intangible property” shall be deemed to include “incorporeal property”, (v) “security interest”, “mortgage” and “lien” shall be deemed to include a “hypothec”, “prior claim” and a “resolatory clause”, (vi) all references to filing, registering or recording under the PPSA shall be deemed to include publication under the Civil Code of Quebec, (vii) all references to “perfection” of or “perfected” Liens shall be deemed to include a reference

to an “opposable” or “set up” Liens as against third parties, (viii) any “right of offset”, “right of setoff” or similar expression shall be deemed to include a “right of compensation”, (ix) “goods” shall be deemed to include “corporeal movable property” other than chattel paper, documents of title, instruments, money and securities, (x) an “agent” shall be deemed to include a “mandatary”, (xi) “construction liens” shall be deemed to include “legal hypothecs”, (xii) “joint and several” shall be deemed to include “solidary”, (xiii) “gross negligence or willful misconduct” shall be deemed to be “intentional or gross fault”, (xiv) “beneficial ownership” shall be deemed to include “ownership on behalf of another as mandatary”, (xv) “easement” shall be deemed to include “servitude”, (xvi) “priority” shall be deemed to include “prior claim”, (xvii) “survey” shall be deemed to include “certificate of location and plan”, and (xviii) “fee simple title” shall be deemed to include “absolute ownership”. The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only (except if another language is required under any applicable law) and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en la langue anglaise seulement (sauf si une autre langue est requise en vertu d'une loi applicable).

### 1.3 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. If at any time any “Accounting Changes” (as defined below) would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such Accounting Change (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such Accounting Change and (ii) the Borrower shall provide to Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth calculations of such ratio or requirement made before giving effect to such Accounting Change. “Accounting Changes” refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board or the Chartered Professional Accountants of Canada, as applicable, and in all events including changes resulting from implementation of IFRS or accounting standards for private enterprises to the extent required by the Financial Accounting Standards Board or the Canadian Accounting Standards Board, as applicable, and to the extent applicable to the Borrower.

### 1.4 Rounding.

Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

### **1.5 Times of Day.**

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

### **1.6 Letter of Credit Amounts.**

Unless otherwise specified, all references herein to the amount of a Letter of Credit at any time shall be deemed to be the Stated Amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Documents related thereto, provides for one or more automatic increases in the Stated Amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum Stated Amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum Stated Amount is in effect at such time.

### **1.7 Currency Equivalents Generally.**

Any amount specified in this Agreement (other than in Articles II, IX and X, except as expressly noted therein) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount thereof in the applicable currency to be determined by Agent at such time on the basis of the Spot Rate (as defined below) for the purchase of such currency with Dollars. For purposes of this Section 1.7, the "Spot Rate" shall mean the spot rate of exchange for such conversion as quoted by the Bank of Canada at the close of business of the Banking Day that such conversion is to be made (or, if such conversion is to be made before close of business of such Banking Day, then at approximately close of business on the immediately preceding Banking Day), and, in either case, if no such rate is quoted, the spot rate of exchange quoted for wholesale transactions by the Agent in Toronto, Ontario in accordance with its normal practice. The Borrower shall report the value of Borrowing Base components to Agent in the currency invoiced by the Borrower or shown in the Borrower's financial records, and unless expressly provided otherwise, shall deliver financial statements and calculate financial covenants in Dollars.

Notwithstanding anything herein to the contrary, if any Obligation is funded and expressly denominated in a currency other than Dollars, the Borrower shall repay such Obligation in such other currency.

### **1.8 Judgment Currency.**

If, for purposes of obtaining judgment in any court, it is necessary to convert a sum from the currency provided under a Loan Document ("Agreement Currency") into another currency, the Spot Rate shall be used as the rate of exchange. Notwithstanding any judgment in a currency ("Judgment Currency") other than the Agreement Currency, the Borrower shall discharge its obligation in respect of any sum due under a Loan Document only if, on the Business Day following receipt by Agent of payment in the Judgment Currency, Agent can use the amount paid to purchase the sum originally due in the Agreement Currency. If the purchased amount is less than the sum originally due, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent and Lenders against such loss. If the purchased amount is greater than the sum originally due, Agent shall return the excess amount to the Borrower (or to the Person legally entitled thereto).

### **1.9 Interest Calculations and Payments.**

Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest "per annum" or a similar expression is used, such interest will be calculated on the basis of a calendar year of



365 or 366 days, as the case may be. Calculations of interest shall be made using the nominal rate method of calculation, and will not be calculated using the effective rate method of calculation or on any other basis that gives effect to the principle of deemed reinvestment of interest. All payments of interest to be made hereunder will be paid both before and after maturity and before and after default and/or judgment, if any, until payment thereof, and interest will accrue on overdue interest, if any.

#### **1.10 Interest Act (Canada).**

For the purposes of this Agreement, whenever interest to be paid hereunder is to be calculated on the basis of a year of 360 days or any other period of time that is less than a calendar year, the yearly rate of interest to which the rate determined pursuant to such calculation is equivalent is the rate so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by either 360 or such other period of time, as the case may be.

## **ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS**

### **2.1 Committed Loans; Reserves.**

(a) Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a “**Committed Loan**”) to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time outstanding the lesser of (x) the amount of such Lender’s Commitment, or (y) such Lender’s Applicable Percentage of the Borrowing Base; subject in each case to the following limitations:

- (i) after giving effect to any Committed Borrowing, the Total Outstandings shall not exceed the Loan Cap,
- (ii) after giving effect to any Committed Borrowing, the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender’s Applicable Percentage of the Outstanding Amount of all L/C Obligations shall not exceed such Lender’s Commitment, and
- (iii) the Outstanding Amount of all L/C Obligations shall not at any time exceed the Letter of Credit Sublimit.

Within the limits of each Lender’s Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.1, prepay under Section 2.4, and reborrow under this Section 2.1. Committed Loans may be Base Rate Loans or LIBO Rate Loans (if denominated in U.S. Dollars) or may be Prime Rate Loans or BA Rate Loans (if denominated in Canadian Dollars), as further provided herein.

(b) Agent may, in its Permitted Discretion, at any time and from time to time after the Closing Date establish, modify or eliminate Reserves.

### **2.2 Borrowings, Conversions and Continuations of Committed Loans.**

(a) Committed Loans shall be either (i) Base Rate Loans or LIBO Rate Loans if denominated in U.S. Dollars, or (ii) Prime Rate Loans or BA Rate Loans if denominated in Canadian Dollars, as the Borrower may request subject to and in accordance with this Section 2.2. Subject to the other provisions of this Section 2.2, Committed Borrowings of more than one Type may be incurred at the same time.

(b) Each Committed Borrowing, each conversion of Committed Loans from one Type to the other in the same currency, and each continuation of Fixed Rate Loans shall be made upon the Borrower's irrevocable notice to Agent in writing in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each such notice must be received by Agent not later than 1:00 p.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Fixed Rate Loans or of any conversion of LIBO Rate Loans to Base Rate Loans or conversion of BA Rate Loans to Prime Rate Loans, and (ii) one Business Day prior to the requested date of any Borrowing of Variable Rate Loans. Each Borrowing of, conversion to or continuation of LIBO Rate Loans shall be in a principal amount of [REDACTED] or a whole multiple of [REDACTED] in excess thereof. Each Borrowing of, conversion to or continuation of BA Rate Loans shall be in a principal amount of [REDACTED] or a whole multiple of [REDACTED] in excess thereof. Each Borrowing of, conversion to or continuation of Prime Rate Loans shall be in a principal amount of [REDACTED] or a whole multiple of [REDACTED] in excess thereof. Each Borrowing of, conversion to or continuation of Base Rate Loans shall be in a principal amount of [REDACTED] or a whole multiple of [REDACTED] in excess thereof. Each Committed Loan Notice shall specify (i) the currency of the Committed Borrowing being requested, (ii) whether the Borrower is requesting a Committed Borrowing, a conversion of Committed Loans from one Type to another (it being understood that LIBO Rate Loans may only be converted into Base Rate Loans and vice versa, and BA Rate Loans may only be converted into Prime Rate Loans and vice versa), or a continuation of a Fixed Rate Loan, (iii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iv) the principal amount of Committed Loans to be borrowed, converted or continued, (v) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be converted, and (vi) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify the applicable currency in a Committed Loan Notice, then the request shall be deemed to be for Canadian Dollars. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Committed Loans shall be made as, or converted to, Base Rate Loans (if in U.S. Dollars) or Prime Rate Loans (if in Canadian Dollars). Any such automatic conversion to Base Rate Loans or Prime Rate Loans, as applicable, shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Fixed Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of a Fixed Rate Loan in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Loan in one currency may not be converted or continued into a Loan of another currency. Upon receipt of a Committed Loan Notice, Agent shall forthwith notify the Lenders of the requested Type of Committed Loan, the requested date of Borrowing or conversion, the amount of each Lender's Committed Loan and, if applicable the Agent's Account to which each Lender's Committed Loan is to be credited.

(c) In the case of a Committed Borrowing, each Lender shall make the amount of its Committed Loan available to Agent in immediately available funds at Agent's Office not later than 3:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.2 (and, if such Borrowing is the initial Credit Extension, Section 4.1), Agent shall use reasonable efforts to make all funds so received available to the Borrower in like funds by no later than 4:00 p.m. on the day of receipt by Agent either by (i) depositing such proceeds into the Funding Account of the same currency, or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) Agent by the Borrower; provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(d) Agent, without the request of the Borrower, may advance any interest, fee, service charge, Credit Party Expense, or other payment to which any Credit Party is entitled from the Loan Parties pursuant hereto or any other Loan Document and may charge the same to the Loan Account as additional principal on applicable Committed Loans notwithstanding that an Over-advance may result thereby. Agent shall advise the Borrower of any such advance or charge promptly after the making thereof. Such action on the part of Agent shall not constitute a waiver of Agent's rights and the Borrower's obligations under Section 2.4(b). Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.2(d) shall bear interest at the interest rate then and thereafter applicable to Base Rate Loans (if in U.S. Dollars) or Prime Rate Loans (if in Canadian Dollars).

(e) Except as otherwise provided herein, a Fixed Rate Loan may be continued or converted only on the last day of an Interest Period for such Fixed Rate Loan. During the existence of an Event of Default, no Loans may be requested as, converted to or continued as Fixed Rate Loans without the Consent of the Required Lenders.

(f) Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Fixed Rate Loans upon determination of such interest rate. At any time that Variable Rate Loans are outstanding, Agent shall notify the Borrower and the Lenders of any change in Royal Bank's "base rate" or "prime rate" used in determining the Base Rate or the Prime Rate, as the case may be, promptly following the public announcement of such change.

(g) After giving effect to all Committed Borrowings, all conversions of Committed Loans from one Type to the other, and all continuations of Committed Loans as the same Type, there shall not be more than seven (7) Interest Periods in effect with respect to Fixed Rate Loans.

(h) Agent, the Lenders, the Swingline Lender and the L/C Issuer shall have no obligation to make any Loan or to provide any Letter of Credit if an Over-advance would result. Agent may, in its discretion, make Permitted Over-advances without the consent of the Lenders, the Swingline Lender and the L/C Issuer and each Lender shall be bound thereby. A Permitted Over-advance is for the account of the Borrower and shall constitute a Base Rate Loan (if in U.S. Dollars) or Prime Rate Loans (if in Canadian Dollars) and an Obligation and shall be repaid by the Borrower in accordance with the provisions of Section 2.4(b). The making of any such Permitted Over-advance on any one occasion shall not obligate Agent or any Lender to make or permit any Permitted Over-advance on any other occasion or to permit such Permitted Over-advances to remain outstanding. The making by Agent of a Permitted Over-advance shall not modify or abrogate any of the provisions of Section 2.3 regarding the Lenders' obligations to purchase participations with respect to Letters of Credit. Agent shall have no liability for, and no Loan Party or Credit Party shall have the right to, or shall, bring any claim of any kind whatsoever against Agent with respect to Unintentional Over-advances regardless of the amount of any such Over-advance(s).

### **2.3 Letters of Credit.**

(a) Subject to the terms and conditions of this Agreement, upon the request of the Borrower made in accordance herewith, and prior to the Maturity Date, the L/C Issuer agrees to issue a requested Letter of Credit denominated in Canadian Dollars or U.S. Dollars for the account of the Borrower. By submitting a request to the L/C Issuer, with a copy to Agent, for the issuance of a Letter of Credit, the Borrower shall be deemed to have requested that the L/C Issuer issue the requested Letter of Credit. Each request for the issuance of a Letter of Credit, or the amendment, renewal, or extension of any outstanding Letter of Credit, shall be irrevocable and shall be made in writing pursuant to a Letter of Credit Application by a Responsible Officer of the Borrower and delivered to the L/C Issuer and Agent via

facsimile transmission or other electronic method of transmission reasonably acceptable to the L/C Issuer not later than 1:00 p.m. at least three Business Days (or such other date and time as Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the requested date of issuance, amendment, renewal, or extension. Each such request shall be in form and substance reasonably satisfactory to the L/C Issuer and (i) shall specify (A) the amount and currency of such Letter of Credit, (B) the date of issuance, amendment, renewal, or extension of such Letter of Credit, (C) the proposed expiration date of such Letter of Credit, (D) the name and address of the beneficiary of the Letter of Credit, and (E) such other information (including, the conditions to drawing, and, in the case of an amendment, renewal, or extension, identification of the Letter of Credit to be so amended, renewed, or extended) as shall be necessary to prepare, amend, renew, or extend such Letter of Credit, and (ii) shall be accompanied by such Issuer Documents as Agent or the L/C Issuer may request or require, to the extent that such requests or requirements are consistent with the Issuer Documents that the L/C Issuer generally requests for Letters of Credit in similar circumstances. Agent's records of the content of any such request will be conclusive.

(b) The L/C Issuer shall not have any obligation to issue a Letter of Credit if the requested issuance would violate Section 10.17 or if, after giving effect to the requested issuance, (i) the Total Outstandings would exceed Loan Cap, (ii) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations would exceed such Lender's Commitment, or (iii) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit.

(c) In the event there is a Defaulting Lender as of the date of any request for the issuance of a Letter of Credit, the L/C Issuer shall not be required to issue or arrange for such Letter of Credit to the extent (i) the Defaulting Lender's participation with respect to such Letter of Credit may not be reallocated pursuant to Section 9.15(b), (ii) the Borrower has not cash collateralized such Defaulting Lender's participation with respect to such Letter of Credit in accordance with Section 9.15(b) or (iii) the L/C Issuer has not otherwise entered into arrangements reasonably satisfactory to it and the Borrower to eliminate the L/C Issuer's risk with respect to the participation in such Letter of Credit of the Defaulting Lender. Additionally, the L/C Issuer shall not have any obligation to issue a Letter of Credit if (A) any order, judgment, or decree of any Governmental Authority or arbitrator shall, by its terms, purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of Law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit or request that the L/C Issuer refrain from the issuance of letters of credit generally or such Letter of Credit in particular, or (B) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally, or (C) if the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless either such Letter of Credit is Cash Collateralized on or prior to the date of issuance of such Letter of Credit (or such later date as to which Agent may agree) or all the Lenders have approved such expiry date.

(d) The L/C Issuer shall notify Agent in writing no later than the Business Day immediately following the Business Day on which the L/C Issuer issued any Letter of Credit; provided that (i) until Agent advises any such L/C Issuer that the provisions of Section 4.2 are not satisfied, or unless the aggregate amount of the Letters of Credit issued in any such week exceeds such amount as shall be agreed by Agent and the L/C Issuer, the L/C Issuer shall be required to so notify Agent in writing only once each week of the Letters of Credit issued by the L/C Issuer during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as Agent and the L/C Issuer may agree. If the L/C Issuer makes a payment under a Letter of Credit, the Borrower shall pay to Agent an amount equal to the applicable Letter of Credit Disbursement on the

Business Day such Letter of Credit Disbursement is made and, in the absence of such payment, the amount of the Letter of Credit Disbursement immediately and automatically shall be deemed to be a Committed Loan hereunder (notwithstanding any failure to satisfy any condition precedent set forth in Section 4.2 hereof) and, initially, shall bear interest at the rate then applicable to Committed Loans that are Base Rate Loans (if the Letter of Credit is denominated in U.S. Dollars) or Prime Rate Loans (if the Letter of Credit is denominated in Canadian Dollars). If a Letter of Credit Disbursement is deemed to be a Committed Loan hereunder, the Borrower's obligation to pay the amount of such Letter of Credit Disbursement to the L/C Issuer shall be automatically converted into an obligation to pay the resulting Committed Loan. Promptly following receipt by Agent of any payment from the Borrower pursuant to this paragraph, Agent shall distribute such payment to the L/C Issuer or, to the extent that the Lenders have made payments pursuant to Section 2.3(e) to reimburse the L/C Issuer, then to such Lenders and the L/C Issuer as their interests may appear.

(e) Promptly following receipt of a notice of a Letter of Credit Disbursement pursuant to Section 2.3(d), each Lender agrees to fund its Applicable Percentage of any Committed Loan deemed made pursuant to Section 2.3(d) on the same terms and conditions as if the Borrower had requested the amount thereof as a Committed Loan and Agent shall promptly pay to the L/C Issuer the amounts so received by it from the Lenders. By the issuance of a Letter of Credit (or an amendment, renewal, or extension of a Letter of Credit) and without any further action on the part of the L/C Issuer or the Lenders, the L/C Issuer shall be deemed to have granted to each Lender, and each Lender shall be deemed to have purchased, a participation in each Letter of Credit issued by the L/C Issuer, in an amount equal to its Applicable Percentage of such Letter of Credit, and each such Lender agrees to pay to Agent, for the account of the L/C Issuer, such Lender's Applicable Percentage of any Letter of Credit Disbursement made by the L/C Issuer under the applicable Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of the L/C Issuer, such Lender's Applicable Percentage of each Letter of Credit Disbursement made by the L/C Issuer and not reimbursed by the Borrower on the date due as provided in Section 2.3(d), or of any reimbursement payment that is required to be refunded (or that Agent or the L/C Issuer elects, based upon the advice of counsel, to refund) to the Borrower for any reason. Each Lender acknowledges and agrees that its obligation to deliver to Agent, for the account of the L/C Issuer, an amount equal to its respective Applicable Percentage of each Letter of Credit Disbursement pursuant to this Section 2.3(e) shall be absolute and unconditional and such remittance shall be made notwithstanding the occurrence or continuation of a Default or Event of Default or the failure to satisfy any condition set forth in Section 4.2 hereof. If any such Lender fails to make available to Agent the amount of such Lender's Applicable Percentage of a Letter of Credit Disbursement as provided in this Section (the "Unreimbursed Amount"), such Lender shall be deemed to be a Defaulting Lender and Agent (for the account of the L/C Issuer) shall be entitled to recover such amount on demand from such Lender, together with interest thereon at the greater of the Federal Funds Rate (if denominated in U.S. Dollars) or the Bank of Canada Overnight Rate (if denominated in Canadian Dollars) and a rate determined by Agent in accordance with banking industry rules on interbank compensation, plus any administrative processing or similar fees customarily charged by Agent in connection with the foregoing, until paid in full.

(f) The Borrower agrees to indemnify, defend and hold harmless each Credit Party (including the L/C Issuer and its branches, Affiliates, and correspondents) and each such Person's respective directors, officers, employees, attorneys and agents (each, including the L/C Issuer, a "Letter of Credit Related Person") (to the fullest extent permitted by Law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), which may be

incurred by or awarded against any such Letter of Credit Related Person (other than Taxes, which shall be governed by Section 3.1) (the "Letter of Credit Indemnified Costs"), and which arise out of or in connection with, or as a result of:

- (i) any Letter of Credit or any pre-advice of its issuance;
- (ii) any transfer, sale, delivery, surrender or endorsement of any Drawing Document at any time(s) held by any such Letter of Credit Related Person in connection with any Letter of Credit;
- (iii) any action or proceeding arising out of, or in connection with, any Letter of Credit (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under any Letter of Credit, or for the wrongful dishonor of, or honoring a presentation under, any Letter of Credit;
- (iv) any independent undertakings issued by the beneficiary of any Letter of Credit;
- (v) any unauthorized instruction or request made to the L/C Issuer in connection with any Letter of Credit or requested Letter of Credit or error in computer or electronic transmission;
- (vi) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated;
- (vii) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds or holder of an instrument or document;
- (viii) the fraud, forgery or illegal action of parties other than the Letter of Credit Related Person;
- (ix) the L/C Issuer's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation; or
- (x) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of the Letter of Credit Related Person;

in each case, including that resulting from the Letter of Credit Related Person's own negligence; provided, however, that such indemnity shall not be available to any Letter of Credit Related Person claiming indemnification under clauses (i) through (x) above to the extent that such Letter of Credit Indemnified Costs may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted directly from the gross negligence or willful misconduct of the Letter of Credit Related Person claiming indemnity. The Borrower hereby agrees to pay the Letter of Credit Related Person claiming indemnity on demand from time to time all amounts owing under this Section 2.3(f). If and to the extent that the obligations of the Borrower under this Section 2.3(f) are unenforceable for any reason, the Borrower agrees to make the maximum contribution to the Letter of Credit Indemnified Costs permissible under applicable Law. This indemnification provision shall survive termination of this Agreement and all Letters of Credit.

(g) The liability of the L/C Issuer (or any other Letter of Credit Related Person) under, in connection with or arising out of any Letter of Credit (or pre-advice), regardless of the form or legal

grounds of the action or proceeding, shall be limited to direct damages suffered by the Borrower that are caused directly by gross negligence or willful misconduct of the L/C Issuer or its Letter of Credit Related Person in (i) honoring a presentation under a Letter of Credit that on its face does not at least substantially comply with the terms and conditions of such Letter of Credit, (ii) failing to honor a presentation under a Letter of Credit that strictly complies with the terms and conditions of such Letter of Credit or (iii) retaining honored Drawing Documents presented under a Letter of Credit. The L/C Issuer shall be deemed to have acted with due diligence and reasonable care if the L/C Issuer's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement. The Borrower's aggregate remedies against the L/C Issuer and any Letter of Credit Related Person for wrongfully honoring a presentation under any Letter of Credit or wrongfully retaining honored Drawing Documents shall in no event exceed the aggregate amount paid by the Borrower to the L/C Issuer in respect of the honored presentation in connection with such Letter of Credit under Section 2.3(d), plus interest at the rate then applicable to Base Rate Loans hereunder (if denominated in U.S. Dollars) or Prime Rate Loans hereunder (if denominated in Canadian Dollars). The Borrower shall take action to avoid and mitigate the amount of any damages claimed against the L/C Issuer or any other Letter of Credit Related Person, including by enforcing its rights against the beneficiaries of the Letters of Credit. Any claim by the Borrower under or in connection with any Letter of Credit shall be reduced by an amount equal to the sum of (x) the amount (if any) saved by the Borrower as a result of the breach or alleged wrongful conduct complained of; and (y) the amount (if any) of the loss that would have been avoided had the Borrower taken all reasonable steps to mitigate any loss, and in case of a claim of wrongful dishonor, by specifically and timely authorizing the L/C Issuer to effect a cure.

(h) The Borrower shall be responsible for preparing or approving the final text of each Letter of Credit as issued by the L/C Issuer, irrespective of any assistance the L/C Issuer may provide such as drafting or recommending text or by the L/C Issuer's use or refusal to use text submitted by the Borrower. The Borrower is solely responsible for the suitability of the Letter of Credit for the Borrower's purposes. With respect to any Letter of Credit containing an "automatic amendment" to extend the expiration date of such Letter of Credit, the L/C Issuer, in its sole and absolute discretion, may give notice of nonrenewal of such Letter of Credit and, if the Borrower does not at any time want such Letter of Credit to be renewed, the Borrower will so notify Agent and the L/C Issuer at least fifteen calendar days before the L/C Issuer is required to notify the beneficiary of such Letter of Credit or any advising bank of such nonrenewal pursuant to the terms of such Letter of Credit.

(i) The Borrower's reimbursement and payment obligations under this Section 2.3 are absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including:

(i) any lack of validity, enforceability or legal effect of any Letter of Credit or this Agreement or any term or provision therein or herein;

(ii) payment against presentation of any draft, demand or claim for payment under any Drawing Document that does not comply in whole or in part with the terms of the applicable Letter of Credit or which proves to be fraudulent, forged or invalid in any respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person or a transferee of such Person purporting to be a successor or transferee of the beneficiary of such Letter of Credit;

(iii) the L/C Issuer or any of its branches or Affiliates being the beneficiary of any Letter of Credit;

(iv) the L/C Issuer or any correspondent honoring a drawing against a Drawing Document up to the amount available under any Letter of Credit even if such Drawing Document claims an amount in excess of the amount available under the Letter of Credit;

(v) the existence of any claim, set-off, defense or other right that the Loan Parties may have at any time against any beneficiary, any assignee of proceeds, the L/C Issuer or any other Person;

(vi) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing that might, but for this Section 2.3(i), constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, the Borrower's reimbursement and other payment obligations and liabilities, arising under, or in connection with, any Letter of Credit, whether against the L/C Issuer, the beneficiary or any other Person; or

(vii) the fact that any Default or Event of Default shall have occurred and be continuing;

provided, however, that subject to Section 2.3(g) above, the foregoing shall not release the L/C Issuer from such liability to the Borrower as may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction against the L/C Issuer following reimbursement or payment of the obligations and liabilities, including reimbursement and other payment obligations, of the Borrower to the L/C Issuer arising under, or in connection with, this Section 2.3 or any Letter of Credit.

(j) Without limiting any other provision of this Agreement, the L/C Issuer and each other Letter of Credit Related Person (if applicable) shall not be responsible to the Borrower for, and the L/C Issuer's rights and remedies against the Borrower and the obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit shall not be impaired by:

(i) honor of a presentation under any Letter of Credit that on its face substantially complies with the terms and conditions of such Letter of Credit, even if the Letter of Credit requires strict compliance by the beneficiary;

(ii) honor of a presentation of any Drawing Document that appears on its face to have been signed, presented or issued (A) by any purported successor or transferee of any beneficiary or other Person required to sign, present or issue such Drawing Document or (B) under a new name of the beneficiary;

(iii) acceptance as a draft of any written or electronic demand or request for payment under a Letter of Credit, even if nonnegotiable or not in the form of a draft or notwithstanding any requirement that such draft, demand or request bear any or adequate reference to the Letter of Credit;

(iv) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness or legal effect of any Drawing Document (other than the L/C Issuer's determination that such Drawing Document appears on its face substantially to comply with the terms and conditions of the Letter of Credit);

(v) acting upon any instruction or request relative to a Letter of Credit or requested Letter of Credit that the L/C Issuer in good faith believes to have been given by a Person authorized to give such instruction or request;



(vi) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation or any delay in giving or failing to give notice to the Borrower;

(vii) any acts, omissions or fraud by, or the insolvency of, any beneficiary, any nominated person or entity or any other Person or any breach of contract between any beneficiary and the Borrower or any of the parties to the underlying transaction to which the Letter of Credit relates;

(viii) assertion or waiver of any provision of the ISP or UCP that primarily benefits an issuer of a letter of credit, including any requirement that any Drawing Document be presented to it at a particular hour or place;

(ix) payment to any paying or negotiating bank (designated or permitted by the terms of the applicable Letter of Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under Standard Letter of Credit Practice applicable to it;

(x) acting or failing to act as required or permitted under Standard Letter of Credit Practice applicable to where the L/C Issuer has issued, confirmed, advised or negotiated such Letter of Credit, as the case may be;

(xi) honor of a presentation after the expiration date of any Letter of Credit notwithstanding that a presentation was made prior to such expiration date and dishonored by the L/C Issuer if subsequently the L/C Issuer or any court or other finder of fact determines such presentation should have been honored;

(xii) dishonor of any presentation that does not strictly comply or that is fraudulent, forged or otherwise not entitled to honor; or

(xiii) honor of a presentation that is subsequently determined by the L/C Issuer to have been made in violation of international, federal, provincial, state or local restrictions on the transaction of business with certain prohibited Persons.

(k) If, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations. Sections 2.4 and 8.2(c) set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.3, Section 2.4 and Section 8.2(c), "Cash Collateralize" means to pledge and deposit with or deliver to Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances in an amount equal to [REDACTED] of the Outstanding Amount of all L/C Obligations, pursuant to documentation in form and substance reasonably satisfactory to Agent and the L/C Issuer (which documents are hereby Consented to by the Lenders). The Borrower hereby grants to Agent a security interest and Lien in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts at Royal Bank except that Permitted Investments in Cash Equivalents of the type listed in clauses (a) through (f) of the definition thereof may be made at the request of the Borrower at the option and in the sole discretion of Agent (and at the Borrower's risk and expense); interest or profits, if any, on such investments shall accumulate in such account. If at any time Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrower will, forthwith upon demand by Agent, pay to

Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount of the L/C Obligations over (y) the total amount of funds, if any, then held as Cash Collateral that Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Laws, to reimburse the L/C Issuer and, to the extent not so applied, shall thereafter be applied to satisfy other Obligations.

(l) The Borrower shall pay to Agent in respect of each Letter of Credit issued hereunder (i) for the account of each Lender in accordance with its Applicable Percentage, a Letter of Credit fee (the "Letter of Credit Fee") equal to the Applicable Margin times the daily Stated Amount under each such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit); and (ii) for the account of the L/C Issuer, a fronting fee (the "Fronting Fee") at a rate per annum equal to [REDACTED] times the daily Stated Amount under each such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit). For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of the Letter of Credit shall be determined in accordance with Section 1.6. Letter of Credit Fees and Fronting Fees shall be (i) due and payable on the first day after the end of each month commencing with the first such date to occur after the issuance of such Letter of Credit, and after the Letter of Credit Expiration Date, on demand, and (ii) computed on a monthly basis in arrears. Notwithstanding anything to the contrary contained herein, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate as provided in Section 2.7(b) hereof.

(m) In addition to the Letter of Credit Fees and Fronting Fees as set forth in Section 2.3(l) above, the Borrower shall pay immediately upon demand to Agent for the account of the L/C Issuer as non-refundable fees, commissions, and charges (it being acknowledged and agreed that any charging of such fees, commissions, and charges to the Loan Account pursuant to the provisions of Section 2.2(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.3(m)) any and all customary commissions, fees and charges then in effect imposed by, and any and all expenses incurred by, the L/C Issuer, or by any adviser, confirming institution or entity or other nominated person, relating to Letters of Credit, at the time of issuance of any Letter of Credit and upon the occurrence of any other activity with respect to any Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations).

(n) Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP and the UCP shall apply to each Standby Letter of Credit, and (ii) the rules of the UCP shall apply to each Documentary Letter of Credit.

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

(p) From and after the Closing Date, the Existing L/Cs shall be, and shall be deemed to be, for all purposes of this Agreement, Letters of Credit issued by the L/C Issuer for the account of the Borrower hereunder. The Borrower shall pay the fees contemplated by Section 2.3(l) and (m) in respect of the Existing L/Cs for the period from the Closing Date until the respective expiries of the Existing L/Cs. Given the foregoing, Royal Bank shall credit to the Borrower, or reimburse the Borrower for,

issuance fees (if any) paid under the Existing RBC Facility in respect of the Existing L/Cs for the period after the date hereof.

(q) In the event of a direct conflict between the provisions of this Section 2.3 and any provision contained in any Issuer Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.3 shall control and govern.

## 2.4 Prepayments.

(a) The Borrower may, upon irrevocable notice from the Borrower to Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by Agent not later than 1:00 p.m. (A) three Business Days prior to any date of prepayment of any Fixed Rate Loans and (B) on the date of prepayment of Variable Rate Loans; (ii) any prepayment of LIBO Rate Loans shall be in a principal amount of [REDACTED] a whole multiple of [REDACTED] excess thereof; (iii) any prepayment of BA Rate Loans shall be in a principal amount of [REDACTED] a whole multiple of [REDACTED] excess thereof; (iv) any prepayment of Base Rate Loans shall be in a principal amount of [REDACTED] a whole multiple of [REDACTED] excess thereof; (v) any prepayment of Prime Rate Loans shall be in a principal amount of [REDACTED] a whole multiple of [REDACTED] excess thereof or, in each case, if less, the entire principal amount of any such Loan then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Fixed Rate Loans, the Interest Period(s) of such Loans. Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. The Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein, provided that if such payment is to be made from the proceeds received by the Borrower from the closing of another transaction, then the Borrower may make such payment contingent on the closing of such transaction. Any prepayment of a Fixed Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.5. Each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(b) If for any reason (including as a result of currency fluctuations as determined by Agent at such time on the basis of the Spot Rate for the purchase of such currency with Dollars) the Total Outstandings at any time exceed the Loan Cap as then in effect, the Borrower shall immediately prepay Committed Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than L/C Borrowings) in an aggregate amount equal to such excess; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.4(b)) unless after the prepayment in full of the Loans the Total Outstandings exceed the Loan Cap as then in effect.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of any Loan Party in respect of any Prepayment Event to occur when a Cash Management Activation Event has occurred and is continuing, the Borrower shall, immediately after such Net Proceeds are received by any Loan Party, prepay the Committed Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than L/C Borrowings) in an aggregate amount equal to [REDACTED] % of such Net Proceeds.

(d) The Borrower shall prepay the Loans and Cash Collateralize the L/C Obligations in accordance with the provisions of Section 6.13 hereof.

(e) Agent shall transfer to the applicable Funding Account any surplus in excess of the Obligations in the Agent's Account (attributable to the Borrower) remaining after the application towards the Obligations (less those amounts which are to be netted out, as provided therein).

## **2.5 Termination or Reduction of Commitments.**

(a) The Borrower may, upon irrevocable notice from the Borrower to Agent, terminate the Aggregate Commitments or the Letter of Credit Sublimit or from time to time permanently reduce the Aggregate Commitments or the Letter of Credit Sublimit; provided that (i) any such notice shall be received by Agent not later than 1:00 p.m. [REDACTED] Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of [REDACTED] any whole multiple of [REDACTED] excess thereof, (iii) the Borrower shall not terminate or reduce (A) the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Loan Cap, and (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit. The parties agree that if the reduction of the Aggregate Commitments is to be made in connection with the closing of another transaction, then the Borrower may make such reduction contingent on the closing of such transaction.

(b) If, after giving effect to any reduction of the Aggregate Commitments, the Letter of Credit Sublimit exceeds the amount of the Aggregate Commitments, such Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(c) Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit or the Aggregate Commitments under this Section 2.5. Upon any reduction of the Aggregate Commitments, the Commitment of each Lender shall be reduced by such Lender's Applicable Percentage of such reduction amount. All fees (including, without limitation, commitment fees and Letter of Credit Fees) and interest in respect of the Aggregate Commitments accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

## **2.6 Repayment of Loans.**

The Borrower shall repay to the Lenders on the Termination Date the aggregate principal amount of Committed Loans outstanding on such date.

## **2.7 Interest.**

(a) Subject to the provisions of Section 2.7(b) below, (i) each LIBO Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the LIBO Rate for such Interest Period plus the Applicable Margin; (ii) each BA Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the BA Rate for such Interest Period plus the Applicable Margin; (iii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin; and (iv) each Prime Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Prime Rate plus the Applicable Margin.

(b)

(i) If any amount payable under any Loan Document is not paid when due (after giving effect to any applicable grace periods), whether at stated maturity, by acceleration or

otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) If any other Event of Default exists, then Agent may, and upon the request of the Required Lenders shall, notify the Borrower that all outstanding Obligations shall, for so long as such Event of Default is continuing, bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate and thereafter such Obligations shall, for so long as such Event of Default is continuing and to the fullest extent permitted by applicable Laws, bear interest at the Default Rate.

(iii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

## 2.8 Fees.

In addition to certain fees described in subsections (i) and (j) of Section 2.3:

(a) Commitment Fee. The Borrower shall pay to Agent for the account of each Lender (other than a Defaulting Lender) in accordance with its Applicable Percentage, a commitment fee equal [REDACTED] times the actual daily amount by which the Aggregate Commitments exceed the sum of (i) the Outstanding Amount of Loans (excluding for this purpose, Swingline Loans) and (ii) the Outstanding Amount of L/C Obligations. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable monthly in arrears on the first calendar day after the end of each month, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The commitment fee shall be calculated monthly in arrears.

(b) Other Fees. The Borrower shall pay to Agent fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

## 2.9 Computation of Interest and Fees.

All computations of fees and interest in respect of LIBO Rate Loans shall be computed on the basis of a year of 360 days and actual days elapsed. All other computations of fees and interest charges (for instance, in respect of Prime Rate Loans, Base Rate Loans or BA Rate Loans) shall be computed on the basis of a year of 365 or 366 days, as applicable, and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.11(a), bear interest for one day. Each determination by Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

## 2.10 Evidence of Debt.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by Agent (the "Loan Account") in the ordinary course of business. In addition, each Lender may record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Loan from such Lender, each payment and prepayment of principal of any such Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Secured Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of Agent in respect of such matters, the accounts and records of Agent shall control, absent manifest error. Upon the request of any Lender made through Agent, the Borrower shall execute and deliver to such Lender (through Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrower will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

(b) In addition to the accounts and records referred to in Section 2.10(a), each Lender and Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of Agent shall control in the absence of manifest error.

## 2.11 Payments Generally; Agent's Clawback.

(a) General. All payments to be made by the Loan Parties shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Loan Parties hereunder shall be made to Agent, for the account of the respective Lenders to which such payment is owed, at Agent's Office in the currency in which the Obligation is due and in immediately available funds not later than 2:00 p.m. on the date specified herein. Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by Agent after 2:00 p.m. may, at the option of Agent, be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue until such next succeeding Business Day. If any payment to be made by the Loan Parties shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b)

(i) Funding by Lenders; Presumption by Agent. Unless Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Fixed Rate Loans (or in the case of any Borrowing of Variable Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to Agent such Lender's share of such Borrowing, Agent may assume that such Lender has made such share available in accordance

with and at the time required by Section 2.2(c)) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Committed Borrowing available to Agent, then the applicable Lender and the Borrower agrees to pay to Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate (if denominated in U.S. Dollars) or the Bank of Canada Overnight Rate (if denominated in Canadian Dollars) and a rate determined by Agent in accordance with banking industry rules on interbank compensation plus any administrative processing or similar fees customarily charged by Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans (if denominated in U.S. Dollars) or Prime Rate Loans (if denominated in Canadian Dollars). If the Borrower and such Lender shall pay such interest to Agent for the same or an overlapping period, Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to Agent.

(ii) Payments by the Borrower; Presumptions by Agent. Unless Agent shall have received notice from the Borrower prior to the time at which any payment is due to Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Agent, at the greater of the Federal Funds Rate (if denominated in U.S. Dollars) or the Bank of Canada Overnight Rate (if denominated in Canadian Dollars) and a rate determined by Agent in accordance with banking industry rules on interbank compensation.

A notice of Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof (subject to the provisions of the last paragraph of Section 4.2 hereof), Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.4(c) are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment under Section 10.4(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be

responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment under Section 10.4(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

## 2.12 Sharing of Payments by Lenders.

If any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to, any of the Obligations resulting in such Lender receiving payment of a proportion of the aggregate amount of such Obligations greater than its pro rata share thereof as provided herein (including in contravention of the priorities of payment set forth in Section 8.3), then the Credit Party receiving such greater proportion shall (a) notify Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties rateably and in the priorities set forth in Section 8.3, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by the Loan Parties pursuant to and in accordance with the express terms of this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

## 2.13 Settlement Amongst Lenders.

(a) The amount of each Lender's Applicable Percentage of outstanding Loans, shall be computed weekly (or more frequently in Agent's discretion) and shall be adjusted upward or downward based on all Loans and repayments of Loans received by Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the end of the period specified by Agent.

(b) Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Committed Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) Agent shall transfer to each Lender its Applicable Percentage of repayments, and (ii) each Lender shall transfer to Agent (as provided below) or Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Committed Loans made by each Lender shall be equal to such Lender's Applicable Percentage of all Committed Loans outstanding as of such Settlement Date. If the summary statement requires transfers to be made to Agent by the Lenders and is received prior to 1:00 p.m. on a



Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by Agent. If and to the extent any Lender shall not have so made its transfer to Agent, such Lender agrees to pay to Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to Agent, equal to the greater of the Federal Funds Rate (if denominated in U.S. Dollars) or the Bank of Canada Overnight Rate (if denominated in Canadian Dollars) and a rate determined by Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by Agent in connection with the foregoing.

## 2.14 Increase in Commitments.

(a) Request for Increase. Provided no Default then exists or would arise therefrom, upon notice to Agent (which shall promptly notify the Lenders), the Borrower may from time to time, request an increase in the Aggregate Commitments by an amount (for all such requests) not exceeding [REDACTED] provided that any such request for an increase shall be in a minimum amount of [REDACTED]. At the time of sending such notice, the Borrower (in consultation with Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders).

(b) Lender Elections to Increase. Each Lender shall notify Agent within such time period whether or not it agrees to increase its Commitment and, if so, whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested increase. Any Lender not responding within such time period shall be deemed to have declined to increase its Commitment.

(c) Notification by Agent; Additional Lenders. Agent shall notify the Borrower and each Lender of the Lenders' responses to each request made hereunder. To achieve the full amount of a requested increase and subject to the approval of Agent, the Swingline Lender and the L/C Issuer (which approvals shall not be unreasonably withheld or delayed), to the extent that the existing Lenders decline to increase their Commitments, or decline to increase their Commitments to the amount requested by the Borrower, Agent, in consultation with the Borrower, will use its reasonable efforts to arrange for other Eligible Assignees to become a Lender hereunder and to issue commitments in an amount equal to the amount of the increase in the Aggregate Commitments requested by the Borrower and not accepted by the existing Lenders (and the Borrower may also invite additional Eligible Assignees to become Lenders) (each such Eligible Assignee issuing a commitment and becoming a Lender, an "Additional Commitment Lender"), provided, however, that without the consent of Agent (which consent shall not be unreasonably withheld or delayed), at no time shall the Commitment of any Additional Commitment Lender be less than \$5,000,000.

(d) Effective Date and Allocations. If the Aggregate Commitments are increased in accordance with this Section, Agent, in consultation with the Borrower, shall determine the effective date (the "Increase Effective Date") and the final allocation of such increase. Agent shall promptly notify the Borrower and the Lenders of the final allocation of such increase and the Increase Effective Date and on the Increase Effective Date (i) the Aggregate Commitments under, and for all purposes of, this Agreement shall be increased by the aggregate amount of such Commitment Increases, and (ii) Schedule 2.1 shall be deemed modified, without further action, to reflect the revised Commitments and Applicable Percentages of the Lenders.

(e) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) the Borrower shall deliver to Agent a certificate of each Loan Party dated as of the Increase Effective Date signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party, approving or consenting to such increase, and (B) in the case of the Borrower, certifying that, before and after giving effect to such increase, (1) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Increase Effective Date, except to the extent that (x) such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, or (y) such representations and warranties are subject to “materiality” or “Material Adverse Effect” or similar language, in which case they are true and complete in all respects, and except that for purposes of this Section 2.14, the representations and warranties contained in subsections (a) and (b) of Section 5.5 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.1, (ii) the Borrower, Agent, and any Additional Commitment Lender shall have executed and delivered a joinder to the Loan Documents in such form as Agent shall reasonably require; (iii) the Borrower shall have paid such fees and other compensation to the Additional Commitment Lenders as the Borrower and such Additional Commitment Lenders shall agree; (iv) the Borrower shall have paid such arrangement fees to Agent as the Borrower and Agent may agree; (v) as requested by Agent, the Borrower shall deliver to Agent and the Lenders an opinion or opinions, in form and substance reasonably satisfactory to Agent, from counsel to the Borrower reasonably satisfactory to Agent and dated such date; (vi) the Borrower and the Additional Commitment Lender shall have delivered such other instruments, documents and agreements as Agent may reasonably have requested; and (vii) no Default exists. The Borrower shall prepay any Committed Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 3.5) to the extent necessary to keep the outstanding Committed Loans ratable with any revised Applicable Percentages arising from any non-rateable increase in the Commitments under this Section.

(f) Conflicting Provisions. This Section shall supersede any provisions in Sections 2.12 or 10.1 to the contrary.

## 2.15 Extension of the Credit Facility

(a) At any time between ■ and ■ days prior to any anniversary of the Closing Date, provided no Default or Event of Default has occurred and is continuing, the Borrower may, by written notice to Agent, request that the Maturity Date be extended for a further period not to exceed ■ from then applicable Maturity Date. The Agent shall forthwith notify each Lender of such request.

(b) Each Lender may, in its sole discretion, approve or decline such request. If a Lender fails to respond within 30 days of such notice from Agent, it shall be deemed to have declined the extension. If the Required Lenders confirm to Agent in writing, not less than 30 days prior to the applicable anniversary date, that such extension is acceptable to them, then the Maturity Date shall be so extended in respect only of the Lenders who have approved the request for extension and Agent shall so advise the Borrower.

(c) If a Lender (the “Declining Lender”) indicates in writing to Agent that the proposed extension is unacceptable (or is deemed to have declined the extension), Agent shall so advise the Borrower and the Borrower shall be entitled, for a period up to, and including, the date which is 90 days prior to the Maturity Date as in effect in respect of such Lender, to propose one or more banks (collectively, the “Replacement Lender”) which, if not a Lender, shall be acceptable to Agent, the Swingline Lender and the L/C Issuer (which acceptance, in each case, shall not be unreasonably withheld), which Replacement Lender would be prepared to accept an assignment of the Loans and the

Commitment of the Declining Lender in accordance with Section 10.6(b) hereof and to agree to the extension of the Maturity Date. If, within that time period, the Borrower is able to propose such Replacement Lender and, if applicable, the Replacement Lender is so acceptable to Agent, the Swingline Lender and the L/C Issuer, the Declining Lender shall no later than 30 days prior to the Maturity Date as in effect in respect of such Lender, assign its rights and obligations hereunder to the Replacement Lender in accordance with Section 10.6(b) hereof for a price equal to the principal amount of the Loans of that Declining Lender then outstanding plus accrued interest on the principal amount of and all other amounts payable in respect of all Credit Extensions of, and all fees and all other amounts payable hereunder to, that Declining Lender to the date of such assignment (or such lesser amount as the Declining Lender and the Replacement Lender may agree), payable in cash against receipt of such assignment.

(d) Upon the assignment of the Loans and Commitment of a Declining Lender to a Replacement Lender having occurred in accordance with this Section 2.15, the Maturity Date shall be deemed to have been extended in respect of such Replacement Lender in the manner which would have occurred had such Declining Lender originally confirmed the acceptability of the extension.

(e) If no assignment of the Loans and Commitment of a Declining Lender occurs in accordance with this Section 2.15, then the Maturity Date in respect of the Loans of such Declining Lender shall not be extended and the Outstanding Amount of all Loans and L/C Obligations owed to such Declining Lender shall be due and payable in accordance with the provisions of this Agreement on such date and, upon such payment, each such Declining Lender shall cease to be a Lender hereunder and such Lender's Commitment shall be terminated and the Aggregate Commitments reduced accordingly.

(f) If the Required Lenders do not approve the extension request or if no request for an extension of the Maturity Date is received from the Borrower, the applicable Maturity Date shall not be extended and the Total Outstandings shall be due and payable to Agent for the account of the applicable Lenders on the such date.

## **2.16 Swingline Facility**

(a) Where the Borrower has a requirement for a Committed Loan that is a Prime Rate Loan or a Base Rate Loan, all such requirements for the Borrower not to exceed, in aggregate, Cdn. \$10,000,000 or the equivalent amount in United States Dollars (the "Swingline Amount"), the Borrower may, on a revolving basis and subject to satisfaction of applicable terms and conditions hereof, obtain such Committed Loan (a "Swingline Loan") solely from the Swingline Lender.

(b) Each Swingline Loan shall be made by way of overdraft from the Canadian Dollar or U.S. Dollar accounts of the Borrower with the Swingline Lender in accordance with Section 2.17. Upon each Swingline Loan being made to the Borrower, the Borrower shall be deemed to have represented and warranted that the conditions specified in Sections 4.2(a) and (b) have been satisfied on and as of the date the Swingline Loan is made.

(c) The Borrower will ensure that at no time will:

(i) the aggregate amount of all outstanding Swingline Loans exceed the Swingline Amount; and

(ii) the aggregate principal amount of all outstanding Swingline Loans owing to the Swingline Lender plus such Lender's share of the Outstanding Amount of Syndicated Borrowings exceed such Lender's Commitment.

(d) Each Swingline Loan shall be repaid by the Borrower or converted into a Syndicated Borrowing in accordance with Section 2.16(h), in each case, on or before the fifth Business Day following the date on which such Swingline Loan was advanced. Notwithstanding Section 2.4(a), no notice of repayment shall be required to be given by the Borrower in respect of any such repayment of any Swingline Loan, nor shall Swingline Loans be subject to continuation or conversion, except for conversions into Syndicated Borrowings in accordance with Section 2.16(h).

(e) If the Borrower requests a Syndicated Borrowing and the Swingline Lender's share of such Syndicated Borrowing would cause its share of all Syndicated Borrowings then outstanding together with all outstanding Swingline Loans to exceed the Swingline Lender's Commitment, then the Borrower shall be required to repay such Swingline Loans (or to convert some Swingline Loans into Syndicated Borrowings in accordance with Section 2.16(h)) to the extent of such excess on or before the requested date of such Syndicated Borrowing.

(f) The Borrower may repay Swingline Loans at any time and from time to time without notice or penalty.

(g) All interest payments and principal repayments of or in respect of Swingline Loans shall be solely for the account of the Swingline Lender. Subject to Section 2.16(h), all costs and expenses for which the Borrower is obligated to pay hereunder relating to the Swingline Loans shall be solely for the account of the Swingline Lender.

(h) Notwithstanding anything to the contrary herein contained:

(i) at any time at the option of the Borrower, the Borrower may, and at the option of Agent, the Borrower shall, convert any Swingline Loan made to it into a Syndicated Borrowing, subject to the minimum amounts pursuant to Section 2.2(b) required for Committed Borrowings of the same type sought to be so converted;

(ii) if the Borrower does not repay a Swingline Loan made to it on or before the fifth Business Day following the date on which such Swingline Loan was advanced in accordance with Section 2.16(d), such Swingline Loan will be converted into a Syndicated Borrowing; and

(iii) if an Event of Default occurs, all Swingline Loans will be converted into a Syndicated Borrowing,

in each case, in accordance with the following:

(iv) the Borrower, in the case of subparagraph (i) above, shall give notice to the Swingline Lender and Agent, or the Swingline Lender, in the case of subparagraph (ii) or (iii) above, shall give notice to the Borrower and Agent (which notice shall, in the case of (i) or (ii), direct a conversion of such Swingline Loan into a Syndicated Borrowing and, in the case of (iii), direct a conversion of all Swingline Loans into Syndicated Borrowings, and shall, in the case of subparagraphs (i), (ii) or (iii), specify the particulars of such Swingline Loan(s)), and Agent shall forthwith provide a copy of such notice to the other Lenders;

(v) effective on the day of notice to that effect to such other Lenders from Agent, the Borrower shall be deemed to have requested a conversion of such Swingline Loans into an amount of Syndicated Loans, in the same Types of Loans as the equivalent Swingline Loans, sufficient to repay the equivalent Swingline Loans and accrued and unpaid interest in respect thereof; and

(vi) subject to the same notice period set out in Section 2.2(b)(ii), such other Lenders shall disburse to Agent for payment to the Swingline Lender their respective shares of such amounts and such amounts shall thereupon be deemed to have been advanced by such other Lenders to the Borrower and to constitute Syndicated Loans by way of Prime Rate Loans or Base Rate Loans.

(i) The Lenders shall be obligated to disburse to Agent for payment to the Swingline Lender their respective shares of any Syndicated Borrowing contemplated by Section 2.16(h) regardless of:

(i) whether a Default or Event of Default has occurred or is then continuing or whether any other condition in Section 4.2 is met;

(ii) whether or not the Borrower has, in fact, actually requested such conversion(s); and

(iii) whether or not the obligations of the Lenders to make Committed Loans has terminated.

(j) Notwithstanding that any Lender may assign its rights and obligations under this Agreement, the obligations in this Section 2.16 shall continue as obligations of the Persons who were Lenders at the time each such Swingline Loan was made, unless the Swingline Lender specifically releases the Lender from such obligations in writing.

### **2.17 Overdrafts under the Swingline Facility**

(a) Subject to the following provisions of this Section, overdrafts arising from the withdrawal, transfer or debit of funds from, or the clearance of cheques or drafts drawn on, the Canadian Dollar and U.S. Dollar accounts, respectively, of the Borrower maintained with Royal Bank, in its capacity as Swingline Lender, and designated by Royal Bank for such purpose, shall be deemed to be outstanding as Prime Rate Loans and Base Rate Loans, respectively. Except as set forth in this Section 2.17 or otherwise agreed in writing between the Borrower and Royal Bank, the provisions of this Agreement relating to Prime Rate Loans and Base Rate Loans will apply, *mutatis mutandis*, to Canadian Dollar and U.S. Dollar overdrafts arising under the Swingline Facility.

(b) For certainty, and notwithstanding Section 2.2 or 2.4, no Committed Loan Notice or notice of repayment need be delivered by the Borrower in respect of overdrafts described in Section 2.17(a) nor shall the requirements of Sections 2.2(b) or 2.4(a) with respect to the amounts of Committed Borrowings or repayments apply thereto. The Borrower may make repayments of such overdrafts (together with accrued interest thereon which, if such repayment is not made on an Interest Payment Date, shall be paid on the next Interest Payment Date applicable to Prime Rate Loans or Base Rate Loans, as the case may be, or as otherwise agreed in writing between the Borrower and the Swingline Lender) from time to time without penalty.

## **ARTICLE III TAXES, YIELD PROTECTION AND ILLEGALITY**

### **3.1 Taxes.**

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Loan Parties hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, provided that if the Loan Parties

shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions and remittances (including deductions applicable to additional sums payable under this Section) Agent, each Lender, Swingline Lender or L/C Issuer, as the case may be, receives an amount equal to the sum it would have received had no such deductions or remittances been made, (ii) the Loan Parties shall make such deductions and remittances and (iii) the Loan Parties shall timely pay the full amount deducted or remitted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by the Loan Parties. Without limiting the provisions of subsection (a) above, the Loan Parties shall timely pay and remit any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by the Loan Parties. The Loan Parties shall indemnify Agent, each Lender, the Swingline Lender and the L/C Issuer, within seven (7) Business Days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid or remitted by Agent, such Lender, the Swingline Lender or the L/C Issuer, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender, the Swingline Lender or the L/C Issuer (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, the Swingline Lender or the L/C Issuer, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment or remittance of Indemnified Taxes or Other Taxes by the Loan Parties to a Governmental Authority, the Borrower shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment or remittance, a copy of the return reporting such payment or remittance or other evidence of such payment reasonably satisfactory to Agent.

(e) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower (with a copy to Agent), at the time or times prescribed by applicable law or reasonably requested by the Borrower or Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. Such delivery shall be provided on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement and on or before such documentation expires or becomes obsolete or after the occurrence of an event requiring a change in the documentation most recently delivered. In addition, any Lender, if requested by the Borrower or Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or Agent as will enable the Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(f) Treatment of Certain Refunds. If Agent, any Lender, the Swingline Lender or the L/C Issuer determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Loan Parties or with respect to which the Loan Parties have paid additional amounts pursuant to this Section, it shall pay to the applicable Loan Parties an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Parties under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all

out-of-pocket expenses of Agent, such Lender, the Swingline Lender or the L/C Issuer, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Parties, upon the request of Agent, such Lender, the Swingline Lender or the L/C Issuer, agree to repay the amount paid over to the Loan Parties (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to Agent, such Lender, the Swingline Lender or the L/C Issuer in the event Agent, such Lender, the Swingline Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require Agent, any Lender, the Swingline Lender or the L/C Issuer to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Loan Parties or any other Person.

(g) Withholding Tax Documentation. Each Lender shall, at such times as are reasonably requested by the Borrower or Agent, provide the Borrower and Agent with any properly completed and executed documentation prescribed by applicable law, or reasonably requested by the Borrower or Agent, certifying as to any entitlement of such Lender to an exemption from, or reduction in, any withholding Tax with respect to any payments to be made to such Lender under the Loan Documents. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation expired, obsolete or inaccurate in any respect, deliver promptly to the Borrower and Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable withholding agent) or promptly notify the Borrower and Agent of its inability to do so. In addition, any Lender, if reasonably requested by the Borrower or Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or Agent as will enable the Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

### **3.2 Illegality.**

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund any Fixed Rate Loans, or to determine or charge interest rates based upon the LIBO Rate or the BA Rate, as the case may be, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, U.S. Dollars in the London interbank market or Canadian bankers' acceptances on the market, then, on notice thereof by such Lender to the Borrower through Agent, any obligation of such Lender to make or continue LIBO Rate Loans or to convert Base Rate Loans to LIBO Rate Loans or to make or continue BA Rate Loans or to convert Prime Rate Loans to BA Rate Loans shall be suspended (and, subject to the terms and conditions hereof, replaced with an obligation to make Base Rate Loans or Prime Rate Loans, as applicable) until such Lender notifies Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to Base Rate Loans or BA Rate Loans to Prime Rate Loans, as applicable, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Fixed Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such Fixed Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

### 3.3 Inability to Determine Rates.

(a) If the Required Lenders determine that for any reason in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (i) U.S. Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such LIBO Rate Loan, (ii) adequate and reasonable means do not exist for determining the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan, or (iii) the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein.

(b) If the Required Lenders determine that for any reason in connection with any request for a BA Rate Loan or a conversion to or continuation thereof that (i) bankers' acceptances are not being offered to banks in the Canadian bankers' acceptances market for the applicable amount and Interest Period of such BA Rate Loan, (ii) adequate and reasonable means do not exist for determining the BA Rate for any requested Interest Period with respect to a proposed BA Rate Loan, or (iii) the BA Rate for any requested Interest Period with respect to a proposed BA Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain BA Rate Loans shall be suspended until Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of BA Rate Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Prime Rate Loans in the amount specified therein.

### 3.4 Increased Costs; Reserves on LIBO Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the LIBO Rate), the Swingline Lender or the L/C Issuer;

(ii) subject any Lender, the Swingline Lender or the L/C Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Fixed Rate Loan made by it, or change the basis of taxation of payments to such Lender, the Swingline Lender or the L/C Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.1 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender, the Swingline Lender or the L/C Issuer); or

(iii) impose on any Lender, the Swingline Lender or the L/C Issuer or the London interbank market or the Canadian bankers' acceptances market any other condition, cost or expense affecting this Agreement or LIBO Rate Loans or BA Rate Loans made by such Lender or any Letter of Credit or participation therein;



and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Fixed Rate Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, the Swingline Lender or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Swingline Lender or the L/C Issuer and delivery of the certificate contemplated by Section 3.4(c), the Borrower will pay to such Lender, the Swingline Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender, the Swingline Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender, the Swingline Lender or the L/C Issuer determines that any Change in Law affecting such Lender, the Swingline Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's, the Swingline Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's, the Swingline Lender's or the L/C Issuer's capital or on the capital of such Lender's, the Swingline Lender's or the L/C Issuer's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender or the Swingline Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender, the Swingline Lender or the L/C Issuer or such Lender's, the Swingline Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's, the Swingline Lender's or the L/C Issuer's policies and the policies of such Lender's, the Swingline Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time upon delivery of the certificate contemplated by Section 3.4(c) the Borrower will pay to such Lender, the Swingline Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender, the Swingline Lender or the L/C Issuer or such Lender's, the Swingline Lender's or the L/C Issuer's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender, the Swingline Lender or the L/C Issuer delivered to the Borrower and Agent setting forth the amount or amounts necessary to compensate such Lender, the Swingline Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or of this Section shall be conclusive absent manifest error. The Borrower shall pay such Lender, the Swingline Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within seven (7) Business Days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender, the Swingline Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's, the Swingline Lender's or the L/C Issuer's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender, the Swingline Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender, the Swingline Lender or the L/C Issuer, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's, the Swingline Lender's or the L/C Issuer's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on LIBO Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the

unpaid principal amount of each LIBO Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 10 days' prior notice (with a copy to Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable seven (7) Business Days from receipt of such notice.

### **3.5 Compensation for Losses.**

Upon demand of any Lender (with a copy to Agent) from time to time, other than as a result of the application of Section 3.2 or 3.3 hereof, the Borrower shall, upon receipt of the certificate contemplated by the last sentence of this Section 3.5, compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan or a Prime Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan or a Prime Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Fixed Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13,

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.5, each Lender shall be deemed to have funded (i) each LIBO Rate Loan made by it at the LIBO Rate for such Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan was in fact so funded, and (ii) each BA Rate Loan made by it at the BA Rate for such Loan by a matching deposit or other borrowing in the Canadian bankers' acceptances market for a comparable amount and for a comparable period, whether or not such BA Rate Loan was in fact so funded. Any Lender demanding payment of any amounts under this Section 3.5 shall deliver to the Borrower (with a copy to Agent) a certificate setting forth reasonably detailed calculations of the amount or amounts owing to such Lender under this Section 3.5.

### **3.6 Mitigation Obligations; Replacement of Lenders.**

(a) Designation of a Different Lending Office. If any Lender, the Swingline Lender or the L/C Issuer requests compensation under Section 3.4, or the Borrower is required to pay any additional amount to any Lender, the Swingline Lender, the L/C Issuer or any Governmental Authority for the account of any Lender, the Swingline Lender or the L/C Issuer pursuant to Section 3.1, or if any Lender gives a notice pursuant to Section 3.2, then such Lender, the Swingline Lender or the L/C Issuer shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the

judgment of such Lender, the Swingline Lender or the L/C Issuer such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.1 or 3.4, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.2, as applicable, and (ii) in each case, would not subject such Lender, the Swingline Lender or the L/C Issuer to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender, the Swingline Lender or the L/C Issuer. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender, the Swingline Lender or the L/C Issuer in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender, the Swingline Lender or the L/C Issuer requests compensation under Section 3.4, or if the Borrower is required to pay any additional amount to any Lender, the Swingline Lender, the L/C Issuer or any Governmental Authority for the account of any Lender, the Swingline Lender or the L/C Issuer pursuant to Section 3.1, the Borrower may replace such Lender, the Swingline Lender or the L/C Issuer, as applicable, in accordance with Section 10.13.

### **3.7 Survival.**

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Secured Obligations hereunder.

## **ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

### **4.1 Conditions of Initial Credit Extension.**

The obligation of each Lender and, if applicable, the Swingline Lender and the L/C Issuer to make its initial Credit Extension on the Closing Date is subject to satisfaction of the following conditions precedent:

(a) Agent's receipt of the following, each of which shall be originals, facsimiles or other electronic image scan transmission (e.g., "pdf" or "tif" via e-mail) (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, the Lenders or other Person(s), as applicable, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to Agent:

(i) executed counterparts of this Agreement sufficient in number for distribution to Agent, each Lender and the Borrower;

(ii) a Note executed by the Borrower in favor of each Lender requesting a Note;

(iii) certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party evidencing (A) the authority of each Loan Party to enter into this Agreement and the other Loan Documents to which each such each Loan Party is a party or is to become a party and (B) the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which each such each Loan Party is a party or is to become a party;

(iv) copies of each Loan Party's Organization Documents and such other documents and certifications as Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified

to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to so qualify in such jurisdiction could not reasonably be expected to have a Material Adverse Effect;

(v) a favorable opinion of DLA Piper (Canada) LLP, counsel to the Loan Parties, and such other local counsel as Agent may reasonably request, in each case addressed to Agent and each Lender, as to such matters concerning the Loan Parties and the Loan Documents as Agent may reasonably request;

(vi) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.2(a) and (b) have been satisfied, (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect, (C) to the Solvency of the Loan Parties, taken as a whole, as of the Closing Date after giving effect to the transactions contemplated hereby, and (D) either that (1) no consents, licenses or approvals are required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Loan Documents to which it is a party, or (2) that all such consents, licenses and approvals have been obtained and are in full force and effect;

(vii) evidence that all insurance required to be maintained pursuant to the Loan Documents and all endorsements in favor of Agent required under the Loan Documents have been obtained and are in effect;

(viii) the Security Documents;

(ix) all other Loan Documents set forth on Schedule 4.1, each duly executed by the applicable party thereto;

(x) evidence that each of the Collateral Mortgages has been registered, or that arrangements for registration reasonably satisfactory to Agent have been made, in the applicable land title or land registry office to create a valid and enforceable first priority (subject to Liens identified in the lender's title policy referred to in clause (xi) below as exceptions) Lien in favor of Agent for the benefit of the Credit Parties;

(xi) a lender's title insurance policy with respect to such Collateral Mortgage;

(xii) with respect to each Mortgaged Property:

(A) if available or as otherwise required by the issuer of the title insurance policy, a survey prepared by a licenced surveyor reasonably acceptable to Agent and certified to Agent and the issuer of the title insurance policy in a manner reasonably satisfactory to Agent;

(B) an Appraisal addressed to Agent or accompanied by a transmittal or reliance letter in form and substance reasonably satisfactory to Agent;

(C) copies of any existing environmental site assessment reports prepared by an environmental consultant reasonably acceptable to Agent, and accompanied by such reports, certificates, studies or data as Agent may reasonably require;

(xiii) results of searches or other evidence reasonably satisfactory to Agent (in each case dated as of a date reasonably satisfactory to Agent) indicating the absence of Liens on the assets of the Loan Parties, except for Permitted Encumbrances and Liens for which estoppel letters, termination statements, discharges, releases, and releases or subordination agreements satisfactory to Agent are being tendered concurrently with such extension of credit or other arrangements satisfactory to Agent for the delivery of such termination statements and releases, satisfactions and discharges have been made;

(xiv) (A) all documents and instruments, including PPSA financing statements, required by law or reasonably requested by Agent to be filed, registered or recorded to create or perfect the first priority Liens intended to be created under the Loan Documents and all such documents and instruments shall have been so filed, registered or recorded to the satisfaction of Agent, (B) the Cash Management Agreements and Credit Card Notifications required pursuant to Section 6.13 hereof, (C) the Control Agreements with respect to the Borrower's securities and investment accounts required pursuant to Section 6.13 hereof, and (D) Collateral Access Agreements with respect to warehouse or distribution centers of the Borrower provided, however, that the delivery of such agreements are not conditions to closing hereunder, but for each such location for which such an agreement is not delivered within ninety (90) days after the Closing Date, Agent may establish a rent Availability Reserve in respect thereof; and

(xv) such other assurances, certificates, documents, consents or opinions as Agent reasonably may require.

(b) Agent shall have completed its business, financial and legal due diligence of the Loan Parties and shall have received appraisals and field examinations in respect of the Borrower, with results satisfactory to Agent;

(c) After giving effect to (i) the first funding under the Loans, (ii) the payment of all fees and other amounts due under the Loan Documents on the Closing Date in connection with the establishment of the credit facility contemplated hereby and (iii) all Letters of Credit to be issued at, or immediately subsequent to, such establishment, Availability shall be not less than [REDACTED]

(d) All of the Loan Parties' Accounts payable shall be within stated invoice terms as of the Closing Date, or as permitted in the ordinary course of the Loan Parties' business consistent with past practice.

(e) Agent shall have received a Borrowing Base Certificate dated the Closing Date, relating to the Fiscal Period ended July 16, 2017, and executed by a Responsible Officer of the Borrower.

(f) Agent shall be reasonably satisfied that any financial statements delivered to it fairly present the business and financial condition of the Person in respect of which such financial statements have been prepared and that there has been no Material Adverse Effect since the date of the most recent financial information delivered to Agent.

(g) Agent shall have received and be satisfied with (i) a detailed forecast for the period commencing on the Closing Date through the fiscal year ending on or about February 25, 2018, which shall include an Availability model, Consolidated statement of earnings (loss) and surplus (deficit), balance sheet, and statement of cash flows, by month, each prepared in conformity with GAAP and consistent with the Borrower's then current practices, and (ii) such other financial information reasonably requested by Agent.

(h) There shall not be pending any litigation or other proceeding, the result of which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(i) There shall not have occurred any default of any Material Contract of any Loan Party.

(j) The consummation of the transactions contemplated hereby shall not violate any Applicable Law or any Organization Document.

(k) All fees required to be paid to Agent on or before Closing Date shall have been paid in full, and all fees required to be paid to the Lenders on or before the Closing Date shall have been paid in full.

(l) The Borrower shall have paid all reasonable and documented fees, charges and disbursements of counsel to Agent to the extent invoiced prior to or on the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and Agent).

(m) Agent shall have received all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the AML Legislation.

Without limiting the generality of the provisions of Section 9.4, for purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has signed this Agreement shall be deemed to have Consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be Consented to or approved by or acceptable or satisfactory to a Lender unless Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

#### **4.2 Conditions to all Credit Extensions.**

The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type, or a continuation of LIBO Rate Loans) and the L/C Issuer to issue each Letter of Credit is subject to the following conditions precedent:

(a) The representations and warranties of each Loan Party contained in Article V or any other Loan Document, or which are contained in any information furnished at any time in accordance with the provisions of Section 6.1 or 6.2 hereof, shall be true and correct in all material respects on and as of the date of such Credit Extension, except to the extent that (i) such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and (ii) such representations and warranties are subject to “materiality” or “Material Adverse Effect” or similar language, in which case they shall be true and correct in all respects, and except that for purposes of this Section 4.2, the representations and warranties contained in subsections and (b) of Section 5.5 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.1.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) Agent shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) No event or circumstance which could reasonably be expected to result in a Material Adverse Effect shall have occurred since the Closing Date.

(e) No Over-advance shall result from such Credit Extension.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Committed Loans to the other Type or a continuation of Fixed Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty by the Borrower that the conditions specified in Sections 4.2(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension. The conditions set forth in this Section 4.2 are for the sole benefit of the Credit Parties but until the Required Lenders otherwise direct Agent to cease making Committed Loans in accordance with the terms of this Agreement, the Lenders will fund their Applicable Percentage of all Loans and L/C Advances and participate in all Letters of Credit whenever made or issued, which are requested by the Borrower and which, notwithstanding the failure of the Loan Parties to comply with the provisions of this Article IV, are agreed to by Agent, provided, however, the making of any such Loans or the issuance of any Letters of Credit shall not be deemed a modification or waiver by any Credit Party of the provisions of this Article IV on any future occasion or a waiver of any rights or the Credit Parties as a result of any such failure to comply.

## ARTICLE V REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make Loans and to issue Letters of Credit hereunder, each Loan Party represents and warrants to Agent and the other Credit Parties that each of the following representations and warranties (as supplemented by the disclosure schedules delivered to Agent and the Lenders contemporaneously with the execution and delivery of this Agreement (the "Schedules"), as such Schedules may be updated from time to time pursuant to Section 6.2(h)) are true and correct on the Closing Date (except if any such Schedule expressly relates to an earlier date, in which case such Schedule shall be true and correct as of such earlier date) and as of each date such representations are deemed to be made (except if such representations and warranties expressly relate to an earlier date, then such representations and warranties shall be true and correct as of such earlier date) pursuant to this Agreement and the other Loan Documents:

### 5.1 Existence, Qualification and Power.

Each Loan Party (a) is a corporation, unlimited liability company, association, partnership or limited partnership, or other business organization, duly incorporated, organized or formed, validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its incorporation, organization, or formation (b) has all requisite power and authority and all requisite governmental licenses, permits, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, where applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Schedule 5.1 annexed hereto sets forth, as of the Closing Date, each Loan Party's name as it appears in official filings in its jurisdiction of incorporation, organization or formation, its chief executive office and, if different,

its registered office, its organization type, organization number, if any, issued by its jurisdiction of incorporation or organization, and its tax identification numbers.

## **5.2 Authorization; No Contravention.**

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is or is to be a party, has been duly authorized by all necessary corporate or other organizational action, and does not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any Material Indebtedness to which such Person is a party, or affecting such Person or the properties of such Person or any of its Subsidiaries, in each case in any material respect, or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; (c) result in or require the creation of any Lien upon any asset of any Loan Party (other than Liens in favor of Agent under the Security Documents); or (d) violate any Law.

## **5.3 Governmental Authorization; Other Consents.**

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for (a) the perfection or maintenance of the Liens created under the Security Documents (including, where applicable, the first priority nature thereof) or (b) such as have been obtained or made and are in full force and effect.

## **5.4 Binding Effect.**

This Agreement has been, and each other Loan Document, when delivered, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

## **5.5 Financial Statements; No Material Adverse Effect.**

(a) The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(c) The Consolidated forecasted balance sheet and statements of earnings (loss) and surplus (deficit) and statement of cash flows of the Borrower and its Subsidiaries delivered pursuant to Section 6.1(c) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts (it being understood that such forecasted financial information is subject to significant uncertainties and



contingencies, many of which are beyond the control of the Loan Parties, that no assurance is given that any particular forecasts will be realized, that actual results may differ and that such differences may be material).

#### **5.6 Litigation.**

There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened (in writing), at law, in equity, in arbitration or before any Governmental Authority, by or against any Loan Party or against any of its properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) except as specifically disclosed in Schedule 5.6, either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect, and there has been no material adverse change in the status, or financial effect on the Borrower and its Subsidiaries, taken as a whole, of the matters described on Schedule 5.6.

#### **5.7 No Default.**

No Loan Party is in default in any respect under or with respect to, or party to, any Material Contract or any Material Indebtedness the effect of which would reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

#### **5.8 Ownership of Property; Liens.**

(a) Each of the Loan Parties has good record and marketable title in fee simple to or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of the Loan Parties has good and marketable title to, valid leasehold interests in, or valid licenses to use all personal property and assets material to the ordinary conduct of its business except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Schedule 5.8(b)(1) sets forth the address (including street address, province/territory, and postal code) of all Real Estate that is owned by the Loan Parties, together with a list of the holders of any mortgage or other Lien thereon, other than Permitted Encumbrances, as of the Closing Date. The Borrower and each other Loan Party has good, marketable and insurable fee simple title to the real property owned by the Borrower or such Loan Party, free and clear of all Liens, other than Permitted Encumbrances. Schedule 5.8(b)(2) sets forth the address (including street address, province/territory, and postal code) of all Leases of the Loan Parties, together with a list of the lessor and its contact information with respect to each such Lease, in each case as of the Closing Date. To the knowledge of the Borrower after reasonable inquiry of its Responsible Officers, each of such Leases is in full force and effect and no Loan Party is in default of the terms thereof except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) Schedule 7.1 sets forth a complete and accurate list of all Liens on the property or assets of the Loan Parties, showing as of the Closing Date the lienholder thereof, the principal amount of the obligations secured thereby and the property or assets of the Loan Parties subject thereto. The property of each of the Loan Parties is subject to no Liens, other than Permitted Encumbrances.

(d) Schedule 7.2 sets forth a complete and accurate list of all Investments held by the Loan Parties on the Closing Date, showing as of the Closing Date the amount, obligor or issuer and maturity, if any, thereof.

(e) Schedule 7.3 sets forth a complete and accurate list of all Indebtedness of the Loan Parties on the Closing Date, showing as of the Closing Date the amount, obligor or issuer and maturity thereof.

## **5.9 Environmental Compliance.**

Except as specifically disclosed in Schedule 5.9:

(a) With respect to the Mortgaged Property, no Loan Party (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability, in each case, in relation to such Mortgaged Property.

(b) With respect to any properties of the Loan Parties other than the Mortgaged Property or their businesses or activities, no Loan Party (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability, except, in each case, as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(c) To the best of the knowledge of the Borrower, none of the properties currently or formerly owned or operated by any Loan Party is listed or proposed for listing on any list promulgated under any Environmental Laws or is adjacent to any such property; there are no and never have been any underground or above-ground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any property currently owned or operated by any Loan Party or on any property formerly owned or operated by any Loan Party; there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party; and Hazardous Materials have not been released, discharged or disposed of on any property currently or formerly owned or operated by any Loan Party.

(d) No Loan Party is undertaking or has completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or formerly owned or operated by any Loan Party have been disposed of in a manner not reasonably expected to result in material liability to any Loan Party.

## **5.10 Insurance.**

The properties of the Loan Parties are insured with financially sound and reputable insurance companies which are not Affiliates of the Loan Parties, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption and property damage insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties operate. Schedule 5.10 sets

forth a description of all insurance maintained by or on behalf of the Loan Parties as of the Closing Date. As of the Closing Date, each insurance policy listed on Schedule 5.10 is in full force and effect and all premiums in respect thereof that are due and payable have been paid or are in the process of being paid in the ordinary course of business.

### **5.11 Taxes.**

Except as may be disclosed on Schedule 5.11, the Loan Parties have filed all federal, provincial, municipal and other material tax returns and reports required to be filed, and have paid all federal, provincial, municipal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (i) immaterial provincial and local taxes, returns and reports, and (ii) those which are being contested in good faith by appropriate proceedings being diligently conducted, for which adequate reserves have been provided in accordance with GAAP, as to which Taxes no Lien has been filed and which contest effectively suspends the collection of the contested obligation and the enforcement of any Lien securing such obligation, and the failure to pay pending such contest could not reasonably be expected to result in a Material Adverse Effect. To the knowledge of the Borrower after reasonable inquiry of its Responsible Officers, there is no proposed tax assessment against any Loan Party that would, if made, have a Material Adverse Effect. As of the Closing Date, no Loan Party is a party to any tax sharing agreement.

### **5.12 Pension Plan Compliance.**

Each Plan is listed on Schedule 5.12 and no Loan Party maintains, contributes or is liable in respect of any other Plan. Except as otherwise provided in Schedule 5.12:

(a) Each Plan is in compliance in all material respects with all Applicable Laws and the terms of such Plans. Each Plan is duly registered where required by the PBA and other applicable Laws. Each Loan Party has made all required contributions to any Plan when due.

(b) There are no pending or, to the knowledge of the Borrower, threatened (in writing) claims, actions or lawsuits, or action by any Governmental Authority or any Plan administrator or trustee, with respect to any Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect.

(c) (i) No Pension Event has occurred or is reasonably expected to occur that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; and (ii) no Plan has any Unfunded Pension Liability.

(d) No Lien on any property of a Loan Party has arisen in respect of any Plan (except inchoate Liens for contributions not due and delinquent).

(e) No Loan Party sponsors, maintains or contributes to, or is liable under, any Plan which provides benefits on a defined benefit basis.

### **5.13 Subsidiaries.**

(a) As of the Closing Date, the only Subsidiary of the Borrower is identified by name in Part (a) of Schedule 5.13, which Schedule sets forth the legal name, the jurisdiction of incorporation or formation and authorized Equity Interests of such Subsidiary. All of the outstanding Equity Interests in such Subsidiary have been validly issued, are fully paid and non-assessable and, as of the Closing Date, are owned by the Borrower free and clear of all Liens except for those created under the Security

Documents. Except as set forth in Schedule 5.13, there are no outstanding rights to purchase any Equity Interests in any Subsidiary. As of the Closing Date, the Loan Parties have no equity Investments in any other corporation or entity other than those specifically disclosed in Part (b) of Schedule 5.13. The copies of the Organization Documents of the Borrower and such Subsidiary, and each amendment thereto, provided pursuant to Section 4.1 are true and correct copies of each such document, each of which is valid and in full force and effect.

(b) The Guarantor carries on no active business or activities other than as nominee and bare trustee of certain of the Borrower's owned Real Estate of which it is the registered owner, as set forth in Schedule 5.8(b)(1), and has no material assets, other than its interest as nominee and bare trustee of such owned Real Estate.

#### **5.14 Disclosure.**

Each Loan Party has disclosed to Agent and the Lenders all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party to Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or under any other Loan Document (excluding projected financial information and general industry data) (in each case, as modified or supplemented by other information so furnished), taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information and general industry data, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that such forecasted financial information is subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, that no assurance is given that any particular forecasts will be realized, that actual results may differ and that such differences may be material).

#### **5.15 Compliance with Laws.**

Each Loan Party is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

#### **5.16 Intellectual Property; Licenses, Etc.**

Except, in each case, as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the Loan Parties own, or possess the right to use, all of the Intellectual Property, licenses, permits and other authorizations that are reasonably necessary for the operation of their respective businesses, and, to the knowledge of the Borrower, such ownership or possession of the right to use does not conflict with the rights of any other Person. Except, in each case, as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, to the knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed by any Loan Party infringes upon any rights held by any other Person. Except as specifically disclosed in Schedule 5.16, no claim or litigation regarding any of the

foregoing is pending or, to the knowledge of the Borrower, threatened (in writing), which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

#### **5.17 Labor Matters.**

There are no strikes, lockouts, slowdowns or other material labor disputes against any Loan Party pending or, to the knowledge of the Borrower, threatened (in writing) which could reasonably be expected to have a Material Adverse Effect. The hours worked by and payments made to employees of the Loan Parties comply with all applicable federal, provincial, territorial, municipal, local or foreign Law dealing with such matters except to the extent that any such violation could not reasonably be expected to have a Material Adverse Effect. No Loan Party has incurred any liability or obligation under any federal, provincial, territorial, municipal, local or foreign Law which could reasonably be expected to have a Material Adverse Effect. All payments due from any Loan Party, or for which any claim may be made against any Loan Party, on account of wages and employee health and welfare insurance and other benefits, have been paid or properly accrued in accordance with GAAP as a liability on the books of such Loan Party. Except as set forth on Schedule 5.17, no Loan Party is a party to or bound by any collective bargaining agreement, management agreement, employment agreement, bonus, restricted stock, stock option, or stock appreciation plan or agreement or any similar plan, agreement or arrangement. There are no representation proceedings pending or, to any Loan Party's knowledge, threatened (in writing) to be filed with any applicable Governmental Authority, and no labor organization or group of employees of any Loan Party has made a pending demand for recognition. There are no complaints, unfair labor practice charges, grievances, arbitrations, unfair employment practices charges or any other claims or complaints against any Loan Party pending or, to the knowledge of the Borrower, threatened (in writing) to be filed with any Governmental Authority or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment of any employee of any Loan Party which could reasonably be expected to have a Material Adverse Effect. The consummation of the transactions contemplated by the Loan Documents will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Loan Party is bound.

#### **5.18 Security Documents.**

The Security Documents create in favor of Agent, for the benefit of the Credit Parties referred to therein, a legal, valid, continuing and enforceable security interest, hypothec or Lien in the Collateral, the enforceability of which is subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. The financing statements, releases and other filings are in appropriate form and have been or will be filed in all applicable offices and registration offices specified by Agent in order to perfect such security interest and set-up such hypothecs or Liens. Upon such filings and/or the obtaining of "control" (as defined in the PPSA), Agent will have a perfected Lien on, and security interest in, to and under all right, title and interest of the grantors thereunder in all Collateral that may be perfected by filing, recording or registering a financing statement or analogous document (including without limitation the proceeds of such Collateral subject to the limitations relating to such proceeds in the PPSA) or by obtaining control, under the PPSA (in effect on the date this representation is made) in each case prior and superior in right to any other Person to the extent required by the Loan Documents.

**5.19 Solvency.**

After giving effect to the transactions contemplated by this Agreement, and before and after giving effect to each Credit Extension, the Loan Parties, on a Consolidated basis, are Solvent. No transfer of property has been or will be made by any Loan Party and no obligation has been or will be incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of any Loan Party.

**5.20 Deposit Accounts; Credit Card Arrangements.**

(a) Annexed hereto as Schedule 5.20(a) is a list of all DDAs maintained by the Loan Parties as of the Closing Date, which Schedule includes, with respect to each DDA (i) the name and address of the depository; (ii) the account number(s) maintained with such depository; and (iii) a contact person at such depository.

(b) Annexed hereto as Schedule 5.20(b) is a list describing all arrangements as of the Closing Date to which any Loan Party is a party with respect to the processing and/or payment to such Loan Party of the proceeds of any credit card charges and debit card charges for sales made by such Loan Party.

**5.21 Brokers.**

No broker or finder brought about the obtaining, making or closing of the Loans or transactions contemplated by the Loan Documents, and no Loan Party has any obligation to any Person in respect of any finder's or brokerage fees in connection therewith.

**5.22 Customer and Trade Relations.**

There exists no actual or, to the knowledge of the Borrower, threatened (in writing), termination or cancellation of, or any modification or change in the business relationship of any Loan Party with any supplier material to its operations, which could reasonably be expected to have a Material Adverse Effect.

**5.23 Material Contracts.**

Schedule 5.23 sets forth all Material Contracts to which any Loan Party is a party or is bound as of the Closing Date. The Loan Parties have delivered true, correct and complete copies of such Material Contracts to Agent on or before the date hereof. To the knowledge of the Borrower after reasonable inquiry of its Responsible Officers, the Loan Parties are not in breach or in default in any material respect of any Material Contract and have not received any notice of the intention of any other party thereto to terminate any Material Contract.

**5.24 Casualty.**

Neither the businesses nor the properties of any Loan Party are affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

**ARTICLE VI  
AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Secured Obligation (other than contingent indemnification obligations for which no claim has been asserted) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Loan Parties shall:

**6.1 Financial Statements.**

Deliver to Agent:

(a) as soon as available, but in any event within 120 days after the end of each of the Borrower's Fiscal Years, (i) financial statements of the Borrower and its Subsidiaries for each such Fiscal Year, audited by a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to Agent and certified, without any qualifications, by such firm to have been prepared in accordance with GAAP (such audited financial statements to include a Consolidated balance sheet, statement of earnings (loss) and surplus (deficit) and statement of cash flows and, if prepared, such accountants' letter to management), and (ii) if applicable, unaudited consolidating work sheets used by the Borrower to prepare the consolidated financial statements described in clause (i) of this Section 6.1(a); and

(b) as soon as available, but in any event within 30 days after the end of each of the Fiscal Periods of each Fiscal Year of the Borrower, a Consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such Fiscal Period, and the related Consolidated statement of earnings (loss) and surplus (deficit), and statement of cash flows for such Fiscal Period, and for the portion of the Borrower's Fiscal Year then ended, setting forth in each case in comparative form the figures for (A) such period set forth in the projections delivered pursuant to Section 6.1(c) hereof, (B) the corresponding Fiscal Period of the previous Fiscal Year and (C) the corresponding portion of the previous Fiscal Year, all in reasonable detail, certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations, and cash flows of the Borrower and its Subsidiaries as of the end of such Fiscal Period in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes; and

(c) as soon as available, but in any event within 30 days after the start of each Fiscal Year, copies of the Borrower's final Business Plan approved by the Borrower's board of directors for such Fiscal Year, in each case, in form and substance (including as to scope, period covered and underlying assumptions) satisfactory to Agent in its Permitted Discretion (it being understood and agreed that the current draft form of Business Plan provided by the Borrower to the Agent is satisfactory in form to the Agent), certified by the chief financial officer of the Borrower (or equivalent officer) as being such officer's good faith best estimate of the financial performance of the Borrower and its Subsidiaries during the period covered thereby.

The Borrower agrees that its independent chartered professional accountants are authorized to communicate with Agent and to release to Agent whatever financial information concerning the Loan Parties that Agent reasonably may request, and Agent and its representatives shall protect and maintain the confidentiality of such information. Each Loan Party waives the right to assert a confidential relationship, if any, it may have with any accounting firm or service bureau in connection with any information requested by Agent pursuant to or in accordance with this Agreement, and agrees that Agent may contact directly any such accounting firm or service bureau in order to obtain such information.

## 6.2 Certificates; Other Information.

Deliver to Agent, in form and detail satisfactory to Agent:

(a) (i) concurrently with the delivery of the financial statements referred to in Sections 6.1(a) and 6.1(b), a duly completed Compliance Certificate in the form of Exhibit C hereto reflecting, among other things, the detailed calculation of compliance with the financial covenants contained in Section 7.14 hereof, signed by a Responsible Officer of the Borrower, and in the event of any change in generally accepted accounting principles used in the preparation of such financial statements, the Borrower shall also provide a statement of reconciliation conforming such financial statements to GAAP, and (ii) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a copy of management's business performance review with respect to such financial statements (it being understood and agreed that the current draft form of business performance review provided by the Borrower to the Agent is satisfactory in form to the Agent);

(b) on the fifteenth (15<sup>th</sup>) day after the end of each Fiscal Period (or, if such day is not a Business Day, on the next succeeding Business Day), a Borrowing Base Certificate, in the form of Exhibit E hereto, showing the Borrowing Base as of the close of business as of the last day of the immediately preceding Fiscal Period, each Borrowing Base Certificate to be certified as complete and correct by a Responsible Officer of the Borrower; provided that at the election of the Required Lenders upon the occurrence and during the continuance of an Accelerated Borrowing Base Delivery Event, such Borrowing Base Certificate shall be delivered on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Sunday;

(c) promptly upon receipt, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by its Registered Public Accounting Firm in connection with the accounts or books of the Borrower, or any audit of the Borrower;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the members of the Borrower;

(e) the financial and collateral reports described on Schedule 6.2 hereto, at the times set forth in such Schedule;

(f) as soon as available, but in any event within 45 days after the annual renewal date for the renewal of its insurance policies, copies of certificates of insurance for the policies held by the Borrower related to its business, including without limitation, the assets subject to this Agreement;

(g) promptly after Agent's request therefor, copies of all Material Contracts and documents evidencing Material Indebtedness;

(h) should any of the information or disclosures provided on any of the Schedules originally attached hereto or any of the schedules originally attached to the Security Agreement become outdated or incorrect in any material respect, the Borrower will provide Agent in connection with any Compliance Certificate delivered pursuant to clause (a) above such revisions or updates to such Schedules or such schedules to the Security Agreement as may be necessary or appropriate to update or correct such Schedules or such schedules to the Security Agreement; provided that no such revisions to any Schedules or such schedules to the Security Agreement shall be deemed to have amended, modified or superseded such Schedules or such schedules to the Security Agreement as originally attached hereto, or to have



cured any breach of warranty or representation resulting from the inaccuracy or incompleteness of such Schedules or such schedules to the Security Agreement, unless and until the Required Lenders, in their Permitted Discretion, shall have accepted in writing such revisions or updates to such Schedules or such schedules to the Security Agreement; and

(i) promptly, such additional information regarding the business affairs, financial condition or operations of any Loan Party, or compliance with the terms of the Loan Documents, as Agent or any Lender may from time to time reasonably request.

The Loan Parties hereby acknowledge that (a) Agent will make available to the Lenders, the Swingline Lender and the L/C Issuer materials and/or information provided by or on behalf of the Loan Parties hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on SyndTrak or another similar electronic system (the "Platform").

### 6.3 Notices.

Notify Agent of the following promptly after any Responsible Officer of the Borrower obtains knowledge thereof:

- (a) the occurrence of any Default;
- (b) any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect, including each of the following to the extent that any of them could reasonably be expected to result in a Material Adverse Effect: (i) breach or non-performance of, or any default under, a Material Contract or with respect to Material Indebtedness of any Loan Party; (ii) any dispute, litigation, investigation, proceeding or suspension between any Loan Party and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party, including pursuant to any applicable Environmental Laws;
- (c) the occurrence of any Pension Event;
- (d) any material change in accounting policies or financial reporting practices by the Borrower;
- (e) the discharge by the Borrower of its present Registered Public Accounting Firm or any withdrawal or resignation by such accounting firm;
- (f) any collective bargaining agreement or other labor contract to which a Loan Party becomes a party;
- (g) the filing of any Lien for unpaid Taxes against any Loan Party, including, as the case may be, in respect of any matter disclosed on Schedule 5.11;
- (h) any material change in the manner in which the Loan Parties intend to deal with the tax liability disclosed in Schedule 5.11 or the receipt by any Loan Party of any material written notice, assessment or other material written communication from a Governmental Authority in respect thereof (with a copy thereof to be provided to Agent);
- (i) any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the

Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the Collateral is damaged or destroyed; and

(j) any failure by the Borrower to pay rent (beyond applicable grace periods) at any of the Borrower's Stores if such failure continues for more than ten (10) days following the day on which such rent first came due.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.3(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.

#### **6.4 Payment of Obligations.**

Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, (b) all lawful claims (including, without limitation, claims of landlords, warehousemen, customs brokers, freight forwarders, consolidators and carriers) which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness, except, in each case, where (i) the validity or amount thereof is being contested in good faith by appropriate proceedings, (ii) such Loan Party has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (iii) such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, and (iv) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect. Nothing contained herein shall be deemed to limit the rights of Agent with respect to determining Reserves pursuant to this Agreement.

#### **6.5 Preservation of Existence, Etc.**

(a) Preserve, renew and maintain in full force and effect its legal existence and good standing as a cooperative association under the Laws of the jurisdiction of its organization or formation and qualification to do business in all other jurisdictions, except where the failure to maintain such qualification could not reasonably be expected to result in a Material Adverse Effect, or, in each case, except in a transaction permitted by Section 7.4 or 7.5; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its Intellectual Property, except to the extent (1) such Intellectual Property is no longer used or useful in the conduct of the business of the Borrower, or (2) that failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

#### **6.6 Maintenance of Properties.**

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof, except in each case where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

## 6.7 Maintenance of Insurance.

Maintain with financially sound and reputable insurance companies reasonably acceptable to Agent and not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and operating in the same or similar locations or as is required by applicable Law, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons and as are reasonably acceptable to Agent (whose approval shall not be unreasonably withheld or delayed).

(a) Fire and extended coverage policies maintained with respect to any Collateral shall be endorsed or otherwise amended to include (i) a lenders' loss payable clause, in form and substance reasonably satisfactory to Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to Agent, which proceeds shall be promptly applied to the repayment of the Obligations in the order set forth under Section 2.4 (or, after the exercise of remedies provided for in Section 8.2, in the order set forth in Section 8.3), (ii) a provision to the effect that none of the Loan Parties, Credit Parties or any other Person shall be a co-insurer, (iii) a standard mortgage clause, and (iv) such other provisions as Agent may reasonably require from time to time to protect the interests of the Credit Parties. Commercial general liability policies shall be endorsed to name Agent as an additional insured. Business interruption policies shall name Agent as a loss payee and shall be endorsed or amended to include (i) a provision that, from and after the Closing Date, the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to Agent, which proceeds shall be promptly applied to the repayment of the Obligations in the order set forth under Section 2.4 (or, after the exercise of remedies provided for in Section 8.2, in the order set forth in Section 8.3) (ii) a provision to the effect that none of the Loan Parties, Agent or any other party shall be a co-insurer and (iii) such other provisions as Agent may reasonably require from time to time to protect the interests of the Credit Parties. Each such policy referred to in this Section 6.7(a) shall also provide that it shall not be canceled or not renewed (i) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to Agent (giving Agent the right to cure defaults in the payment of premiums) or (ii) for any other reason except upon not less than ten (10) days' prior written notice thereof by the insurer to Agent. The Borrower shall deliver to Agent, prior to the cancellation or non-renewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to Agent, including an insurance binder) together with evidence reasonably satisfactory to Agent of payment of the premium therefor.

(b) None of the Credit Parties, or their agents or employees shall be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 6.7. Each Loan Party shall look solely to its insurance companies or any other parties other than the Credit Parties for the recovery of such loss or damage and such insurance companies shall have no rights of subrogation against any Credit Party or its agents or employees. If, however, the insurance policies do not provide waiver of subrogation rights against such parties, as required above, then the Loan Parties hereby agree, to the extent permitted by law, to waive their right of recovery, if any, against the Credit Parties and their agents and employees. The designation of any form, type or amount of insurance coverage by any Credit Party under this Section 6.7 shall in no event be deemed a representation, warranty or advice by such Credit Party that such insurance is adequate for the purposes of the business of the Loan Parties or the protection of their properties.

(c) Maintain for themselves, a Directors and Officers insurance policy, and a "Blanket Crime" policy including employee dishonesty, forgery or alteration, theft, disappearance and destruction, robbery and property coverage with responsible companies in such amounts as are customarily carried by

business entities engaged in similar businesses similarly situated, and will upon request by Agent furnish Agent certificates evidencing renewal of each such policy.

(d) Permit any representatives that are designated by Agent to inspect the insurance policies maintained by or on behalf of the Loan Parties. The Loan Parties shall pay the reasonable fees and expenses of any representatives retained by Agent to conduct any such inspection.

#### **6.8 Compliance with Laws.**

Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (a) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves have been set aside and maintained by the Loan Parties in accordance with GAAP; (b) such contest effectively suspends enforcement of the contested Laws, and (c) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

#### **6.9 Books and Records; Accountants.**

(a) Maintain proper books of record and account, in which full, true and correct (in all material respects) entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Loan Parties; and (ii) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Loan Parties.

(b) At all times retain a Registered Public Accounting Firm which is reasonably satisfactory to Agent and shall instruct such accounting firm to cooperate with, and be available to, Agent or its representatives to discuss the Borrower's financial performance, financial condition, operating results, controls, and such other matters, within the scope of the retention of such accounting firm, as may be raised by Agent; provided that Agent shall use commercially reasonable efforts to include the Borrower in each such discussion; provided further that such inclusion shall not be a condition precedent to the occurrence of such discussion.

#### **6.10 Inspection Rights; Physical Inventories; Appraisals.**

(a) Permit representatives and independent contractors of Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and Registered Public Accounting Firm, all at the expense of the Borrower and at such reasonable times during normal business hours upon reasonable advance notice to the Borrower; provided, however, so long as no Event of Default exists, Agent shall not conduct more than two (2) such inspections/examinations/discussions during any twelve month period. Notwithstanding the foregoing, when an Event of Default exists, Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours but without advance notice.

(b) Without duplication of the inspections / examinations / discussions described in Section 6.10(a) above, upon the request of Agent after reasonable prior notice, permit Agent or professionals (including consultants, accountants and appraisers) retained by Agent to conduct appraisals, commercial finance examinations and other collateral evaluations (in each case, without duplication of the activities described in subsections (a) and (c) of this Section 6.10), including, without limitation, of (i) the Borrower's practices in the computation of the Borrowing Base and (ii) the assets included in the

Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. Subject to the next two sentences, the Borrower shall pay the reasonable and documented fees and expenses of Agent and such professionals with respect to such evaluations and appraisals. Without limiting the foregoing, the Borrower acknowledges that Agent may, in its discretion, undertake up to one (1) inventory appraisal and one (1) commercial finance field examination in each twelve month period at the Borrower's expense, provided however, that if Availability is at any time less than [REDACTED] of the Aggregate Commitments for [REDACTED] consecutive Business Days, Agent may, in its Permitted Discretion, undertake up to [REDACTED] inventory appraisals and two (2) commercial finance field examinations in any twelve month period at the Borrower's expense. Notwithstanding the foregoing, Agent may cause additional appraisals and commercial finance examinations to be undertaken (i) as it in its Permitted Discretion deems necessary or appropriate, at its own expense or, (ii) if required by applicable Law or if an Event of Default shall have occurred and be continuing, at the expense of the Borrower.

(c) Cause not less than one (1) physical inventory to be undertaken, at the expense of the Borrower, in each twelve (12) month period and periodic cycle counts, in each case consistent with past practices, conducted by such inventory takers as are reasonably satisfactory to Agent and following such methodology as is consistent with the methodology used in the immediately preceding physical inventory or as otherwise may be reasonably satisfactory to Agent. Agent, at the expense of the Borrower, may participate in and/or observe each scheduled physical count of Inventory which is undertaken on behalf of the Borrower. The Borrower, within thirty (30) days following the completion of such inventory, shall provide Agent with a reconciliation of the results of such inventory (as well as of any other physical inventory or cycle counts undertaken by the Borrower) and shall post such results to the Borrower's stock ledgers and general ledgers, as applicable.

(d) Upon the occurrence and during the continuance of any Event of Default, the Borrower will provide Agent with an updated Appraisal or Appraisals with respect to the Mortgaged Property promptly upon the request of Agent in its Permitted Discretion.

(e) Permit Agent, in its Permitted Discretion, if any Event of Default exists, to cause additional such physical inventories, inventory appraisals and commercial finance field examinations to be undertaken, and Appraisals to be obtained as Agent determines in its Permitted Discretion (each, at the expense of the Borrower).

#### **6.11 Use of Proceeds.**

Use the proceeds of the Credit Extensions (a) to repay in full, on the Closing Date, the Existing RBC Facility, (b) to finance the acquisition of working capital assets of the Borrower, including the purchase of inventory and equipment, in each case in the ordinary course of business, (c) to finance Capital Expenditures of the Borrower, (d) to pay, on the Closing Date, for transaction fees related to this Agreement and the other Loan Documents, and (e) for general corporate purposes of the Borrower, in each case to the extent expressly permitted under applicable Law and the Loan Documents.

#### **6.12 Additional Guarantors.**

Notify Agent at the time that any Person becomes a Subsidiary, and promptly thereafter (and in any event within thirty (30) days or such longer time as Agent may agree), cause any such Person, which is a Subsidiary, to (a) become a Guarantor by executing and delivering to Agent a Joinder Agreement or a counterpart of a Facility Guarantee or such other document as Agent shall deem appropriate for such purpose, (b) grant a Lien to Agent on such Person's assets to secure the Secured Obligations, and

(c) deliver to Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.1(a) and favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (a)), and if any Equity Interests or Indebtedness of such Person are owned by any Loan Party, to pledge such Equity Interests and promissory notes evidencing such Indebtedness, in each case in form, content and scope reasonably satisfactory to Agent. In no event shall compliance with this Section 6.12 (i) waive or be deemed a waiver of Section 7.2(b), (ii) otherwise waive or be deemed a waiver or Consent to any transaction giving rise to the need to comply with this Section 6.12 if such transaction was not otherwise expressly permitted by this Agreement, (iii) constitute or be deemed to constitute, with respect to any Subsidiary, an approval of such Person as a Guarantor, or (iv) permit the inclusion of any assets of such Person in the computation of the Borrowing Base.

### 6.13 Cash Management; Credit Card Notifications.

(a) Cash Management. The Loan Parties will enter into such account control agreements and blocked account agreements (collectively, the “Cash Management Agreements”), each in form and substance reasonably satisfactory to Agent, as Agent determines in its Permitted Discretion are necessary to effect the provisions of this Section 6.13.

(i) All Collections constitute Collateral and proceeds of Collateral and shall be held in trust by the Borrower for Agent (for the benefit of the Lenders), shall not be commingled with any of the Borrower’s other funds and shall be deposited only in a DDA in which only Collections are deposited, in all cases subject to the terms of Section 6.13(a)(ii).

(ii) The Borrower shall cause the occurrence of an ACH Transaction or wire transfer to a DDA that is, at all times after the date which falls sixty (60) days after the Closing Date, subject to a Control Agreement (such DDA, hereinafter a “Concentration Account”), no less frequently than daily (and whether or not there is then an outstanding balance in the Loan Account) of (A) the then contents of each DDA (other than the Funding Account, any Local Disbursement DDA and the Concentration Account) whether or not such DDA is subject to a Control Agreement, and (B) the proceeds of all credit card and debit card charges not otherwise provided for pursuant hereto; provided that, unless and until the Borrower is in receipt of Collections denominated in U.S. Dollars in excess of [REDACTED] on more than 3 occasions during any Fiscal Period, the Borrower will be permitted to deposit and retain such amounts in a DDA that serves as the Borrower’s U.S. Dollar operating account, and will not be required to maintain, nor deposit Collections denominated in U.S. Dollars on a daily basis into, a U.S. Dollar denominated Concentration Account.

(iii) Whether or not any Secured Obligations are then outstanding, after the occurrence of a Cash Management Activation Event, upon the issuance of an activation notice under the Cash Management Agreements, the entire previous day’s closing collected balance of each Concentration Account (less amounts in respect of the cash float for the Borrower’s stores, not to exceed, in the aggregate for all stores, [REDACTED], which amounts may be retained in cash at the Borrower’s stores) shall be the subject of an ACH Transaction or wire transfer to the Agent’s Account, no less frequently than daily, and shall be applied to reduce the Secured Obligations. Further, at any time when the Borrower is not required to maintain a U.S. Dollar denominated Concentration Account pursuant to the proviso in Section 6.13(a)(ii) above, the Borrower shall, on a daily basis, cause the entire previous day’s Collections that are denominated in U.S. Dollars to be converted into Canadian Dollars and cause the occurrence of an ACH Transaction or wire transfer of such converted amount to the Agent’s Account, where such amounts shall be applied

to reduce the Secured Obligations. The Agent's Account shall at all times be under the sole dominion and control of Agent and be subject to Agent's first priority Lien.

(iv) Agent agrees not to issue an activation notice with respect to the Concentration Accounts under the Cash Management Agreements unless a Cash Management Activation Event has commenced and is continuing. Further, Agent agrees to deliver a notice under the Cash Management Agreements providing for the rescission of any such activation notice previously issued if (A) the Cash Management Activation Event for which such activation notice was issued is no longer continuing and (B) no new Cash Management Activation Event has commenced and is continuing prior to the date of such rescission.

(v) If a Cash Management Activation Event has occurred and is continuing and if the Loan Parties do not have any outstanding Obligations (other than outstanding Letters of Credit), then Agent shall wire transfer the collected funds in the Agent's Account to the Funding Account so long as no Event of Default has occurred and is continuing.

(vi) So long as no Cash Management Activation Event has occurred and is continuing, the Borrower may disburse or transfer to the Funding Account amounts from the Concentration Account.

(b) Securities Accounts and DDAs. The Borrower shall at all times maintain or cause to be maintained all of the DDAs and Securities Accounts of the Loan Parties with Agent.

(c) Credit Card Notifications. The Borrower shall, prior to any Eligible Credit Card Receivables owing by a Credit Card Processor being incorporated into the Borrowing Base, deliver or cause to be delivered a Credit Card Notification substantially in the form of Exhibit F to such Credit Card Processor. Each such Credit Card Notification shall provide, among other things, that each such Credit Card Processor shall transfer all proceeds of credit card or debit card charges for sales by the Borrower received by it (or other amounts payable by such Credit Card Processor) into a DDA on a daily basis into which no other funds (other than Collections) are commingled. All such proceeds so transferred shall be applied or disbursed as otherwise provided in this Section 6.13. The Borrower Parties shall not attempt to change any direction or designation set forth in the Credit Card Notifications regarding payment of charges without the prior written consent of Agent. No Loan Party shall enter into any agreements with Credit Card Processors other than the ones expressly contemplated herein.

(d) Amounts Held in Trust. Notwithstanding the provisions of this Section 6.13, if the Loan Parties receive or otherwise have dominion and control of any Collections, or any proceeds or collections of any Collateral after the occurrence and during the continuance of a Cash Management Activation Event, such Collections, proceeds and collections shall be held in trust by the Loan Parties for Agent and shall not be commingled with any of the Loan Parties' other funds or deposited in any account of the Loan Parties other than as instructed by Agent.

#### **6.14 Information Regarding the Collateral.**

(a) Furnish to Agent at least fourteen (14) days prior written notice (or such shorter period as Agent may agree) of any change in: (i) any Loan Party's legal name; (ii) the location of any Loan Party's chief executive office, its principal place of business, its registered office, any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility); (iii) any Loan Party's organizational structure or jurisdiction of incorporation or formation; or (iv) any Loan Party's federal

taxpayer identification number or similar number or federal business number, as applicable, or any Loan Party's organizational identification number assigned to it by its jurisdiction of organization. The Loan Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the PPSA or otherwise that are required in order for Agent to continue at all times following such change to have a valid, legal and perfected first priority (subject to Permitted Encumbrances having priority by operation of law) security interest in all the Collateral for its own benefit and the benefit of the other Credit Parties.

(b) Should any of the information on any of the Schedules hereto become inaccurate or misleading in any material respect as a result of changes after the Closing Date, the Borrower shall advise Agent in writing of such revisions or updates as may be necessary or appropriate to update or correct the same. From time to time as may be reasonably requested by Agent, the Borrower shall supplement each Schedule hereto, or any representation herein or in any other Loan Document, with respect to any matter arising after the Closing Date that, if existing or occurring on the Closing Date, would have been required to be set forth or described in such Schedule or as an exception to such representation or that is necessary to correct any information in such Schedule or representation which has been rendered inaccurate thereby (and, in the case of any supplements to any Schedule, such Schedule shall be appropriately marked to show the changes made therein). Notwithstanding the foregoing, no supplement or revision to any Schedule or representation shall be deemed the Credit Parties' consent to the matters reflected in such updated Schedules or revised representations nor permit the Loan Parties to undertake any actions otherwise prohibited hereunder or fail to undertake any action required hereunder from the restrictions and requirements in existence prior to the delivery of such updated Schedules or such revision of a representation; nor shall any such supplement or revision to any Schedule or representation be deemed the Credit Parties' waiver of any Default resulting from the matters disclosed therein.

#### **6.15 Environmental Laws.**

Except in each case where failure to do so could not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, (a) conduct its operations and keep and maintain its Real Estate in material compliance with all Environmental Laws; (b) obtain and renew all environmental permits necessary for its operations and properties; and (c) implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of the Real Estate or to otherwise comply with Environmental Laws pertaining to the presence, generation, treatment, storage, use, disposal, transportation or release of any Hazardous Materials on, at, in, under, above, to, from or about any of its Real Estate, provided, however, that no Loan Party shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and adequate reserves have been set aside and are being maintained by the Loan Parties with respect to such circumstances in accordance with GAAP.

#### **6.16 Further Assurances.**

(a) Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that may be required under any applicable Law, or which Agent may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created by the Security Documents or the validity or priority of any such Lien, all at the expense of the Loan Parties. The Loan Parties also agree to provide to Agent, from time to time upon request, evidence satisfactory to Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.



(b) If any material assets are acquired by any Loan Party after the Closing Date (other than assets constituting Collateral under the Security Documents that become subject to the Lien of the Security Documents upon acquisition thereof), notify Agent thereof, and the applicable Loan Party will cause such assets to be subjected to a Lien securing the Secured Obligations and will take such actions as shall be necessary or shall be reasonably requested by Agent to grant and perfect such Liens, including actions described in paragraph (a) of this Section 6.16, all at the expense of the Loan Parties. In no event shall compliance with this Section 6.16(b) waive or be deemed a waiver or Consent to any transaction giving rise to the need to comply with this Section 6.16(b) if such transaction was not otherwise expressly permitted by this Agreement or constitute or be deemed to constitute Consent to the inclusion of any acquired assets in the computation of the Borrowing Base.

(c) Upon the request of Agent, in the exercise of its Permitted Discretion, use commercially reasonable efforts to cause each of its customs brokers, freight forwarders, consolidators and/or carriers to deliver an agreement (including, without limitation, a Customs Broker Agreement) to Agent covering such matters and in such form as Agent may reasonably require.

(d) Upon the request of Agent, in the exercise of its Permitted Discretion, use commercially reasonable efforts to cause any of its landlords and any lenders which have a Lien in any of the Loan Parties' owned or leased assets which Agent reasonably deems necessary to be utilized in the conduct of a Liquidation to deliver a Collateral Access Agreement to Agent in such form as Agent may reasonably require.

#### **6.17 Compliance with Terms of Leaseholds.**

Except as otherwise expressly permitted hereunder or where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, make all payments and otherwise perform all obligations in respect of all Leases of Real Estate to which any Loan Party is a party, keep such Leases in full force and effect and not allow such Leases to lapse or be terminated or any rights to renew such leases to be forfeited or cancelled.

#### **6.18 Material Contracts.**

Except as otherwise expressly permitted hereunder or where the failure to do so, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, perform and observe all the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, enforce each such Material Contract in accordance with its terms, take all such action to such end as may be from time to time requested by Agent and, upon request of Agent, make to each other party to each such Material Contract such demands and requests for information and reports or for action as any Loan Party is entitled to make under such Material Contract.

### **ARTICLE VII NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Secured Obligation hereunder (other than contingent indemnification obligations for which no claim has been asserted) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, no Loan Party shall, directly or indirectly:

### **7.1 Liens.**

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired or sign or file or suffer to exist under the PPSA or any similar Law or statute of any jurisdiction a financing statement that names any Loan Party as debtor; sign or suffer to exist any security agreement authorizing any Person thereunder to file such financing statement; sell any of its property or assets subject to an understanding or agreement (contingent or otherwise) to repurchase such property or assets with recourse to any Loan Party; other than, as to all of the above, Permitted Encumbrances.

### **7.2 Investments; Subsidiaries.**

(a) Make any Investments, except Permitted Investments.

(b) Create or acquire or otherwise have any Subsidiaries other than the wholly-owned Subsidiary of the Borrower identified by name on Schedule 1.01 as being in existence as of the Closing Date.

### **7.3 Indebtedness.**

Create, incur, assume, guarantee, suffer to exist or otherwise become or remain liable with respect to, any Indebtedness, except Permitted Indebtedness.

### **7.4 Fundamental Changes.**

Merge, amalgamate, dissolve, liquidate, consolidate with or into another Person, (or agree to do any of the foregoing), except that, so long as no Event of Default shall have occurred and be continuing prior to or immediately after giving effect to any action described below or would result therefrom:

(a) any Loan Party may merge, amalgamate or consolidate into any other Loan Party or into the Borrower, provided that in any merger, amalgamation or consolidation involving the Borrower, the Borrower shall be the continuing or surviving Person;

(b) any Loan Party (other than the Borrower) may liquidate or dissolve if such liquidation or dissolution is not materially disadvantageous or materially adverse to the Credit Parties and the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Loan Parties.

### **7.5 Dispositions.**

Make any Disposition or enter into any agreement to make any Disposition, except Permitted Dispositions.

### **7.6 Restricted Payments.**

Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that,

(a) a Guarantor or Subsidiary may make Restricted Payments to the Borrower;

(b) the Borrower may declare and make customary annual patronage distributions to its members in the form of gift cards in the ordinary course of business and in accordance with its normal practice;

(c) the Loan Parties (other than the Borrower) or any Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by them;

(d) the Borrower may issue and sell Equity Interests provided that, (i) such Equity Interests shall not be subject to redemption, and (ii) the only dividends or distributions payable or that may become payable in respect of such Equity Interests are annual patronage distributions referred to Section 7.6(b) above.

#### **7.7 Prepayments of Indebtedness.**

Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Indebtedness, or make any payment in violation of any subordination terms of any Subordinated Indebtedness, except (a) payments in respect of the Secured Obligations, (b) as long as no Event of Default then exists, regularly scheduled or mandatory repayments, repurchases, redemptions or defeasances of Permitted Indebtedness (other than Subordinated Indebtedness), (c) as long as no Event of Default then exists, repayments of Subordinated Indebtedness in accordance with the subordination terms thereof, and (d) Permitted Refinancings of any such Indebtedness.

#### **7.8 Change in Nature of Business.**

(a) Engage in any line of business substantially different from the business conducted by the Borrower on the date hereof or any business reasonably related or incidental thereto.

(b) With respect to the Guarantor, engage in any business or activities other than as nominee and bare trustee with respect to certain of the Borrower's owned Real Estate of which it is the registered owner, as set forth in Schedule 5.8(B)(1), as of the Closing Date.

#### **7.9 Transactions with Affiliates.**

Enter into, renew, extend or be a party to any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Loan Parties as would be obtainable by the Loan Parties at the time in a comparable arm's length transaction with a Person other than an Affiliate, provided that the foregoing restriction shall not apply to (a) a transaction between or among any Loan Parties that is otherwise permitted under this Agreement, (b) transactions, arrangements, reimbursements and indemnities permitted between or among such parties under this Agreement, (c) the payment of reasonable fees and costs to directors, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers and employees of the Loan Parties, or (d) those transactions existing as of the date hereof and set forth on Schedule 7.9.

#### **7.10 Burdensome Agreements.**

Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that (a) limits the ability (i) of any Loan Party to make Restricted Payments or other distributions to any other Loan Party or to otherwise transfer property to or invest in another Loan Party, provided that this clause (i) shall not prohibit (x) customary limitations contained in Contractual Obligations which are purchase and sale agreements entered into by any Loan Party limiting Restricted

Payments or other distributions with respect to the assets subject to such agreement or (y) customary negative pledges in favor of any other holder of Permitted Indebtedness (so long as such negative pledges do not in any way limit the ability to provide in Lien to secure the Secured Obligations), (ii) of any Guarantor to Guarantee the Secured Obligations, (iii) of any Loan Party to make or repay loans to another Loan Party, or (iv) of the Loan Parties to create, incur, assume or suffer to exist Liens on property of such Person in favor of Agent; provided, however, that this clause (iv) shall not prohibit (x) any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under clause (c) of the definition of Permitted Indebtedness solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness or (y) customary negative pledges in favor of any other holder of Permitted Indebtedness (so long as such negative pledges do not in any way limit the ability to provide a Lien to secure the Secured Obligations); or (b) requires the grant of a Lien to secure an obligation of such Person if a Lien is granted to secure another obligation of such Person.

#### **7.11 Use of Proceeds.**

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, for purposes other than those permitted under this Agreement.

#### **7.12 Amendment of Material Documents.**

Amend, modify or waive any of a Loan Party's rights under (a) its Organization Documents in a manner materially adverse to the Credit Parties, or (b) any Material Contract or Material Indebtedness (other than on account of any refinancing thereof otherwise permitted hereunder), in each case to the extent that such amendment, modification or waiver would be reasonably likely to have a Material Adverse Effect.

#### **7.13 Fiscal Year.**

Change the Fiscal Year of the Borrower, or the method of accounting of the Borrower, except as required by GAAP.

#### **7.14 Financial Covenants.**

(a) Consolidated Fixed Charge Coverage Ratio. During the continuance of a Covenant Compliance Event, permit the Consolidated Fixed Charge Coverage Ratio for any Measurement Period, commencing with the most recent period for which financial statements have been delivered in accordance with Section 6.1 prior to the occurrence of such Covenant Compliance Event, to be less than [REDACTED].

(b) Limit on Growth Capital Expenditures. The Borrower shall not incur, or permit any Loan Party to incur, in the aggregate for the Borrower and all other Loan Parties, Growth Capital Expenditures during any Fiscal Year of the Borrower, in excess of:

- (i) during the Borrower's 2016 Fiscal Year (ended February 2017), [REDACTED]
- (ii) during the Borrower's 2017 Fiscal Year (ending February 2018), [REDACTED]
- (iii) during the Borrower's 2018 Fiscal Year (ending February 2019), [REDACTED]
- (iv) during the Borrower's 2019 Fiscal Year (ending February 2020), [REDACTED]

(v) during the Borrower's 2020 Fiscal Year (ending February 2021), [REDACTED]

provided that, to the extent the aggregate Growth Capital Expenditures of the Loan Parties for any Fiscal Year of the Borrower are less than the applicable limit set forth above (the amount of the difference being referred to as "Unused Limit"), all or a portion of such Unused Limit not exceeding 20% of the applicable limit set forth above for such Fiscal Year, may be carried forward to the immediately following Fiscal Year (but may not be further carried forward to any subsequent Fiscal Year and shall not be added to, or considered as part of, the applicable limit for such following Fiscal Year for the purpose of determining the amount of any carry-forward of any Unused Limit from such following Fiscal Year).

#### 7.15 Store Closings.

Close any Store unless the Borrower has provided Agent at least 15 days' prior written notice of such closing; provided, however, that nothing in this Section 7.15 shall prohibit any Loan Party from doing the following: (a) closing any Store upon expiration of the Lease governing such Store or if such Store is leased on a month-to-month basis, (b) closing any Store upon exercise of its rights under the Lease governing such Store to terminate such Lease, including, but not limited to, as a result of the underperformance of such Store or due to a breach of the Lease by the lessor, or (c) closing any Store upon the lessor's exercise of its rights under the Lease governing such Store to terminate such Lease.

### ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

#### 8.1 Events of Default.

Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower or any other Loan Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan or any L/C Obligation, or deposit any funds as Cash Collateral in respect of L/C Obligations, or (ii) to pay within [REDACTED] Business Days of when and as required to be paid herein any interest on any Loan or on any L/C Obligation, or any fee payable hereunder, or (iii) to pay within [REDACTED] Business Days after receiving a written request therefor, any other Obligation payable under any Loan Document; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.1, 6.2, 6.3, 6.5, 6.7, 6.10, 6.11, 6.12, 6.13 or 6.14 or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for [REDACTED] days after the earlier of a Responsible Officer having knowledge thereof or written notice from Agent thereof; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith (including, without limitation, any Borrowing Base Certificate) shall be incorrect or misleading in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such payment is not

made within any applicable grace period in respect of any Material Indebtedness (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement), or (B) fails to observe or perform any other agreement or condition relating to any such Material Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Material Indebtedness or the beneficiary or beneficiaries of any Guarantee thereof (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such Guarantee to become payable or cash collateral in respect thereof to be demanded; provided that this clause (i)(B) shall not apply to secured Indebtedness of a Loan Party permitted hereunder that becomes due upon the sale or transfer by such Loan Party of the assets securing such Indebtedness, or (ii) there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which a Loan Party is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as so defined) under such Swap Contract as to which a Loan Party is an Affected Party (as so defined) and, in either event, the Swap Termination Value owed by the Loan Party as a result thereof is greater than [REDACTED]

(f) Insolvency Proceedings, Etc. Any Loan Party institutes or consents to the institution of any proceeding under any Debtor Relief Law or any other law seeking to approve or impose a plan of arrangement, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, interim receiver, monitor, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or a proceeding shall be commenced or a petition filed, without the application or consent of such Person, seeking or requesting the appointment of any receiver, interim receiver, monitor, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed and the appointment continues undischarged, undismissed or unstayed for [REDACTED] calendar days or an order or decree approving or ordering any of the foregoing shall be entered; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for [REDACTED] calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party becomes unable or admits in writing its inability or fails generally to pay its debts as they become due in the ordinary course of business, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Person and is not released, vacated or fully bonded within 21 days after its issuance or levy (and continues to be bonded, if applicable); or

(h) Judgments. There is entered against any Loan Party one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding [REDACTED] the extent not covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of [REDACTED] consecutive days during such judgment or order, by reason of a pending appeal or otherwise, has not been satisfied, vacated, discharged, stayed or bonded (and continues to be stayed or bonded, if applicable); or

(i) Pension Plans. A Pension Event shall occur which, in Agent's reasonable determination, constitutes grounds for the termination under any applicable Law, of any Plan or for the appointment by the appropriate Governmental Authority of a trustee or third party administrator for any Plan, or if any Plan shall be terminated or any such trustee or administrator shall be requested or appointed and in either event could reasonably be expected to have a Material Adverse Effect, or if a Loan Party is in default with respect to payments to or Plan resulting from its complete or partial withdrawal from such Plan and any such event could reasonably be expected to have a Material Adverse Effect, or any Lien arises (save for contribution amounts not yet due) in connection with any Plan; or

(j) Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Secured Obligations, ceases to be in full force and effect; or any Loan Party or any other Person contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document or seeks to avoid, limit or otherwise adversely affect any Lien purported to be created under any Security Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by any Loan Party or any other Person not to be, a valid and perfected Lien on any Collateral (other than an immaterial portion of the Collateral not of the type included in the Borrowing Base, as determined by Agent in its Permitted Discretion), with the priority required by the applicable Security Document for any reason other than the failure of Agent or Lender to file PPSA financing statements (or continuations thereof); or

(k) Change of Control. There occurs any Change of Control; or

(l) Cessation of Business. Except as otherwise expressly permitted hereunder, the Loan Parties shall take any action to suspend the operation of the business of the Loan Parties, taken as a whole, in the ordinary course, liquidate all or a material portion of its assets or Store locations, or employ an agent or other third party to conduct a program of closings, liquidations or "Going-Out-Of-Business" sales of any material portion of its business; or

(m) Loss of Collateral. There occurs any uninsured loss to any material portion of the Collateral; or

(n) Breach of Contractual Obligation. Any Loan Party fails to observe or perform any other agreement or condition relating to any Material Contract, which failure constitutes a default under such Material Contract, the effect of which default is to cause the termination of such Material Contract; or

(o) Indictment. The indictment or institution of any legal process or proceeding against any Loan Party under any federal, state, provincial, territorial, municipal, and other criminal statute, rule, regulation, order, or other requirement having the force of law for an indictable offence; or

(p) Guarantee. The termination or attempted termination of any Facility Guarantee except as expressly permitted hereunder or under any other Loan Document; or

(q) Subordination. (i) The subordination provisions of the documents evidencing or governing any Subordinated Indebtedness (the "Subordination Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or (ii) the Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the

Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Credit Parties, or (C) that all payments of principal of or premium and interest on the applicable Subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions; or

(r) Material Adverse Change. If any event shall occur which has resulted or could reasonably be expected to result in a Material Adverse Effect.

## 8.2 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, Agent may, or, at the request of the Required Lenders shall, take any or all of the following actions:

(a) declare the Commitments of each Lender to make Loans and any obligation of the Swingline Lender to make Swingline Loans and the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other Obligations owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(c) require that the Loan Parties Cash Collateralize the L/C Obligations; and

(d) whether or not the maturity of the Obligations shall have been accelerated pursuant hereto, proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents or applicable Law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Credit Parties;

provided, however, that upon the occurrence of any Event of Default under Section 8.1(e), the obligation of each Lender to make Loans, any obligation of the Swingline Lender to make Swingline Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Loan Parties to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of Agent or any Lender.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other provision of Law.

## 8.3 Application of Funds.

After the exercise of remedies provided for in Section 8.2 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.2), any amounts received on account of the Secured Obligations shall be applied by Agent in the following order:



First, to payment of that portion of the Obligations constituting fees, indemnities, Credit Party Expenses and other amounts (including fees, charges and disbursements of counsel to Agent and amounts payable under Article III) payable to Agent, in its capacity as such;

Second, to payment of that portion of the Obligations constituting indemnities, Credit Party Expenses, and other amounts (other than principal, interest and fees) payable to the Lenders, the Swingline Lender and the L/C Issuer (including fees, charges and disbursements of counsel to the respective Lenders, the Swingline Lender and the L/C Issuer and amounts payable under Article III), rateably among them in proportion to the amounts described in this clause Second payable to them;

Third, to the extent not previously reimbursed by the Lenders, to payment to Agent of that portion of the Obligations constituting principal and accrued and unpaid interest on any Permitted Over-advances;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, L/C Borrowings and other Obligations, and fees (including Letter of Credit Fees), rateably among the Lenders, the Swingline Lender and the L/C Issuer in proportion to the respective amounts described in this clause Fourth payable to them;

Fifth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, Swingline Loans (to the extent the same have not been converted into Syndicated Borrowings pursuant to Section 2.16(h)) and L/C Borrowings, rateably among the Lenders, the Swingline Lender and the L/C Issuer in proportion to the respective amounts described in this clause Fifth held by them;

Sixth, to Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit;

Seventh, to payment of all other Obligations (including without limitation the cash collateralization of unliquidated indemnification obligations for which a claim has been made), rateably among the Credit Parties in proportion to the respective amounts described in this clause Seventh held by them;

Eighth, to payment of that portion of the Secured Obligations arising from Cash Management Services, rateably among the Credit Parties in proportion to the respective amounts described in this clause Eighth held by them;

Ninth, to payment of all other Secured Obligations arising from Bank Products, rateably among the Credit Parties in proportion to the respective amounts described in this clause Ninth held by them; and

Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to the Loan Parties or as otherwise required by Law.

Subject to Section 2.3(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Sixth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Secured Obligations, if any, in the order set forth above.

## ARTICLE IX AGENT

### 9.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Royal Bank to act on its behalf as Agent hereunder and under the other Loan Documents and authorizes Agent to take such actions on its behalf and to exercise such powers as are delegated to Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of Agent, the Lenders, the Swingline Lender and the L/C Issuer, and except as provided in Sections 9.6 and 9.10, no Loan Party shall have rights as a third party beneficiary of any of such provisions.

(b) Each of the Lenders (in its capacities as a Lender) hereby irrevocably appoints Royal Bank as Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by Agent pursuant to Section 9.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of Agent), shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.4(c)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents, as if set forth in full herein with respect thereto.

(c) For greater certainty, and without limiting the powers of Agent, each of the Lenders, on behalf of itself and any of its Affiliates that are Credit Parties, hereby irrevocably appoints Agent as hypothecary representative of the Credit Parties as contemplated under Article 2692 of the Civil Code of Quebec in order to hold hypothecs and security granted by any Loan Party on property pursuant to the laws of the Province of Quebec and to exercise such powers and duties which are conferred upon the Credit Parties thereunder. The execution by Agent as hypothecary representative prior to this appointment of any deeds of hypothec or other security documents is hereby ratified and confirmed. The appointment of 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 Credit Parties’ rights and obligations under this Agreement by the execution of an assignment, including an Assignment and Assumption Agreement or a joinder or other agreement pursuant to which it becomes such assignee or participant. In the event of the resignation or removal of Agent and appointment of a successor Agent, such successor Agent shall also act as hypothecary representative without further formality, except the filing of a notice of replacement of hypothecary representative pursuant to Article 2692 of the Civil Code of Quebec.

### 9.2 Rights as a Lender.

The Person serving as Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Loan Parties or any Subsidiary or other Affiliate thereof as if such Person was not Agent hereunder and without any duty to account therefor to the Lenders.

### 9.3 Exculpatory Provisions.

Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that Agent shall not be required to take any action that, in its respective opinion or the opinion of its counsel, may expose Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Loan Parties or any of its Affiliates that is communicated to or obtained by the Person serving as Agent or any of its Affiliates in any capacity.

Agent shall not be liable for any action taken or not taken by it (i) with the Consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.1 and 8.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

Agent shall not be deemed to have knowledge of any Default unless and until notice describing such Default is given to Agent by the Loan Parties, a Lender, the Swingline Lender or the L/C Issuer. Upon the occurrence of an Event of Default, Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Applicable Lenders. Unless and until Agent shall have received such direction, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to any such Default or Event of Default as they shall deem advisable in the best interest of the Credit Parties. In no event shall Agent be required to comply with any such directions to the extent that Agent believes that its compliance with such directions would be unlawful.

Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Agent.

### 9.4 Reliance by Agent.

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, but not limited

to, any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless Agent shall have received written notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. Agent may consult with legal counsel (who may be counsel for any Loan Party), 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.

#### **9.5 Delegation of Duties.**

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 Agent. Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

#### **9.6 Resignation of Agent.**

Agent may at any time give written notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be (i) a bank with an office in Canada, or an Affiliate or branch of any such bank with an office in Canada, and (ii) unless an Event of Default has occurred and is continuing at the time of such appointment, reasonably acceptable to the Borrower. If no such successor shall have been so appointed by the Required Lenders and, to the extent required, consented to by the Borrower 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, the Swingline Lender and the L/C Issuer, appoint a successor Agent meeting the qualifications set forth above; provided that if 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 held by Agent on behalf of the Lenders, the Swingline Lender or the L/C Issuer 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 Agent shall instead be made by or to each Lender, the Swingline Lender and the L/C Issuer directly, until such time as the Required Lenders appoint a successor Agent and, to the extent required, the Borrower consents thereto, as provided for above in this Section. Upon the acceptance of 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 retiring (or retired) Agent, and the retiring 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 above in this Section). 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 retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.4 shall continue in effect for the benefit of such retiring 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 retiring Agent was acting as Agent hereunder.

Any resignation by Royal Bank as Agent pursuant to this Section shall also constitute its resignation as the Swingline Lender and the L/C Issuer. Upon the acceptance of a successor's appointment as Agent hereunder, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Swingline Lender and L/C Issuer, (b) the retiring Swingline Lender and L/C Issuer shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letters of Credit and any outstanding Swingline Loans shall be converted into Syndicated Borrowings pursuant to Section 2.16(h).

#### **9.7 Non-Reliance on Agent and Other Lenders.**

Each Lender, the Swingline Lender and the L/C Issuer acknowledges that it has, independently and without reliance upon Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender, the Swingline Lender and the L/C Issuer also acknowledges that it will, independently and without reliance upon Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder. Except as provided in Section 9.12, Agent shall not have any duty or responsibility to provide any Credit Party with any other credit or other information concerning the affairs, financial condition or business of any Loan Party that may come into the possession of Agent.

#### **9.8 Agent May File Proofs of Claim.**

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Agent shall have made any demand on the Loan Parties) shall be entitled and empowered, by intervention in such proceeding or otherwise

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Swingline Lender, the L/C Issuer, Agent and the other Credit Parties (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Swingline Lender, the L/C Issuer, Agent, such Credit Parties and their respective agents and counsel and all other amounts due the Lenders, the Swingline Lender, the L/C Issuer, Agent and such Credit Parties under Sections 2.3(i), 2.3(j), 2.8 and 10.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, interim receiver, monitor, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender, the

Swingline Lender and the L/C Issuer to make such payments to Agent and, if Agent shall consent to the making of such payments directly to the Lenders, the Swingline Lender and the L/C Issuer, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, and any other amounts due Agent under Sections 2.8 and 10.4.

Nothing contained herein shall be deemed to authorize Agent to authorize or consent to or accept or adopt on behalf of any Lender, the Swingline Lender or the L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Secured Obligations or the rights of any Lender, the Swingline Lender or the L/C Issuer or to authorize Agent to vote in respect of the claim of any Lender, the Swingline Lender or the L/C Issuer in any such proceeding.

#### **9.9 Collateral and Guarantee Matters.**

The Credit Parties irrevocably authorize Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Secured Obligations (other than contingent indemnification obligations for which no claim has been asserted) and the expiration or termination of all Letters of Credit, (ii) that is Disposed of or to be Disposed of as part of or in connection with any Disposition permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.1;

(b) to subordinate any Lien on any property granted to or held by Agent under any Loan Document to the holder of any Lien on such property that is permitted by clauses (f), (h) or (q) of the definition of Permitted Encumbrances; and

(c) to release any Guarantor from its obligations under any Facility Guarantee if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by Agent at any time, the Applicable Lenders will confirm in writing Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under any Facility Guarantee pursuant to this Section 9.10. In each case as specified in this Section 9.10, Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under any Facility Guarantee and each other applicable Loan Document, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

#### **9.10 Notice of Transfer.**

Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Secured Obligations for all purposes, unless and until, and except to the extent, an Assignment and Acceptance shall have become effective as set forth in Section 10.6.

#### **9.11 Reports and Financial Statements.**

By signing this Agreement, each Lender:

(a) agrees to furnish Agent (and thereafter at such frequency as Agent may reasonably request) with a summary of all Other Liabilities due or to become due to such Lender. In connection with

any distributions to be made hereunder, Agent shall be entitled to assume that no amounts are due to any Lender on account of Other Liabilities unless Agent has received written notice thereof from such Lender;

(b) is deemed to have requested that Agent furnish such Lender, promptly after they become available, copies of all financial statements required to be delivered hereunder and all commercial finance examinations and appraisals of the Collateral received by Agent (collectively, the "Reports");

(c) expressly agrees and acknowledges that Agent makes no representation or warranty as to the accuracy of the Reports, and shall not be liable for any information contained in any Report;

(d) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(e) agrees to keep all Reports confidential in accordance with the provisions of Section 10.7 hereof; and

(f) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Credit Extensions that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (ii) to pay and protect, and indemnify, defend, and hold Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

#### **9.12 Agency for Perfection.**

Each Lender hereby appoints each other Lender as agent for the purpose of perfecting Liens for the benefit of Agent and the Lenders, in assets which, in accordance with the PPSA or any other applicable Law of Canada or any foreign jurisdiction can be perfected only by possession. Should any Lender (other than Agent) obtain possession of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver such Collateral to Agent or otherwise deal with such Collateral in accordance with Agent's instructions.

#### **9.13 Indemnification of Agent.**

The Lenders hereby agree to indemnify Agent, the Swingline Lender, the L/C Issuer and any Related Party, as the case may be (to the extent not reimbursed by the Loan Parties and without limiting the obligations of Loan Parties hereunder), ratably according to their Applicable Percentages, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by Agent in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction; and provided further, no Lender shall be liable for any portion of such liabilities, obligations, losses,

damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from circumstances arising prior to the date it became a Lender.

#### **9.14 Relation among Lenders.**

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of Agent) authorized to act for, any other Lender.

#### **9.15 Defaulting Lender.**

(a) Notwithstanding the provisions of Section 2.13 hereof, Agent shall not be obligated to transfer to a Defaulting Lender any payments made by the Borrower to Agent for the Defaulting Lender's benefit or any proceeds of Collateral that would otherwise be remitted hereunder to the Defaulting Lender, and, in the absence of such transfer to the Defaulting Lender, Agent shall transfer any such payments (i) first, rateably, to (A) the L/C Issuer, to the extent of the portion of a Letter of Credit Disbursement that was required to be, but was not, paid by the Defaulting Lender, and (B) the Swingline Lender, to the extent of the portion of a Syndicated Borrowing that was required to be, but was not, funded by the Defaulting Lender, (ii) second, to each Non-Defaulting Lender rateably in accordance with their Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), (iii) to the Cash Collateral Account, the proceeds of which shall be retained by Agent and may be made available to be re-advanced to or for the benefit of the Borrower (upon the request of the Borrower and subject to the conditions set forth in Section 4.2) as if such Defaulting Lender had made its portion of the Loans (or other funding obligations) hereunder, and (iv) from and after the date on which all other Obligations have been paid in full, to such Defaulting Lender. Subject to the foregoing, Agent may hold and, in its discretion, re-lend to the Borrower for the account of such Defaulting Lender the amount of all such payments received and retained by Agent for the account of such Defaulting Lender. Solely for the purposes of voting or consenting to matters with respect to the Loan Documents (including the calculation of Applicable Percentages in connection therewith) and for the purpose of calculating the fee payable under Section 2.8(a), such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Commitment shall be deemed to be zero; provided, that the foregoing shall not apply to any of the matters governed by Section 10.1(a) through (c). The provisions of this Section 9.15 shall remain effective with respect to such Defaulting Lender until the earlier of (y) the date on which all of the Non-Defaulting Lenders, Agent, the Swingline Lender, the L/C Issuer, and the Borrower shall have waived, in writing, the application of this Section 9.15 to such Defaulting Lender, or (z) the date on which such Defaulting Lender pays to Agent all amounts owing by such Defaulting Lender in respect of the amounts that it was obligated to fund hereunder, and, if requested by Agent, provides adequate assurance of its ability to perform its future obligations hereunder (on which earlier date, so long as no Event of Default has occurred and is continuing, any remaining cash collateral held by Agent pursuant to Section 9.15(b) shall be released to the Borrower). The operation of this Section 9.15 shall not be construed to increase or otherwise affect the Commitment of any Lender, to relieve or excuse the performance by such Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse the performance by the Borrower of its duties and obligations hereunder to Agent, the Swingline Lender, the L/C Issuer, or to the Lenders other than such Defaulting Lender. Any failure by a Defaulting Lender to fund amounts that it was obligated to fund hereunder shall constitute a material breach by such Defaulting Lender of this Agreement. In connection with the arrangement of such a substitute Lender, the Defaulting Lender shall have no right to refuse to be replaced hereunder, and agrees to execute and deliver a completed form of Assignment and Assumption in favor of the substitute Lender (and agrees that it shall be deemed to have executed and delivered such document if it fails to do so) subject only to being paid its



share of the outstanding Obligations (other than any Other Liabilities, but including (1) all interest, fees (except any Commitment Fees or Letter of Credit Fees not due to such Defaulting Lender in accordance with the terms of this Agreement), and other amounts that may be due and payable in respect thereof, and (2) an assumption of its Applicable Percentage of its participation in the Letters of Credit); provided, that any such assumption of the Commitment of such Defaulting Lender shall not be deemed to constitute a waiver of any of the Credit Parties' or the Loan Parties' rights or remedies against any such Defaulting Lender arising out of or in relation to such failure to fund. In the event of a direct conflict between the priority provisions of this Section 9.15 and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 9.15 shall control and govern.

(b) If any Letter of Credit is outstanding at the time that a Lender becomes a Defaulting Lender then:

(i) such Defaulting Lender's participation interest in any Letter of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent (x) the Outstanding Amount of all Non-Defaulting Lenders' Credit Extensions after giving effect to such reallocation does not exceed the total of all Non-Defaulting Lenders' Commitments and (y) the conditions set forth in Section 4.2 are satisfied at such time;

(ii) if the reallocation described in clause (b)(i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by Agent cash collateralize such Defaulting Lender's participation in Letters of Credit (after giving effect to any partial reallocation pursuant to clause (b)(i) above), pursuant to a cash collateral agreement to be entered into in form and substance reasonably satisfactory to Agent, for so long as such L/C Obligations are outstanding; provided, that the Borrower shall not be obligated to cash collateralize any Defaulting Lender's participations in Letters of Credit if such Defaulting Lender is also the L/C Issuer;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's participation in Letters of Credit Exposure pursuant to this Section 9.15(b), the Borrower shall not be required to pay any Letter of Credit Fees to Agent for the account of such Defaulting Lender pursuant to Section 2.3 with respect to such cash collateralized portion of such Defaulting Lender's participation in Letters of Credit during the period such participation is cash collateralized;

(iv) to the extent the participation by any Non-Defaulting Lender in the Letters of Credit is reallocated pursuant to this Section 9.15(b), then the Letter of Credit Fees payable to the Non-Defaulting Lenders pursuant to Section 2.3 shall be adjusted in accordance with such reallocation;

(v) to the extent any Defaulting Lender's participation in Letters of Credit is neither cash collateralized nor reallocated pursuant to this Section 9.15(b), then, without prejudice to any rights or remedies of the L/C Issuer or any Lender hereunder, all Letter of Credit Fees that would have otherwise been payable to such Defaulting Lender under Section 2.3 with respect to such portion of such participation shall instead be payable to the L/C Issuer until such portion of such Defaulting Lender's participation is cash collateralized or reallocated;

(vi) so long as any Lender is a Defaulting Lender, the L/C Issuer shall not be required to issue, amend, or increase any Letter of Credit, in each case, to the extent (x) the Defaulting Lender's Applicable Percentage of such Letter of Credit cannot be reallocated pursuant to this Section 9.15(b), (y) is not cash collateralized in accordance with this Section 9.15(b), or (z) the L/C Issuer has not otherwise entered into arrangements reasonably satisfactory to the L/C Issuer, as applicable, and the Borrower to eliminate the L/C Issuer's risk with respect to the Defaulting Lender's participation in Letters of Credit; and

(vii) Agent may release any cash collateral provided by the Borrower pursuant to this Section 9.15(b) to the L/C Issuer and the L/C Issuer may apply any such cash collateral to the payment of such Defaulting Lender's Applicable Percentage of any Letter of Credit Disbursement that is not reimbursed by the Borrower pursuant to Section 2.3.

(c) If any Swingline Loan is outstanding at the time that a Lender becomes a Defaulting Lender then:

(i) such Defaulting Lender's Applicable Percentage of any Syndicated Borrowing into which the Swingline Loan is required to be converted shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent (x) the Outstanding Amount of all Non-Defaulting Lenders' Credit Extensions after giving effect to such reallocation does not exceed the total of all Non-Defaulting Lenders' Commitments and (y) the conditions set forth in Section 4.2 are satisfied at such time;

(ii) if the reallocation described in clause (b)(i) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by Agent repay an amount of such Swingline Loan equal to such Defaulting Lender's Applicable Percentage of the Syndicated Borrowing into which the Swingline Loan is required to be converted (after giving effect to any partial reallocation pursuant to clause (b)(i) above) for value on the same day as such conversion is required to be made; provided, that the Borrower shall not be obligated to repay any Defaulting Lender's Applicable Percentage of a Syndicated Borrowing if such Defaulting Lender is also the Swingline Lender;

(iii) For so long as any Lender is a Defaulting Lender, the Swingline Lender may, but is not required to, make any further Swingline Loans available.

## ARTICLE X MISCELLANEOUS

### 10.1 Amendments, Etc.

No amendment or waiver of any provision of this Agreement or any other Loan Document, and no Consent to any departure by any Loan Party therefrom, shall be effective unless in writing signed by Agent, with the Consent of the Required Lenders, and the Borrower or the applicable Loan Party, as the case may be, and each such waiver or Consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent after the Closing Date shall:

(a) extend or, increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2) without the written Consent of such Lender;

(b) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for (i) any scheduled payment (including the Maturity Date) or mandatory prepayment of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the written Consent of such Lender entitled to such payment, or (ii) any scheduled or mandatory reduction of the Aggregate Commitments hereunder or under any other Loan Document without the written Consent of such Lender;

(c) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 10.1) any fees or other amounts payable hereunder or under any other Loan Document, without the written Consent of each Lender entitled to such amount; provided, however, that only the Consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or (ii) to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate;

(d) as to any Lender, change Section 2.12 or Section 8.3 in a manner that would alter the pro rata sharing of payments required thereby without the written Consent of such Lender;

(e) change any provision of this Section or the definition of "Required Lenders", or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written Consent of each Lender;

(f) except as expressly permitted hereunder or under any other Loan Document, release, or limit the liability of, any Loan Party without the written Consent of each Lender;

(g) except for Permitted Dispositions, release all or substantially all of the Collateral from the Liens of the Security Documents without the written Consent of each Lender;

(h) except as provided in Section 2.14, increase the Aggregate Commitments without the written Consent of each Lender;

(i) modify the definition of Permitted Over-advance so as to increase the amount thereof or, except as provided in such definition, the time period for a Permitted Over-advance without the written Consent of each Lender; and

(j) except as expressly permitted herein or in any other Loan Document, subordinate the Secured Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the written Consent of each Lender;

and, provided further, that (i) no amendment, waiver or Consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or Consent shall, unless in writing and signed by the Swingline Lender in addition to the Lenders required above, affect the rights or duties of the Swingline Lender under this Agreement or any other Loan Document; (iii) no amendment, waiver or Consent shall, unless in writing and signed by Agent in addition to the Lenders required above, affect the rights or duties of Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter and the agreements evidencing the Other Liabilities may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or Consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender.

If any Lender does not Consent (a “Non-Consenting Lender”) to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the Consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

## 10.2 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except as provided in subsection (b) below, 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 facsimile transmission or electronic mail as follows:

(i) if to the Loan Parties, or Agent, to the address, fax number or electronic mail address specified for such Person on Schedule 10.2; and

(ii) if to any other Lender, the Swingline Lender or to the L/C Issuer, to the address, fax number or electronic mail address specified in its Administrative Questionnaire.

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 facsimile transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders, the Swingline Lender and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Agent, provided that the foregoing shall not apply to notices to any Lender, the Swingline Lender or the L/C Issuer pursuant to Article II if such Lender, the Swingline Lender or the L/C Issuer, as applicable, has notified Agent that it is incapable of receiving notices under such Article by electronic communication. Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless Agent 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), provided 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.

(c) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE

PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON- INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to any Loan Party, any Lender, the Swingline Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Loan Parties’ or Agent’s transmission of the Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Loan Party, any Lender, the Swingline Lender, the L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Loan Parties and Agent may change its address, fax number or electronic mail address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender, the Swingline Lender and the L/C Issuer may change its address, fax number or electronic mail address for notices and other communications hereunder by notice to the Borrower, Agent, the Swingline Lender and the L/C Issuer. In addition, each Lender, the Swingline Lender and the L/C Issuer agrees to notify Agent from time to time to ensure that Agent has on record (i) an effective address, contact name, fax number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender, the Swingline Lender or the L/C Issuer.

(e) Reliance by Agent, L/C Issuer, the Swingline Lender and Lenders. Agent, the L/C Issuer, the Swingline Lender and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Loan Parties even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify Agent, the L/C Issuer, the Swingline Lender, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Loan Parties.

### **10.3 No Waiver; Cumulative Remedies.**

No failure by any Credit Party to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges provided herein and in the other Loan Documents are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether any Credit Party may have had notice or knowledge of such Default at the time.

### **10.4 Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. The Borrower shall pay all Credit Party Expenses.

(b) Indemnification by the Loan Parties. The Loan Parties shall indemnify Agent (and any sub-agent thereof), each other Credit Party, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnatee") against, and hold each Indemnatee harmless (on an after tax basis) from, any and all losses, claims, causes of action, damages, liabilities, settlement payments, costs, and related expenses (including the reasonable fees, charges and disbursements of one primary counsel (and one local counsel in each appropriate jurisdictions) for the Indemnitees collectively (absent a conflict of interest in which case the foregoing limitations regarding the number of counsel shall not apply)), incurred by any Indemnatee or asserted against any Indemnatee by any third party or by the Borrower or any other Loan 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 by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of Agent (and any sub-agents thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit any bank advising or confirming a Letter of Credit or any other nominated person with respect to a Letter of Credit seeking to be reimbursed or indemnified or compensated, and any third party seeking to enforce the rights of the Borrower, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds, or holder of an instrument or document related to any Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Subsidiaries, (iv) any claims of, or amounts paid by any Credit Party to a Person which has entered into a control agreement with any Credit Party hereunder, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party or any of the Loan Parties' directors, shareholders or creditors, and regardless of whether any Indemnatee is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of the Indemnatee; provided that such indemnity shall not, as to any Indemnatee, 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 bad faith, gross negligence or willful misconduct of such Indemnatee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnatee for breach of such Indemnatee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and non-appealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(c) Reimbursement by Lenders. Without limiting their obligations under Section 9.14 hereof, to the extent that the Loan Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it, each Lender severally agrees to pay to Agent (or any such sub-agent), the Swingline Lender, the L/C Issuer or such Related Party, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Agent (or any such sub-agent), the Swingline Lender or the L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for Agent (or any such sub-agent), the Swingline Lender or the L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.11(d).

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Loan Parties shall not assert, and hereby waive, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit 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 to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(e) Payments. All amounts due under this Section shall be payable on demand therefor.

(f) Survival. The agreements in this Section shall survive the resignation of Agent, the Swingline Lender and the L/C Issuer, the assignment of any Commitment or Loan by any Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Secured Obligations.

#### 10.5 Payments Set Aside.

To the extent that any payment by or on behalf of a Loan Party is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender, the Swingline Lender and the L/C Issuer severally agrees to pay to Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate (if denominated in U.S. Dollars) or the Bank of Canada Overnight Rate (if denominated in Canadian Dollars) from time to time in effect. The obligations of the Lenders, the Swingline Lender and the L/C Issuer under clause (b) of the preceding sentence shall survive the payment in full of the Secured Obligations and the termination of this Agreement.

#### 10.6 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written Consent of Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.6(b), (ii) by way of participation in accordance with the provisions of subsection Section 10.6(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.6(f) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and

assigns permitted hereby, Participants to the extent provided in Section 10.6(d) and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.6(b), participations in L/C Obligations) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than [REDACTED] each of Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that with respect to any consent of the Borrower required with respect to any assignment hereunder, the passage of five (5) Business Days from receipt of written notice by the Borrower from Agent or a Lender of such assignment hereunder without the Borrower's giving Agent and such Lender written notice of the Borrower's consent to such assignment shall be deemed to constitute the Borrower's consent to such assignment; and

(B) the consent of Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Commitment if such



assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of the L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding); and

(D) the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in Syndicated Borrowings pursuant to Section 2.16(h).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to Agent an Assignment and Assumption, together with a processing and recordation fee of \$5,000, provided, however, that Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.1, 3.4, 3.5, and 10.4 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.6(d).

(c) Register. Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans, L/C Obligations and other Secured 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 Loan Parties, 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, and the Borrower may request a copy of the Register. Each Lender that sells a participation shall maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Commitments, Loans, L/C Obligations and other Obligations held by it (the "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such interest in the Commitments, Loans, L/C Obligations and other Obligations as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, any Loan Party or Agent, sell participations to any Person (other than a natural person or the Loan Parties or any of the Loan Parties' Affiliates) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Loan Parties, Agent, the Lenders, the Swingline Lender and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.7 as if such Participant was a Lender hereunder.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.1 that affects such Participant. Subject to subsection (e) of this Section and the prior written consent of the Loan Parties to the identity of any Participant (which consent shall not be unreasonably withheld or delayed), the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.6(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.8 as though it were a Lender, provided such Participant agrees to be subject to Section 2.12 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.1, 3.4 or 3.5 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent and such consent must expressly state that such Participant shall not be subject to the limitations contained in this Section 10.6(c). A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.1 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Loan Parties, to comply with Section 3.1(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest or Lien in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to the Bank of Canada or Federal Reserve Bank of another jurisdiction; provided that (i) no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto and (ii) no such pledgee or assignee may become a Lender hereunder unless the provisions of Section 10.6(b) have been satisfied with respect to such pledgee or assignee.

(g) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law.

### **10.7 Treatment of Certain Information; Confidentiality.**

Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and the Credit Party disclosing such Information shall be responsible for any breach of such confidentiality by any Person described in this clause (a)), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to any Loan Party and its obligations, (g) with the prior written consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties unless the Credit Party knows that such source is subject to a confidentiality agreement with the Loan Parties.

For purposes of this Section, "Information" means all information received from the Loan Parties relating to the Loan Parties or their respective businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Loan Parties. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

### **10.8 Right of Setoff.**

If an Event of Default shall have occurred and be continuing, each Lender, the Swingline Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of Agent or the Required Lenders, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the Swingline Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the Secured Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender, the Swingline Lender or the L/C Issuer, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender, the Swingline Lender or the L/C Issuer shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender, the Swingline Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender, the Swingline Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies that such Lender, the Swingline Lender, the L/C Issuer or their respective Affiliates may have with respect to any obligations and indebtedness of the Loan Parties which do not constitute Secured Obligations. Each Lender, the

Swingline Lender and the L/C Issuer agrees to notify the Borrower and Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

#### **10.9 Interest Rate Limitation.**

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by the *Criminal Code* (Canada) or other by applicable Law (the "Maximum Rate"). If Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

#### **10.10 Counterparts; Integration; Effectiveness.**

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.1, this Agreement shall become effective when it shall have been executed by Agent and when Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile transmission or electronic mail shall be as effective as delivery of a manually executed counterpart of this Agreement.

#### **10.11 Survival.**

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Secured Obligation (other than any contingent indemnification obligations for which no claim has then been asserted) hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding. Further, the provisions of Sections 3.1, 3.4, 3.5 and 10.4 and Article IX shall survive and remain in full force and effect regardless of the repayment of the Secured Obligations, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof. In connection with the termination of this Agreement and the release and termination of the security interests in the Collateral, Agent may require such indemnities and collateral security as they shall reasonably deem necessary or appropriate to protect the Credit Parties against (x) loss on account of credits previously applied to the Secured Obligations that may subsequently be reversed or revoked, (y) any obligations that may thereafter arise with respect to the Other Liabilities and (z) any Secured Obligations that may thereafter arise under Section 10.4.

### 10.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

### 10.13 Replacement of Lenders.

If any Lender requests compensation under Section 3.4, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.1, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.6), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid or caused to be paid to Agent the assignment fee specified in Section 10.6(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.5) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.4 or payments required to be made pursuant to Section 3.1, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

### 10.14 Governing Law; Jurisdiction; Etc.

(a) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE PROVINCE OF BRITISH COLUMBIA AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN.

(b) SUBMISSION TO JURISDICTION. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE PROVINCE OF BRITISH COLUMBIA, CITY OF VANCOUVER, AND ANY APPELLATE COURT THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT,

OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE LOAN PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH COURT. EACH OF THE LOAN PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT ANY CREDIT PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE LOAN PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.2. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

(e) ACTIONS COMMENCED BY LOAN PARTIES. EACH LOAN PARTY AGREES THAT ANY ACTION COMMENCED BY ANY LOAN PARTY ASSERTING ANY CLAIM OR COUNTERCLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT SOLELY IN A COURT OF THE PROVINCE OF BRITISH COLUMBIA, CITY OF VANCOUVER, AND CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS WITH RESPECT TO ANY SUCH ACTION.

#### **10.15 Waiver of Jury Trial.**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT, DELICT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### **10.16 No Advisory or Fiduciary Responsibility.**

In connection with all aspects of each transaction contemplated hereby, the Loan Parties each acknowledge and agree that: (a) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Loan Parties, on the one hand, and the Credit Parties, on the other hand, and each of the Loan Parties is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (b) in connection with the process leading to such transaction, each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Loan Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (c) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Loan Parties with respect to any of the transactions contemplated hereby or the process leading hereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising any Loan Party or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (d) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (e) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Loan Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against each of the Credit Parties with respect to any breach or alleged breach of agency or fiduciary duty.

#### **10.17 Foreign Asset Control Regulations.**

Neither of the advance of the Loans, nor the issuance of Letters of Credit, nor the use of the proceeds of any thereof will violate (collectively, "Foreign Assets Control Regulations") any anti-money laundering, anti-terrorist, economic or trade sanctions, measures governing export controls or foreign assets control regulations, or any enabling legislation or executive orders relating thereto, including, but not limited to, the anti-terrorist provisions of the *Criminal Code (Canada)*, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)*, the *United Nations Suppression of Terrorism Regulations and the Anti-terrorism Act (Canada)*, the *Export and Import Permits Act (Canada)*, the *United Nations Act (Canada)*, the *Special Economic Measures Act (Canada)*, or the *Foreign Extraterritorial Measures Act (Canada)*. Furthermore, none of the Borrower or its Affiliates (a) is or will become a "blocked person" maintained by any Governmental Authority, including, but not limited to, those described in any Foreign Assets Control Regulations or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person" or in any manner violative of any such order.

#### **10.18 Time of the Essence.**

Time is of the essence of the Loan Documents.

**10.19 Press Releases.**

(a) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to Agent and without the prior written consent of Agent unless (and only to the extent that) such Credit Party or Affiliate is required to do so under applicable Law and then, in any event, such Credit Party or Affiliate will consult with Agent before issuing such press release or other public disclosure.

(b) Each Loan Party consents to the publication by Agent or any Lender of advertising material relating to the financing transactions contemplated by this Agreement using any Loan Party's name, product photographs, logo or trademark. Agent or such Lender shall provide a draft reasonably in advance of any advertising material to the Borrower for review and comment prior to the publication thereof. Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

**10.20 Additional Waivers.**

(a) The Obligations are the joint and several obligation of each Loan Party. To the fullest extent permitted by applicable Law, the obligations of each Loan Party shall not be affected by (i) the failure of any Credit Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any rescission, waiver, amendment or modification of, or any release from any of the terms or provisions of, this Agreement or any other Loan Document, or (iii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of Agent or any other Credit Party.

(b) The obligations of each Loan Party shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Secured Obligations after the termination of the Commitments), including any claim of waiver, release, surrender, alteration or compromise of any of the Secured Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Secured Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Loan Party hereunder shall not be discharged or impaired or otherwise affected by the failure of Agent or any other Credit Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, in the performance of any of the Secured Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the indefeasible payment in full in cash of all the Secured Obligations after the termination of the Commitments).

(c) To the fullest extent permitted by applicable Law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Secured Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the indefeasible payment in full in cash of all the Secured Obligations and the termination of the Commitments. Agent and the other Credit Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or non-judicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Secured



Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all the Secured Obligations have been indefeasibly paid in full in cash and the Commitments have been terminated. Each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to applicable Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party, as the case may be, or any security.

(d) Each Loan Party is obligated to repay the Secured Obligations as joint and several obligors under this Agreement. Upon payment by any Loan Party of any Secured Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full in cash of all the Secured Obligations and the termination of the Commitments. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior indefeasible payment in full of the Secured Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to Agent to be credited against the payment of the Secured Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents.

#### **10.21 No Strict Construction.**

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

#### **10.22 Attachments.**

The exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

#### **10.23 Anti-Money Laundering Legislation.**

(a) Each Loan Party acknowledges that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and “Know Your Client” laws (collectively, including any guidelines or orders thereunder, “AML Legislation”), Lenders may be required to obtain, verify and record information regarding the Loan Parties and their respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of the Loan Parties, and the transactions contemplated hereby. Each Loan Party shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by any Lender or any prospective assignee or participant of a Lender, any Issuing Bank or Agent, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

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

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a “written agreement” in such regard between each Lender and Agent within the meaning of the applicable AML Legislation; and

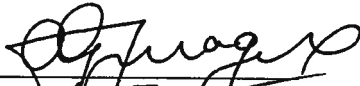
(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that Agent has no obligation to ascertain the identity of the Loan Parties or any authorized signatories of the Loan Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from any Loan Party or any such authorized signatory in doing so.

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

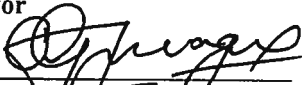
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

**MOUNTAIN EQUIPMENT CO-OPERATIVE,  
as Borrower**

By:   
Name: Sandy Treagus  
Title: Chief Financial Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**1314625 ONTARIO LIMITED,  
as a Guarantor**


By:   
Name: Sandy Treagus  
Title: Treasurer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ROYAL BANK OF CANADA,  
as Agent

By:  \_\_\_\_\_


Name: \_\_\_\_\_  
Title: **Rodica Dutka**  
**Manager, Agency**


By:  \_\_\_\_\_

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



**ROYAL BANK OF CANADA,  
as L/C Issuer, Swingline Lender and a Lender**

By:   
Name: **Dan Mascioli**  
Title: **Attorney in Fact**

By:   
Name: *A. Chaykowski*  
Title: *Attorney-in-fact*

**CANADIAN IMPERIAL BANK OF COMMERCE,  
as a Lender**

By: 

Name:

Title:

**Courtney Savage  
Authorized Signatory**

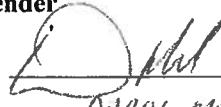
By: 


Name:

Title:

**Geoff Golding  
Authorized Signatory**

**THE TORONTO-DOMINION BANK,  
as a Lender**

By:   
Name: Tracy Black  
Title: AVP

By:   
Name: Michelle White  
Title: Senior Analyst

**Schedule 1.1**

**Guarantors**

1314625 Ontario Limited



## Schedule 2.1

## Commitments and Applicable Percentages

Lender	Commitment	Applicable Percentage
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]





## Schedule 5.1

## Borrower's Organizational Information

Loan Party	Jurisdiction of Incorporation, Organization or Formation	Chief Executive Office	Registered Office	Organization Type	Organization Number	Tax Identification Number
Mountain Equipment Co-operative	British Columbia	1077 Great Northern Way Vancouver, BC V5T 1E1	1077 Great Northern Way Vancouver, BC V5T 1E1	Co-operative Association	CP 0000852	[REDACTED]
1314625 Ontario Limited	Ontario	1077 Great Northern Way Vancouver, BC V5T 1E1	Suite 6000, 1 First Canadian Place 100 King St W Toronto ON M5X 1E2	Corporation	1314625	[REDACTED]

Schedule 5.6

Litigation

Counsel	Description	Evaluation
---------	-------------	------------



## Schedule 5.8(b)(1)

## Owned Real Estate

Legal Owner	Owned Location	Address	City, Province	Postal Code
Borrower	Calgary	830 10th Avenue SW	Calgary, AB	T2R 0A9
	Ottawa	366 - 378 Richmond Road	Ottawa, ON	K2A 0E8
Borrower	- Property 366 (store)	366 Richmond Road	Ottawa, ON	K2A 0E8
Guarantor	- Property 374 (parking lot)	374 Richmond Road	Ottawa, ON	K2A 0E8
Borrower	- Property 378 (parking lot)	378 Richmond Road	Ottawa, ON	K2A 0E8
Borrower	North Vancouver	212 Brooksbank Avenue	North Vancouver, BC	V7J 2C1
Borrower	Burlington	1030 Brant Street	Burlington, ON	L7R 0B2
Borrower	North York	784 Sheppard Avenue East	North York, ON	M2K 1C3
Borrower	DC Surrey	13340 76th Avenue	Surrey, BC	
Borrower	Winnipeg	303 Portage Ave	Winnipeg, MB	R3B 2B4
Borrower	Edmonton	No Street Address (Plan RN22(XXII) Block 20 Lots 11-14)	Edmonton, AB	T5N 0L9

## Schedule 5.8(b)(2)

## Leased Real Estate

Store Name	Lessor Name	Address of Leased Location
MEC Store	Reliance Proper	130 W Broadway, Vancouver, BC V5Y 1P3, Canada
MEC Store - still in construction	Beedie Development Limited Partnership - Land MEC - building	111 East 2nd Avenue, Vancouver, BC, V5T 1B4, Canada
MEC Store	Charlotte King Residences Corp.	400 King Street West, Toronto, Ontario, M5V 1K2, Canada
MEC Store - not open yet	2206181 Ontario Inc.	300-308 Queen Street West, Toronto, Ontario, M5V 2A4, Canada
MEC Store - closed/waiting for lease termination	Lisa J. Prudhomme	10141 - 124 Street NW, Edmonton, AB, T5N 1P5, Canada
MEC Store	First Capital Asset Management	11904 104 Ave NW, Edmonton, AB T5K 0G6, Canada
MEC Store	Racla Property Development Limited	1550 Granville St, Halifax, NS B3J 1X1, Canada
MEC Store	bcIMC Realty Corporation	8989 Boulevard de l'Acadie, Montréal, QC H4N 3K1, Canada
MEC Store	Allied REIT	405 Rue Saint-Joseph Est, Ville de Québec, QC G1K 3B6, Canada
MEC Store	Les Galeries de la Capitale Holdings Inc.	1475 Boulevard Lebourgneuf, Ville de Québec, QC G2K 2G3, Canada
MEC Store	Mac & Mac Development Ltd	1450 Government St, Victoria, BC V8W 1Z2, Canada
MEC Store	Colliers International	4869 Taschereau Blvd, Greenfield Park, QC J4V 3K3, Canada
MEC Store	Riocan Holdings Inc	61 Bryne Dr, Barrie, ON L4N 8V8, Canada
MEC Store	Colliers International	1051 Wellington Rd, London, ON N6E 1W4, Canada
MEC Store	Valley Properties Ltd	6121 200 St, Langley, BC V2Y 1A2, Canada
MEC Store	169159 Canada Inc	4394 St Denis St, Montreal, QC H2J 2L1, Canada
MEC Store	McIntosh Properties Ltd.	1876 Cooper Rd #100, Kelowna, BC V1Y 9N6, Canada
MEC Store	Le Carrefour Laval (2013)	2615 Boulevard Daniel-Johnson, Laval, QC H7T 1S8, Canada

Store Name	Lessor Name	Address of Leased Location
	INC	Canada
MEC Store	Cameron Corporation	1624 99 St NW, Edmonton, AB T6N 1M5, Canada
MEC Store	First Capital Holdings (Ontario) Corporation	10 Manitou Dr, Kitchener, ON N2C 2N3, Canada
Future MEC Store - signed lease, no construction commenced	Brookfield Residential (Alberta) LP	Seton - North Retail District, Block 4, Lot 2 - in Phase 1 of development Suite #710 - 19587 Seton Crescent S.E., Calgary, AB
Future MEC Store - signed lease, no construction commenced	Plateau Village Properties INC	"Gateway" Development
Future MEC Store - signed lease, no construction commenced	Orlando Corporation	765 Britannia Road, Unit #4, Mississauga, Ontario - Heartland Town Centre
Future MEC Store - signed lease, no construction commenced	Ivonhoe Cambridge Inc	Unit # 3535/4540. (2 Levels)
MEC Distribution Centre	Concert Realty Service Ltd	8875 Torbram Rd, Brampton, ON L6T 3V9, Canada
MEC C&M Office	Societe en commandite Multi-Locatif Bureau III Angus	4100 Rue Molson, Montreal, QC H1Y 3N1, Canada
Head Office	I.G Investment Management Ltd.	1077 Great Northern Way, Vancouver, BC V5T 1E1, Canada



## Schedule 5.9

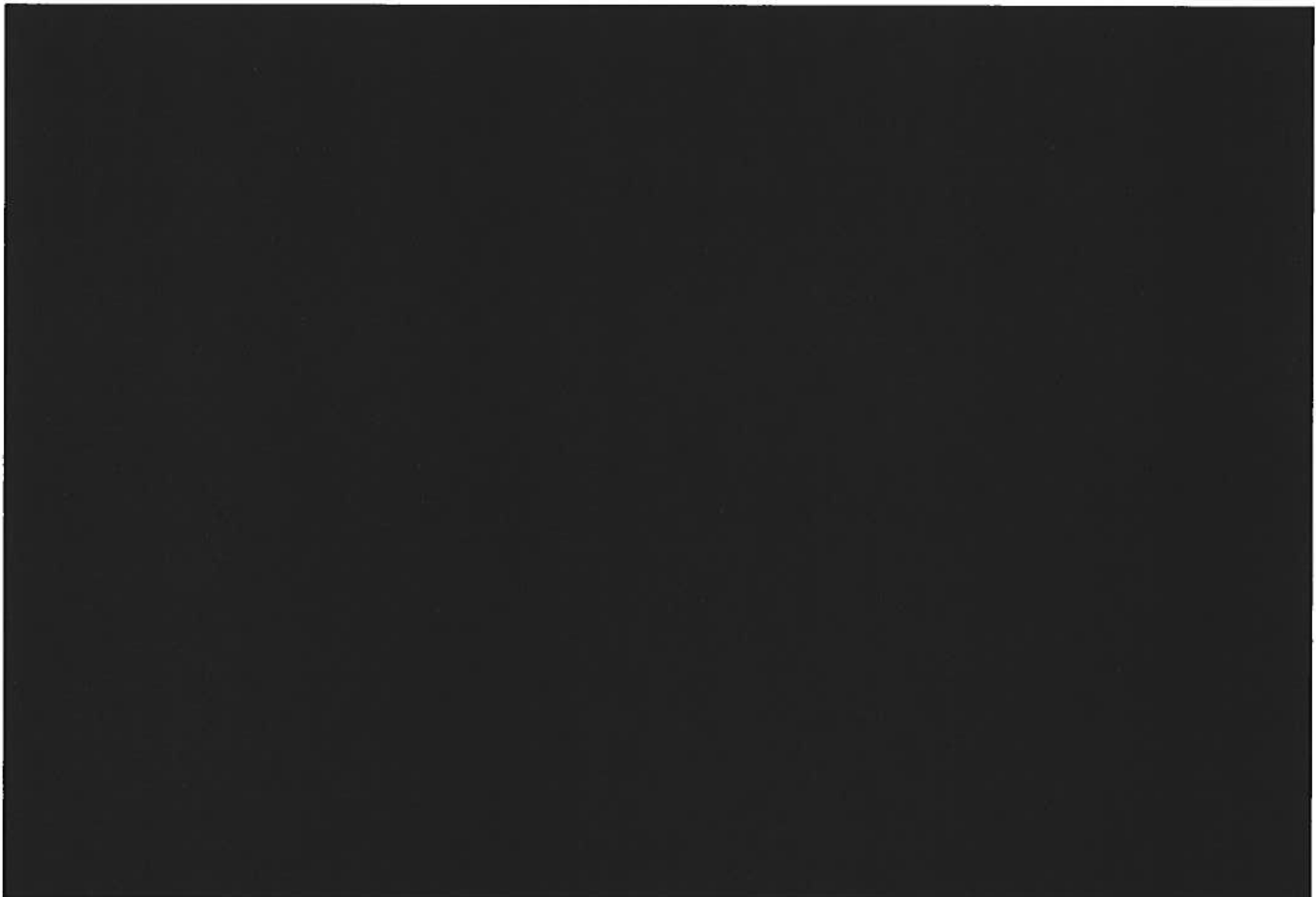
### Environmental Matters

MEC currently operates 22 stores in 6 provinces as well as a head office facility in Vancouver, distribution centres in Surrey, BC and Brampton, ON and a marketing office in Montreal, QC. MEC owns six of its stores (North Vancouver, Calgary, Winnipeg, Ottawa, Burlington, North York) and the Western DC; the remaining facilities are leaseholds.

Since at least 1995, any MEC store or other building development (owned or leasehold) involving 'turned soil' has required that an environmental site assessment (ESA) be conducted beforehand to determine what, if any, contamination existed on site and, in turn, to offer recommendations for remediation.

ESAs were conducted by environmental consulting firms (such as Golder Associates). Owners / developers contracted and oversaw ESAs for their leasehold properties while MEC did the same for its properties. In this context, MEC's legal liability is limited to property it owns.

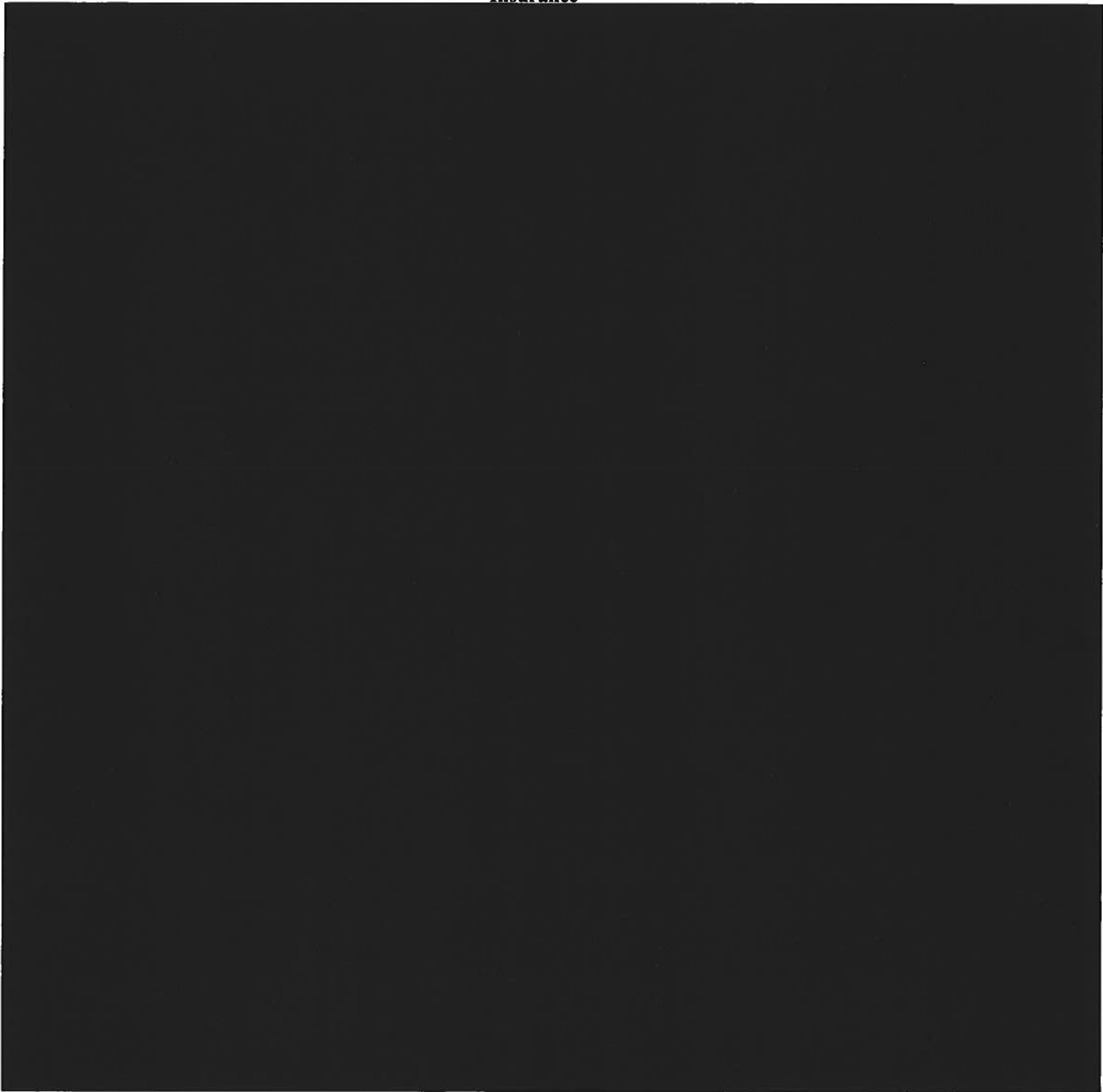
No significant degree of contamination has been found on sites owned by MEC. Any contamination revealed through the ESA process was relatively minor and remediated via the recommended measures. Further details are as follows:





**Schedule 5.10**

**Insurance**





**Schedule 5.11**

**Taxes**

Nil.

## Schedule 5.13

## Subsidiaries; Other Equity Investments

(a) Subsidiaries

Name of Subsidiary	Outstanding Equity Interests	Holder
1314625 Ontario Limited	1 common share	Borrower

(b) Equity Investments

Investment by the Borrower as a limited partner holding 50% of units in Park Towns Developments Limited Partnership and as a shareholder holding 50% of the shares in Park Towns Developments GP Inc.

**Schedule 5.16**

**Intellectual Property Matters**

Nil.

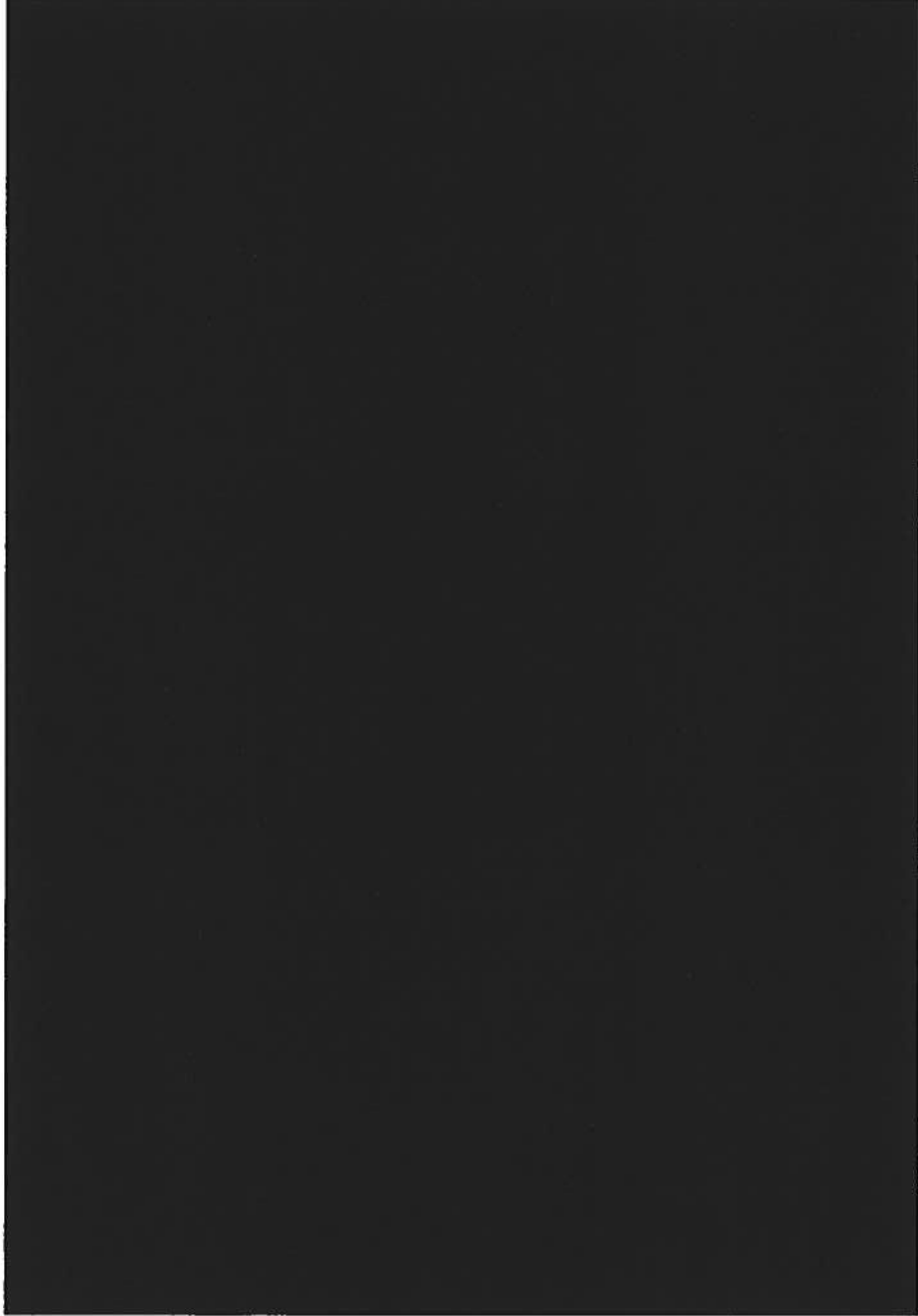
**Schedule 5.17****Collective Bargaining Agreements**

Retail Wholesale Union Agreement between Retail Wholesale Union Local 580 and Mountain Equipment Co-Operative for the period June 1, 2012 to May 31, 2017. The Borrower expects that the new collective bargaining agreement between these parties will be ratified on or about August 3, 2017.



**Schedule 5.20(a)**

**DDAs**



**SCHEDULE 5.20(b)**  
**Credit Card Arrangements**

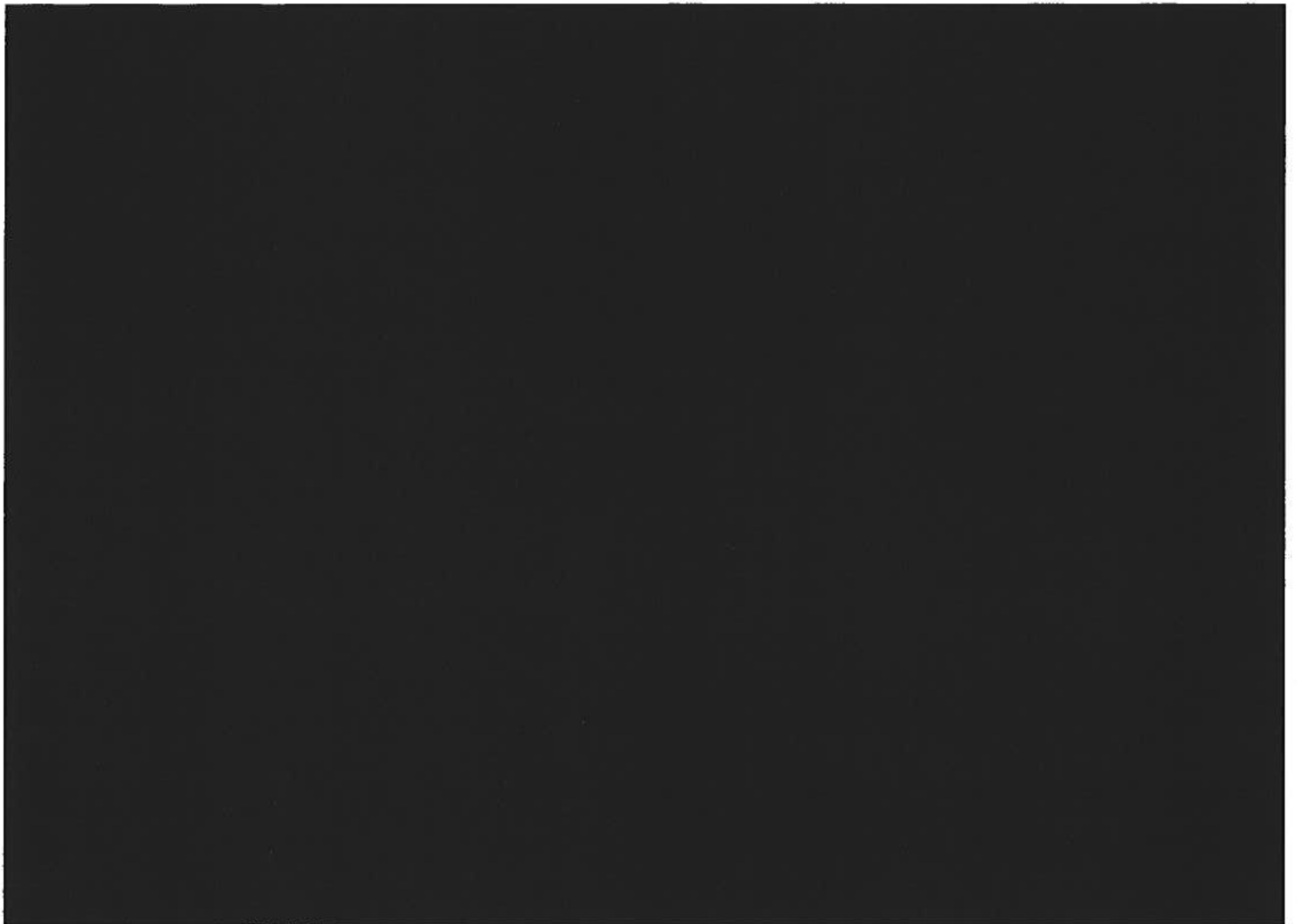
Card Type	Processor	Address
-----------	-----------	---------



Schedule 5.23  
Material Contracts

<u>Loan Party</u>	<u>Date of Contract</u>	<u>Parties to Contract</u>	<u>Subject Matter of Contract</u>
-------------------	-------------------------	----------------------------	-----------------------------------



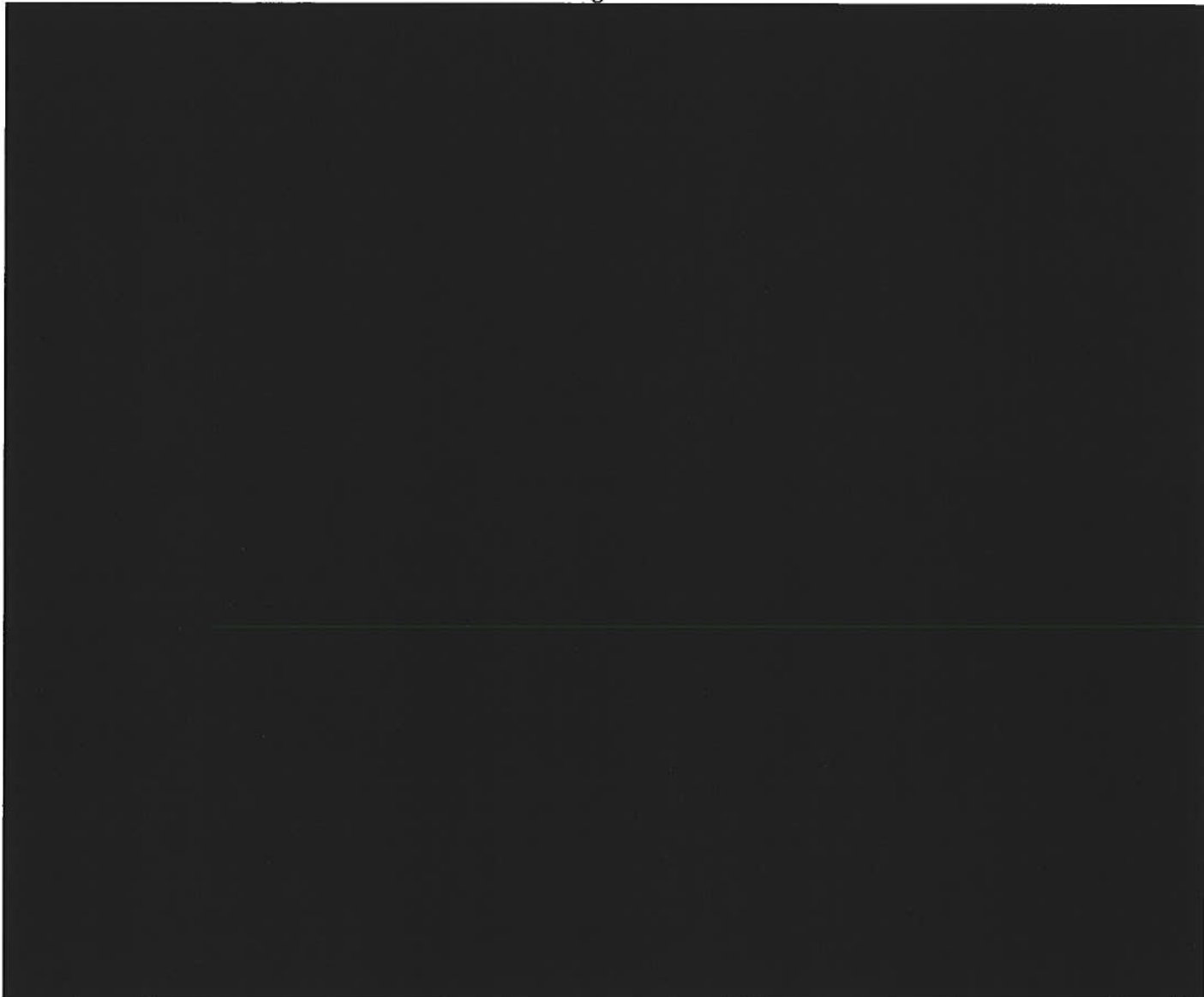


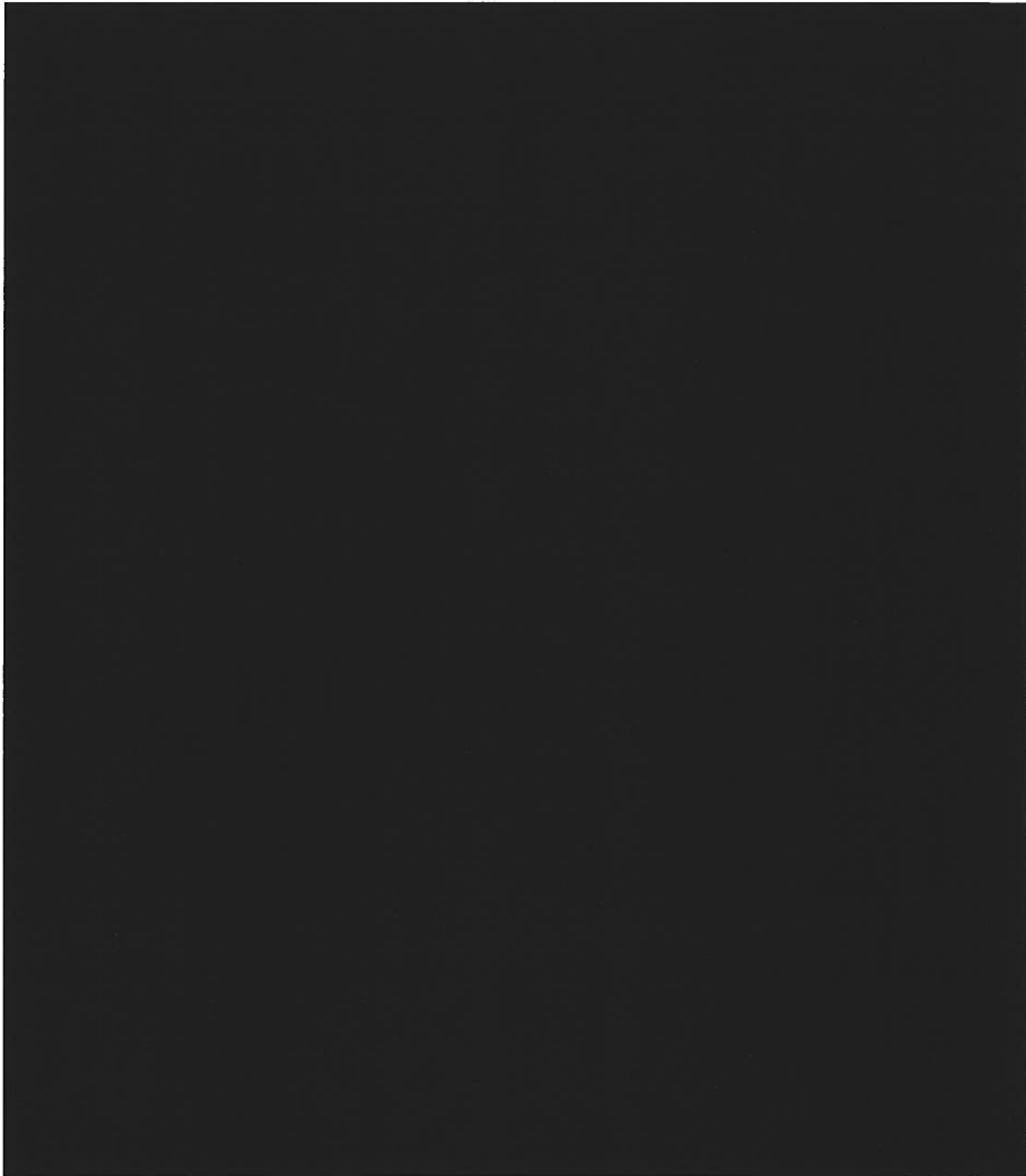
**Schedule 6.2**  
**Financial and Collateral Reporting**

N/A

**Schedule 7.1**

**Existing Liens**









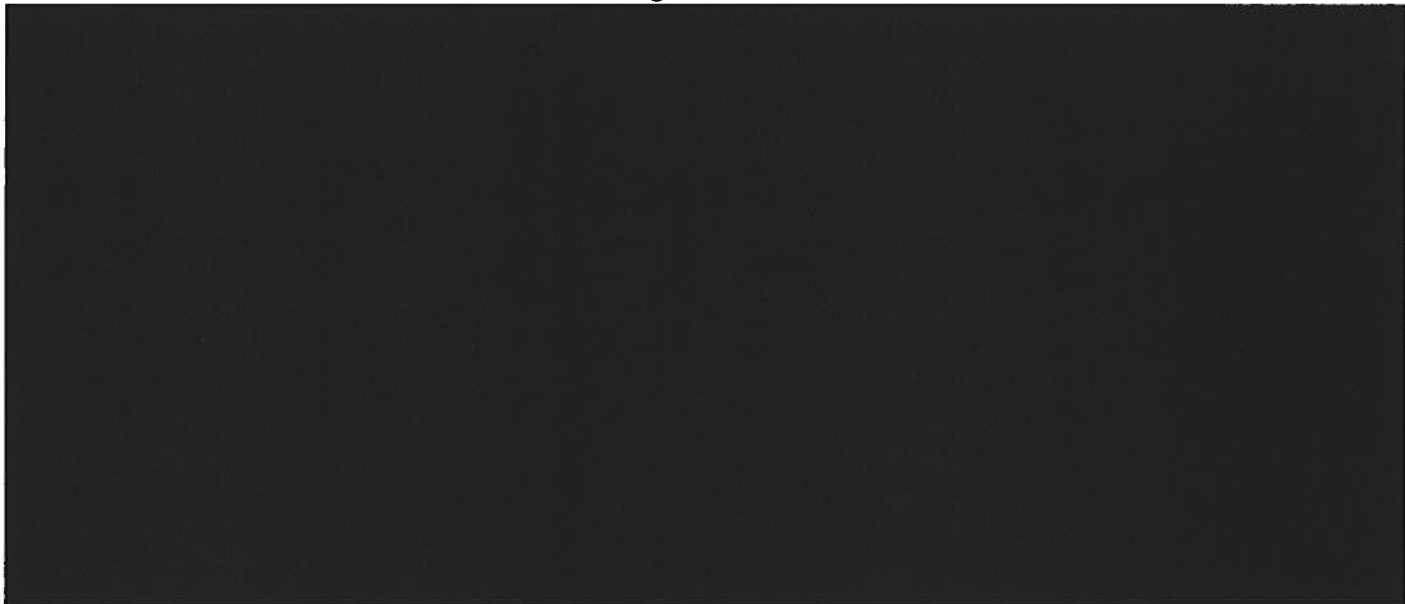
**Schedule 7.2**

**Existing Investments**



**Schedule 7.3**

**Existing Indebtedness**



**Schedule 7.9**

**Existing Transactions with Affiliates**

Nil.

**Schedule 10.2****Agent's Office; Certain Addresses for Notices****Agent address:**

Royal Bank of Canada

12th Floor, South Tower  
Royal Bank Plaza, 200 Bay Street  
Toronto, Ontario M5J 2W7

Attention: Manager, Agency Services Group  
Facsimile [REDACTED]

**Loan Parties address:**

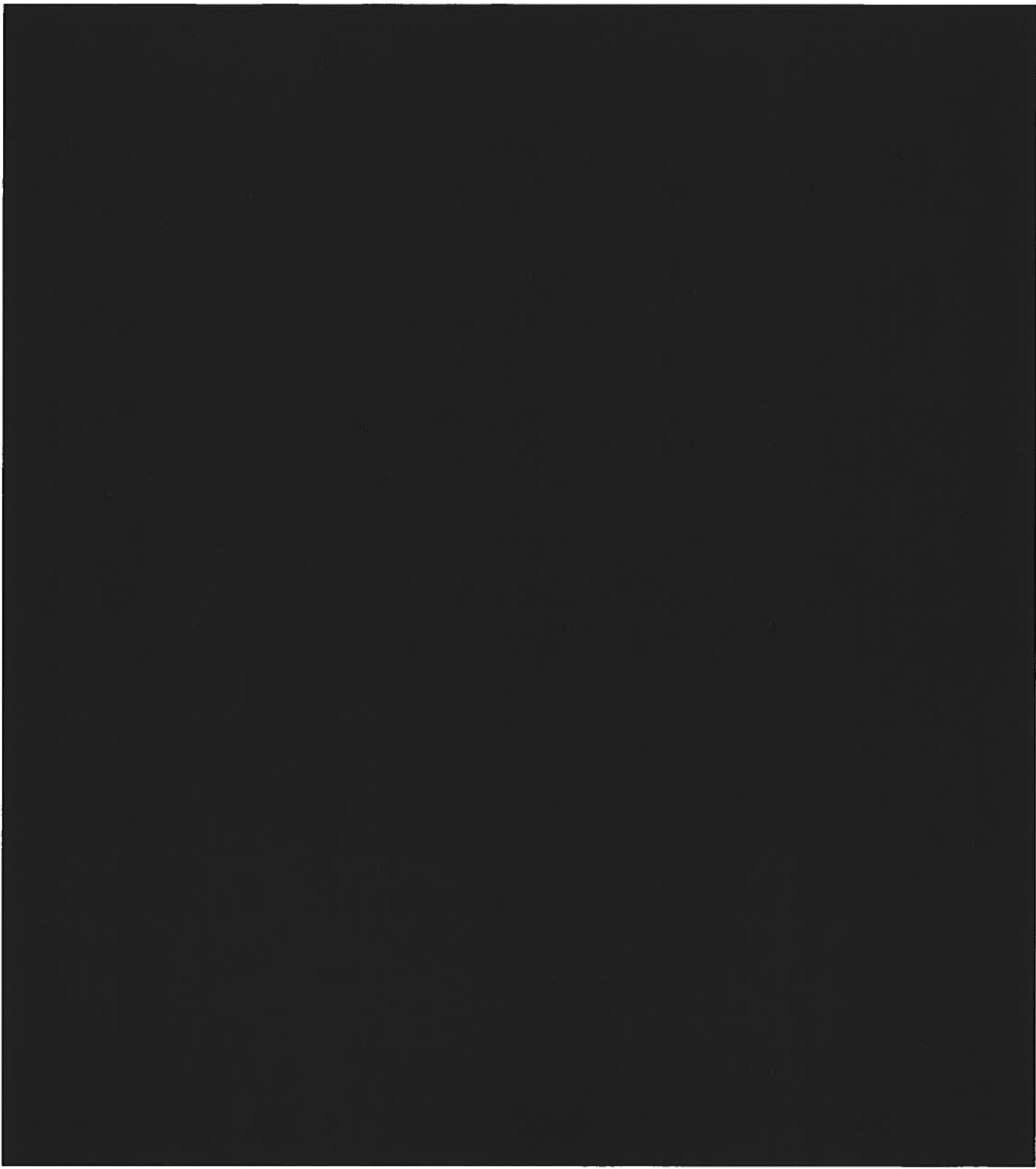
1077 Great Northern Way  
Vancouver, BC V5T 1E1

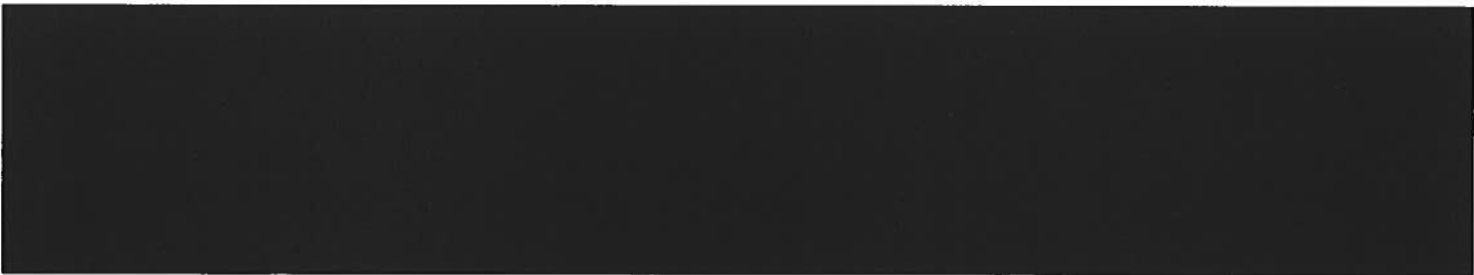
Attention: Sandy Treagus, Chief Financial Officer

Telephone: [REDACTED]  
Facsimile: [REDACTED]

**EXHIBIT A**

**Form of Committed Loan Notice**

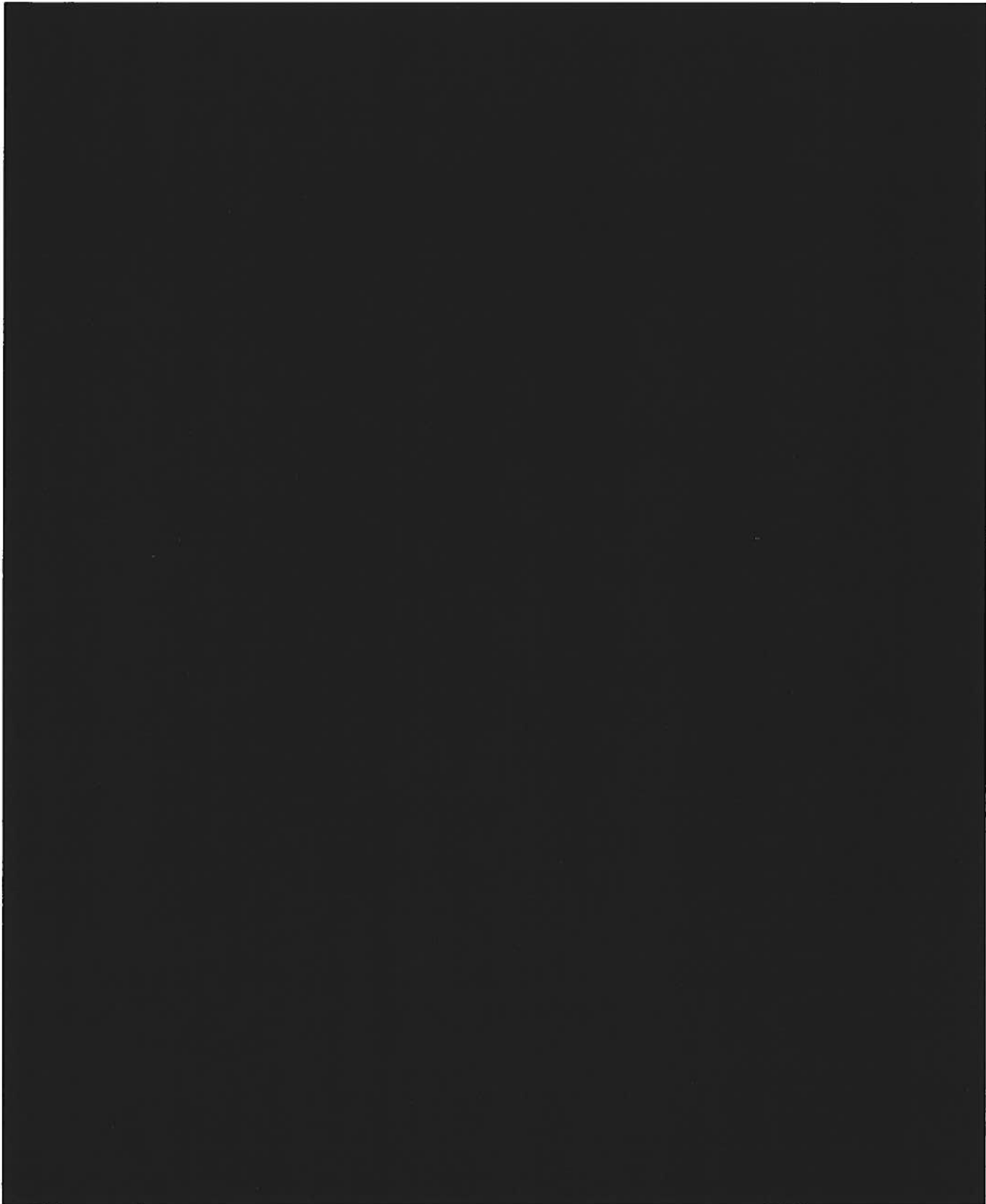




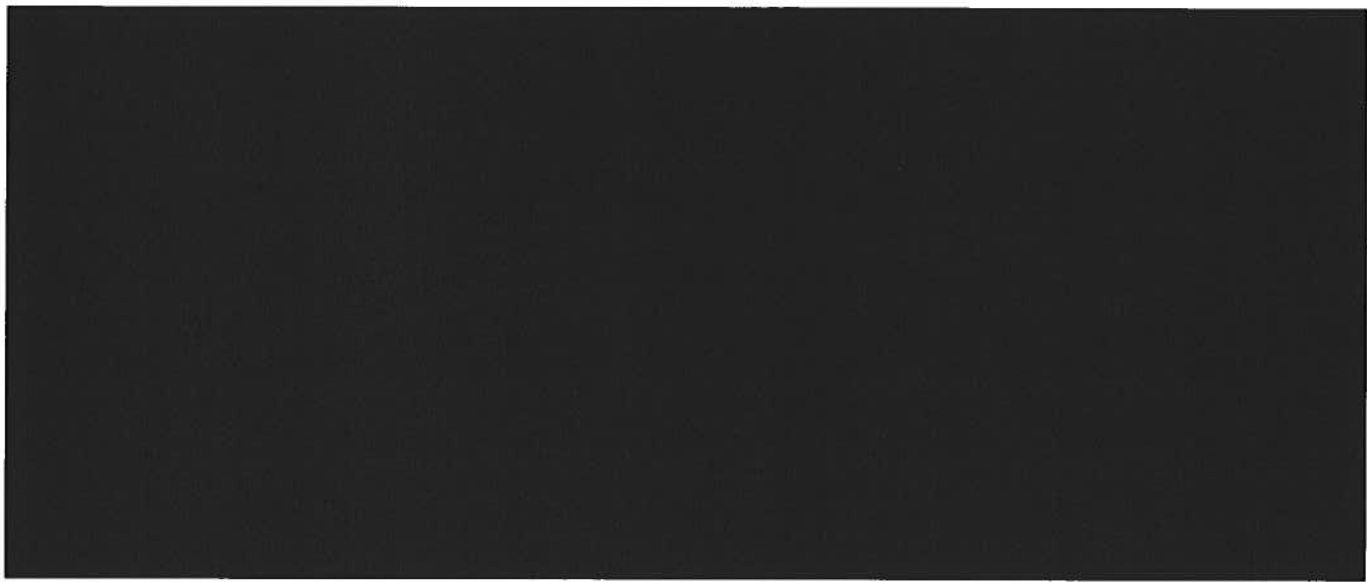
**EXHIBIT B**

Form of Revolving Note







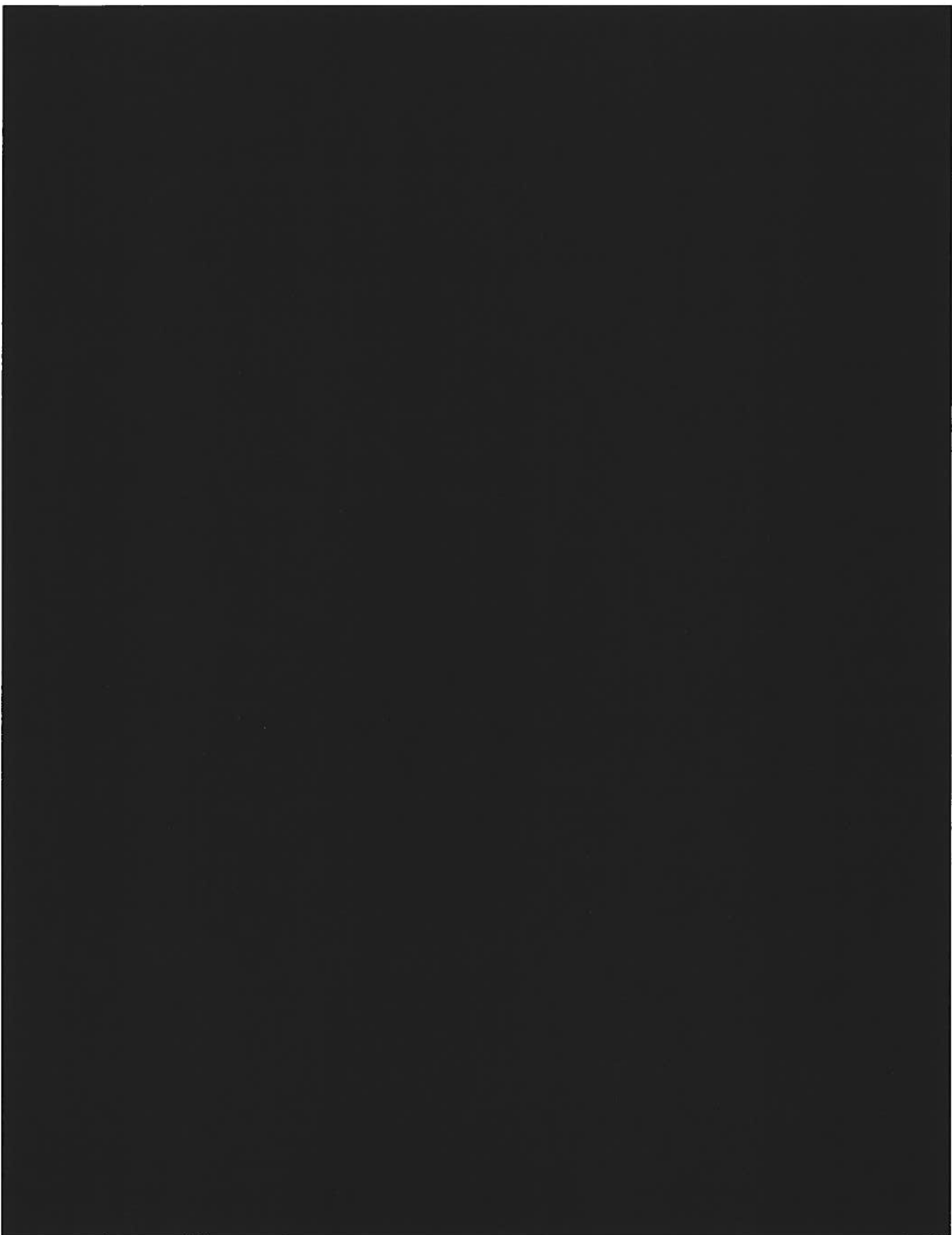


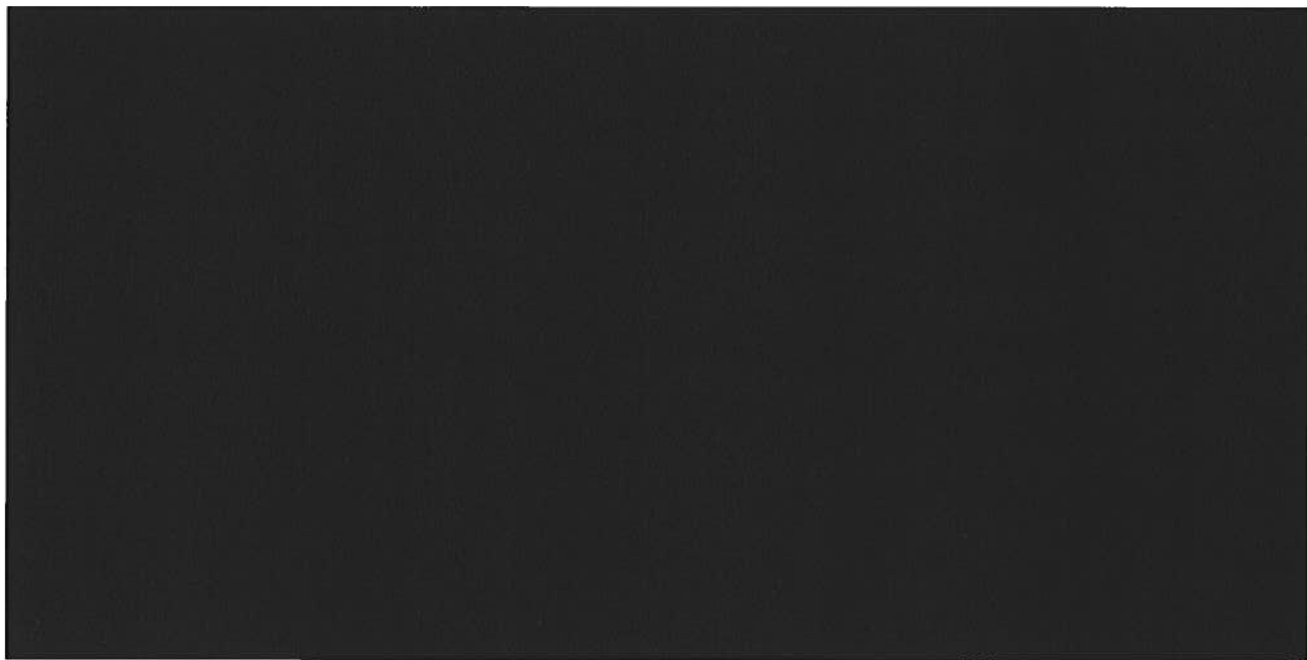
**EXHIBIT C**

Form of Compliance Certificate



Signature Page to Compliance Certificate



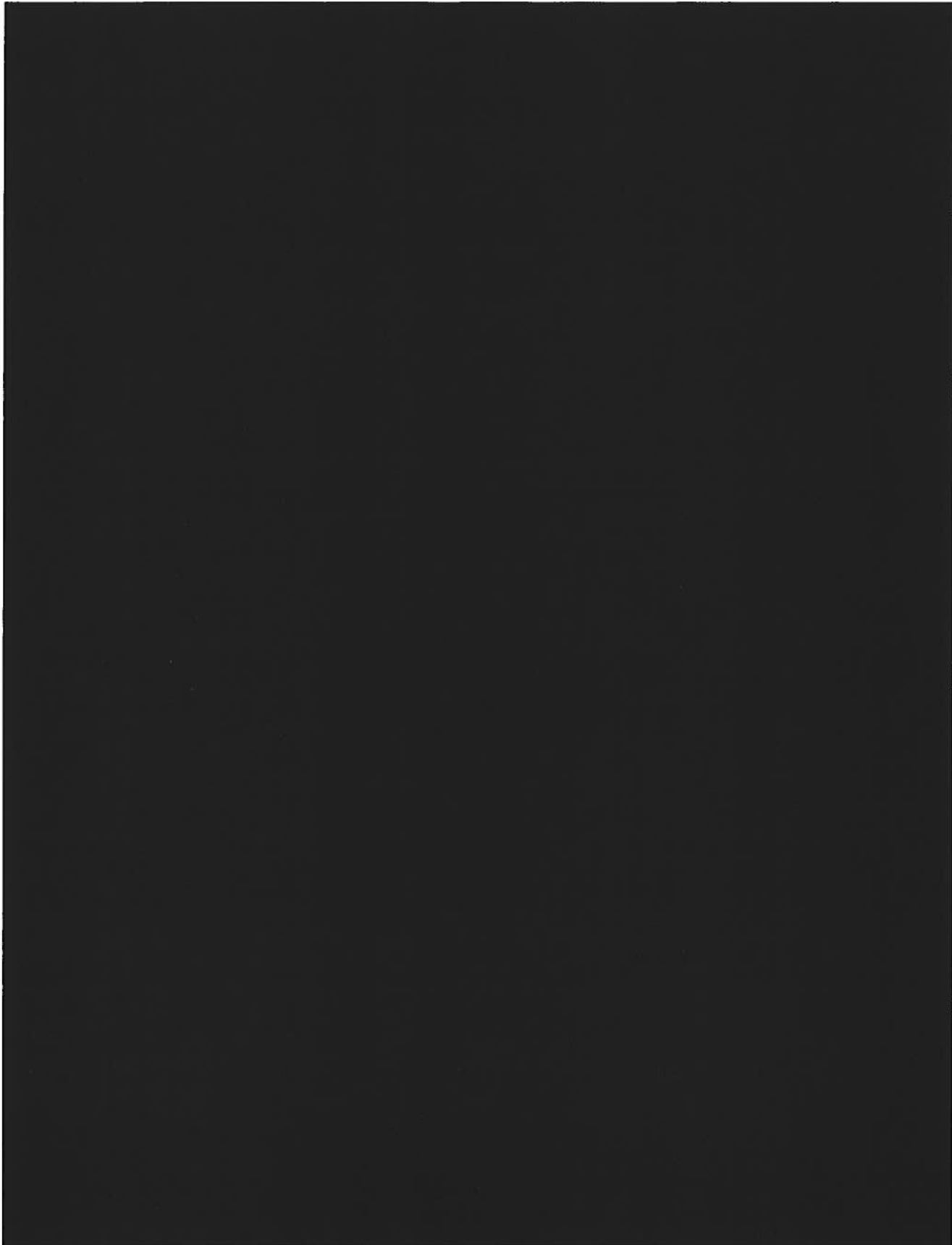


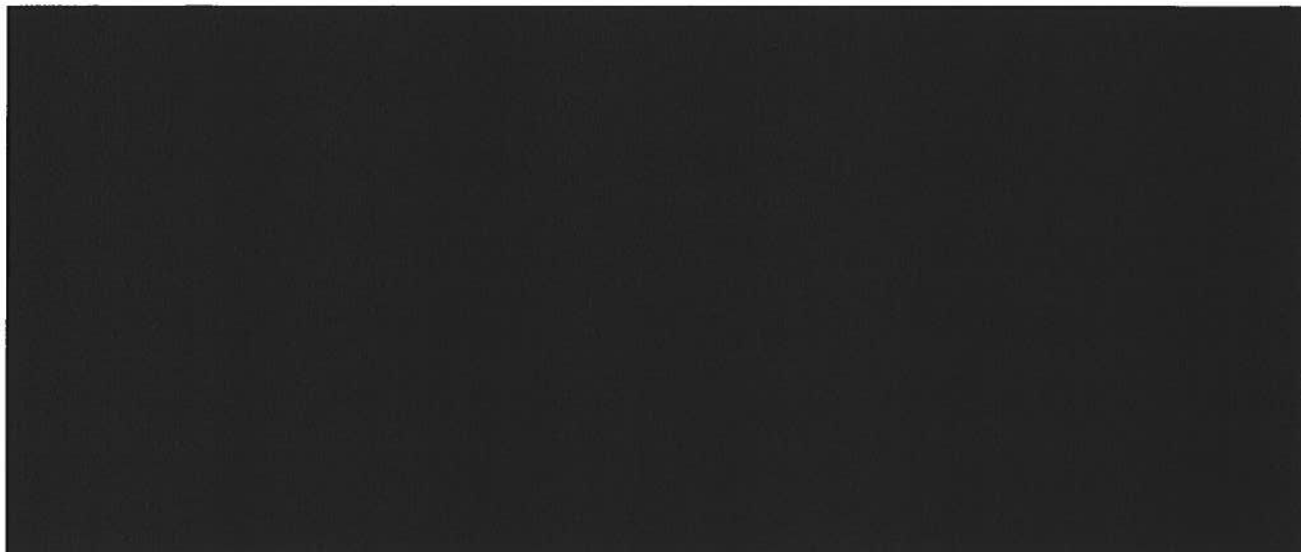
Appendix I



Appendix II









**Appendix III**  
**(FINANCIAL STATEMENTS)**  
**[SEE ATTACHED]**

**Appendix IV**

(GAAP)

**[See attached]**

**Appendix V**  
**(BUSINESS PERFORMANCE REVIEW)**

**[See attached]**

**Appendix VI**  
**(CERTAIN EVENTS)**  
**[SEE ATTACHED]**

**Appendix VII(A)**

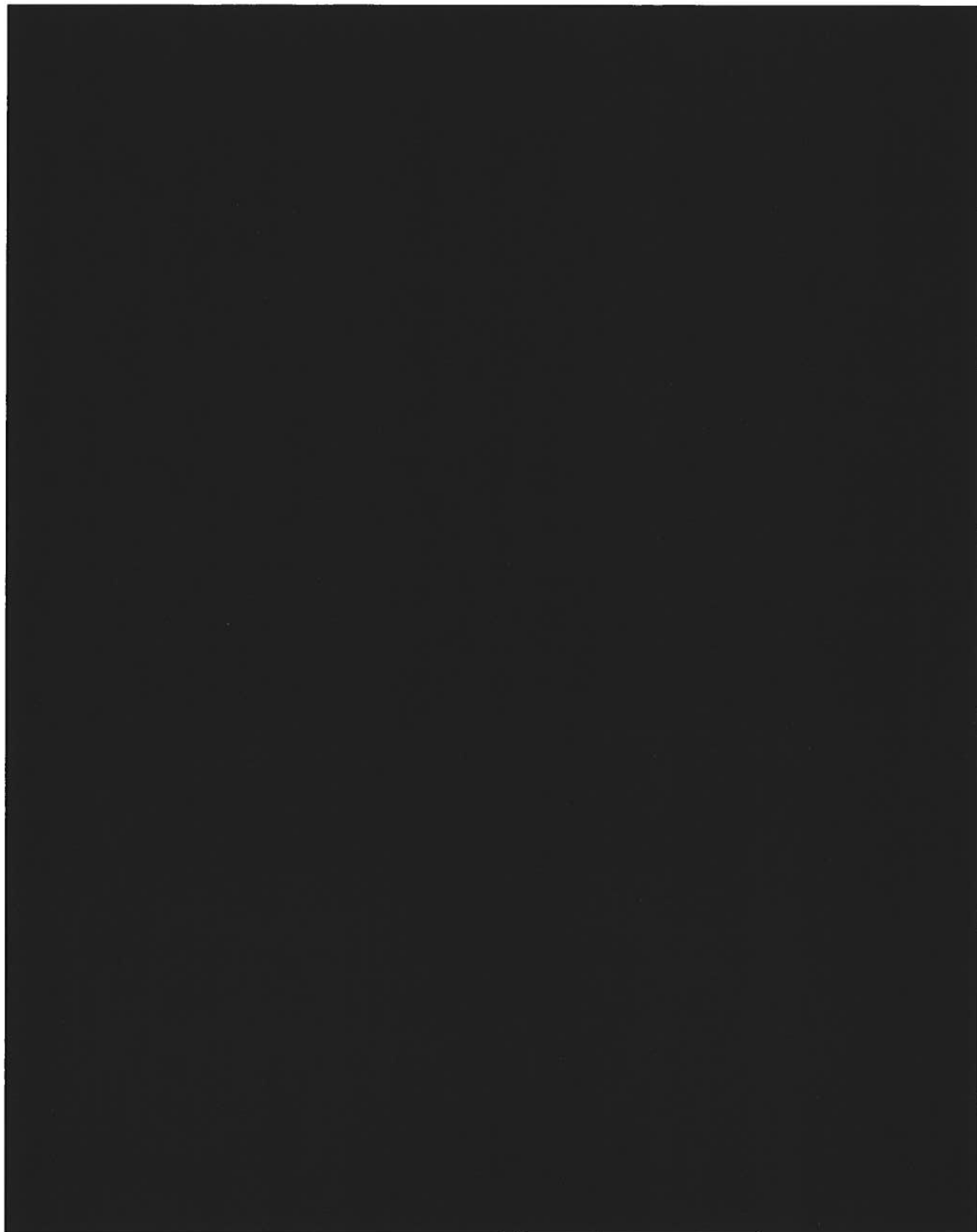
**(FUNDAMENTAL CHANGES)**

**[SEE ATTACHED]**

**APPENDIX VII(B)**  
(CORPORATE ORGANIZATIONAL CHART)

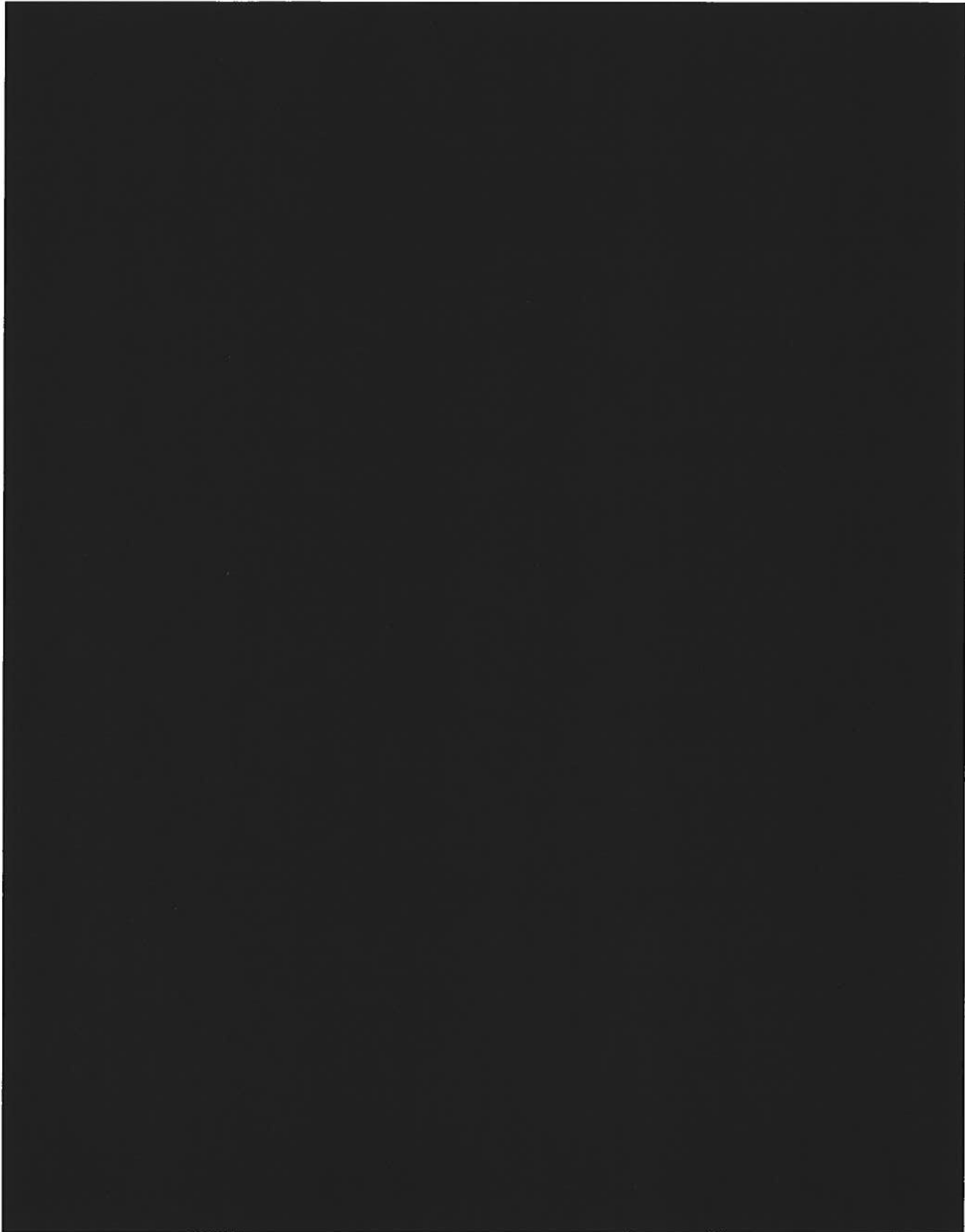
**[See attached]**

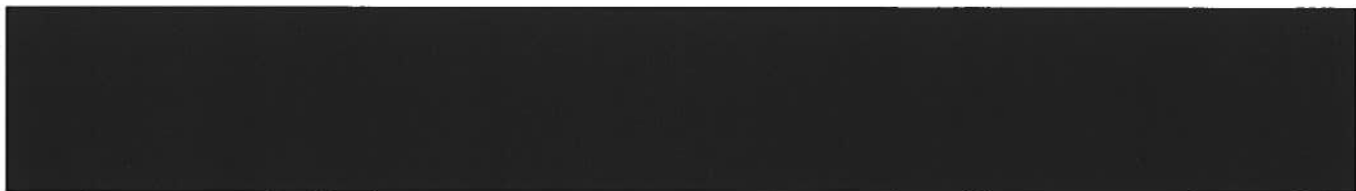
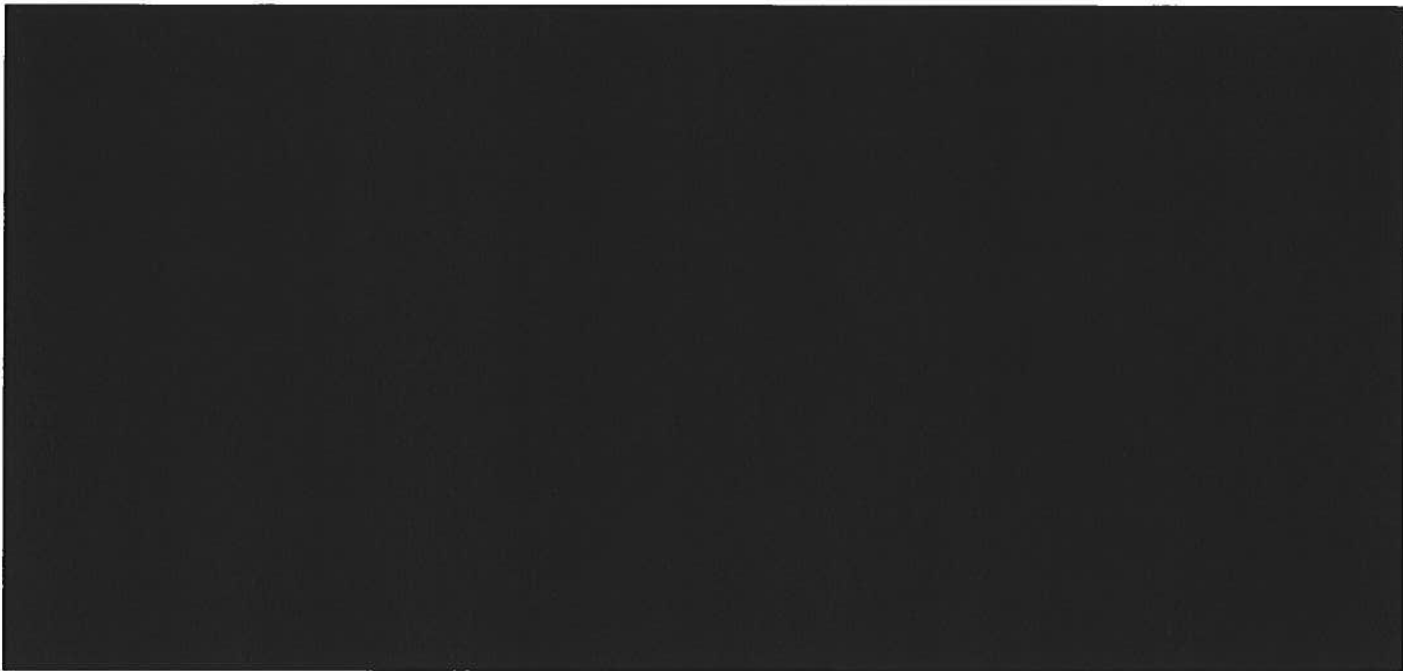
EXHIBIT D



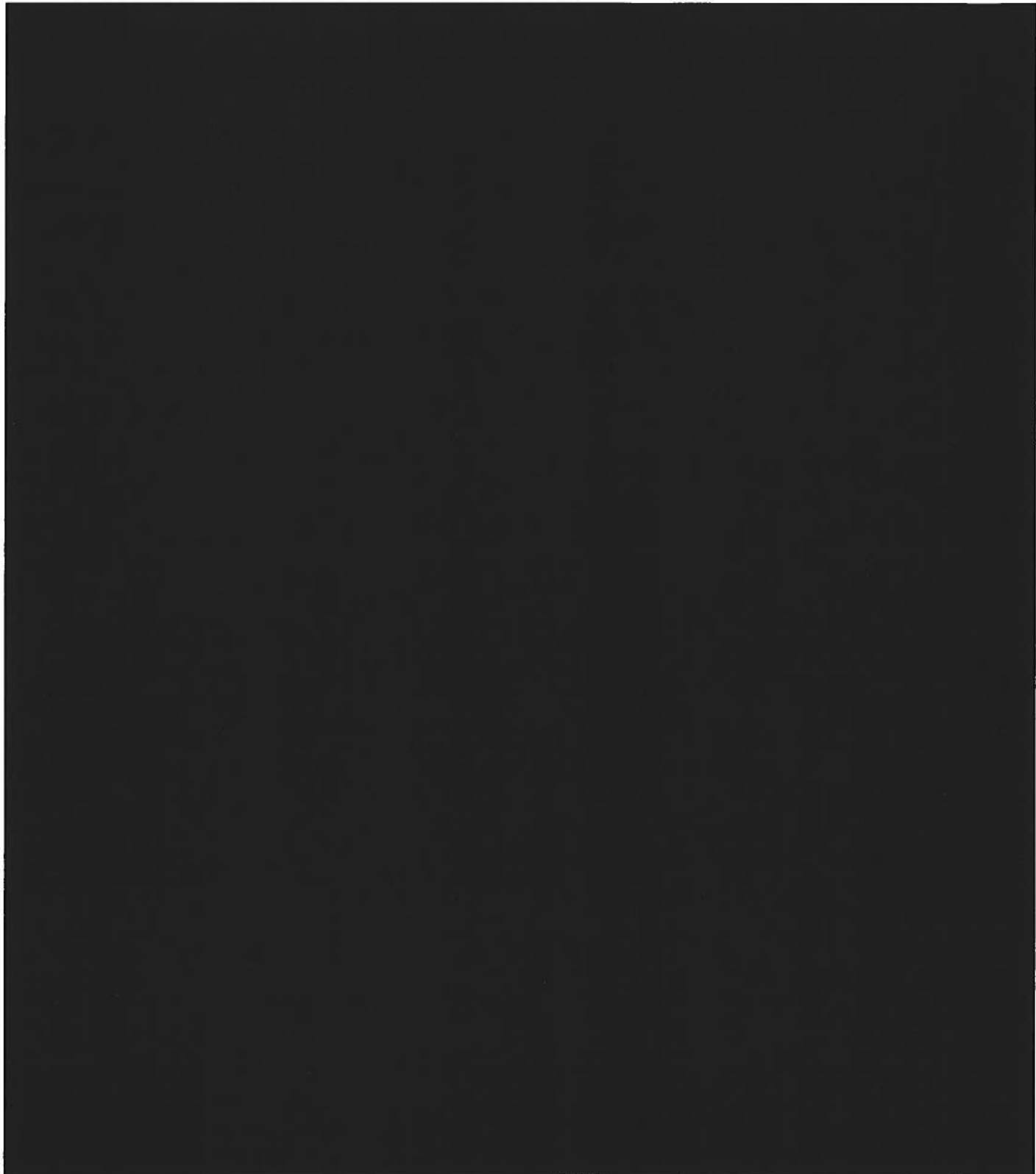








**ANNEX 1 TO ASSIGNMENT AND ASSUMPTION**



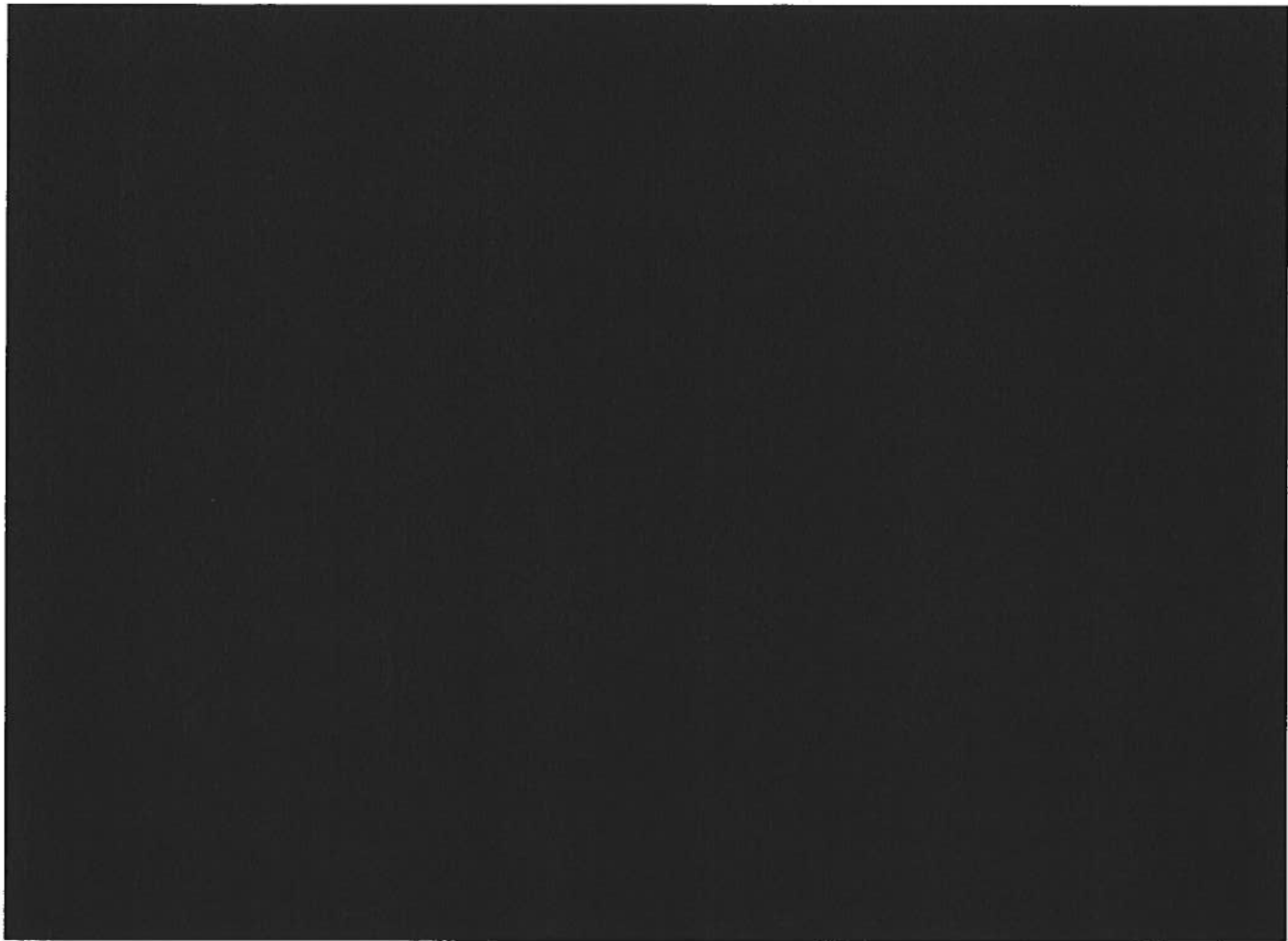
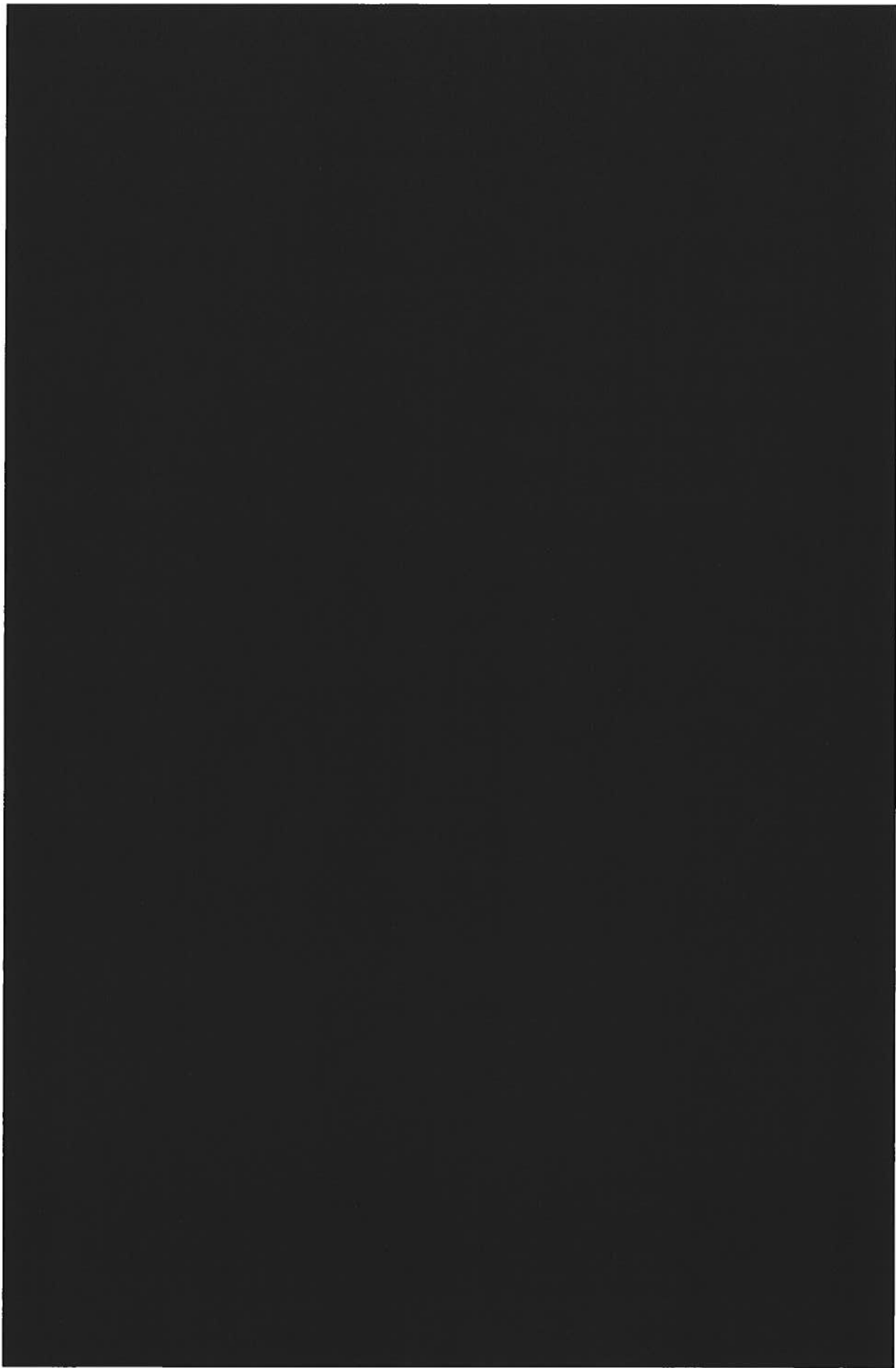
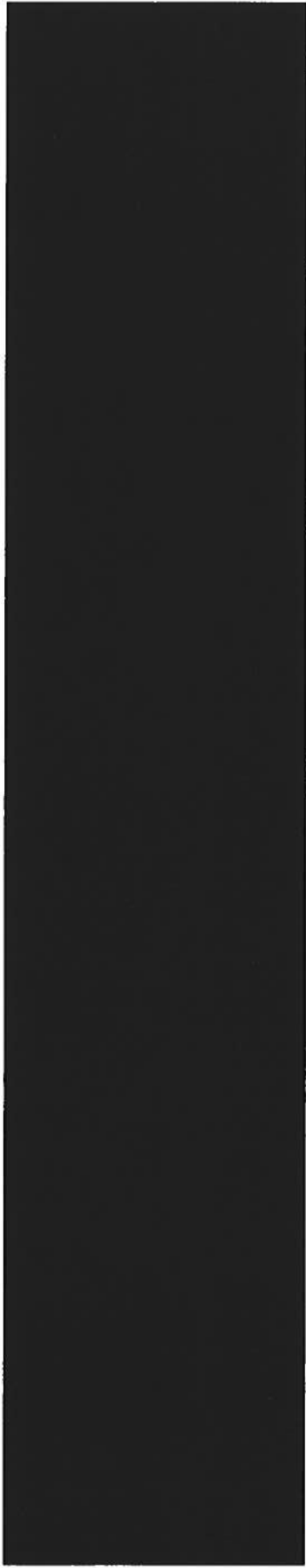


EXHIBIT E







**Authorized  
Signature:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

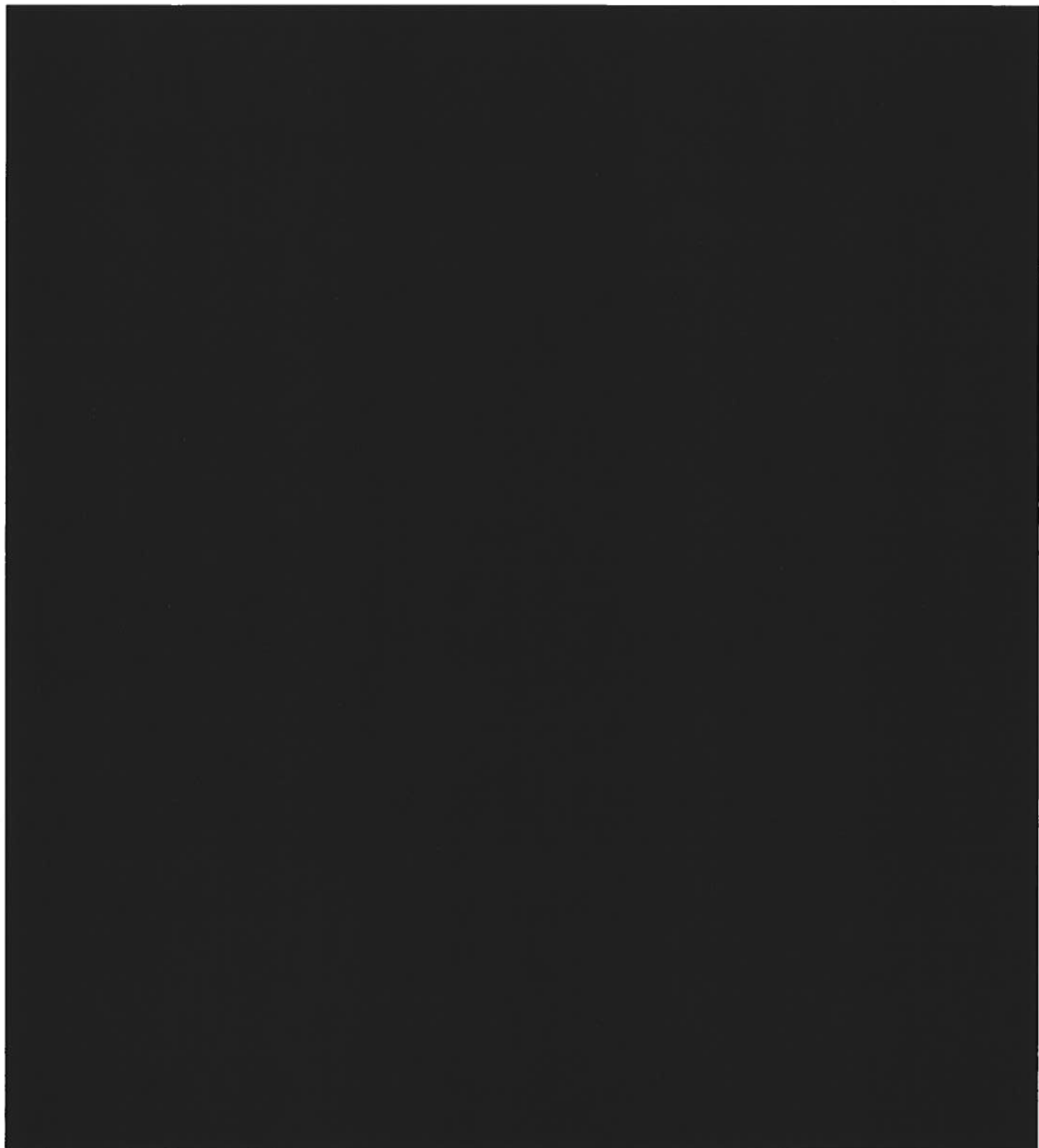
\_\_\_\_\_

**Date:**

\_\_\_\_\_

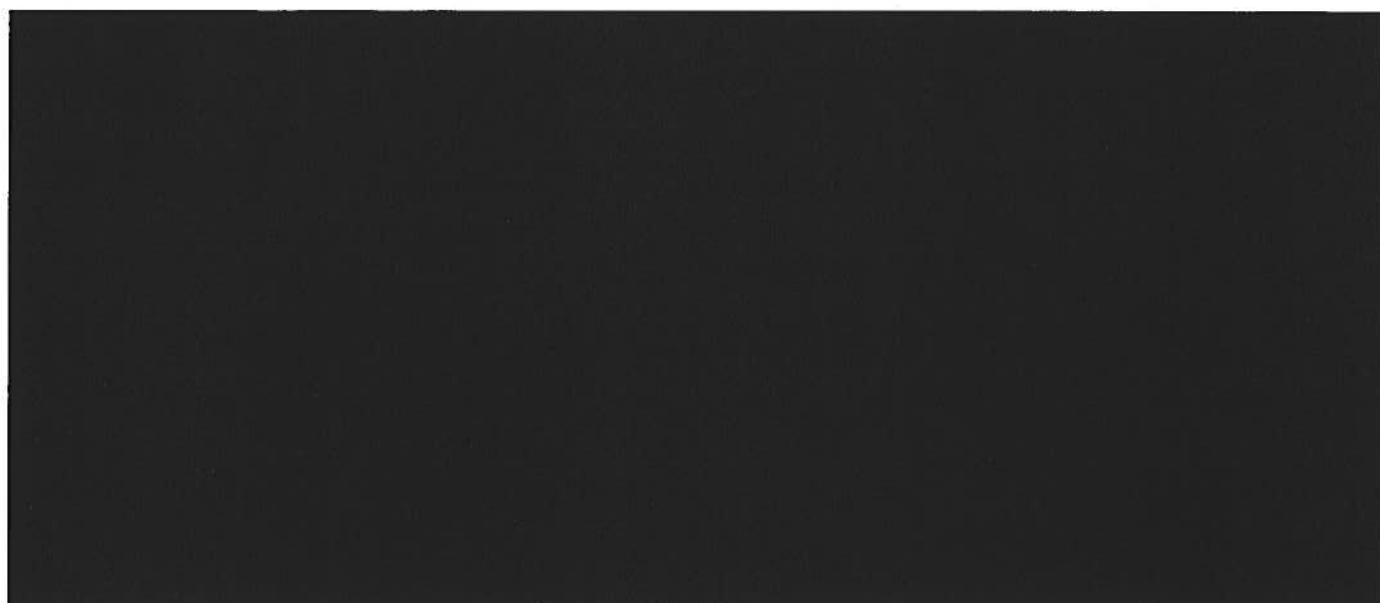
**EXHIBIT F**

**FORM OF CREDIT CARD NOTIFICATION**

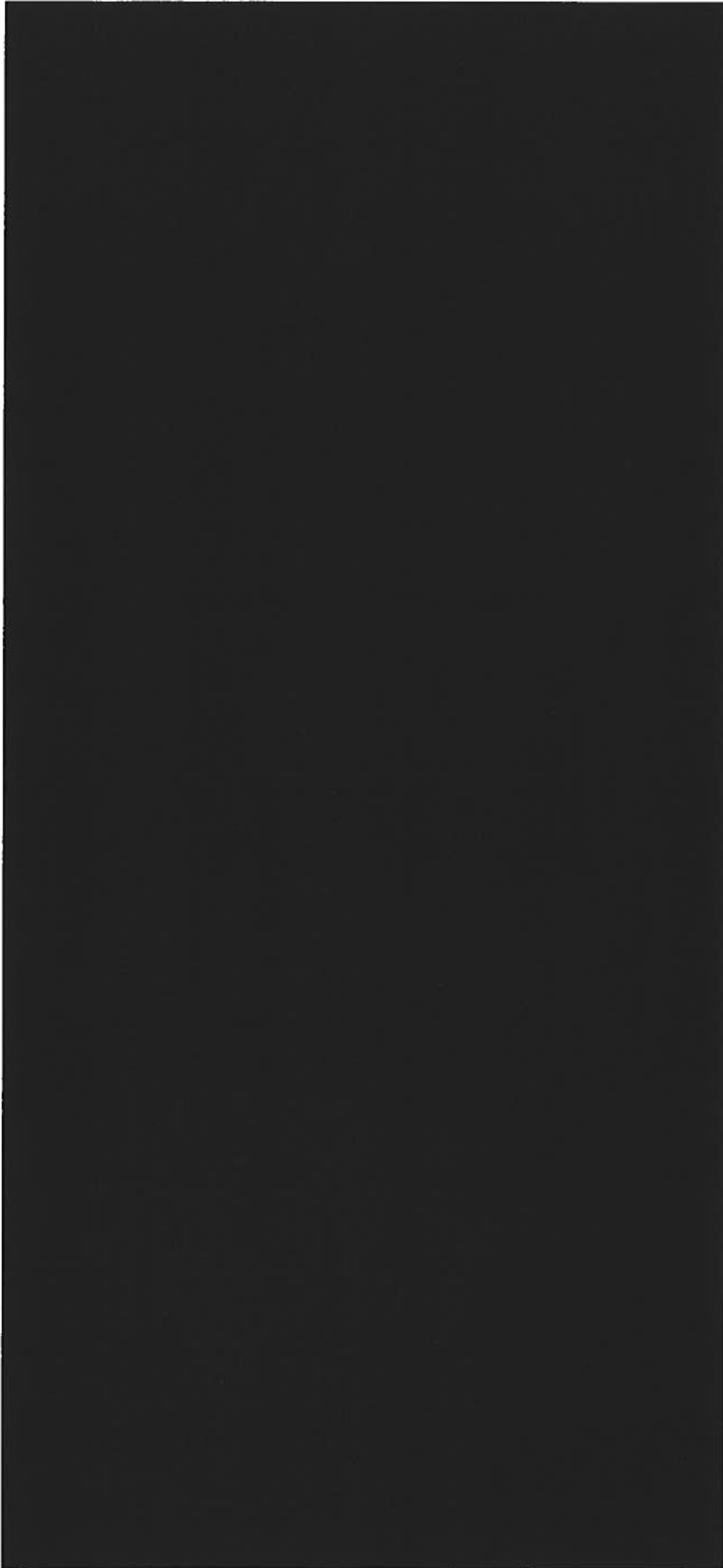




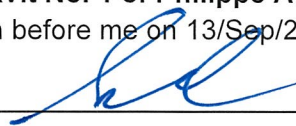




**EXHIBIT G**  
**Existing L/Cs**



This **Exhibit "G"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

*Execution version***AMENDING AGREEMENT**

THIS AGREEMENT is made as of January 31, 2020

BETWEEN:

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association duly incorporated under the laws of the Province of British Columbia (hereinafter referred to as the "**Borrower**"),

OF THE FIRST PART,

- and -

**1314625 ONTARIO LIMITED**, a corporation duly incorporated under the laws of the Province of Ontario (hereinafter referred to as the "**Guarantor**"),

OF THE SECOND PART,

- and -

**EACH LENDER PARTY TO THE CREDIT AGREEMENT**, as Lenders,

OF THE THIRD PART,

- and -

**ROYAL BANK OF CANADA**, a Canadian chartered bank, as agent of the Lenders (hereinafter referred to as the "**Agent**"),

OF THE FOURTH PART.

WHEREAS the parties hereto have agreed to amend and supplement certain provisions of the Credit Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

**1. Interpretation**

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

"**Agreement**" means this agreement, as amended, modified, supplemented or restated from time to time.

"**Credit Agreement**" means the credit agreement made as of August 3, 2017 among the Borrower, the Guarantor, the financial institutions party thereto as Lenders and the Agent.

1.2 Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement.

- 2 -

1.3 The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, references herein to "Sections" are to Sections of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreements supplemental hereto.

1.4 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

## 2. Amendments, Supplements and Temporary Waivers.

2.1 The definition of BA Rate contained in Section 1.1 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

"BA Rate" means, with respect to each Interest Period for a BA Rate Loan, the rate of interest per annum equal to the average rate applicable to Canadian Dollar bankers' acceptances having an identical or comparable term as the proposed BA Rate Loan displayed and identified as such on the Refinitiv screen Canadian Dollar Offered Rate (CDOR) page (and if such page is not available, any successor or similar service as may be selected by the Agent) as at approximately 10:15 a.m. Toronto time on such day (or, if such day is not a Business Day, as of 10:15 a.m. Toronto time on the immediately preceding Business Day) (as adjusted by the Agent after 10:15 a.m. Toronto time to reflect any error in the posted average annual rate of discount); provided that if such rate does not appear on such (CDOR) page (or the substituted page of any successor or similar service selected by the Agent), at such time on such date, the rate for such date will be the annual discount rate (calculated on the basis of a year of 365 days and rounded upward to the nearest whole multiple of 1/100 of 1%) as of 10:15 a.m. Toronto time on such day at which a Canadian chartered bank listed on Schedule I of the Bank Act (Canada) as selected by Agent is then offering to purchase Canadian Dollar bankers' acceptances accepted by it having such specified term (or a term as closely as possible comparable to such specified term), or if such day is not a Business Day, on the immediately preceding Business Day; and further provided, that, if such rate is below zero, then the "BA Rate" will be deemed to be zero for purposes of this Agreement. Each determination of the BA Rate by the Agent shall be conclusive and binding, absent demonstrated error."

2.2 With effect on the date upon which the conditions precedent set forth in Section 4 have been satisfied or waived until and including August, 3, 2020, the existing definition of "Real Estate Component" contained in Section 1.1 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

"Real Estate Component" means an amount equal to the lesser of (a) [REDACTED] of the fair market value of the Borrower's Eligible Real Estate as set forth in the Real Estate Appraisals less Reserves established by Agent in its Permitted Discretion, and (b) [REDACTED]

For certainty, from and after August 4, 2020, the existing definition of "Real Estate Component" contained in Section 1.1 of the Credit Agreement on the date hereof (that is, prior to giving effect to the replacement of such definition contemplated above) will be reinstated in its entirety.

2.3 Section 3.3 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

### "3.3 Inability to Determine Rates.

(a) If the Required Lenders determine that for any reason in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (i) U.S. Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of

such LIBO Rate Loan, (ii) adequate and reasonable means do not exist for determining the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan, or (iii) the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein.

(b) Notwithstanding the foregoing, if the Agent (i) determines that the circumstances described in clause (a) of this Section have arisen and such circumstances are unlikely to be temporary, (ii) determines that the circumstances described in clause (a) of this Section have not arisen but the supervisor for the administrator of the LIBO Rate or a Governmental Authority having jurisdiction over the Agent has made a public statement identifying a specific date after which the LIBO Rate shall no longer be used for determining interest rates for loans or (iii) new syndicated loans have started to adopt a new benchmark interest rate, then the Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBO Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for U.S. Dollar denominated syndicated loans in Canada at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable, provided that to the extent that the Agent determines that adoption of any portion of such market convention is not administratively feasible or that no market convention for the administration of such alternate rate of interest exists, the Agent shall administer such alternate rate of interest in a manner determined by the Agent in consultation with the Borrower. Notwithstanding anything to the contrary, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Agent shall not have received, within five (5) Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. If a notice of an alternate rate of interest has been given and no such alternate rate of interest has been determined, and (x) the circumstances under clause (i) or (iii) above exist or (y) the specific date referred to in clause (ii) has occurred (as applicable), Base Rate shall apply without regard to clause (b) of the definition thereof. Provided that, if such alternate rate of interest shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.”.

2.4 The following provision is hereby added to the Credit Agreement as a new Section 3.4 (with the succeeding Sections in Article 3 being renumbered accordingly):

**“3.4 CDOR Discontinuation**

(a) If the Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or the Required Lenders notify the Agent that the Borrower or Required Lenders (as applicable) have determined that:

(i) adequate and reasonable means do not exist for ascertaining the Canadian Dollar Offered Rate (“CDOR”), including because the Refinitiv screen Canadian Dollar Offered Rate (CDOR) page is not available or published on a current basis for the applicable period and such circumstances are unlikely to be temporary;

(ii) the administrator of CDOR or a Governmental Authority having jurisdiction has made a public statement identifying a specific date after which CDOR will permanently or indefinitely cease to be made available or permitted to be used for determining the interest rate of loans;

- 4 -

(iii) a Governmental Authority having jurisdiction over the Agent has made a public statement identifying a specific date after which CDOR shall no longer be permitted to be used for determining the interest rate of loans (each such specific date in clause (ii) above and in this clause (iii) a "CDOR Scheduled Unavailability Date"); or

(iv) syndicated loans currently being executed, or that include language similar to that contained in this Section 3.4, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace CDOR,

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

(b) If no CDOR Successor Rate has been determined and the circumstances under clause 3.4(a)(i) above exist or a CDOR Scheduled Unavailability Date has occurred (as applicable), the Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain BA Rate Loans shall be suspended (to the extent of the affected BA Rate Loans, or applicable Interest Periods). Upon receipt of such notice, the Borrower may revoke any pending Committed Loan Notice for a Committed Borrowing of, conversion to or rollover of BA Rate Loans, (to the extent of the affected BA Rate Loans, or applicable Interest Periods) or, failing that, will be deemed to have converted such Committed Loan Notice into a Committed Loan Notice for a Committed Borrowing of Prime Rate Loans in the amount specified therein.

(c) Notwithstanding anything else herein, any definition of the CDOR Successor Rate (exclusive of any margin) shall provide that in no event shall such CDOR Successor Rate be less than zero for the purposes of this Agreement. In addition, the BA Rate shall not be included or referenced in the definition of Prime Rate and the definition of Prime Rate shall be deemed to be amended accordingly effective from and after the CDOR Scheduled Unavailability Date."

2.5

2.6



2.7 Notwithstanding the provisions of Section 6.2(b) of the Credit Agreement and of the defined term "Accelerated Borrowing Base Delivery Event", each of the Agent and Lenders hereby temporarily waives the Borrower's compliance with the provisions of that Section and defined term until and including February 29, 2020; provided that, in lieu of compliance with Section 6.2(b) of the Credit Agreement and of the defined term "Accelerated Borrowing Base Delivery Event", the Borrower complies with the following:

- (a) The Borrower shall deliver to Agent, in form and detail satisfactory to Agent, on the fifteenth (15<sup>th</sup>) day after the end of each Fiscal Period (or, if such day is not a Business Day, on the next succeeding Business Day), a Borrowing Base Certificate, in the form of Exhibit E hereto, showing the Borrowing Base as of the close of business as of the last day of the immediately preceding Fiscal Period, each Borrowing Base Certificate to be certified as complete and correct by a Responsible Officer of the Borrower; provided that at the election of the Required Lenders upon the occurrence and during the continuance of an Accelerated Borrowing Base Delivery Event, such Borrowing Base Certificate shall be delivered bi-weekly on Wednesday of every second week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Sunday, commencing on the second Wednesday of the Fiscal Period following the Fiscal Period during which such Accelerated Borrowing Base Delivery Event occurred.
- (b) For purposes of Section (a) above, "Accelerated Borrowing Base Delivery Event" means the failure of the Borrower at any time to maintain Availability for [REDACTED] consecutive Business Days at least equal [REDACTED] the Loan Cap.

### 3. Representations and Warranties

3.1 Each Loan Party hereby represents and warrants as follows to each Lender and the Agent and acknowledges that each Lender and the Agent is relying upon such representations and warranties:

(a) Existence and Good Standing

Each Loan Party is validly existing and in good standing under the laws of the jurisdiction governing its corporate existence; each Loan Party is duly registered in all other jurisdictions where its ownership, lease or operation of its property or the conduct of its business requires such registration, except for jurisdictions where the failure to be so registered or qualified would not reasonably be expected to have a Material Adverse Effect, and has all necessary power and authority to own its properties and carry on its business as presently carried on or as contemplated by the Credit Agreement.

(b) Corporate Authority

Each Loan Party has full power, legal right and authority to enter into this Agreement and do all such acts and things as are required by this Agreement (and the Credit Agreement, as amended by this Agreement) to be done, observed or performed in accordance with the terms hereof.

(c) Authorization; No Contravention.

The execution, delivery and performance by each Loan Party of this Agreement has been duly authorized by all necessary corporate or other organizational action, and does not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any

Material Indebtedness to which such Person is a party, or affecting such Person or the properties of such Person or any of its Subsidiaries, in each case in any material respect, or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.

(d) Governmental Authorization; Other Consents.

No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement, except for such as have been obtained or made and are in full force and effect.

(e) Binding Effect.

This Agreement has been duly executed and delivered by each Loan Party. This Agreement, and the Credit Agreement, as amended hereby, constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(f) Non-Default

No Default or Event of Default has occurred which is continuing.

3.2 Except those representations and warranties that are expressly stated in the Credit Agreement to be made as at the Closing Date, each of the representations and warranties contained in Article V of the Credit Agreement are true and accurate as if made on the date hereof.

#### 4. Conditions Precedent

4.1 The amendments and supplements to the Credit Agreement contained in Section 2 shall be effective upon, and shall be subject to, the satisfaction of the following conditions precedent:

- (a) the Borrower shall pay to the Agent, for the account of the Lenders, an amendment fee equal to [REDACTED] which shall be due and payable immediately upon the execution and delivery of this Agreement by the Borrower and the Agent (with the consent of the Lenders); and
- (b) the Agent shall have received a current certificate of status in respect of each Loan Party in respect of its jurisdiction of corporate existence and certified copies of any modifications or amendments to such Loan Party's constating documents and by-laws to the extent any of the same are not reflected in the certified copies of such documents provided to the Agent pursuant to the certificates of officer given by Sandy Treagus, as Chief Financial Officer of the Borrower, and as Treasurer of the Guarantor, each dated as of August 3, 2017.

4.2 The foregoing conditions precedent are inserted for the sole benefit of the Lenders and may be waived in writing by the Agent (with the consent of the Lenders), in whole or in part (with or without terms and conditions).

**5. Confirmation of Credit Agreement and other Loan Documents**

The Credit Agreement and the other Loan Documents to which each Loan Party is a party and all covenants, terms and provisions thereof, except as expressly amended and supplemented by this Agreement, shall be and continue to be in full force and effect and the Credit Agreement, as amended and supplemented by this Agreement, and each of the other Loan Documents to which each Loan Party is a party is hereby ratified and confirmed and shall, from and after the date hereof, continue in full force and effect as herein amended and supplemented, with such amendments and supplements being effective from and as of the date hereof (upon satisfaction of the condition precedent set forth in Section 4 hereof).

**6. Further Assurances**

Each Loan Party, the Lenders and the Agent shall promptly cure any defect relating to their execution and delivery of this Agreement, the other Loan Documents or any of the agreements provided for hereunder to which it is a party. The parties hereto shall from time to time do all such further acts and things and execute and deliver all such documents as are required in order to effect the full intent of and fully perform and carry out the terms of this Agreement.

**7. Enurement**

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns in accordance with the Credit Agreement.

**8. Counterparts**

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

***[The remainder of this page has been intentionally left blank; signature pages follow.]***

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

**BORROWER:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

By: \_\_\_\_\_

Name:

*Philippe Arsenault*

Title:

*CEO*

**GUARANTOR:**

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_

Name:

*Philippe Arsenault*

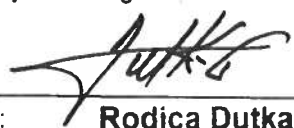
Title:


*CEO*



**AGENT:**

**ROYAL BANK OF CANADA,**  
in its capacity as the Agent

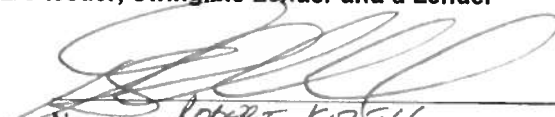
By:   
Name: **Rodica Dutka**  
Title: **Manager, Agency**

By:   
Name:  
Title:

**LENDERS:**

**ROYAL BANK OF CANADA,  
as L/C Issuer, Swingline Lender and a Lender**

By:

  
Name: ROBERT KIZELL  
Title: ATTORNEY-IN-FACT

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,  
as a Lender**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,  
as a Lender**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

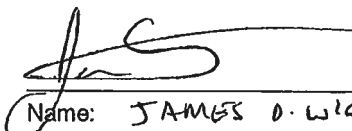
**LENDERS:**


**ROYAL BANK OF CANADA,  
as L/C Issuer, Swingline Lender and a Lender**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**THE TORONTO-DOMINION BANK,  
as a Lender**

By:   
Name: JAMES D. WILSON  
Title: VP TD Asset

By:   
Name: Mark Gray  
Title: Director TD Asset Finance

**CANADIAN IMPERIAL BANK OF COMMERCE,  
as a Lender**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:



**LENDERS:**

**ROYAL BANK OF CANADA,  
as L/C Issuer, Swingline Lender and a Lender**

By: \_\_\_\_\_  
Name:  
Title:

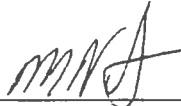
By: \_\_\_\_\_  
Name:  
Title:

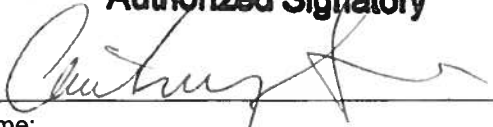
**THE TORONTO-DOMINION BANK,  
as a Lender**

By: \_\_\_\_\_  
Name:  
Title:

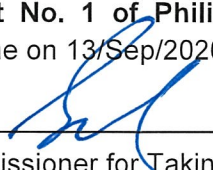
By: \_\_\_\_\_  
Name:  
Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,  
as a Lender**

By:  \_\_\_\_\_  
Name: **Matthew Van Gelder**  
Title: **Authorized Signatory**

By:  \_\_\_\_\_  
Name: **Courtney Savage**  
Title: **Authorized Signatory**

This is **Exhibit "H"** referred to in the **Affidavit No. 1 of Philippe Arrata** Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

## SECOND AMENDMENT AND WAIVER AGREEMENT

THIS AGREEMENT is made as of June 18, 2020

BETWEEN:

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association duly incorporated under the laws of the Province of British Columbia

(the "**Borrower**")

AND:

**1314625 ONTARIO LIMITED**, a corporation duly incorporated under the laws of the Province of Ontario

(the "**Guarantor**")

AND:

**EACH LENDER PARTY TO THE CREDIT AGREEMENT**, as Lenders

AND:

**ROYAL BANK OF CANADA**, a Canadian chartered bank, as agent of the Lenders

(the "**Agent**")

WHEREAS the parties hereto have agreed to amend, temporarily waive and supplement certain provisions of the Credit Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

### 1.0 **INTERPRETATION**

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

"**Agreement**" means this agreement, as amended, modified, supplemented or restated from time to time.

"**Credit Agreement**" means the credit agreement made as of August 3, 2017 and amended January 31, 2020, among the Borrower, the Guarantor, the financial institutions party thereto as Lenders and the Agent.

1.2 Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement.

1.3 The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, references herein to "Sections" are to Sections of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreements supplemental hereto.

1.4 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

## 2.0 AMENDMENTS, SUPPLEMENTS AND TEMPORARY WAIVERS

2.1 Notwithstanding the provisions of Section 6.1(a) of the Credit Agreement, requiring the Loan Parties to deliver to the Agent, within 120 days after the end of each of the Borrower's Fiscal Years, financial statements of the Borrower and its Subsidiaries for each such Fiscal Year, [REDACTED]

[REDACTED] he "Financial Statement Waiver"), provided that in lieu of compliance with Section 6.1(a) of the Credit Agreement for the Borrower's Fiscal Year ending February 23, 2020, the Loan Parties deliver to the Agent: (a) on or before [REDACTED] draft financial statements for such Fiscal Year, and (b) as soon as available, but in any event on or before [REDACTED] being within [REDACTED] days after the end of the Borrower's Fiscal Year ending February 23, 2020, (i) financial statements of the Borrower and its Subsidiaries for such Fiscal Year, audited by a Registered Public Accounting Firm of nationally recognized standing reasonably acceptable to Agent and certified, without any qualifications, by such firm to have been prepared in accordance with GAAP (such audited financial statements to include a Consolidated balance sheet, statement of earnings (loss) and surplus (deficit) and statement of cash flows and, if prepared, such accountants' letter to management), and (ii) if applicable, unaudited consolidating work sheets used by the Borrower to prepare such consolidated financial statements.

2.2 [REDACTED]

2.3 [REDACTED] and shall not be construed as a continuing waiver of any other breach, default or event of default that may exist under the Credit Agreement or other Loan Documents or a waiver of any other or subsequent right or remedy of the Agent and/or Lenders.

## 3.0 REPRESENTATIONS AND WARRANTIES

3.1 Each Loan Party hereby represents and warrants as follows to each Lender and the Agent and acknowledges that each Lender and the Agent is relying upon such representations and warranties:

- (a) Existence and Good Standing: Each Loan Party is validly existing and in good standing under the laws of the jurisdiction governing its corporate existence; each Loan Party is duly

registered in all other jurisdictions where its ownership, lease or operation of its property or the conduct of its business requires such registration, except for jurisdictions where the failure to be so registered or qualified would not reasonably be expected to have a Material Adverse Effect, and has all necessary power and authority to own its properties and carry on its business as presently carried on or as contemplated by the Credit Agreement.

- (b) Corporate Authority: Each Loan Party has full power, legal right and authority to enter into this Agreement and do all such acts and things as are required by this Agreement (and the Credit Agreement, as amended by this Agreement) to be done, observed or performed in accordance with the terms hereof.
- (c) Authorization; No Contravention: The execution, delivery and performance by each Loan Party of this Agreement has been duly authorized by all necessary corporate or other organizational action, and does not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any Material Indebtedness to which such Person is a party, or affecting such Person or the properties of such Person or any of its Subsidiaries, in each case in any material respect, or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.
- (d) Governmental Authorization; Other Consents: No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement, except for such as have been obtained or made and are in full force and effect.
- (e) Binding Effect: This Agreement has been duly executed and delivered by each Loan Party. This Agreement, and the Credit Agreement, as amended hereby, constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.
- (f) Non-Default: No Default or Event of Default has occurred which is continuing.

3.2 Except those representations and warranties that are expressly stated in the Credit Agreement to be made as at the Closing Date, each of the representations and warranties contained in Article V of the Credit Agreement are true and accurate as if made on the date hereof.

#### **4.0 CONDITION PRECEDENT**

4.1 The amendments, supplements and temporary waivers to the Credit Agreement contained in Section 2.0 shall be effective upon, and shall be subject to, the satisfaction of the following condition precedent:

- (a) the Agent shall have received a current certificate of status in respect of each Loan Party in respect of its jurisdiction of corporate existence and certified copies of any modifications or amendments to such Loan Party's constating documents and by-laws to the extent any of the same are not reflected in the certified copies of such documents provided to the Agent pursuant to the certificates of officer given by Sandy Treagus, as Chief Financial Officer of the Borrower, and as Treasurer of the Guarantor, each dated as of August 3, 2017.

4.2 The foregoing condition precedent is inserted for the sole benefit of the Lenders and may be waived in writing by the Agent (with the consent of the Lenders), in whole or in part (with or without terms and conditions).

#### **5.0 CONFIRMATION OF CREDIT AGREEMENT AND OTHER LOAN DOCUMENTS**

The Credit Agreement and the other Loan Documents to which each Loan Party is a party and all covenants, terms and provisions thereof, except as expressly amended and supplemented by this Agreement, shall be and continue to be in full force and effect and the Credit Agreement, as amended and supplemented by this Agreement, and each of the other Loan Documents to which each Loan Party is a party is hereby ratified and confirmed and shall, from and after the date hereof, continue in full force and effect as herein amended and supplemented, with such amendments and supplements being effective from and as of the date hereof (upon satisfaction of the condition precedent set forth in Section 4 hereof).

#### **6.0 FURTHER ASSURANCES**

Each Loan Party, the Lenders and the Agent shall promptly cure any defect relating to their execution and delivery of this Agreement, the other Loan Documents or any of the agreements provided for hereunder to which it is a party. The parties hereto shall from time to time do all such further acts and things and execute and deliver all such documents as are required in order to effect the full intent of and fully perform and carry out the terms of this Agreement.

#### **7.0 ENUREMENT**

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns in accordance with the Credit Agreement.

#### **8.0 COUNTERPARTS; ELECTRONIC EXECUTION**

This Agreement and each other Loan Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement or any other Loan Document


shall be deemed to include electronic signatures, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, as in provided Parts 2 and 3 of the Personal Information Protection and Electronic Documents Act (Canada), the Electronic Commerce Act, 2000 (Ontario), the Electronic Transaction Acts (British Columbia), the Electronic Transactions Act (Alberta), or any other similar laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada. The Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

*[The remainder of this page has been intentionally left blank; signature pages follow.]*

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.


**BORROWER:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

By:   
Name: Philippe Arra-A  
Title: CEO

**GUARANTOR:**

**1314625 ONTARIO LIMITED**

By:   
Name: Philippe Arra-A  
Title: CEO



**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By:   
Name: Brent Miller  
Title: Senior Director

By: \_\_\_\_\_  
Name:  
Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**LENDERS:**

**ROYAL BANK OF CANADA**  
as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**THE TORONTO-DOMINION BANK,**  
as a Lender

By: Mark Gray  
Name: Mark Gray  
Title: Director, ABL

By: Chaz Louisy  
Name: Chaz Louisy  
Title: MCC - Asset Based Lending

**CANADIAN IMPERIAL BANK OF COMMERCE,**  
as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

*Matt Van Gelder*

By: \_\_\_\_\_

Name: Matt Van Gelder

Title: Authorized signatory

*[Signature]*

By: \_\_\_\_\_

Name: Anthony Tsuen

Title: Authorized Signatory

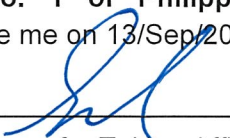
**AGENT:**

**ROYAL BANK OF CANADA,**  
In its capacity as the Agent

By:   
\_\_\_\_\_  
Name: Brent Miller  
Title: Senior Director

By: \_\_\_\_\_  
Name:  
Title:

This is **Exhibit "I"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**THIRD AMENDING AGREEMENT**

THIS AGREEMENT is made as of July 31, 2020

BETWEEN:

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association duly incorporated under the laws of the Province of British Columbia

(the "Borrower")

AND:

**1314625 ONTARIO LIMITED**, a corporation duly incorporated under the laws of the Province of Ontario

(the "Guarantor")

AND:

**EACH LENDER PARTY TO THE CREDIT AGREEMENT**, as Lenders

AND:

**ROYAL BANK OF CANADA**, a Canadian chartered bank, as agent of the Lenders

(the "Agent")

WHEREAS the parties hereto have agreed to amend, temporarily waive and supplement certain provisions of the Credit Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

**1.0 INTERPRETATION**

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

"**Agreement**" means this agreement, as amended, modified, supplemented or restated from time to time.

"**Credit Agreement**" means the credit agreement made as of August 3, 2017 and amended January 31, 2020 pursuant to a first amending agreement (the "**First Amending Agreement**") and June 18, 2020 pursuant to a second amendment and waiver agreement, among the Borrower, the Guarantor, the financial institutions party thereto as Lenders and the Agent.

1.2 Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement, as amended by this Agreement.

1.3 The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, references herein to "Sections" are to Sections of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreements supplemental hereto.

1.4 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

## **2.0 AMENDMENTS, SUPPLEMENTS AND TEMPORARY WAIVERS**

Subject to and upon satisfaction of the conditions set out in Section 4.0 hereof, the Credit Agreement is amended and modified effective from and after the date hereof as follows:

2.1 Each of the following definitions contained in section 1.1 of the Credit Agreement is deleted in its entirety and replaced with the following, and in the case of Agent's Financial Advisor is added:

"Accelerated Borrowing Base Delivery Event" means either (a) the occurrence and continuance of any Event of Default, or (b) the failure of the Borrower at any time to maintain Availability for [REDACTED] consecutive Business Days at least equal to \$ [REDACTED]. For purposes of this Agreement, the occurrence of an Accelerated Borrowing Base Delivery Event shall be deemed continuing only (a) so long as such Event of Default giving rise to such Accelerated Borrowing Base Event is continuing, and/or (b) if such Accelerated Borrowing Base Delivery Event arises as a result of the Borrower's failure to achieve Availability as required hereunder, until Availability has exceeded \$ [REDACTED], in any case, for thirty (30) consecutive calendar days, in which case an Accelerated Borrowing Base Delivery Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of an Accelerated Borrowing Base Delivery Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Accelerated Borrowing Base Delivery Event in the event that the conditions set forth in this definition again arise."

"Agent's Financial Advisor" means FTI Consulting Canada Inc. or such other financial advisor as the Agent may advise the Borrower in writing."

"Aggregate Commitments" means the Commitments of all the Lenders. As of the Closing Date, the Aggregate Commitments totalled \$130,000,000 and on or about July 31, 2020, the Aggregate Commitments are reduced to \$110,000,000."

"Applicable Margin" means, with respect to any Loan, the applicable rate per annum expressed as a percentage set forth in the relevant column in the table below:

Applicable Margin for LIBO Rate Loans or BA Rate Loans	Applicable Margin for Prime Rate Loans or Base Rate Loans	Applicable Margin for the Letter of Credit Fee





Appraisal relating to 303 Portage Ave., Winnipeg, Manitoba (the "Winnipeg Property") once delivered to the Agent, and in form, scope and substance reasonably satisfactory to the Agent, in each case, of the respective real properties listed on Schedule 1.01 as being beneficially and if applicable, legally, owned by the Borrower, each of which are addressed to the Borrower and Agent (or in respect of which Agent has received a reliance letter, in form and substance satisfactory to Agent)."

2.2 The definition of "Permitted Disposition" in section 1.1 of the Credit Agreement is hereby amended by deleting subparagraph (f)(E) in its entirety and replacing it with the following:

"...(E) if such Real Estate is Borrowing Base Real Estate Collateral, the Borrower shall have delivered a pro forma Borrowing Base Certificate to Agent demonstrating that, after giving effect to such Disposition, Availability is at least equal to [REDACTED]"

2.3 Notwithstanding the provisions of section 2.2 of the First Amending Agreement, the definition of "Real Estate Component" set out in section 2.2 of the First Amending Agreement as amended by this Agreement remains in effect until and including September 30, 2020. For certainty, from and after October 1, 2020, the existing definition of "Real Estate Component" contained in Section 1.1 of the Credit Agreement (that is, prior to giving effect to the replacement of such definition contemplated in the First Amending Agreement) will be reinstated in its entirety.

2.4 Schedule 1.01 of the Credit Agreement was inadvertently not included in the Credit Agreement. The Credit Agreement is hereby amended by incorporating a new Schedule 1.01, which is attached hereto as Schedule 1.01.

2.5 Schedule 2.1 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

**"Commitments and Applicable Percentages**

<b>Lender</b>	<b>Commitment</b>	<b>Applicable Percentage</b>
Royal Bank of Canada	[REDACTED]	[REDACTED]
Canadian Imperial Bank of Commerce	[REDACTED]	[REDACTED]
The Toronto-Dominion Bank	[REDACTED]	[REDACTED]

2.6 Exhibit E - "Form of Borrowing Base Certificate" to the Credit Agreement is hereby deleted in its entirety and replaced with the new form of Borrowing Base Certificate attached hereto as Exhibit E.

2.7 For greater certainty, this Agreement is a Loan Document for the purposes of the Credit Agreement, as are the instruments and agreements executed and delivered by the Loan Parties in connection with this Agreement, including without limitation the Mortgage to be delivered by the Borrower to the Agent for the benefit of the Credit Parties, relating to the Real Estate known municipally as 303 Portage Avenue, Winnipeg, Manitoba (the "Winnipeg Property").

2.8 Section 2.3(k) of the Credit Agreement is hereby amended so that wherever Sections 2.4 and 8.2(c) are referenced, Section 6.20 is now also referenced. For certainty the second and third sentences of Section 2.3(k) are hereby amended as follows:

“Section 2.4, 8.2(c) and 6.20 set forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.3, Section 2.4, Section 8.2(c) and Section 6.20, “Cash Collateralize” means to pledge and deposit with or deliver to Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances in an amount equal to [REDACTED] of the Outstanding Amount of all L/C Obligations, pursuant to documentation in form and substance reasonably satisfactory to Agent and the L/C Issuer (which documents are hereby Consented to by the Lenders).”

2.9 Section 2.4(c) of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

“(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of any Loan Party in respect of any Prepayment Event, the Borrower shall, immediately after such Net Proceeds are received by any Loan Party, prepay the Committed Loans and L/C Borrowings and/or Cash Collateralize the L/C Obligations (other than the L/C Borrowings) in an aggregate amount equal to [REDACTED] of such Net Proceeds.”

2.10 Section 2.8(a) of the Credit Agreement is hereby amended by deleting the reference to “... a commitment fee equal to one-quarter of one percent [REDACTED]...” and replacing it with a reference to “... a commitment fee equal [REDACTED]”

2.11 Section 2.14 of the Credit Agreement is hereby deleted in its entirety and replaced with:

“2.14 [Intentionally Deleted]”.

2.12 Section 2.15 of the Credit Agreement is hereby deleted in its entirety and replaced with:

“2.15 [Intentionally Deleted]”.

2.13 Section 2.16(d) of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

“(d) Each Swingline Loan shall be repaid by the Borrower or converted into a Syndicated Borrowing in accordance with Section 2.16(h), in each case, on the Friday following the date on which such Swingline Loan was advanced. Notwithstanding Section 2.4(a), no notice of repayment shall be required to be given by the Borrower in respect of such repayment of any Swingline Loan, nor shall Swingline Loans be subject to continuation or conversion, except for conversions into Syndicated Borrowings in accordance with Section 2.16(h).”

2.14 To increase the frequency of Borrowing Base reporting from once per Fiscal Period to bi-weekly, Section 6.2(b) of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

“(b) bi-weekly, a Borrowing Base Certificate. Specifically, deliver to Agent, in form and detail satisfactory to the Agent, on the fourteenth (14<sup>th</sup>) day after the end of each two-week period starting with the two-week period ending August 9, 2020 and thereafter (or, if such day is not a Business Day, on the next succeeding Business Day), a Borrowing Base Certificate, in the form

of Exhibit E hereto, showing the Borrowing Base as of the close of business as of the last day of the immediately preceding two-week period for the Fiscal Period in question, each Borrowing Base Certificate to be certified as complete and correct by a Responsible Officer of the Borrower; provided that at the election of the Required Lenders upon the occurrence and during the continuance of an Accelerated Borrowing Base Delivery Event, such Borrowing Base Certificate shall be delivered on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Sunday;"

2.15 Article VI "Affirmative Covenants" of the Credit Agreement is hereby amended by adding the following new paragraphs 6.19, 6.20, 6.21, and 6.22:

**"6.19 Additional Reporting.**

- (a) Deliver to the Agent's Financial Advisor to be reviewed and shared with the Agent and Lenders as appropriate:
  - (i) weekly reporting of actual cash flows of the Borrower and its Subsidiaries and explanations for key variances against forecast, with such statements of cash flows delivered on or before 5 p.m. Vancouver time on the Thursday of the week following;
  - (ii) bi-weekly Accounts payables listings, in form and detail satisfactory to the Agent's Financial Advisor, on the fourteenth (14<sup>th</sup>) day after the end of each two-week period starting with the two-week period ending August 9, 2020 and thereafter (or if such day is not a Business Day, on the next succeeding Business Day);
  - (iii) upon execution of this Agreement, copies of existing listing agreements for any real property in which any Loan Party has an interest;
  - (iv) within two (2) Business Days of listing, relisting or amending any listing for any commercial real property on which any Loan Party has an interest, copies of such listing agreements, including the listing agent, fee structure and list price;
  - (v) within two (2) Business Days of receipt by any Loan Parties or their representatives, copies of any marketing updates and all offers received relating to the Loan Parties' real property; and
  - (vi) a summary of all binding letters of intent received under the second phase of the Sales Process, which are to be delivered to the Agent's Financial Advisor on or before September 1, 2020, including copies of all binding letters of intent or other offers received.
- (b) With respect to any restructuring process relating to the Loan Parties, provide the Agent and the Lenders with reasonable access to all consultants, counsel, and advisors, except as may be required to preserve the Loan Parties' solicitor-client privilege.

- (c) With respect to any restructuring process relating to the Loan Parties, provide any pleadings, proposed orders, court documents or related agreements, plans or proposals to the Agent and Lenders for review prior to filing or executing such materials.
- (d) As soon as reasonably possible, notify the Agent and the Lenders of the commencement of any demand, action, suit, investigation, litigation or proceeding before any court or governmental authority, which involves any of the Loan Parties, or which any of the Loan Parties intend to commence.
- (e) As soon as reasonably possible, notify the Agent and the Lenders of any material notice, demand or other communication by or on behalf of an organized group of the Borrower's members working collaboratively in concert and concerning, without limitation: any of the Loan Parties' corporate organization and operations, financial performance, labour or employment matters, solvency, and/or Sales Process, and made to the Borrower, its Board, or their representatives and making any demand or contemplating any demand, meeting, action, suit, investigation, litigation or proceeding.

#### **6.20 Cash Collateral.**

Notwithstanding anything contained in the Credit Agreement to the contrary, upon the Agent's demand, the Borrower shall immediately Cash Collateralize (as defined in Section 2.3(k) of the Credit Agreement) the then Outstanding Amount of all L/C Obligations.

#### **6.21 Appraisal.**

By August 31, 2020, or such date as may be extended by the Agent in its sole discretion, deliver to the Agent, an Appraisal of the Winnipeg Property addressed to the Agent or accompanied by a transmittal or reliance letter in form and substance satisfactory to the Agent."

#### **6.22 Environmental Assessment.**

By August 31, 2020, or such date as may be extended by the Agent in its sole discretion, deliver to the Agent, an environmental site assessment report for the Winnipeg Property, prepared by an environmental consultant reasonably acceptable to the Agent, and accompanied by such reports, certificates, studies or data as the Agent may reasonably require.

2.16 Section 7.2(b) of the Credit Agreement is hereby amended by deleting the reference to "Schedule 1.01" and replacing it with a reference to "Schedule 5.13".

### **3.0 REPRESENTATIONS AND WARRANTIES**

3.1 Each Loan Party hereby represents and warrants as follows to each Lender and the Agent and acknowledges that each Lender and the Agent is relying upon such representations and warranties:

- (a) Existence and Good Standing: Each Loan Party is validly existing and in good standing under the laws of the jurisdiction governing its corporate existence; each Loan Party is duly registered in all other jurisdictions where its ownership, lease or operation of its property or the conduct of its business requires such registration, except for jurisdictions where the failure to be so registered or qualified would not reasonably be expected to have a Material Adverse Effect, and has all necessary power and authority to own its

properties and carry on its business as presently carried on or as contemplated by the Credit Agreement and this Agreement.

- (b) Corporate Authority: Each Loan Party has full power, legal right and authority to enter into this Agreement and do all such acts and things as are required by this Agreement (and the Credit Agreement, as amended by this Agreement) to be done, observed or performed in accordance with the terms hereof.
- (c) Authorization; No Contravention: The execution, delivery and performance by each Loan Party of this Agreement has been duly authorized by all necessary corporate or other organizational action, and does not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach, termination, or contravention of, or constitute a default under, or require any payment to be made under (i) any Material Contract or any Material Indebtedness to which such Person is a party, or affecting such Person or the properties of such Person or any of its Subsidiaries, in each case in any material respect, or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law.
- (d) Governmental Authorization; Other Consents: No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement, except for such as have been obtained or made and are in full force and effect.
- (e) Litigation: there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower after due and diligent investigation, threatened (in writing), at law, in equity, in arbitration or before any Government Authority, by or against any Loan Party or against any of its properties or revenues that purport to affect or pertain to the Credit Agreement or this Agreement or any other Loan Documents, or any of the transactions contemplated therein or herein that either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.
- (f) Binding Effect: This Agreement has been duly executed and delivered by each Loan Party. This Agreement, and the Credit Agreement, as amended hereby, constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.
- (g) Non-Default: No Default or Event of Default has occurred which is continuing. The Loan Parties have disclosed to the Agent and the Agent's Financial Advisor that certain Lease payments are currently being deferred.
- (h) Continued Operations: The Loan Parties intend to continue operations. No transfer of property has been or will be made by any Loan Party and no obligation has been or will be incurred by any Loan Party with the intent to hinder, delay or defraud either the Agent or the Lenders.

3.2 Except those representations and warranties that are expressly stated in the Credit Agreement to be made as at the Closing Date or an earlier date, each of the representations and warranties contained in Article V of the Credit Agreement are true and accurate as if made on the date hereof except to the extent such failure to be true and correct on the date hereof would not have a Material Adverse Effect and except that, having regard to the representations and warranties provided by the Borrower pursuant to Section 3.1 and the impact of COVID-19 on the financial condition and business of the Borrower, the representations and warranties in (a) Sections 5.7, and 5.19 shall be excluded from this Section 3.2, and (b) the representations and warranties in (i) Section 5.17 is qualified by disclosure by the Borrower to the Agent of the current collective bargaining agreements and employment agreements for the current officer's separately identified by the Borrower to the Agent and that there is currently pending a potential union certification effort at the Borrower's Montreal store, (ii) Section 5.22 is qualified by the disclosure that the Borrower is not paying all amounts to its trade suppliers within the applicable due dates, and (iii) Sections 5.5(b) and 5.24 are qualified by the impact of COVID-19 on the business of the Borrower.

#### 4.0 CONDITION PRECEDENT

4.1 The amendments, supplements and temporary waivers to the Credit Agreement contained in Section 2.0 shall be effective upon, and shall be subject to, the satisfaction of the following condition precedent:

- (a) the Borrower shall pay to the Agent, for the account of the Lenders, an amendment fee equal to [REDACTED] and all legal fees and expenses of the Agent including applicable disbursements and taxes, which shall be due and payable immediately upon the execution and delivery of this Agreement by the Borrower and the Agent (with the consent of the Lenders);
- (b) all fees required to be paid to Agent on or before the date of this Agreement shall have been paid in full and all other fees required to be paid to the Lenders on or before the date of this Agreement shall have been paid in full;
- (c) this Agreement shall have been duly executed and delivered by the Loan Parties;
- (d) the Agent shall have received a current certificate of status in respect of each Loan Party in respect of its jurisdictions of corporate existence and certificates in form and substance satisfactory to the Agent and signed by a Responsible Officer of each Loan Party attaching certified copies of any modifications or amendments to such Loan Party's constating documents and by-laws, to the extent any of the same are not reflected in the certified copies of such documents provided to the Agent pursuant to the certificates given by Joanna Ban as Chief Financial Officer of the Borrower, and as Treasurer of the Guarantor, each dated June 18, 2020 and Sandy Treagus, as Chief Financial Officer of the Borrower, and as Treasurer of the Guarantor, each dated as of August 3, 2017;
- (e) updated confirmation that all insurance required to be maintained pursuant to the Loan Documents and all endorsements in favour of Agent required under the Loan Documents have been obtained and are in effect;
- (f) a favourable opinion of Norton Rose Fulbright, counsel to the Loan Parties and such other local counsel as the Agent may reasonable request, in each case addressed to

Agent and each Lender, as to such matters concerning the Loan Parties and the Loan Document as Agent may reasonably request;

- (g) the Loan Parties shall duly execute and deliver, as applicable:
- (i) a Canadian intellectual property security agreement granted by the Borrower, granting and pledging a security interest in all of the Borrower's right, title and interest in, to and under its intellectual property collateral, and registration and/or recordation of this security interest in the Canadian Intellectual Property Office;
  - (ii) a US intellectual property security agreement granted by the Borrower, granting and pledging a security interest in all of the Borrower's right, title and interest in, to and under its intellectual property collateral, and registration and/or recordation of this security interest in the US Patent and Trademark Office;
  - (iii) an assignment in favour of the Agent of proceeds payable under each of the insurance policies required to be maintained pursuant to the Credit Agreement (but for greater certainty, excluding any director or officer liability policies);
  - (iv) a Collateral Mortgage and assignment of rents granted by the Borrower in favour of the Agent over the Winnipeg Property;
  - (v) each Lender's form of *Bank Act* security documents, including without limitation, a notice of intention for registration; agreement to loan and advance security therefor; applications for credit and promise to give bills of lading, warehouse receipts or security; security under section 427; and a letter authorizing the dating of such *Bank Act* security documents;
  - (vi) a Form C modification of the British Columbia Collateral Mortgage and assignment of rents registered in the New Westminster Land Title Office on August 3, 2017 as CA6198144 and CA6198145 and evidence of registration of same;
  - (vii) a modification of the Alberta Collateral Mortgage registered in the Alberta Land Titles office on or about August 18, 2017 as 171 183 782, which modification is to be registered in the Alberta Land Titles office on or about the date hereof; and
  - (viii) a general assignment of rents and leases, to be registered by way of caveat in the Alberta Land Titles office on or about the date hereof;
- (h) evidence that a Collateral Mortgage has been registered in the applicable land title or land registry office to create a valid and enforceable first priority (subject to Liens identified in the lender's title policy referred to below as exceptions) Lien in favour of the Agent for the Benefit of the Credit Parties over the Winnipeg Property, together with, in respect of the Winnipeg Property:
- (i) if available or as otherwise required by the issuer of the title insurance policy, a survey prepared by a licensed surveyor reasonably acceptable to the Agent and certified to Agent and the issuer of the title insurance policy in a manner reasonably satisfactory to the Agent; and

- (ii) copies of any leases and other material agreements relating to the Winnipeg Property;
- (i) an amended lenders' title insurance policy with respect to the Collateral Mortgages and including, without limitation, the Winnipeg Property;
- (j) evidence that each Lender's form of notice of intention for registration regarding *Bank Act* security has been registered with the agency of the Bank of Canada in British Columbia;
- (k) results of searches or other evidence reasonably satisfactory to the Agent (in each case dated as of a date reasonably satisfactory to the Agent) indicating the absence of Liens on the assets of the Loan Parties, except for Permitted Encumbrances and Liens for which estoppel letters, termination statements, discharges, releases and releases or subordination agreements satisfactory to Agent are being tendered concurrently with such extension of credit or other arrangements satisfactory to Agent for the delivery of such termination statements and releases, satisfactions and discharges have been made;
- (l) all documents and instruments, including PPSA and Uniform Commercial Code financing statements, required by law or reasonably requested by Agent to be filed registered or recorded to create or perfect the first priority Liens intended to be created under this Agreement and the documents to provided hereunder, as well as the other Loan Documents and all such documents and instruments shall have been so filed, registered or recorded to the satisfaction of the Agent;
- (m) such other assurances, certificates, documents, consents, or opinions as Agent may reasonably require to give effect to this Agreement;
- (n) Agent shall have completed its financial, business and legal due diligence of the Loan Parties and shall have received appraisals and field examinations in respect of the Loan Parties, with results satisfactory to the Agent;
- (o) in accordance with the Credit Agreement, on or before July 27, 2020, the Agent shall have received a Borrowing Base Certificate for the period ending July 12, 2020, and executed by a Responsible Officer of the Borrower;
- (p) Agent shall be reasonably satisfied that any financial statements delivered to it fairly present the business and financial condition of the Person in respect of which such financial statements have been prepared and that there has been no Material Adverse Effect since the date of the most recent financial information delivered to Agent;
- (q) on or before July 28, 2020, the Borrower shall have delivered to the Agent's Financial Advisor a summary of all non-binding proposals received under the first phase of the sales process (the "**Sales Process**") that the Borrower is currently undertaking with the assistance of its financial advisor Alvarez & Marsal Canada Inc., including copies of all non-binding proposals or other offers received; and
- (r) evidence of payment of all property Taxes and utilities, which have become due (regardless of whether the penalty date for payment of such Taxes has been extended) on or before the date of this Agreement.



4.2 The foregoing conditions precedent are inserted for the sole benefit of the Lenders and may be waived in writing by the Agent (with the consent of the Lenders), in whole or in part (with or without terms and conditions).

#### **5.0 CONFIRMATION OF CREDIT AGREEMENT AND OTHER LOAN DOCUMENTS**

5.1 The Credit Agreement and the other Loan Documents to which each Loan Party is a party and all covenants, terms and provisions thereof, except as expressly amended and supplemented by this Agreement, shall be and continue to be in full force and effect and the Credit Agreement, as amended and supplemented by this Agreement, and each of the other Loan Documents to which each Loan Party is a party is hereby ratified and confirmed and shall, from and after the date hereof, continue in full force and effect as herein amended and supplemented, with such amendments and supplements being effective from and as of the date hereof (upon satisfaction of the condition precedent set forth in Section 4 hereof).

5.2 Subject to and upon satisfaction of the conditions set out in Section 4.0 hereof, the Credit Agreement and the other Loan Documents are hereby modified and amended to the extent necessary to give effect to the foregoing, including without limitation, those amendments set out in Section 2.0 hereof.

5.3 The Borrower hereby agrees that the Borrower continues to be bound by the provisions of any Security Documents granted by the Borrower to the Agent for and on behalf of the Lenders (collectively, the "**Borrower Security**"); the Borrower Security continues in full force and effect; and the Borrower Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Borrower to the Agent and the Lenders.

5.4 The Guarantor hereby agrees that it continues to be bound by the provisions of its Guarantee and Security Documents granted by the Guarantor to the Agent for and on behalf of the Lenders (the "**Guarantor Security**") to which it is a party; the Guarantee and the Guarantor Security continues in full force and effect; and the Guarantee and Guarantor Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Guarantor to the Agent and the Lenders.

5.5 For greater certainty, the Loan Parties confirm that the environmental indemnity agreement granted to the Agent on behalf of the Lenders in connection with the Credit Agreement extends to include, without limitation, the Winnipeg Property as well as all security granted under this Agreement.

#### **6.0 FURTHER ASSURANCES**

Each Loan Party, the Lenders and the Agent shall promptly cure any defect relating to their execution and delivery of this Agreement, the other Loan Documents or any of the agreements provided for hereunder to which it is a party. The parties hereto shall from time to time do all such further acts and things and execute and deliver all such documents as are required in order to effect the full intent of and fully perform and carry out the terms of this Agreement.

#### **7.0 ENUREMENT**

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns in accordance with the Credit Agreement.

**8.0 COUNTERPARTS; ELECTRONIC EXECUTION**

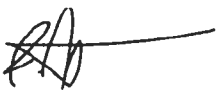
This Agreement, and the documents to be delivered hereunder, and each other Loan Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement or any other Loan Document shall be deemed to include electronic signatures, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, as in provided Parts 2 and 3 of the Personal Information Protection and Electronic Documents Act (Canada), the Electronic Commerce Act, 2000 (Ontario), the Electronic Transaction Acts (British Columbia), the Electronic Transactions Act (Alberta), or any other similar laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada. The Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

*[The remainder of this page has been intentionally left blank; signature pages follow.]*

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

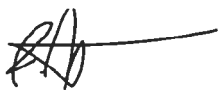
**BORROWER:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

By:   
\_\_\_\_\_  
Name: Philippe Arrata  
Title: CEO

**GUARANTOR:**

**1314625 ONTARIO LIMITED**

By:   
\_\_\_\_\_  
Name: Philippe Arrata  
Title: CEO

**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By:   
Name: Brent Miller  
Title: Senior Director

By: \_\_\_\_\_  
Name:  
Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**LENDERS:**

**ROYAL BANK OF CANADA**


as L/C Issuer, Swingline Lender and a Lender

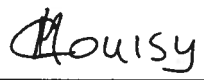
By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By:   
Name: Mark Gray  
Title: Director, ABL

By:   
Name: Chaz Louisy  
Title: MCC - Asset Based Lending

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By:                     *Matt Van Gelder*                    

Name: Matt Van Gelder

Title: Authorized Signatory

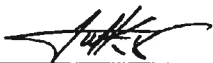
By:                                         

Name: Anthony Tsuen

Title: Authorized Signatory

**AGENT:**

**ROYAL BANK OF CANADA,**  
in its capacity as the Agent

By:  \_\_\_\_\_  
Name: Rodica Dutka  
Title: Manager, Agency

By: \_\_\_\_\_ N/A  
Name:  
Title:

## Schedule 1.01

A Mortgage is to be delivered, or has been delivered, by the applicable Loan Parties to the Agent for the benefit of the Credit Parties for each of the following Real Estate:

	Legal Owner	Owned Location	Address	City, Province	Postal Code
<b>ONTARIO</b>					
		Ottawa	366 - 378 Richmond Road	Ottawa, ON	K2A0E8
1	Borrower	- Property 366 (store)	366 Richmond Road	Ottawa, ON	K2A 0E8
2	Guarantor	- Property 374 (parking lot)	374 Richmond Road	Ottawa, ON	K2A 0E8
3	Borrower	- Property 378 (parking lot)	378 Richmond Road	Ottawa, ON	K2A 0E8
4	Borrower	Burlington	1030 Brant Street	Burlington, ON	L7R 0B2
5	Borrower	North York	784 Sheppard Avenue East	North York, ON	M2K 1C3
<b>BRITISH COLUMBIA</b>					
6	Borrower	North Vancouver	212 Brooksbank Avenue	North Vancouver, BC	V7J 2C1
7	Borrower	DC Surrey	13340 76th Avenue	Surrey, BC	
<b>ALBERTA</b>					
8	Borrower	Calgary	830 10th Avenue SW	Calgary, AB	T2R 0A9
<b>MANITOBA</b>					
9	Borrower	Winnipeg	303 Portage Ave	Winnipeg, MB	R3B 2B4



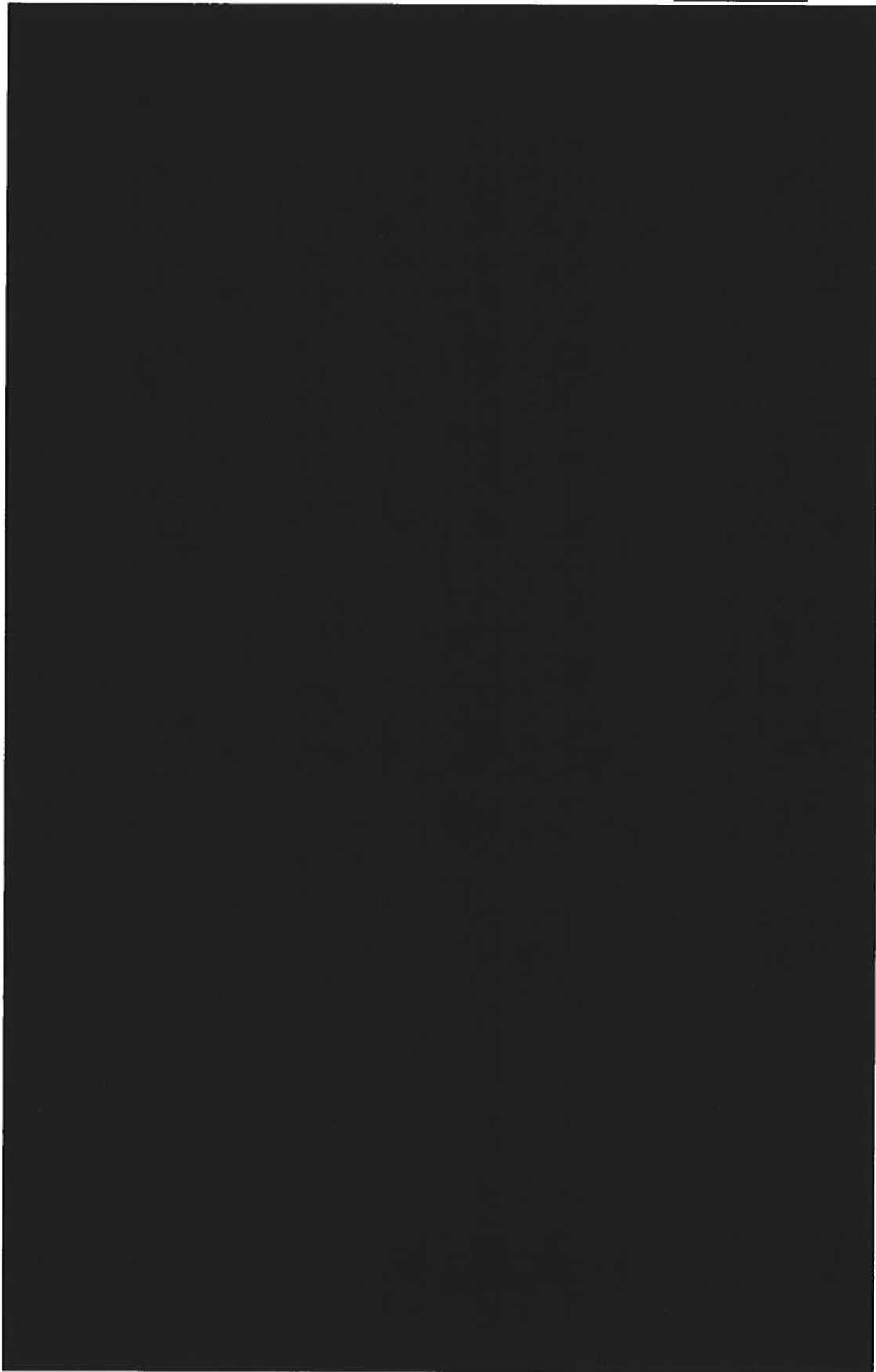
**Exhibit E – Form of Borrowing Base Certificate**

**See attached.**

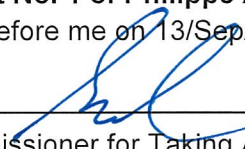
**Mountain Equipment Co-operative**  
Borrowing Base Certificate

Exhibit E

Date \_\_\_\_\_



This **Exhibit "J"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**SECURITY AND LOAN DOCUMENTS**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

as Borrower

**1314625 ONTARIO LIMITED**

as Guarantor

**ROYAL BANK OF CANADA, CANADIAN IMPERIAL BANK OF COMMERCE, and THE  
TORONTO-DOMINION BANK**

as Lenders

and

**ROYAL BANK OF CANADA**

as Administrative and Collateral Agent

1. General Security Agreement made as of August 3, 2017 (the “**GSA**”) granted by Mountain Equipment Co-operative (the “**Borrower**”) and 1314625 Ontario Limited (the “**Guarantor**”, and together with the Borrower, the “**Loan Parties**”) in favour of Royal Bank of Canada, as administrative and collateral agent for and on behalf of the lenders from time to time party to the Credit Agreement (as defined in the GSA);
2. Deed of Hypothec dated August 3, 2017 granted by the Borrower in favour of the Agent;
3. Share certificate NO. C-1 representing 1 common share in the Guarantor issued to the Borrower; and undated stock transfer power with respect to the Borrower’s shares in the Guarantor;
4. Revolving credit note granted by the Borrower in favour of Royal Bank of Canada dated August 3, 2017;
5. Revolving credit note granted by the Borrower in favour of Canadian Imperial Bank of Commerce dated August 3, 2017;
6. Revolving credit note granted by the Borrower in favour of The Toronto-Dominion Bank dated August 3, 2017;
7. Guarantee made as of August 3, 2017 granted by the Guarantor in favour of the Agent;
8. Blocked Account Agreement dated August 3, 2017 among the Borrower, as debtor, the Agent, as secured party, and Royal Bank of Canada, as account bank;
9. British Columbia Form B Mortgage and Assignment of Rents dated August 2, 2017 and registered in the Land Title Office on August 3, 2017 (CA6198144 and CA6198145), granted by the Borrower (the “**BC Collateral Mortgage**”) with respect to the following lands:
  - (a) 212-246 Brooksbank Ave, North Vancouver, BC;
  - (b) 13340 76 Ave, Surrey, BC;
10. Form C Modification of the BC Collateral Mortgage and Assignment of Rents dated July 29, 2020 and registered in the Land Title Office on July 30, 2020 (CA8334711 and CA8334712) granted by the Borrower in favour of the Agent;
11. Ontario Authorization and Direction of the Borrower and Mortgage and Assignment of Rents dated August 3, 2017 (receipted on August 3, 2017 as OC1916147, HR1478303 and AT4646897), granted by the Borrower with respect to the following lands (the “**Borrower Ottawa, Burlington and Toronto Lands**”):
  - (a) 366, 378 Richmond Road and 375 Danforth Ave, Ottawa, ON;
  - (b) 1030 Brant Street and 1428, 1430 Leighland Road, Burlington, ON;
  - (c) 784 Sheppard Ave E., Toronto, ON;
12. Ontario Authorization and Direction of the Borrower and Mortgage and Assignment of Rents dated August 3, 2017 (and receipted on August 3, 2017 as OC1916146) granted by the

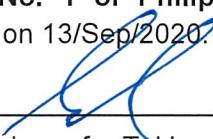
- Guarantor with respect to 374 Richmond Road, Ottawa, ON (the “**Guarantor Ottawa Lands**”);
13. Ontario Beneficial Authorization of Charge regarding the Guarantor Ottawa Lands dated August 3, 2017;
  14. Ontario Authorization and Direction of the Agent dated August 3, 2017 with respect to the Borrower Ottawa, Burlington and Toronto Lands;
  15. Ontario Authorization and Direction of the Agent dated August 3, 2017 with respect to the Guarantor Ottawa Lands;
  16. Mortgagee Assumption Agreement dated August 3, 2017 among the Borrower, the Agent and Park Towns Developments (Sheppard) Inc. (re: reciprocal easement and cost sharing agreement with Park Town Developments (Sheppard) Inc.);
  17. Mortgage dated August 2, 2017 granted by the Borrower in favour of the Agent (the “**Alberta Collateral Mortgage**”) (and registered in the Land Titles Office as 171183782) with respect to 830 10 Ave SW, Calgary, AB (the “**Calgary Property**”);
  18. Mortgage Amending Agreement made July 31, 2020 (and registered in the Land Titles Office as 201143810) granted by the Borrower in favour of the Agent with respect to the Alberta Collateral Mortgage;
  19. General Assignment of Rents and Leases made as of August 2, 2017 (and registered in the Land Titles Office 171183783) granted by the Borrower in favour of the Agent with respect to the Calgary Property;
  20. Affidavit re: Tariff of Fees dated August 2, 2017 executed by the Borrower with respect to the Calgary Property;
  21. General Assignment of Leases and Rents made as of July 31, 2020 (and registered in the Land Titles Office as 201 143 811) granted by the Borrower in favour of the Agent with respect to the Calgary Property;
  22. Environmental Indemnity Agreement dated August 3, 2017 granted by the Loan Parties in favour of the Agent;
  23. Winnipeg Collateral Mortgage dated July 29, 2020 granted by the Borrower in favour of the Agent (the “**Winnipeg Mortgage**”) (registered in the Property Registry as 5196018/1) with respect to 303 Portage Ave., Winnipeg, MB (the “**Winnipeg Property**”);
  24. General Assignment of Leases and Rents dated July 29, 2020 (registered in the Property Registry as 5196019/1 and the Manitoba Personal Property Registry) granted by the Borrower in favour of the Agent with respect to the Winnipeg Property;
  25. Correction Letter dated July 31, 2020 from MLT Aikins LLP (“**MLT**”) to Teranet Manitoba correcting certain typographical errors with respect to the Winnipeg Mortgage;
  26. Correction Letter dated August 4, 2020 from MLT to Teranet Manitoba correcting certain typographical errors or errors of omission with respect to the Winnipeg Mortgage;

27. Declaration as to possession dated July 29, 2020 granted by the Borrower relating to the Winnipeg Property;
28. Confirmation of Grant of Security Interest in Canadian Intellectual Property dated July 31, 2020 granted by the Borrower in favour of the Agent;
29. Grant of Security Interest in United States Trademarks dated July 31, 2020 granted by the Borrower in favour of the Agent;
30. Assignment of Insurance Proceeds Agreement dated July 31, 2020 granted by the Loan Parties in favour of Agent;
31. UCC Filing Authorization Letter dated July 30, 2020 granted by the Borrower in favour of the Agent;
32. The following Bank Act Section 427 Security from the Borrower in favour of Royal Bank of Canada ("**RBC**"):
  - (a) Notice of Intention dated July 30, 2020 granted by the Borrower in favour of RBC;
  - (b) Agreement as to Loans and Advances and Security Under Section 427 of the Bank Act for Such Loans and Advances dated July 31, 2020 granted by the Borrower in favour of RBC;
  - (c) Promise to Give Security Under Section 427 of the Bank Act and Warehouse Receipts and/or Bills of Lading dated July 31, 2020 granted by the Borrower in favour of RBC;
  - (d) Assignment Under Section 427 of the Bank Act dated July 31, 2020 granted by the Borrower in favour of RBC; and
  - (e) Letter of Authorization for Section 427 Under the Bank Act dated July 31, 2020 granted by the Borrower in favour of RBC;
33. The following Bank Act Section 427 Security from the Borrower in favour of Canadian Imperial Bank of Commerce ("**CIBC**"):
  - (a) Notice of Intention dated July 30, 2020 granted by the Borrower in favour of CIBC;
  - (b) Contract Relative to Special Security under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;
  - (c) Application for Credit and Promise to give Special Security under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;
  - (d) Special Security in respect of specified property or classes of property described in section 427 of the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC; and
  - (e) Letter of Authorization for Section 427 under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;

34. The following Bank Act Section 427 Security from the Borrower in favour of The Toronto-Dominion Bank (“TD”):
- (a) Notice of Intention to Give Security Under Section 427 of the Bank Act dated July 30, 2020 granted by the Borrower in favour of TD;
  - (b) Bank Act Security Agreement dated July 31, 2020 granted by the Borrower in favour of TD;
  - (c) Bank Act Security & Warehouse Liens/Bills of Lading Application for Credit dated July 31, 2020 granted by the Borrower in favour of TD; and
  - (d) Letter of Authorization for Section 427 under the Bank Act dated July 31, 2020 granted by the Borrower in favour of TD;
29. Amending Agreement made as of January 31, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security);
30. Second Amendment and Waiver Agreement made as of June 18, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security); and
31. Third Amending Agreement made as of July 31, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security).



This is **Exhibit "K"** referred to in the **Affidavit No. 1 of Philippe Arrata** Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

# Personal Property Registry

# Selection List

For: [ PK77494 ] [ NORTON ROSE FULBRIGHT CANADA LLP ]

Sep 10, 2020

08:42:25 AM

Return					Help ?
--------	--	--	--	--	--------

Folio:

Business Name: MOUNTAIN  
EQUIPMENT CO-OPERATIVE

➔ **Exact Matches: 15**

Local Print Limit:

BSR102 - CLICK APPROPRIATE BUTTON FOR MORE INFORMATION

### Debtor Name

- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE
- ➔ MOUNTAIN EQUIPMENT CO-OPERATIVE

# Personal Property Registry

# Selection List

For: [ PK77494 ] [ NORTON ROSE FULBRIGHT CANADA LLP ]

Sep 10, 2020

08:43:06 AM

Return				Send to Mailbox	Help ?
--------	--	--	--	-----------------	--------

Folio:

Business Name: MOUNTAIN  
EQUIPMENT CO-OPERATIVE

➔ **Exact Matches: 15**

Local Print Limit:

BSR101 - NO MORE INFORMATION TO DISPLAY

### Debtor Name

- MOUNTAIN EQUIPMENT CO-OP

BC OnLine: PPRS SEARCH RESULT 2020/09/10  
Lterm: XPSP0054 For: PK77494 NORTON ROSE FULBRIGHT CANADA LLP 08:42:25

Index: BUSINESS DEBTOR

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: MAY 06, 2014 Reg. Length: 7 YEARS  
Reg. Time: 09:26:24 Expiry Date: MAY 06, 2021  
Base Reg. #: 939821H Control #: D2402458

Block#

S0001 Secured Party: CIT FINANCIAL LTD.  
5035 SOUTH SERVICE ROAD  
BURLINGTON ON L7R 4C8

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 149 WEST 4TH AVENUE  
VANCOUVER BC V5Y 4A6

General Collateral:

PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.

Registering

Party: JCLD ONLINE TECHNOLOGIES  
16-1375 SOUTHDOWN ROAD STE 322  
MISSISSAUGA ON L5J 2Z1

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: AUG 22, 2014 Reg. Length: 6 YEARS  
Reg. Time: 15:16:57 Expiry Date: AUG 22, 2020  
Base Reg. #: 141283I Control #: D2608843

\*\*\* This registration has expired.

Block#

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD,SUITE 200  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 149 4TH AVE W  
VANCOUVER BC V5Y 4A6

General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9769864-001)

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 2

## Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

## Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

## Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: AUG 22, 2014

Reg. Length: 6 YEARS

Reg. Time: 15:24:58

Expiry Date: AUG 22, 2020

Base Reg. #: 141299I

Control #: D2608871

\*\*\* This registration has expired.

Block#

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD,SUITE 200  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 149 4TH AVE W  
VANCOUVER BC V5Y 4A6

## General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS  
WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR  
INSURANCE PROCEEDS (REFERENCE NO. 9769866-001)

## Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

## Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

Continued on Page 3

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 3

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: JAN 07, 2015                      Reg. Length: 6 YEARS  
Reg. Time: 14:20:35                          Expiry Date: JAN 07, 2021  
Base Reg. #: 378352I                          Control #: D2851671

Block#

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD.  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 130 WEST BROADWAY  
VANCOUVER BC V5Y 1P3

General Collateral:

ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL  
REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES,  
ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF,  
INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER,  
INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY,  
INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: FEB 09, 2015                      Reg. Length: 6 YEARS  
Reg. Time: 16:55:39                          Expiry Date: FEB 09, 2021  
Base Reg. #: 431715I                          Control #: D2906468

Block#

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 4

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD,SUITE 200  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 130 BROADWAY W  
VANCOUVER BC V5Y 1P3

General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS  
WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR  
INSURANCE PROCEEDS (REFERENCE NO. 9796948-001)

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: FEB 09, 2015                      Reg. Length: 6 YEARS  
Reg. Time: 16:58:56                          Expiry Date: FEB 09, 2021  
Base Reg. #: 431716I                          Control #: D2906469

Block#

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD,SUITE 200  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 130 BROADWAY W  
VANCOUVER BC V5Y 1P3

General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS  
WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR  
INSURANCE PROCEEDS (REFERENCE NO. 9796951-001)

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 5

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: FEB 09, 2015                      Reg. Length: 6 YEARS  
Reg. Time: 17:01:59                          Expiry Date: FEB 09, 2021  
Base Reg. #: 431718I                          Control #: D2906471

Block#

S0001 Secured Party: GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD,SUITE 200  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 1450 GOVERNMENT ST  
VICTORIA BC V8W 1Z2

General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS  
WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR  
INSURANCE PROCEEDS (REFERENCE NO. 9796954-001)

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
350 BAY STREET, SUITE 300  
TORONTO ON M5H 2S6

\*\*\* Name/Address Changed on October 26, 2015 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1



Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 6

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: FEB 23, 2015                      Reg. Length: 1 YEAR  
Reg. Time: 16:37:44                      Expiry Date: FEB 23, 2021  
Base Reg. #: 453961I                      Control #: D2929321

\*\*\* Expiry date includes subsequent registered renewal(s).

This registration was selected and included for your protection because of close proximity to your search criteria.

Block#

S0001 Secured Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER  
9076 RIVER ROAD  
DELTA BC V4G 1B5

S0002 Secured Party: C. KEAY INVESTMENTS LTD.  
9076 RIVER ROAD  
DELTA BC V4G 1B5

S0003 Secured Party: C.KEAY INVESTMENTS LTD.  
15205 131 AVE. N.W.  
EDMONTON AB T5V 0A4

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OP  
(Business) 149 WEST 4TH AVENUE  
VANCOUVER BC V5Y 1A6

Vehicle Collateral:

Type                      Serial #                      Year                      Make/Model                      MH Reg.#

V0001 TR                      1JJV532T3SL275998 1995 WABASH 53'T/A DRY VAN SPR

General Collateral:

TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.

Registering

Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER  
9076 RIVER ROAD  
DELTA BC V4G 1B5



Base Reg. Type: PPSA SECURITY AGREEMENT

Base Reg. #: 453961I

Base Reg. Date: FEB 23, 2015

Continued on Page 8

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 8

Registering

Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER 9076 RIVER ROAD DELTA BC V4G 1B5

----- R E N E W A L -----

Reg. #: 140201L Reg. Date: NOV 07, 2018 Reg. Life: 1 YEAR Reg. Time: 12:53:07 Control #: D5671343

Base Reg. Type: PPSA SECURITY AGREEMENT

Base Reg. #: 453961I

Base Reg. Date: FEB 23, 2015

Registering

Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER 9076 RIVER ROAD DELTA BC V4G 1B5

----- P A R T I A L D I S C H A R G E -----

Reg. #: 396565L Reg. Date: MAR 27, 2019 Reg. Time: 10:06:38 Control #: D5932781

Base Reg. Type: PPSA SECURITY AGREEMENT

Base Reg. #: 453961I

Base Reg. Date: FEB 23, 2015

Vehicle Collateral:

Type Serial # Year Make/Model MH Reg.#

\*\* DELETED \*\*

+++ TR 1DW1A53201S419347 2001 STOUGHTON 53' T/A DRY VAN

\*\* DELETED \*\*

+++ TR 1S12E9534VE416090 1997 STRICK 53' VAN HEATER

Registering

Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER 9076 RIVER ROAD DELTA BC V4G 1B5

----- R E N E W A L -----

Reg. #: 886765L Reg. Date: NOV 12, 2019 Reg. Life: 1 YEAR Reg. Time: 10:21:25 Control #: D6431951

Base Reg. Type: PPSA SECURITY AGREEMENT

Base Reg. #: 453961I

Base Reg. Date: FEB 23, 2015

Registering

Party: C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER 9076 RIVER ROAD

Continued on Page 9

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: SEP 14, 2016 Reg. Length: 6 YEARS  
Reg. Time: 13:32:41 Expiry Date: SEP 14, 2022  
Base Reg. #: 537484J Control #: D4036761

Block#

S0001 Secured Party: WELLS FARGO EQUIPMENT FINANCE COMPANY  
2300 MEADOWVALE BLVD.  
MISSISSAUGA ON L5N 5P9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 130 BROADWAY W  
VANCOUVER BC V5Y 1P3

General Collateral:

ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS  
WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR  
INSURANCE PROCEEDS (REFERENCE NO. 9882171-001)

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.  
200 - 372 BAY STREET  
TORONTO ON M5H 2W9

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: SEP 27, 2016 Reg. Length: 6 YEARS  
Reg. Time: 08:27:21 Expiry Date: SEP 27, 2022  
Base Reg. #: 562051J Control #: D4061962

Block#

S0001 Secured Party: CIT FINANCIAL LTD.  
5035 SOUTH SERVICE ROAD  
BURLINGTON ON L7R 4C8

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) T1-8875 TORBRAM RD  
BRAMPTON ON L6T 3V9

General Collateral:

RICOH PRINTERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES.  
ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS

THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.

Continued on Page 10

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 10

Registering

Party: JCLD ONLINE TECHNOLOGIES  
16-1375 SOUTHDOWN ROAD STE 322  
MISSISSAUGA ON L5J 2Z1

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: JUL 31, 2017                      Reg. Length: 5 YEARS  
Reg. Time: 12:49:56                      Expiry Date: JUL 31, 2022  
Base Reg. #: 175058K                      Control #: D4686730

Block#

+++ Secured Party: ROYAL BANK OF CANADA, AS AGENT  
20 KING ST WEST, FOURTH FLR  
TORONTO ON M5H 1C4

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 1077 GREAT NORTHERN WAY  
VANCOUVER BC V5T 1E1

D0002 Bus. Debtor: 1314625 ONTARIO LIMITED  
1077 GREAT NORTHERN WAY  
VANCOUVER BC V5T 1E1

General Collateral:  
ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

Registering

Party: BLAKE CASSELS & GRAYDON LLP  
ATTN: PPSA CLERK  
PO BOX 49314 2600 595 BURNARD  
VANCOUVER BC V7X 1L3

----- A M E N D M E N T / O T H E R C H A N G E -----

Reg. #: 177631K                      Reg. Date: AUG 01, 2017  
Reg. Time: 08:40:24  
Control #: D4690163  
Base Reg. Type: PPSA SECURITY AGREEMENT  
Base Reg. #: 175058K                      Base Reg. Date: JUL 31, 2017

Details Description:  
ADDITION OF SECURED PARTY S0002 TO REFLECT SECURED PARTY  
S0001 NAME/ADDRESS CHANGE.

THE COMPLETE NAME AND ADDRESS OF SECURED PARTY S0002 IS:  
ROYAL BANK OF CANADA, AS AGENT  
12TH FLOOR, SOUTH TOWER  
ROYAL BANK PLAZA, 200 BAY STREET  
TORONTO, ONTARIO M5J 2W7

Block#

\*\* DELETED \*\*

+++ Secured Party: ROYAL BANK OF CANADA, AS AGENT  
20 KING ST WEST, FOURTH FLR  
TORONTO ON M5H 1C4

Continued on Page 11

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 11

\*\*\* ADDED \*\*\*

S0002 Secured Party: ROYAL BANK OF CANADA, AS AGENT  
200 BAY ST, 12TH FLR, S TOWER  
TORONTO ON M5J 2W7

Registering

Party: BLAKE CASSELS & GRAYDON LLP  
ATTN: PPSA CLERK  
PO BOX 49314 2600 595 Burrard  
VANCOUVER BC V7X 1L3

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: NOV 22, 2017                      Reg. Length: 3 YEARS  
Reg. Time: 08:54:07                          Expiry Date: NOV 22, 2020  
Base Reg. #: 415013K                          Control #: D4932386

Block#

S0001 Secured Party: APPLE CANADA INC.  
1100-1290 CENTRAL PARKWAY W.  
MISSISSAUGA ON L5C 4R3

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 1077 GREAT NORTHERN WAY  
VANCOUVER BC V5T1E1

General Collateral:

ALL GOODS WHICH ARE COMMUNICATION & ELECTRONIC DEVICES MANUFACTURED,  
DISTRIBUTED OR SOLD BY APPLE CANADA INC., THE GOODS DESCRIBED HEREIN  
TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS,  
SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN  
ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE  
COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY,  
CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS  
RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE  
COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF  
TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER  
PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE  
COLLATERAL OR PROCEEDS OF THE COLLATERAL. (REFERENCE NO. 9946246-001)  
(FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO  
TIME)

Registering

Party: SECUREFACT TRANSACTION SERVICES, INC.  
365 BAY STREET SUITE 300  
TORONTO ON M5H 2V1

\*\*\* Name/Address Changed on March 29, 2018 to:

Registering

Party: SECUREFACT TRANSACTION SERVICES INC.

200 - 372 BAY STREET  
TORONTO ON M5H 2W9

Continued on Page 12

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 12

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: JUL 10, 2018                      Reg. Length: 6 YEARS  
Reg. Time: 10:35:24                      Expiry Date: JUL 10, 2024  
Base Reg. #: 884391K                      Control #: D5410654

Block#

S0001 Secured Party: LBEL INC.  
5035 SOUTH SERVICE ROAD  
BURLINGTON ON L7R 4C8

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 13340 76TH AVE  
SURREY BC V3W 2W1

General Collateral:

PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.

Registering

Party: JCLD ONLINE TECHNOLOGIES  
16-1375 SOUTHDOWN ROAD STE 322  
MISSISSAUGA ON L5J 2Z1

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: JUL 30, 2019                      Reg. Length: 4 YEARS  
Reg. Time: 12:42:15                      Expiry Date: JUL 30, 2023  
Base Reg. #: 669057L                      Control #: D6210317

Block#

S0001 Secured Party: G.N. JOHNSTON EQUIPMENT CO. LTD.  
5990 AVEBURY ROAD  
MISSISSAUGA ON L5R3R2

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 13340 76TH AVENUE  
SURREY BC V3W2W1

Vehicle Collateral:

Type	Serial #	Year	Make/Model	MH Reg.#
V0001	MV	560-19-B46074	2019 RAYMOND 560-OPC30TT	
V0002	MV	560-19-B46076	2019 RAYMOND 560-OPC30TT	
V0003	MV	560-19-B46078	2019 RAYMOND 560-OPC30TT	

General Collateral:

(3) DEKA BATTERIES 18D125136C79 S/N 2005AI 2011AI 2012AI AND (3) DEKA CHARGERS Q4-24/36-150BB S/N 2-10-0119-00314 2-10-0519-20936 2-10-1218-20820 REF. 509297

Continued on Page 13

Search Criteria: MOUNTAIN EQUIPMENT CO-OPERATIVE

Page: 13

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: NOV 21, 2019 Reg. Length: 6 YEARS  
Reg. Time: 12:07:01 Expiry Date: NOV 21, 2025  
Base Reg. #: 906149L Control #: D6451746

Block#

S0001 Secured Party: LBEL INC.  
5035 SOUTH SERVICE ROAD  
BURLINGTON ON L7L6M9

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 1077 GREAT NORTHERN WAY  
VANCOUVER BC V5T1E1

General Collateral:

PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

Registering

Party: AVS SYSTEMS INC.  
201-1325 POLSON DR.  
VERNON BC V1T 8H2

\*\*\*\*\* P P S A S E C U R I T Y A G R E E M E N T \*\*\*\*\*

Reg. Date: MAR 09, 2020 Reg. Length: 6 YEARS  
Reg. Time: 13:33:53 Expiry Date: MAR 09, 2026  
Base Reg. #: 108152M Control #: D6657304

Block#

S0001 Secured Party: WELLS FARGO EQUIPMENT FINANCE COMPANY  
1100-1290 CENTRAL PARKWAY W.  
MISSISSAUGA ON L5C 4R3

=D0001 Base Debtor: MOUNTAIN EQUIPMENT CO-OPERATIVE  
(Business) 1077 GREAT NORTHERN WAY  
VANCOUVER BC V5T1E1

General Collateral:

ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, 3D PRINTERS, PRODUCTION PRINTERS, INDUSTRIAL INKJETS, DIGITAL PRESSES, DIGITAL SIGNAGE, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE WHITEBOARDS, SERVERS, AND SOFTWARE, OFFICE FURNITURE (CHAIRS, TABLES, ACCESSORIES), TELEPHONY, COMPUTERS, TELECONFERENCING





Search ID #: Z13049668

**Transmitting Party**

WEST-END REGISTRATIONS LICENSING & SEARCHES  
LTD. (P158)

10011 170 STREET  
EDMONTON, AB T5P 4R5

Party Code: 50076967  
Phone #: 780 483 8211  
Reference #: 03061757-108024

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

**Business Debtor Search For:**

Mountain Equipment Co-operative

Exact Result(s) Only Found

**NOTE:**

A complete Search may result in a Report of Exact and Inexact Matches.  
Be sure to read the reports carefully.



Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

---

Registration Number: 15010726580

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Jan-07

Registration Status: Current

Expiry Date: 2021-Jan-07 23:59:59

---

Exact Match on:

Debtor

No: 1

---

**Debtor(s)**

**Block**

**Status**

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
830 - 10TH AVENUE SW  
CALGARY, AB T2R 0A9

Current

**Secured Party / Parties**

**Block**

**Status**

1 GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD.  
MISSISSAUGA, ON L5N 5P9

Current

**Collateral: General**

**Block**

**Description**

**Status**

1 ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL  
REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES,  
ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF,  
INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER,  
INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY,  
INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)

Current

Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

Registration Number: 15020934670

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Feb-09

Registration Status: Current

Expiry Date: 2021-Feb-09 23:59:59

Exact Match on:

Debtor

No: 1

**Debtor(s)****Block****Status**

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
12328 102 AVE NW  
EDMONTON, AB T5N 0L9

Current

**Secured Party / Parties****Block****Status**

1 GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD, SUITE 200  
MISSISSAUGA, ON L5N 5P9

Current

**Collateral: General****Block****Description****Status**

1 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL  
PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT  
PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS  
OR INSURANCE PROCEEDS (REFERENCE NO. 9796939-001)

Current

Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

Registration Number: 15020934682

Registration Type: SECURITY AGREEMENT

Registration Date: 2015-Feb-09

Registration Status: Current

Expiry Date: 2021-Feb-09 23:59:59

Exact Match on:

Debtor

No: 1

**Debtor(s)****Block****Status**

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
830 10 AVE SW  
CALGARY, AB T2R 0A9

Current

**Secured Party / Parties****Block****Status**

1 GE VFS CANADA LIMITED PARTNERSHIP  
2300 MEADOWVALE BLVD, SUITE 200  
MISSISSAUGA, ON L5N 5P9

Current

**Collateral: General****Block****Description****Status**

1 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND  
SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND  
ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL  
PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT  
PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS  
OR INSURANCE PROCEEDS (REFERENCE NO. 9796937-001)

Current

Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

Registration Number: 17073129667

Registration Type: SECURITY AGREEMENT

Registration Date: 2017-Jul-31

Registration Status: Current

Expiry Date: 2022-Jul-31 23:59:59

Exact Match on:

Debtor

No: 1

**Amendments to Registration**

17080116491

Amendment

2017-Aug-01

**Debtor(s)****Block****Status**

Current

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 GREAT NORTHERN WAY  
VANCOUVER, BC V5T 1E1

**Secured Party / Parties****Block****Status**Deleted by  
17080116491

1 ROYAL BANK OF CANADA, AS AGENT  
20 KING STREET WEST, FOURTH FLOOR  
TORONTO, ON M5H 1C4

**Block****Status**Current by  
17080116491

2 ROYAL BANK OF CANADA, AS AGENT  
200 BAY STREET, 12TH FLOOR, SOUTH TOWER  
TORONTO, ON M5J 2W7

**Collateral: General****Block****Description****Status**

1 All of the Debtor's present and after-acquired personal property.

Current

Search ID #: Z13049668

**Particulars**

**Block**    **Additional Information**

**Status**

1        The complete address of the Secured Party in Block #2 is:  
  
          12th Floor, South Tower  
          Royal Bank Plaza, 200 Bay Street  
          Toronto, ON  
          M5J 2W7

Current By  
17080116491

Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

Registration Number: 17073129676

Registration Type: LAND CHARGE

Registration Date: 2017-Jul-31

Registration Status: Current

Registration Term: Infinity

Exact Match on:

Debtor

No: 1

**Amendments to Registration**

17080116556

Amendment

2017-Aug-01

**Debtor(s)****Block****Status**

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 GREAT NORTHERN WAY  
VANCOUVER, BC V5T 1E1

Current

**Secured Party / Parties****Block****Status**

1 ROYAL BANK OF CANADA, AS AGENT  
20 KING STREET WEST, FOURTH FLOOR  
TORONTO, ON M5H 1C4

Deleted by  
17080116556**Block****Status**

2 ROYAL BANK OF CANADA, AS AGENT  
200 BAY STREET, 12TH FLOOR, SOUTH TOWER  
TORONTO, ON M5J 2W7

Current by  
17080116556**Particulars****Block****Additional Information****Status**

1 The complete address of the Secured Party in Block #2 is:

Current By  
17080116556

12th Floor, South Tower  
Royal Bank Plaza, 200 Bay Street  
Toronto, ON  
M5J 2W7



Search ID #: Z13049668

**Business Debtor Search For:**

Mountain Equipment Co-operative

Search ID #: Z13049668

Date of Search: 2020-Sep-10

Time of Search: 09:42:04

Registration Number: 19112122796

Registration Type: SECURITY AGREEMENT

Registration Date: 2019-Nov-21

Registration Status: Current

Expiry Date: 2025-Nov-21 23:59:59

Exact Match on:

Debtor

No: 1

**Debtor(s)****Block****Status**

1 MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 GREAT NORTHERN WAY  
VANCOUVER, BC V5T 1E1

Current

**Secured Party / Parties****Block****Status**

1 LBEL INC.  
5035 SOUTH SERVICE ROAD  
BURLINGTON, ON L7L 6M9  
Email: absecparties@avssystems.ca

Current

**Collateral: General****Block****Description****Status**

1 PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES.  
ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND  
IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL  
THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE,  
INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE  
PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

Current

Result Complete

## Business Debtor

Sue Shaunessy  
(odi1ssha) **Logoff**

Search Results	Print Requests	Mailing Information	Payment
----------------	----------------	---------------------	---------

[Help](#)

## Search by Business Debtor

Date: 2020-09-10  
Time: 10:46:21 AM  
Transaction Number: 10256625526

Business Name: Mountain Equipment Co-operative

**2 exact matches were found.****0 similar matches were found.**

## EXACT MATCHES

Business Debtor Name	No. of Registrations
1. <a href="#">MOUNTAIN EQUIPMENT CO-OPERATIVE</a>	2
2. <a href="#">Mountain Equipment Co-Operative</a>	1

## 1. MOUNTAIN EQUIPMENT CO-OPERATIVE

**1.1 MOUNTAIN EQUIPMENT CO-OPERATIVE: Registration 202012181800 (2020-07-30 4:27:59 PM)**

<b>Registered under</b>	The Personal Property Security Act
<b>Expiry Date (YYYY-MM-DD)</b>	2025-07-30
<b>Debtor Address</b>	1077 GREAT NORTHERN WAY VANCOUVER, BRITISH COLUMBIA Canada V5T 1E1
<b>Secured Parties (party code, name, address)</b>	ROYAL BANK OF CANADA, AS AGENT 12TH FLOOR, SOUTH TOWER ROYAL BANK PLAZA, 200 BAY STREET TORONTO, ONTARIO Canada M5J 2W7
<b>General Collateral Description</b>	With respect to the property civically known as 303 Portage Avenue, Winnipeg, Manitoba, and legally described as:  LOTS 319 AND 320 BLOCK 3 PLAN 129 WLTO (W DIV) IN RL 1 PARISH OF ST JOHN  (the ♦Property♦)  the Business Debtor hereby assigns, transfers and sets over to the Secured Party, as Agent for and on behalf of the Lenders, and creates a security interest in (as continuing collateral and additional security for the Obligations) all of the Assignor♦s respective right, title, benefit and interest in and to:  (a) the Leases and all benefits, powers and advantages of the Business Debtor to be derived therefrom and all covenants, obligations, undertakings and agreements of tenants thereunder; and  (b) the Rents, with full power and authority to demand, collect, sue for, recover, receive and give receipts for the Rents, and to enforce payment of the Rents in the name of the Business Debtor.  Unless otherwise defined herein, all capitalized terms and expressions used herein shall have the same meaning as set out in the General Assignment of Leases and Rents made between the Secured Party and the Business Debtor dated July 29, 2020.

**1.2 MOUNTAIN EQUIPMENT CO-OPERATIVE: Registration 201920179806 (2019-11-21 2:07:52 PM)**

<b>Registered under</b>	The Personal Property Security Act
<b>Expiry Date (YYYY-MM-DD)</b>	2025-11-21
<b>Debtor Address</b>	1077 GREAT NORTHERN WAY VANCOUVER, BC Canada V5T1E1
<b>Secured Parties (party code, name, address)</b>	LBEL INC. 5035 South Service Road Burlington, ON Canada L7L6M9
<b>General Collateral Description</b>	PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

[Back to Top](#)

## 2. Mountain Equipment Co-Operative

**2.1 Mountain Equipment Co-Operative: Registration 201713932804 (2017-08-01 4:51:20 PM)**

Services

Account Services

Account  
StatementsRegistration  
ServicesFinancing  
Statement

Change Statement

Discharge  
Statement

Global Change

Search Services

Individual Debtor

Business Debtor

Registration  
Number

Serial Number

Document Copies

Other Services

Fees

Party Code

Registration History

Contact Us

eRegistration

Land Titles Online

Plan Deposit  
Submission

Title Check

Account  
Information

<b>Registered under</b>	The Personal Property Security Act
<b>Expiry Date (YYYY-MM-DD)</b>	2022-08-01
<b>Debtor Address</b>	1077 Great Northern Way Vancouver, BC Canada V5T 1E1
<b>Secured Parties (party code, name, address)</b>	Royal Bank of Canada, as agent 12th Floor, South Tower Royal Bank Plaza, 200 Bay Street Toronto, ON Canada M5J 2W7
<b>General Collateral Description</b>	*The security interest is taken in all of the debtor's present and after-acquired personal property.

[Back to Top](#)

**END OF EXACT MATCHES**

**Additional Options:**

To request Printed Search Results or Printed Registered Documents, please select the "Print Requests" tab.

To start a new search, please select the "New Search" button:

New Search

Search  
Results

Print  
Requests

Mailing  
Information

Payment

[Printer Friendly Version](#)

[Privacy](#)

## Enquiry Result

**SUB-SEARCH: Only registrations starting from January 01, 1950 retrieved.**

File Currency: 09SEP 2020



Show All Pages

**Note: All pages have been returned.**

Type of Search	Business Debtor								
Search Conducted On	MOUNTAIN EQUIPMENT CO-OPERATIVE								
File Currency	09SEP 2020								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	702828387	1	7	1	9	07JAN 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
702828387		001	1		20150107 1559 5064 8135	P PPSA	06		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	Address				City	Province	Postal Code		
	400 KING ST W				TORONTO	ON	M5V 1K2		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	GE VFS CANADA LIMITED PARTNERSHIP								
	Address				City	Province	Postal Code		
	2300 MEADOWVALE BLVD, SUITE 200				MISSISSAUGA	ON	L5N 5P9		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
			X						
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	ACCOUNT SCHEDULE- 9792123001								

Registering Agent	Registering Agent			
	SECUREFACT TRANSACTION SERVICES, INC.			
Address	City	Province	Postal Code	
350 BAY STREET, SUITE 300	TORONTO	ON	M5H 2S6	

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	703529262	2	7	2	9	09FEB 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
703529262		001	1		20150209 1851 5064 9241	P PPSA	06		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	61 BRYNE DR			BARRIE	ON	L4N 8V8			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	GE VFS CANADA LIMITED PARTNERSHIP								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	2300 MEADOWVALE BLVD, SUITE 200			MISSISSAUGA	ON	L5N 5P9			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X						
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ACCOUNT SCHEDULE- 9796936001								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	SECUREFACT TRANSACTION SERVICES, INC.								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	350 BAY STREET, SUITE 300			TORONTO	ON	M5H 2S6			

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	703529271	3	7	3	9	09FEB 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
703529271		001	1		20150209 1855 5064 9244	P PPSA	06		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	1030 BRANT ST			BURLINGTON	ON	L7R 0B2			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	GE VFS CANADA LIMITED PARTNERSHIP								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	2300 MEADOWVALE BLVD, SUITE 200			MISSISSAUGA	ON	L5N 5P9			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X						
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ACCOUNT SCHEDULE- 9796933001								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	SECUREFACT TRANSACTION SERVICES, INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	350 BAY STREET, SUITE 300				TORONTO	ON	M5H 2S6		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	703529289	4	7	4	9	09FEB 2021			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
703529289		001	1		20150209 1856 5064 9245	P PPSA	06		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	366 RICHMOND RD			OTTAWA	ON	K2A 0E8			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	GE VFS CANADA LIMITED PARTNERSHIP								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	2300 MEADOWVALE BLVD, SUITE 200			MISSISSAUGA	ON	L5N 5P9			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X						
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	ACCOUNT SCHEDULE- 9796943001								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	SECUREFACT TRANSACTION SERVICES, INC.								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	350 BAY STREET, SUITE 300				TORONTO	ON	M5H 2S6		

END OF FAMILY



<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	720977499	5	7	5	9	27SEP 2022			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
720977499		001	1		20160927 1126 1616 0567	P PPSA	06		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	T1-8875 TORBRAM RD			BRAMPTON	ON	L6T 3V9			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	CIT FINANCIAL LTD.								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	5035 SOUTH SERVICE ROAD			BURLINGTON	ON	L7R 4C8			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X		X				
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	RICOH PRINTERS AND ACCESSORIES								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	JCLD ONLINE								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	16-1375 SOUTHDOWN RD STE 322				MISSISSAUGA	ON	L5J 2Z1		

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	730382877	6	7	6	9	31JUL 2022			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
730382877		001	001		20170731 1539 1862 1162	P PPSA	5		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	1077 GREAT NORTHERN WAY				VANCOUVER	BC	V5T 1E1		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	1314625 ONTARIO LIMITED								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	ROYAL BANK OF CANADA, AS AGENT								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	20 KING STREET WEST, FOURTH FLOOR				TORONTO	ON	M5H 1C4		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
		X	X	X	X	X			
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	BLAKE, CASSELS & GRAYDON LLP (C. CHAN/LLB)								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	SUITE 4000, COMMERCE COURT WEST				TORONTO	ON	M5L 1A9		

CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>					<b>of Pages</b>
	730382877	6	7	7					9
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>			<b>Registered Under</b>	
		001	002		20170801 1201 1862 1238				
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>		<b>Renewal Years</b>	<b>Correct Period</b>		
	730382877		X	A AMNDMNT					
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>				
	<b>Business Debtor Name</b>								
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>Other Change</b>	<b>Other Change</b>								
<b>Reason / Description</b>	<b>Reason / Description</b>								
	TO CORRECT THE ADDRESS OF THE SECURED PARTY.								
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
	<b>Business Debtor Name</b>							<b>Ontario Corporation Number</b>	
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Assignor Name</b>	<b>Assignor Name</b>								
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>								
	ROYAL BANK OF CANADA, AS AGENT								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	12TH FLOOR, SOUTH TOWER, ROYAL BANK				TORONTO	ON	M5J 2W7		
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>		<b>V.I.N.</b>		
<b>General Collateral Description</b>	<b>General Collateral Description</b>								

<b>Registering Agent</b>	<b>Registering Agent or Secured Party/ Lien Claimant</b>			
	BLAKE, CASSELS & GRAYDON LLP (C. CHAN/LLB)			
	<b>Address</b>	<b>City</b>	<b>Province</b>	<b>Postal Code</b>
	SUITE 4000, COMMERCE COURT WEST	TORONTO	ON	M5L 1A9

CONTINUED

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>					<b>of Pages</b>
	730382877	6	7	8					9
<b>FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT</b>									
	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule Attached</b>	<b>Registration Number</b>			<b>Registered Under</b>	
		002	002		20170801 1201 1862 1238				
<b>Record Referenced</b>	<b>File Number</b>	<b>Page Amended</b>	<b>No Specific Page Amended</b>	<b>Change Required</b>			<b>Renewal Years</b>	<b>Correct Period</b>	
	730382877								
<b>Reference Debtor/ Transferor</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>				
	<b>Business Debtor Name</b>								
<b>Other Change</b>	<b>Other Change</b>								
<b>Reason / Description</b>	<b>Reason / Description</b>								
<b>Debtor/ Transferee</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
	<b>Business Debtor Name</b>							<b>Ontario Corporation Number</b>	
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
<b>Assignor Name</b>	<b>Assignor Name</b>								
<b>Secured Party</b>	<b>Secured party, lien claimant, assignee</b>								
	<b>Address</b>				<b>City</b>	<b>Province</b>	<b>Postal Code</b>		
	PLAZA, 200 BAY STREET								
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>			<b>V.I.N.</b>	
<b>General Collateral Description</b>	<b>General Collateral Description</b>								

Registering Agent	Registering Agent or Secured Party/ Lien Claimant			
	Address	City	Province	Postal Code

END OF FAMILY

<b>Type of Search</b>	Business Debtor								
<b>Search Conducted On</b>	MOUNTAIN EQUIPMENT CO-OPERATIVE								
<b>File Currency</b>	09SEP 2020								
	<b>File Number</b>	<b>Family</b>	<b>of Families</b>	<b>Page</b>	<b>of Pages</b>	<b>Expiry Date</b>	<b>Status</b>		
	757827126	7	7	9	9	21NOV 2025			
<b>FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN</b>									
<b>File Number</b>	<b>Caution Filing</b>	<b>Page of</b>	<b>Total Pages</b>	<b>Motor Vehicle Schedule</b>	<b>Registration Number</b>	<b>Registered Under</b>	<b>Registration Period</b>		
757827126		001	1		20191121 1512 1901 4810	P PPSA	06		
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	MOUNTAIN EQUIPMENT CO-OPERATIVE								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	1077 GREAT NORTHERN WAY			VANCOUVER	BC	V5T 1E1			
<b>Individual Debtor</b>	<b>Date of Birth</b>	<b>First Given Name</b>			<b>Initial</b>	<b>Surname</b>			
<b>Business Debtor</b>	<b>Business Debtor Name</b>					<b>Ontario Corporation Number</b>			
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
<b>Secured Party</b>	<b>Secured Party / Lien Claimant</b>								
	LBEL INC.								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	5035 SOUTH SERVICE ROAD			BURLINGTON	ON	L7L 6M9			
<b>Collateral Classification</b>	<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	<b>Amount</b>	<b>Date of Maturity or</b>	<b>No Fixed Maturity Date</b>
			X		X				
<b>Motor Vehicle Description</b>	<b>Year</b>	<b>Make</b>			<b>Model</b>	<b>V.I.N.</b>			
<b>General Collateral Description</b>	<b>General Collateral Description</b>								
	PHOTOCOPIERS WITH ALL ACCESSORIES								
<b>Registering Agent</b>	<b>Registering Agent</b>								
	ESC CORPORATE SERVICES LTD.								
	<b>Address</b>			<b>City</b>	<b>Province</b>	<b>Postal Code</b>			
	201-1325 POLSON DRIVE			VERNON	BC	V1T 8H2			

LAST PAGE

**Note: All pages have been returned.**[BACK TO TOP](#)

All Pages ▾



Show All Pages

This service is tested daily with McAfee SECURE™ to ensure the security of the transaction and information.

At ServiceOntario, we respect your right to privacy and value the trust you place in us. [Read more about ServiceOntario's Privacy Statement.](#)

[ServiceOntario Contact Centre](#)

Web Page ID: **WEnqResult**

System Date: **10SEP2020**

Last Modified: November 03, 2019

[Privacy](#)

[Accessibility](#)

[Contact us](#)

[FAQ](#)

[Terms of Use](#)

[© Queen's Printer for Ontario 2015](#)



Date, heure, minute de certification : 2020-09-09 10:29

Date, heure, minute de consultation : 2020-09-10 11:50

Recherche effectuée par organisme - Nom : Mountain Equipment Co-operative

Résultats exacts (1)

Nom organisme		Code postal
MOUNTAIN EQUIPMENT CO OPERATIVE		V5T1E1
Fiche	Inscription	Date h:min
001	DROITS DE PROPRIÉTÉ DU CRÉDIT-BAILLEUR 19-1327984-0001	2019-11-22 09:30
Fiche	Inscription	Date h:min
002	HYPOTHÈQUE CONVENTIONNELLE SANS DÉPOSSESSION 17-0817207-0001	2017-08-03 14:37

Résultats similaires (45)

Nom organisme		Code postal
AGRIFOODS INTERNATIONAL CO OPERATIVE LTD		T2E4P9
Nom organisme		Code postal
AGRIFOODS INTERNATIONAL CO OPERATIVE LTD		V5A1W2
Nom organisme		Code postal
AGRIFOODS INT'L CO OPERATIVE		V5A1W2
Nom organisme		Code postal
AGRIFOODS INT'L CO OPERATIVE LTD		V5A1W2
Nom organisme		Code postal
AGROPUR CO OPERATIVE		J0N1E0
Nom organisme		Code postal
AGROPUR CO OPERATIVE		J4H4B9
Nom organisme		Code postal
AKULIVIK CO OPERATIVE ASSOCIATION		H9X3R8
Nom organisme		Code postal

AKULIVIK CO OPERATIVE ASSOCIATION	J0M1V0
Nom organisme AXIUM EQUIPMENT CO	Code postal
Nom organisme BISHOP'S UNIVERSITY CO OPERATIVE	Code postal J1M1Z7
Nom organisme CANADIAN CO OPERATIVE WOLL GROWERS LTD	Code postal J2R1T9
Nom organisme COOP DE L'UNIVERSITE BISHOP'S BISHOP'S UNIVERSITY CO OPERATIVE	Code postal J1M1Z7
Nom organisme COOP MOUNTAIN EQUIPMENT	Code postal V5T1E1
Nom organisme CORBEIL EQUIPMENT COMPANY INC	Code postal K0B1C0
Nom organisme FLATIRON EQUIPMENT COMPANY CANADA LTD	Code postal T2P0R3
Nom organisme FORT CHIMO CO OPERATIVE ASSOCIATION	Code postal H9X3R8
Nom organisme FORT CHIMO CO OPERATIVE ASSOCIATION	Code postal J0M1C0
Nom organisme GAY LEA FOODS CO OPERATIVE LTD	Code postal J4B8P1
Nom organisme GAY LEA FOODS CO OPERATIVE LTD	Code postal L4W5B4
Nom organisme GAY LEA FOODS CO OPERATIVE LTD	Code postal M9M2G7
Nom organisme GEORGE RIVER CO OPERATIVE ASSOCIATION	Code postal H9X3R8
Nom organisme GEORGE RIVER CO OPERATIVE ASSOCIATION	Code postal J0M1N0
Nom organisme GN JOHNSTON EQUIPMENT CO LTD	Code postal L5N3R2
Nom organisme GN JOHNSTON EQUIPMENT CO LTD	Code postal L5R3R2

Nom organisme GN JOHNSTON EQUIPMENT CO LTD	Code postal L5T1H1
Nom organisme GREAT WHALE RIVER CO OPERATIVE ASSOCIATION	Code postal J0M1G0
Nom organisme INDUSTRIAL SAFETY EQUIPMENT COMPANY LTD	Code postal L5N6C5
Nom organisme INTERPROVINCIAL CO OPERATIVE LTD	Code postal S7K0H2
Nom organisme IVUJIVIK CO OPERATIVE ASSOCIATION	Code postal H9X3R8
Nom organisme IVUJIVIK CO OPERATIVE ASSOCIATION	Code postal J0M1H0
Nom organisme KOARTAK CO OPERATIVE ASSOCIATION	Code postal H9X3R8
Nom organisme KOARTAK CO OPERATIVE ASSOCIATION	Code postal J0M1J0
Nom organisme LA FROMAGERIE COOP ST ALBERT INC ST ALBERT CHEESE CO OPERATIVE INC	Code postal K0A3C0
Nom organisme L'ASSOCIATION COOP DE POSTE DE LA BALEINE GREAT WHALE RIVER CO OPERATIVE ASSOCIATION	Code postal H9X3R8
Nom organisme L'ASSOCIATION COOP DE POSTE DE LA BALEINE GREAT WHALE RIVER CO OPERATIVE ASSOCIATION	Code postal J0M1G0
Nom organisme LILYDALE CO OPERATIVE LTD	Code postal T5C1R9
Nom organisme MODO CO OPERATIVE	Code postal V6C1V5
Nom organisme RAINBOW COLONY EQUIPMENT CO LTD	Code postal T4G1T9
Nom organisme SHAWMUT EQUIPMENT COMPANY INC	Code postal
Nom organisme ST ALBERT CHEESE CO OPERATIVE INC	Code postal K0A3C0

Nom organisme ST ALBERT CHEESE CO OPERATIVE INC LA FROMAGERIE COOP ST ALBERT INC	Code postal K0A3C0
Nom organisme SUGLUK CO OPERATIVE ASSOCIATION	Code postal J0M1S0
Nom organisme TASIUJAQ CO OPERATIVE ASSOCIATION	Code postal J0M1T0
Nom organisme UNITED FARMERS OF ALBERTA CO OPERATIVE LTD	Code postal T3E6L1
Nom organisme WHITING EQUIPMENT SERVICES COMPANY LTD	Code postal L3B5P4

Date, heure, minute de certification : 2020-09-09 10:29

Date, heure, minute de consultation : 2020-09-10 11:50

Recherche effectuée par organisme - Nom : Mountain Equipment Co-operative

## Détail de l'inscription

---

INSCRIPTION	DATE-HEURE-MINUTE	DATE EXTRÊME D'EFFET
19-1327984-0001	2019-11-22 09:30	2025-10-10
DROITS DE PROPRIÉTÉ DU CRÉDIT-BAILLEUR		

### PARTIES

#### Crédit-bailleur

LBEL INC.  
5035, SOUTH SERVICE ROAD, C.P. 5060, BURLINGTON L7R 4C8  
(ONTARIO)

#### Crédit-preneur

COOPÉRATIVE MOUNTAIN EQUIPMENT  
1077 GREAT NORTHERN WAY, VANCOUVER, BC V5T 1E1

#### Crédit-preneur

MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 GREAT NORTHERN WAY, VANCOUVER, BC V5T 1E1

### BIENS

(1) IMPRIMANTE RICOH P C600, ns: 5329X601827;  
(3) IMPRIMANTE RICOH AFICIO SP 5300DN, ns: Y029X355575; Y029X355584;  
Y028X842771

Les biens meubles décrits ci-dessus, où qu'ils se trouvent, incluant toutes les pièces, accessoires, biens de remplacement, ajouts et dispositifs s'y rattachant, corporels et incorporels (incluant tout logiciel), présents et futurs, reliés à ces biens meubles ou fixés sur ceux-ci, ainsi que tous les produits et toute la documentation, les manuels ou les informations fournis relativement à ces biens meubles.

### MENTIONS

#### Référence à l'acte constitutif

Forme de l'acte : Sous seing privé

Date : 2019-10-10

Lieu : VANCOUVER

#### Autres mentions :

NUMÉRO DE CONTRAT : 100411519-19

### AVIS D'ADRESSE

N° 017592

Date, heure, minute de certification : 2020-09-09 10:29

Date, heure, minute de consultation : 2020-09-10 11:50

Recherche effectuée par organisme - Nom : Mountain Equipment Co-operative

## Détail de l'inscription

---

INSCRIPTION	DATE-HEURE-MINUTE	DATE EXTRÊME D'EFFET
17-0817207-0001	2017-08-03 14:37	2027-08-02
HYPOTHÈQUE CONVENTIONNELLE SANS DÉPOSSESSION		

### PARTIES

#### Titulaire

ROYAL BANK OF CANADA  
12th Floor, South Tower, Royal Bank Plaza, 200 Bay M5J 2W7  
Street, Toronto,

#### Constituant

MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 Great Northern Way, Vancouver, British Columbia V5T 1E1

#### Constituant

COOPÉRATIVE MOUNTAIN EQUIPMENT  
1077 Great Northern Way, Vancouver, British Columbia V5T 1E1

### BIENS

1. The universality of all of the Grantor's movable property, corporeal and incorporeal, present and future, of any nature whatsoever and wheresoever situate, the whole including, without limitation, the following universalities of present and future property of the Grantor (collectively, the "Charged Property"):

(a) Inventory. All inventory and property in stock of any nature and kind of the Grantor whether in its possession, in transit or held on its behalf, including property in reserve, raw materials or other materials, goods manufactured or transformed, or in the process of being so, by the Grantor or by others, packaging materials, property evidenced by bills of lading, animals, wares, mineral substances, hydrocarbons and other products of the soil and all fruits thereof, from the time of their extraction, as well as any other property held for sale, lease or processing in the manufacture or transformation of property intended for sale, lease or use in providing a product or service by the Grantor (collectively, the "Inventory");

The Inventory held by third parties pursuant to a lease agreement, a leasing contract, a franchise or licence agreement, or any other agreement entered into with the Grantor or on its behalf, is also subject to the Hypothec created in the Deed;

Property having formed part of the Inventory which has been alienated by the Grantor in favour of a third Person but in respect of which the Grantor has retained title pursuant to a reservation of ownership provision, shall remain charged by the Hypothec until title is

transferred; any Inventory the ownership of which reverts to the Grantor pursuant to the resolution or resiliation of any agreement is also subject to the Hypothec created in the Deed;

(b) Claims, Book Debts and Other Movable Property

(i) Claims, Receivables and Book Debts. All of the Grantor's claims, debts and demands, whatever their cause or nature, whether or not they are certain, liquid or exigible, whether or not evidenced by any title (and whether or not such title is negotiable), bill of exchange or draft, whether litigious or not, whether or not they have been previously or are to be invoiced, whether or not they constitute book debts or trade accounts receivable, and including those accounts which are in respect of any Charged Property as well as all monies or other obligations or indebtedness owing or to be owing to the Grantor arising from the sale, lease or exchange of all or any part of the Charged Property under any Contracts for the foregoing (whether or not yet earned by performance on the part the Grantor) as well as all royalties, income, accounts receivable, receipts, revenues, deposits (including, without limitation, security, utility and other deposits and interest thereon), accounts, cash, issues, profits, charges for goods or services rendered, interest on security, tax and receivables, rents, instalment payment obligations, profits and benefits of every nature from the use, enjoyment and occupancy of the Charged Property, or the sale, lease, sublease, licence, concession or other grant of right to use or occupy, and including, without limitation, all Monetary Claims. Hypothecated Claims shall include: (i) indemnities payable to the Grantor under any Contract of insurance of property, of persons or of liability, (ii) the sums owing to the Grantor in connection with interest or currency exchange Contracts and other treasury or hedging instruments, management of risks instruments or derivative products existing in favour of the Grantor, (iii) the Grantor's rights in the credit balance of accounts held for its benefit either by the Agent (subject to the Agent's compensation rights) or by any financial institution or any other Person and (iv) proceeds of expropriation;

(ii) Rights of Action. The Grantor's rights under Contracts and licences, as well as the Grantor's rights of action and claims against third Persons;

(iii) Accessories. All the security, security agreements, guarantees, suretyships, notes and accessories to the claims and rights mentioned above and other rights relating thereto (including, without limitation, the rights of the Grantor in its capacity as seller under an instalment sale agreement or a conditional sale agreement, where the claims are the result of such sale);

(iv) Movable Property. All movable property owned by the Grantor and covered by the instalment or conditional sales agreements mentioned in Section 1(b)(iii);

(v) No Exclusion. A right or a claim shall not be excluded from the Charged Property by reason of the fact that: (i) the debtor thereof is domiciled outside the Province of Québec or (ii) the debtor thereof is an Affiliate of the Grantor (regardless of the Law of the jurisdiction of its incorporation or creation, as applicable) or (iii) such right or claim is not related to the operation of the Grantor or (iv) such right or claim is not related to the ordinary course of business of the Grantor;

(c) Instruments. All Instruments now or hereafter owned by the Grantor or held by the Grantor or on its behalf, and all of the right, title and interest of the Grantor in any and all of the Instruments;

(d) Equipment and Other Property. All the equipment, office furniture, appliances, supplies, apparatus, tools, patterns, models, dies, blueprints, fittings, furnishings, fixtures, machinery, vehicles and

rolling stock (all such property collectively, the "Equipment"), including without limitation, spare parts, accessories and additions of whatever nature or kind;

(e) Intellectual Property Rights. All of the Grantor's rights in any trade-mark, copyright, industrial design, patent, patent rights, goodwill, invention, business or trade name, trade secret, trade process, licence, permit, franchise, know-how, plant breeders' right, topography of integrated circuits and in any other intellectual property right (registered or not) including, if any, any application or registration related thereto, improvements and modifications thereto as well as rights in any action pertaining to the protection, in Canada or abroad, of any such intellectual property rights or infringement thereto or any rights relating to any of the foregoing (collectively, the "Intellectual Property Rights");

(f) Contracts. All Contracts, including without limitation any construction, utility, maintenance, management, advisory, operating and service Contracts, and Contracts with architects and engineers, permits, licences, certificates and entitlements in any way relating to the development, construction, use, occupancy, operation, maintenance, enjoyment, acquisition or ownership of any Charged Property of the Grantor;

(g) Permits. All Permits now or hereafter acquired by the Grantor or held by the Grantor or on its behalf, in Canada or abroad, and all of the right, title and interest of the Grantor in any and all Permits;

(h) Documents of Title. All Documents of Title now or hereafter owned by the Grantor or held by the Grantor or on its behalf, and all of the right, title and interest of the Grantor in any and all Documents of Title;

(i) Securities. All Securities now or hereafter owned by the Grantor or held by the Grantor or on its behalf, and all of the right, title and interest of the Grantor in any and all of the Securities;

(j) Fruits and Revenues. All fruits and revenues emanating from the Charged Property, including, without limitation, the proceeds of any sale, assignment, lease or other disposition of any of the Charged Property, any claim resulting from such a sale, assignment, lease or other disposition, as well as any property acquired in replacement thereof (collectively, the "Proceeds");

(k) Books and Records and Others Documents. All Books and Records, as well as the rights of the Grantor to recover such property from third parties; and

(l) Replacement Property. Any and all Charged Property which is acquired, transformed or manufactured after the date of the Deed shall be charged by the Hypothec, (i) whether or not such property has been acquired in replacement of other Charged Property which may have been alienated by the Grantor in the ordinary course of business, (ii) whether or not such property results from a transformation, mixture or combination of any Charged Property, and (iii) in the case of Securities, whether or not they have been issued pursuant to the purchase, redemption, conversion or cancellation or any other transformation of the charged Securities and without the Agent being required to register or re-register any notice whatsoever, the property hypothecated under the Deed being a universality of present and future property.

Definitions:

"Agent" means Royal Bank of Canada, in its capacity as administrative agent and collateral agent under the Credit Agreement and which shall



include its role as hypothecary representative for the Credit Parties as contemplated in Article 2692 of the Civil Code of Québec, and shall include its successors and assigns appointed pursuant to the provisions of the Credit Agreement.

"Books and Records" means all books, records, files, papers, disks, documents and other repositories of data recording in any form or medium, evidencing or relating to the Charged Property which are at any time owned by the Grantor or to which the Grantor (or any Person on the Grantor's behalf) has access.

"Contracts" means all contracts, licences and agreements to which the Grantor is at any time a party or pursuant to which the Grantor has at any time acquired rights, and includes (i) all rights of the Grantor to receive money due and to become due to it in connection with a contract, licence or agreement, (ii) all rights of the Grantor to damages arising out of, or for breach or default in respect of, a contract, licence or agreement, and (iii) all rights of the Grantor to perform and exercise all remedies in connection with a contract, licence or agreement, as each may be amended, supplemented, extended or otherwise modified or restated from time to time.

"Credit Agreement" means the credit agreement entered into on or about August 3, 2017 among the Grantor, as borrower, 1314625 Ontario Limited, as a guarantor, each lender from time to time party thereto and the Agent, as amended, supplemented, restated or replaced from time to time.

"Deed" means the Deed of Hypothec referred to under the heading "Référence à l'acte constitutif" and any deed, notice under Article 2949 of the Civil Code of Québec, summary or other document amending, supplementing or restating the Deed;

"Documents of Title" means all documents or other writings of any nature, form or description whatsoever that purport to be issued by or addressed to a Person and purport to cover such corporeal movable property in said Person's possession as are identified or fungible portions of an identified mass, whether such corporeal movable property constitutes Inventory or Equipment, and which documents or other writings are treated in the ordinary course of business as establishing that the Person in possession thereof is entitled to receive, hold and dispose of the said documents or other writings and the corporeal movable property any of them covers, and further, whether such documents or other writings are negotiable in form or otherwise, including bills of lading and warehouse receipts, in which documents or other writings that the Grantor now has, or may at any time in the future have, any right, title or interest.

"Grantor" means MOUNTAIN EQUIPMENT CO-OPERATIVE / COOPÉRATIVE MOUNTAIN EQUIPMENT and shall include its successors and permitted assigns.

"Hypothec" means the hypothec created or evidenced pursuant to Section 3 of the Deed.

"Hypothecated Claims" means all claims forming part of the Charged Property.

"Instruments" means all bills, notes and cheques (as such terms are defined in the Bills of Exchange Act (Canada)), all other documents and writings of any nature, form or description that evidence a right to the payment of money and are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment, and all letters of credit and advices of credit (provided that such letters of credit and advices of credit state that they must be surrendered upon claiming payment thereunder), in which the Grantor now has, or may at any time in the future have, any right, title or interest.

"Issuer" means any Person that issues one or more Securities and, with respect to any security or security entitlement (within the meaning of the STA) forming part of the Securities, has the meaning given to this term in the STA.

"Monetary Claims" means all claims held by the Grantor, present and future, that constitute monetary claims within the meaning given thereto in Article 2713.1 of the Civil Code of Québec.

"Permits" means all permits, licences, waivers, exemptions, consents, certificates, authorizations, approvals, franchises, servitudes, rights-of-way, easements and entitlements that the Grantor has, requires or is required to have, to own, possess or operate any of its property or to operate and carry on any part of its business.

"Pledged Issuer" means, at any time, any Person that is at such time an Issuer with respect to any Pledged Securities.

"Pledged Issuer's Jurisdiction" means, with respect to any Pledged Issuer, the country or territorial unit of such Pledged Issuer as determined pursuant to Article 3108.2 of the Civil Code of Québec.

"Pledged Securities" means, collectively, all Securities that are delivered to or in possession or, in the case of securities and security entitlements (within the meaning of the STA) under control (within the meaning of the STA) of the Agent or its nominee(s) or other mandatary(s); and "Pledged Security" means any one or more of the foregoing.

"Securities" means (i) all securities, security entitlements and financial assets (each term within the meaning of the STA), (ii) all bonds, debentures, promissory notes, negotiable instruments and other evidences of indebtedness, (iii) all options, warrants, investment certificates and futures contracts, (iv) all mutual funds units and participations in any trust, (v) all interests, units or similar participations in any partnership or limited liability company, (vi) all other instruments or titles generally called or included as a security, (vii) all securities and instruments issued or received in substitution, renewal, addition or replacement of, or issued or received on the purchase, redemption, conversion, cancellation or other transformation of, or issued or received by way of dividend or otherwise to holders of, any securities or instruments set out in any of the preceding clauses (i) to and including (vi); in all cases of such property, now or hereafter owned or held by the Grantor or on the Grantor's behalf, together with the voting, dividend and other rights conferred upon by such property and rights. The term "Securities" shall include, without limitation, the Pledged Securities.

"Security Entitlement's Jurisdiction" means, with respect to any security entitlement forming part of the Pledged Securities, the country or the territorial unit the law of which governs the acquisition of such security entitlement from a securities intermediary as determined pursuant to Article 3108.7 of the Civil Code of Québec.

"STA" means An Act respecting the transfer of securities and the establishment of security entitlements (Québec) and, to the extent applicable, the securities transfer legislation of any other jurisdiction, as such legislation may be amended, renamed, or replaced from time to time, and includes all regulations from time to time adopted under such legislation.

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

## MENTIONS

### Somme de l'hypothèque

\$200,000,000 with interest thereon at the rate of 25% per annum.

L'hypothèque est constituée en faveur du fondé de pouvoir (art. 2692 C.c.)

**Référence à l'acte constitutif**

Forme de l'acte : Notarié en minute

Date : 2017-08-03

Lieu : Montréal, Québec

N° de minute : 508

Nom du notaire : DOAN, Julie

**Autres mentions :**

Continuation of ROYAL BANK OF CANADA's address: Ontario

AVIS D'ADRESSE

N° 027966

This report lists registrations in the Personal Property Registry that match the following search criteria:

<b>Province or Territory Searched:</b>	Nova Scotia
<b>Type of Search:</b>	Debtors (Enterprise)
<b>Search Criteria:</b>	Mountain Equipment Co-operative
<b>Date and Time of Search (YYYY-MM-DD hh:mm):</b>	2020-09-10 12:43 (Atlantic)
<b>Transaction Number:</b>	20516704
<b>Searched By:</b>	S185207

The following table lists records that match the Debtors (Enterprise) you specified.

Exact	Included	Original Registration Number	Enterprise Name	Place
*	*	28047462	MOUNTAIN EQUIPMENT CO-OPERATIVE	VANCOUVER

An '\*' in the 'Exact' column indicates that the Debtor (Enterprise) exactly matches the search criteria.

#### Included Column Legend

- An asterisk (\*) in the 'Included' column indicates that the registration's details are included within the Search Result Report.

#### Registration Counts

- 1 registration(s) contained information that **exactly** matched the search criteria you specified.

- 0 registration(s) contained information that **closely** matched the search criteria you specified.

When reviewing the registrations below, note that a registration which has expired or been discharged within the last 30 days can still be re-registered by the secured party.

All registration date/time values are stated in Atlantic Time.

For more information concerning the Personal Property Registry, go to [www.acol.ca](http://www.acol.ca)

### Registration Details for Registration Number: 28047462

**Province or Territory:** Nova Scotia  
**Registration Type:** PPSA Financing Statement

#### Registration History

Registration Activity	Registration Number	Date/Time (Atlantic) (YYYY-MM-DD hh:mm)	Expiry Date (YYYY-MM-DD)	File Number
Original	28047462	2017-08-01 13:18	2022-08-01	SM001511.172

This registration has **not** been the subject of an Amendment or Global Change. The following registration information was added by the original registration and has not been deleted.

#### Debtors

Type: Enterprise  
MOUNTAIN EQUIPMENT CO-OPERATIVE  
1077 GREAT NORTHERN WAY

VANCOUVER BC V5T 1E1  
Canada

**Secured Parties**

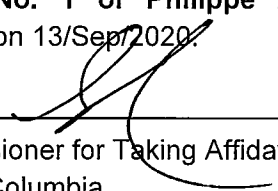
Type: Enterprise  
ROYAL BANK OF CANADA  
12TH FLOOR, SOUTH TOWER,  
ROYAL BANK PLAZA, 200 BAY STREET  
TORONTO ON M5J 2W7  
Canada

**General Collateral**

A SECURITY INTEREST IS TAKEN IN ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

***END OF REPORT***

This is **Exhibit "L"** referred to in the  
**Affidavit No. 1 of Philippe Arrata** Sworn  
before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**Mountain Equipment Co-Operative  
CCAA Cash Flow Forecast (Note 1)  
(Unaudited, in 000s CAD)**

Week	Notes	Weeks											11 Week Total					
		Sep 20	Sep 27	Oct 4	Oct 11	Oct 18	Oct 25	Nov 1	Nov 8	Nov 15	Nov 22	Nov 29						
<b>Receipts</b>																		
Sales	2	\$ 5,645	\$ 5,271	\$ 5,473	\$ 5,386	\$ 5,519	\$ 5,301	\$ 5,596	\$ 7,314	\$ 7,030	\$ 7,332	\$ 8,543	\$ 68,410					
Canada Emergency Wage Subsidy (CEWS)	3	-	-	2,467	-	-	3,312	-	-	-	663	-	6,442					
Other receipts		-	-	-	-	-	-	-	-	-	-	-	-					
<b>Total Receipts</b>		<b>5,645</b>	<b>5,271</b>	<b>7,940</b>	<b>5,386</b>	<b>5,519</b>	<b>8,613</b>	<b>5,596</b>	<b>7,314</b>	<b>7,030</b>	<b>7,995</b>	<b>8,543</b>	<b>74,853</b>					
<b>Disbursements</b>																		
Merchandise	4	(3,037)	(5,014)	(5,014)	(4,887)	(4,887)	(4,887)	(1,887)	(7,254)	(1,254)	(4,629)	(2,129)	(44,877)					
Freight & other non-merchandise	5	(484)	(484)	(1,030)	(420)	(420)	(420)	(937)	(606)	(606)	(606)	(1,332)	(7,347)					
Wages & Salary	6	(1,904)	(840)	(2,935)	(50)	(1,904)	(840)	(2,844)	(50)	(1,904)	(840)	(2,743)	(16,854)					
SG&A	7	(568)	(588)	(1,543)	(604)	(604)	(577)	(575)	(628)	(528)	(672)	(848)	(7,837)					
Insurance	8	-	-	-	-	-	-	-	-	-	-	-	-					
Rent and property taxes	9	-	-	(1,319)	-	(795)	-	(891)	-	(584)	-	-	(3,589)					
Sales tax	10	(100)	-	(2,200)	-	(70)	-	(1,866)	-	(50)	-	-	(6,102)					
<b>Total Disbursements</b>		<b>(6,092)</b>	<b>(6,926)</b>	<b>(14,042)</b>	<b>(5,962)</b>	<b>(8,681)</b>	<b>(6,824)</b>	<b>(9,000)</b>	<b>(8,538)</b>	<b>(4,927)</b>	<b>(6,747)</b>	<b>(8,867)</b>	<b>(86,606)</b>					
<b>Net Operating Cash Flow</b>		<b>(447)</b>	<b>(1,655)</b>	<b>(6,102)</b>	<b>(575)</b>	<b>(3,162)</b>	<b>1,789</b>	<b>(3,404)</b>	<b>(1,224)</b>	<b>2,104</b>	<b>1,249</b>	<b>(325)</b>	<b>(11,753)</b>					
<b>Net Disbursements</b>																		
Professional fees	11	(254)	(224)	(246)	(361)	(117)	(352)	(246)	(306)	(117)	(258)	(138)	(2,618)					
Debt Service	12	(331)	(88)	(176)	(98)	(99)	(103)	(187)	(106)	(108)	(109)	(195)	(1,601)					
Other (contingency)	13	(98)	(112)	(226)	(96)	(140)	(110)	(145)	(138)	(79)	(109)	(143)	(1,397)					
<b>Total Financing and Professional Fees</b>		<b>(683)</b>	<b>(423)</b>	<b>(648)</b>	<b>(555)</b>	<b>(356)</b>	<b>(565)</b>	<b>(578)</b>	<b>(550)</b>	<b>(304)</b>	<b>(476)</b>	<b>(476)</b>	<b>(5,615)</b>					
<b>Net Cash Flow</b>		<b>(1,130)</b>	<b>(2,078)</b>	<b>(6,750)</b>	<b>(1,130)</b>	<b>(3,518)</b>	<b>1,224</b>	<b>(3,982)</b>	<b>(1,774)</b>	<b>1,799</b>	<b>773</b>	<b>(801)</b>	<b>(17,369)</b>					
<b>Opening Borrowing Balance</b>		<b>\$ (71,040)</b>	<b>\$ (72,171)</b>	<b>\$ (74,795)</b>	<b>\$ (80,935)</b>	<b>\$ (82,066)</b>	<b>\$ (85,584)</b>	<b>\$ (84,877)</b>	<b>\$ (88,528)</b>	<b>\$ (90,302)</b>	<b>\$ (88,503)</b>	<b>\$ (88,457)</b>	<b>\$ (71,040)</b>					
Surplus/deficit		(1,130)	(2,078)	(6,750)	(1,130)	(3,518)	1,224	(3,982)	(1,774)	1,799	773	(801)	(17,369)					
Net pre-funding		-	(546)	609	-	-	(517)	331	-	-	(726)	572	(276)					
<b>Ending Borrowing Balance</b>		<b>(72,171)</b>	<b>(74,795)</b>	<b>(80,935)</b>	<b>(82,066)</b>	<b>(85,584)</b>	<b>(84,877)</b>	<b>(88,528)</b>	<b>(90,302)</b>	<b>(88,503)</b>	<b>(88,457)</b>	<b>(88,685)</b>	<b>(88,685)</b>					
Add: LC / LG Utilization		(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)	(3,747)					
<b>Ending Borrowing Exposure</b>		<b>\$ (75,918)</b>	<b>\$ (78,542)</b>	<b>\$ (84,682)</b>	<b>\$ (85,813)</b>	<b>\$ (89,331)</b>	<b>\$ (88,623)</b>	<b>\$ (92,275)</b>	<b>\$ (94,049)</b>	<b>\$ (92,250)</b>	<b>\$ (92,203)</b>	<b>\$ (92,432)</b>	<b>\$ (92,432)</b>					
<b>Continuity of Interim Financing</b>																		
<b>Existing Credit Facility</b>																		
Opening balance		\$ 71,040	\$ 65,395	\$ 60,124	\$ 52,184	\$ 46,797	\$ 41,279	\$ 32,666	\$ 27,070	\$ 19,756	\$ 12,726	\$ 4,731	\$ 71,040					
Less: cash receipts		(5,645)	(5,271)	(7,940)	(5,386)	(5,519)	(8,613)	(5,596)	(7,314)	(7,030)	(7,995)	(4,731)	(71,040)					
<b>Ending Existing Credit Facility balance</b>		<b>65,395</b>	<b>60,124</b>	<b>52,184</b>	<b>46,797</b>	<b>41,279</b>	<b>32,666</b>	<b>27,070</b>	<b>19,756</b>	<b>12,726</b>	<b>4,731</b>	<b>-</b>	<b>-</b>					
<b>Interim Financing Facility</b>	14																	
Opening balance		-	6,776	14,671	28,752	35,268	44,305	52,211	61,458	70,546	75,777	83,726	-					
Draws (repayments)		6,776	7,349	14,690	6,517	9,037	7,389	9,578	9,088	5,231	7,223	5,531	88,409					
Net pre-funding		-	546	(609)	-	-	517	(331)	-	-	726	(572)	276					
<b>Ending Interim Financing Facility balance</b>		<b>6,776</b>	<b>14,671</b>	<b>28,752</b>	<b>35,268</b>	<b>44,305</b>	<b>52,211</b>	<b>61,458</b>	<b>70,546</b>	<b>75,777</b>	<b>83,726</b>	<b>88,685</b>	<b>88,685</b>					
LC / LG Utilization		72,171	74,795	80,935	82,066	85,584	84,877	88,528	90,302	88,503	88,457	88,685	88,685					
<b>Total Indebtedness</b>		<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>	<b>3,747</b>					
<b>Total Indebtedness</b>		<b>\$ 75,918</b>	<b>\$ 78,542</b>	<b>\$ 84,682</b>	<b>\$ 85,813</b>	<b>\$ 89,331</b>	<b>\$ 88,623</b>	<b>\$ 92,275</b>	<b>\$ 94,049</b>	<b>\$ 92,250</b>	<b>\$ 92,203</b>	<b>\$ 92,432</b>	<b>\$ 92,432</b>					

**Mountain Equipment Cooperative  
CCAA Cash Flow Forecast  
Notes and Assumptions**

1 The weekly cash flow projection of Mountain Equipment Cooperative ("MEC") has been prepared by Management to set out the cash flow of MEC (the "CCAA Cash Flow Forecast") during the Companies' Creditors Arrangement Act proceedings (the "CCAA Proceedings").

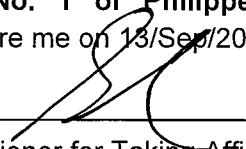
The CCAA Cash Flow Forecast has been prepared and is based on unaudited financial information and Management's estimates of its projected receipts and disbursements. Readers are cautioned that since the estimates are based on future events and conditions that are not ascertainable, the actual results achieved will vary, even if the assumptions materialize, and such variations may be material. MEC makes no representations, warranties or other assurances that any of the estimates, forecasts, or projections will be realized.

The CCAA Cash Flow Forecast reflects estimates and assumptions summarized below with respect to operations most notably, that MEC continues to operate within the protections afforded under the CCAA and the Initial Order being sought on September 14, 2020 (as may be amended from time to time) during the CCAA Proceedings. Management may update this CCAA Cash Flow Forecast from time to time.

- 2 Collection of accounts receivables and forecast sales include expected cash receipts for products ordered by customers but not yet shipped and anticipated sales, which are consistent with historical run rates of MEC but also reflect assumptions in respect of seasonality and the potential impact of the CCAA Proceedings.
- 3 Canada Emergency Wage Subsidy ("CEWS") applications are expected to continue to be submitted by MEC and corresponding subsidies totaling approximately \$6.4 million are expected to be received during the Forecast Period.
- 4 Merchandise vendors include payments for non-private label merchandise and materials for private label merchandise. Disbursements are based on expected and historical run rates and are assumed to be paid based on accelerated payment terms or cash-on-delivery terms as a result of the possible effect of the CCAA Proceedings on supplier credit.
- 5 Non-merchandise vendors include credit and debit card processing services, logistics and transportation costs. Disbursements are based on expected and historical run rates and are assumed to be paid based on accelerated payment terms or cash-on-delivery terms due to the impact of the CCAA Proceedings on supplier credit.
- 6 Payroll, benefits, and source deductions are forecast based on actual payroll expenses for approximately 1,500 employees assuming that operations at currently active locations continue uninterrupted with all payroll tax remittances kept current during the CCAA Proceedings.
- 7 General and administrative costs include utilities, information technology, marketing, building maintenance and repairs and other administrative costs and are based on current run rates for the remainder of 2020.
- 8 Insurance costs include property insurance, commercial general liability insurance, umbrella insurance, marine cargo and directors and officers insurance policies, among others. All premiums on active policies have been paid up to date.
- 9 Rent and property taxes include monthly occupation rent for MEC's 16 leased retail stores, 1 leased distribution centre and 1 leased head office located across British Columbia, Alberta, Manitoba, Quebec, Ontario and Nova Scotia. Additionally, MEC owns 6 retail stores and 1 distribution centre for a total of 22 retail stores and 2 distribution centres across Canada. Subsequent to the Initial Order being granted in the CCAA, it is assumed 15 retail locations will remain open for business.
- 10 Sales taxes include post-filing GST, PST, HST and QST remittances. Remittances are expected to remain current.
- 11 Professional fees have been forecast based on the preliminary estimates of the professional services expected to be provided during the CCAA Proceedings and include fees of MEC's legal counsel, the Monitor and its legal counsel, and the Lender's legal counsel and financial advisor.
- 12 Debt service fees and interest include costs associated with servicing the Existing Credit Facility and Interim Financing Facility.
- 13 Contingency costs are included in the Cash Flow Forecast to account for any unexpected expenses.
- 14 Detailed forecast borrowing base and availability amounts and covenant thresholds tests are assumed to be calculated in accordance with the terms of Interim Financing Facility. The covenant tests are based on detailed projections that underlie the CCAA Cash Flow Forecast presented herein.



This is **Exhibit "M"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**RESTRUCTURING SUPPORT AGREEMENT**

THIS RESTRUCTURING SUPPORT AGREEMENT (the "**Agreement**") is made this 11 day of September, 2020.

BETWEEN:

**ROYAL BANK OF CANADA**, as Administrative Agent

(the "**Agent**")

AND:

**ROYAL BANK OF CANADA**  
**CANADIAN IMPERIAL BANK OF COMMERCE**  
**THE TORONTO-DOMINION BANK**, as Lenders  
(collectively, the "**Lenders**")

AND:

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, as Borrower

(the "**Borrower**")

AND:

**1314625 ONTARIO LIMITED**, as Guarantor

(the "**Guarantor**", and the Borrower and the Guarantor, collectively, the "**Loan Parties**")

WHEREAS:

- A. The Agent, the Lenders, the Borrower and the Guarantor are parties to a credit agreement made as of August 3, 2017, and amended pursuant to a first amending agreement dated January 31, 2020, a second amendment and waiver agreement dated June 18, 2020 and a third amending agreement dated July 31, 2020 (the "**Third Amending Agreement**") (as further amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the "**Credit Agreement**") pursuant to which the Lenders have extended certain credit facilities in favour of the Borrower (the "**Existing Credit Facilities**");
- B. To secure the Obligations of the Loan Parties to the Lenders, the Loan Parties have granted certain security and guarantees in favour of the Agent and the Agent for and on behalf of the Lenders from time to time including, without limitation, the security and guarantees set out in Schedule A hereto;
- C. As at the date hereof, one or more Events of Default under the Credit Agreement have occurred and are continuing, including the Borrower's inability to pay its debts as they come due in the ordinary course of business (the "**Solvency Event of Default**");
- D. The Borrower has advised the Agent and the Lenders that the Loan Parties intend to commence proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (the "**CCAA**")

in the Supreme Court of British Columbia (the "**CCAA Court**") to seek, among other things, the granting of an initial order (the "**Initial Order**") and the appointment of Alvarez & Marsal Canada Inc. as monitor (the "**Monitor**");

E. The commencement of the CCAA Proceedings by the Loan Parties will constitute a further Event of Default (as defined the Credit Agreement) (collectively with the Solvency Event of Default, the "**Insolvency Events of Default**") under the Credit Agreement;

F. The Borrower has advised the Agent and the Lenders that it intends to implement a transaction in respect of substantially all of its assets, property, and undertaking in the context of the CCAA Proceedings (the "**Transaction**");

G. The Borrower has requested, and the Lenders have agreed, to provide certain interim financing to the Borrower pursuant to an interim financing facility (the "**Interim Financing Facility**") during the CCAA Proceedings on the terms and conditions contained herein;

NOW THEREFORE in consideration of the respective covenants of the parties hereto herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereto agree as follows:

## 1.0 **INTERPRETATION**

### 1.1 **Definitions**

In this Agreement, unless the context otherwise requires, all terms defined in the Credit Agreement and not otherwise defined herein shall have the respective meanings ascribed to them in the Credit Agreement. Any reference to "**Event of Default**" in the Credit Agreement or in this Agreement, shall be a reference to "**Event of Default**" as defined in this Agreement.

### 1.2 **Gender and Number**

Words importing the singular include the plural and vice versa and importing gender include all genders.

### 1.3 **Severability**

Each of the provisions contained in this Agreement is distinct and severable, and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Agreement.

### 1.4 **Headings**

The division of this Agreement into sections and the insertion of headings, articles, sections and clauses, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### 1.5 **Entire Agreement**

Except for the Loan Documents and the additional documents provided for herein, this Agreement constitutes the entire agreement of the parties and supersedes all prior agreements,

representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, relating to the subject matter hereof. No provision of this Agreement will be deemed waived by any course of conduct unless such waiver is in writing and signed by all the parties, specifically stating that it is intended to modify this Agreement.

#### 1.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and federal the laws of Canada applicable therein.

#### 1.7 Currency

Unless otherwise stated, all dollar amounts referenced are in Canadian dollars.

#### 1.8 Attornment

The parties hereto irrevocably submit and attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia for all matters arising out of or in connection with this Agreement.

#### 1.9 Joint and Several

The Obligations of the Loan Parties hereunder are joint and several.

#### 1.10 Conflicts

If there is any inconsistency or conflict between the terms of this Agreement and the terms of the Loan Documents, the provisions of this Agreement shall prevail to the extent of the inconsistency, but the foregoing shall not apply to limit or restrict, in any way, the rights and remedies of the Agent and Lenders under this Agreement, the Loan Documents, the CCAA, the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), the *Personal Property Security Act* (British Columbia) (the "PPSA"), other applicable law, or otherwise, other than as may be specifically contemplated herein.

### 2.0 ACKNOWLEDGEMENTS AND CONFIRMATIONS

Each of the Loan Parties hereby acknowledges, confirms, and agrees that:

2.1 As at September 11, 2020, the Borrower is indebted to the Agent and Lenders in respect of the following:

- (a) Loans under the Credit Agreement and accrued interest thereon in the aggregate amount of [REDACTED]
- (b) Letters of Credit under the Credit Agreement in the amount of [REDACTED]
- (c) the other Obligations under the Loan Documents, including without limitation, unpaid Letter of Credit Fees, Commitment Fees, the Amendment Fee, and Agent and Lender expenses, which, for greater certainty, are not included in the amounts in Sections 2.1(a) and 2.1(b) hereof.

2.1.2 The Agent, for and on behalf of the Lenders declares the unpaid principal amount of all currently outstanding Loans as of the date hereof, all interest accrued and unpaid thereon, and all other Obligations owing or payable under the Credit Agreement and any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notices of any kind, all of which are waived by the Loan Parties pursuant to the terms of the Credit Agreement.

2.2 All present and future obligations, indebtedness, fees (including reasonable professional fees), reasonable costs, and reasonable expenses under the Credit Agreement and the Loan Documents shall be collectively referenced in this Agreement as the "Indebtedness" which, for greater certainty, shall include all Obligations.

2.3 The Indebtedness is unconditionally owing by the Loan Parties to the Agent and Lenders without any right of setoff, defence, counterclaim, or reduction of any kind, nature, or description whatsoever, and the Loan Parties are estopped from disputing such Indebtedness.

2.4 The Indebtedness, including all Post-Filing Obligations (as defined below), continue to be secured and guaranteed by all present and after acquired security and guarantees in favour of the Agent and the Agent, for and on behalf of the Lenders, that has or may be granted from time to time under the Loan Documents, including without limitation the security and guarantees set out in Schedule A hereto.

2.4.1 The Credit Agreement and the other Loan Documents to which each Loan Party is a party and all covenants, terms and provisions thereof, except as expressly amended and supplemented by this Agreement, shall be and continue to be in full force and effect and the Credit Agreement, as amended and supplemented by this Agreement, and each of the other Loan Documents to which each Loan Party is a party is hereby ratified and confirmed and shall, from and after the date hereof, continue in full force and effect as herein amended and supplemented, with such amendments and supplements being effective from and as of the date hereof (upon satisfaction of the conditions precedent set forth in Section 5 hereof).

2.4.2 The Borrower hereby agrees that the Borrower continues to be bound by the provisions of any Security Documents granted by the Borrower to the Agent and the Agent for and on behalf of the Lenders (collectively, the "**Borrower Security**"); the Borrower Security continues in full force and effect; and the Borrower Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Borrower to the Agent and the Lenders.

2.4.3 The Guarantor hereby agrees that it continues to be bound by the provisions of its Guarantee and Security Documents granted by the Guarantor to the Agent and the Agent for and on behalf of the Lenders (the "**Guarantor Security**") to which it is a party; the Guarantee and the Guarantor Security continues in full force and effect; and the Guarantee and Guarantor Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Guarantor to the Agent and the Lenders.

2.5 The Agent's accounts and records constitute, in the absence of manifest error, conclusive evidence of the Indebtedness, including the Post-Filing Obligations.

2.6 The Agent has and shall continue to have valid, enforceable, and perfected first priority Liens upon the collateral described in the Loan Documents, subject only to Liens expressly permitted in the Credit Agreement and this Agreement that are still in existence as of the date hereof.

- 2.7 The Loan Documents have not been discharged, waived, or varied, are binding upon each of the Loan Parties thereto, and are enforceable in accordance with their terms until the Indebtedness, including the Post-Filing Obligations, have been indefeasibly paid and satisfied in full.
- 2.7.1 Each Loan Documents is and shall remain in full force and effect.
- 2.8 The Insolvency Events of Defaults have occurred and are continuing, each of which constitutes an Event of Default under the Credit Agreement and entitles the Agent and Lenders to exercise their rights and remedies under the Loan Documents, the CCAA, the BIA, the PPSA, and other applicable law or otherwise, all of which are expressly reserved and not waived by the Agent and Lenders.
- 2.9 As at the Effective Date (as defined below):
- (a) Except under the Interim Financing Facility and subject to the terms and conditions thereof, the Lenders have ceased to make available or extend to the Borrower any further Committed Loans, Swingline Loans or new Letters of Credit, and have no further obligation to do so.
  - (b) The Agent and Lenders have made no promise to waive, have not waived, and do not intend to waive, the Insolvency Events of Default, and nothing contained herein or the transactions contemplated hereby shall be deemed to constitute any such waiver.
  - (c) The Agent and Lenders have the presently exercisable right to, without limitation:
    - (i) terminate the Credit Agreement and all Loan Documents; and
    - (ii) exercise any or all of its rights and remedies under the Loan Documents, the CCAA, the BIA, the PPSA, and other applicable law, or otherwise.
- 2.10 No failure on the part of the Agent or the Lenders to exercise, and no delay in exercising, any right or remedy at law or under the Loan Documents, the CCAA, the BIA, the PPSA, and/or other applicable law or otherwise as a result of the Insolvency Events of Default or any other Default or Event of Default shall operate as a waiver thereof.
- 2.11 As at the Effective Date, none of the Agent or the Lenders (either by themselves or through their employees or agents) have made any promises, nor has any of them taken any action or omitted to take any action, that would constitute a waiver of its rights to enforce the Loan Documents, or to pursue its remedies in respect of the obligations of the Loan Parties to the Agent and Lenders, or that would stop the Agent and Lenders from doing so.

For greater certainty, the Agent and Lenders agree that all payments remitted to Agent and all proceeds of Collateral received by Agent shall be applied in accordance with Section 8.3 of the Credit Agreement notwithstanding that some but not all Obligations may benefit from the Interim Financing Charge. This paragraph confirms certain rights and obligations among the Lenders and does not confer any rights on any Loan Party or any other third party.

### **3.0 REPRESENTATIONS AND WARRANTIES**

Each of the Loan Parties hereby represents and warrants to the Agent and the Lenders as follows:

- 3.1 The facts set out in the recitals to this Agreement are true and accurate in substance and in fact.
- 3.2 Each Loan Party is validly existing and in good standing under the laws of the jurisdiction governing its corporate existence; each Loan Party is duly registered in all other jurisdictions where its ownership, lease or operation of its property or the conduct of its business requires such registration, except for jurisdictions where the failure to be so registered or qualified would not reasonably be expected to have a Material Adverse Effect, and has all necessary power and authority to own its properties and carry on its business as presently carried on or as contemplated by the Credit Agreement and this Agreement.
- 3.3 Each Loan Party has full power, legal right and authority to enter into this Agreement and do all such acts and things as are required by this Agreement (and the Credit Agreement, as amended by this Agreement) to be done, observed or performed in accordance with the terms hereof.
- 3.4 This Agreement has been duly authorized, executed, and delivered to the Agent and the Lenders by each Loan Party, is in full force and effect, and constitutes the legal, valid, and binding obligations of the Loan Parties, enforceable against them in accordance with the terms hereof.
- 3.5 Other than the Insolvency Events of Default and those circumstances giving rise to the exclusions and qualifications specified in Section 3.2 of the Third Amending Agreement, there is no matter, fact or event which is known to any of the Loan Parties which has not been disclosed to the Agent which is likely to have a Material Adverse Effect on the performance of the respective obligations of each Loan Party under this Agreement, and each Loan Party has conducted such investigations as it considers reasonably necessary to make this representation and warranty.
- 3.6 The authorization, execution, and delivery and performance of this Agreement by the Loan Parties will not violate any applicable law or any order, declaration, or judgment binding on the Loan Parties, or any consent, license, permit, or approval of the Loan Parties, or any agreement to which the Loan Parties are a party, and will not result in, or require, the creation or imposition of any prohibited Lien on any assets or property of the Loan Parties.
- 3.7 Other than the CCAA Proceedings, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Loan Parties after due and diligent investigation, threatened (in writing), at law, in equity, in arbitration or before any Government Authority, by or against any Loan Party or against any of its properties or revenues that purport to affect or pertain to the Credit Agreement or this Agreement or any other Loan Documents, or any of the transactions contemplated therein or herein that either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.
- 3.8 Except as amended by this Agreement, or unless the context requires otherwise, the representations and warranties of the Loan Parties contained in Article V of the Credit Agreement are true and correct on the date hereof, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties were true and correct in all material respects (except that

such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date); provided, however, that (a) all of the exclusions and qualifications to such representations and warranties provided in Section 3.2(b) of the Third Amending Agreement are incorporated by reference in this Section 3.8 and (b) Section 5.23 of the Credit Agreement is qualified by any default in any material respect of any Material Contract that may have been or might be caused by the CCAA Proceedings and any notice received of the intention of any other party thereto to terminate any Material Contract that may have been or might be caused by the CCAA Proceedings.

- 3.9 Other than Events of Default acknowledged herein and the Insolvency Events of Default, no Default or Event of Default has occurred and is continuing.

#### **4.0 THE INTERIM FINANCING FACILITY**

- 4.1 In reliance upon the acknowledgements, representations, warranties, confirmations, covenants and agreements of the Loan Parties contained in this Agreement and subject to the terms and conditions of this Agreement and any documents executed in connection herewith, the Lenders agree (severally, not jointly or jointly and severally) to make Committed Loans, in the form of Prime Rate Loans only and Letters of Credit (subject to a Letter of Credit sublimit of [REDACTED] under the Credit Agreement available to the Borrower during the CCAA Proceedings on the following terms and conditions, and such availability of Committed Loans and Letters of Credit under the Credit Agreement shall constitute the Interim Financing Facility. The Interim Financing Facility shall in all respects operate and be administered by the Agent and the Lenders in the same manner as (and shall be subject to the same terms and conditions as) the Committed Loans and Letters of Credit under the Credit Agreement, except as expressly modified by the terms and conditions of this Agreement and subject to the CCAA Proceedings and any orders of the CCAA Court. For greater certainty, advances under the Interim Financing Facility shall be Committed Loans, in the form of Prime Rate Loans only, under the Credit Agreement. Swingline Loans shall not be available under the Interim Financing Facility.

- 4.2 The Agent, for and on behalf of the Lenders, will fund weekly and certain ad hoc draw requests in the form of Committed Loan Notices from the Borrower in accordance with the Budget and the terms hereof.

#### **4.3 Effective Date**

The terms and conditions of this Agreement and the obligation to advance any amounts under the Interim Financing Facility shall not become effective until the date and time at which all conditions precedent to this Agreement have been satisfied or waived as determined by the Agent in its sole discretion (the "**Effective Date**").

#### **4.4 Budget**

The Borrower shall provide the Agent with a 13 week cash flow reviewed by the Monitor, which shall be filed with the CCAA Court in connection with the CCAA Proceedings, and the related schedules to the 13 week cash flow, including borrowing base availability (the "**Initial Budget**"). The Initial Budget shall reflect on a line item basis, among other things, anticipated cash flow, cash receipts and disbursements, sales, net excess availability and receivables levels. The Initial Budget and the proposed



use of funds provided for therein shall be satisfactory to the Agent in its sole discretion. The Initial Budget and any subsequent Budget (as defined below) may only be amended and modified with the prior written consent of the Agent in its sole discretion (the Initial Budget, as so amended and modified with the prior written consent of the Agent in its sole discretion, is referred to herein as the "**Budget**"). The Initial Budget 13 week cash flow to the week of December 7, 2020 is attached hereto as Schedule B. The Budget, which shall be acceptable to the Agent in its sole discretion, shall be rolled forward on a weekly basis.

#### 4.5 Interim Financing Charge

4.5.1 All advances made by the Agent or Lenders to the Borrower under the Interim Financing Facility, and all obligations and indebtedness, including, without limitation, in respect of fees (including reasonable professional fees), costs, and expenses, of the Loan Parties to the Agent or Lenders under or in connection with this Agreement or the Interim Financing Facility (collectively, the "**Post-Filing Obligations**") shall constitute Obligations and shall be secured by both:

- (a) a super-priority Interim Financing Charge (the "**Interim Financing Charge**") on all of the existing and after-acquired real and personal property of the Loan Parties as provided for herein and in the Initial Order, the priority of which must be acceptable to the Agent in its sole discretion; and
- (b) the existing security and guarantees in favour of the Agent and the Agent for and on behalf of the Lenders under the Loan Documents.

4.5.2 For certainty, the Interim Financing Charge shall not secure any Obligations other than Post-Filing Obligations (all such Obligations that are not secured by the Interim Financing Charge, the "**Pre-Filing Obligations**").

#### 4.6 Existing Cash Management System/ Blocked Account Arrangements/All Cash Receipts to the Agent

The Initial Order shall, among other things, authorize and direct the Loan Parties to continue to use the cash management systems, daily cash sweep and blocked account arrangements in place between the Agent and the Loan Parties provided for under the Credit Agreement, as modified by this Agreement, and the Loan Parties agree to continue to direct all their account debtors to make all payments to the Loan Parties' blocked accounts with the Agent and transfer on a daily basis, at the Loan Parties' cost and expense, all amounts in such blocked accounts solely to the Agent's bank account (collectively, "**Post-Filing Collections**"). The Agent shall apply the Post-Filing Collections to repay the Pre-Filing Obligations.

#### 4.7 Maximum Availability under the Interim Financing Facility

4.7.1 Notwithstanding any other term or condition of the Credit Agreement, as modified by this Agreement, the availability under the Interim Financing Facility shall not at any time exceed the amount determined under Section 2.1(a) of the Credit Agreement (as amended by this Agreement).

4.7.2 For purposes of the borrowing availability calculation under the Credit Agreement (as amended by this Agreement), any outstanding amounts under the Existing Credit Facility will be deducted so that the total amount outstanding under both the Existing Credit Facility and the Interim Financing Facility will

be added together when calculating the borrowing availability under Section 2.1(a) of the Credit Agreement (as amended by this Agreement).

4.7.3 The amounts of the Administration Charge, Directors' Charge, and KERP Charge shall constitute a further reserve against the availability determined under section 2.1(a) of the Credit Agreement (as amended by this Agreement) and will be deducted accordingly.

4.7.4 Further, and notwithstanding clause 4.7.1 above, no advance under the Interim Financing Facility shall exceed the amount necessary to finance the cash flow requirements of the Loan Parties as set forth in the Budget at such time.

4.7.5 Subject at all times to the borrowing availability, it is proposed that the Interim Financing Facility will provide availability to a maximum of \$100,000,000.

4.8 Amendment Fee

The Borrower shall pay to the Agent (for the ratable benefit of the Lenders) a non-refundable fee to compensate the Lenders for the additional time incurred and costs borne in connection with this Agreement and the provision of the Interim Financing Facility, such fee to be in the amount of \$250,000 (the "Amendment Fee"). The Amendment Fee shall be fully earned as at the date hereof and shall be paid by the Borrower to the Agent (or, in the sole discretion of the Agent, may be debited immediately by the Agent to the account of the Borrower) immediately upon CCAA Court approval of this Agreement.

4.9 Expenses

The Borrower will pay all reasonable and documented out-of-pocket expenses incurred by the Agent associated with the Interim Financing Facility, this Agreement and the negotiation, preparation and execution of the related documentation, including without limitation financial advisors' fees, and reasonable and documented legal fees and out of pocket disbursements.

4.10 Interest Rate

Advances under the Existing Credit Facility and the Interim Financing Facility will bear interest at the applicable rate per annum expressed as a percentage set forth in the relevant column in the table below:

Applicable Margin for LIBO Rate Loans or BA Rate Loans	Applicable Margin for Prime Rate Loans or Base Rate Loans	Applicable Margin for the Letter of Credit Fee
██████	██████	██████

4.11 Unused Line Fee

The Borrower shall pay to the Agent the commitment fee set forth in section 2.8 of the Credit Agreement (as amended by this Agreement).

#### 4.12 Reporting

The Loan Parties shall comply with all reporting requirements set out in the Credit Agreement (as modified by this Agreement) including by providing:

- (a) a duly completed and executed Borrowing Base Certificate delivered to the Agent and the Agent's Advisors weekly within [REDACTED] after the end of each week, in form and substance satisfactory to the Agent; and
- (b) such other information as the Agent and the Agent's Advisors may reasonably request.

#### 4.13 Weekly Calls

On a weekly basis within four Business Days after the end of each week during the CCAA Proceedings, starting with the week ending the seventh (7<sup>th</sup>) day after the commencement of the CCAA Proceedings, the Borrower shall arrange and participate in a conference call with the Agent and the Agent's Advisors and the Monitor to discuss the Borrower's previous week's performance, any negative variances in the Borrower's actual performance compared to that projected in the Budget for the previous week, updates for future weeks, and any other matters the Agent or the Agent's Advisors may reasonably raise.

#### 4.14 Court Materials

The Loan Parties shall deliver to the Agent and the Agent's Advisors, draft copies of all court materials, court orders, legal briefs, sales process documents, facta and other documents to be served or to be filed in connection with the CCAA Proceedings (collectively, the "**Court Materials**"). The Loan Parties shall deliver draft copies of all Court Materials to the Agent and the Agent's Advisors no later than three Business Days prior to service or filing of such materials, or as soon as practicably possible in the circumstances, and shall provide the Agent and the Agent's Advisors with a reasonable opportunity to comment thereon and ensure the same are acceptable to the Agent in its sole discretion.

#### 4.15 Terms of Initial Order, Comeback Order and Sale Approval Order

4.15.1 The Initial Order and each other order of an Insolvency Court in the CCAA Proceedings shall be in form and substance satisfactory to the Agent, acting reasonably, including provisions addressing (among other things) the following:

- (a) approval of the financing provided for in this Agreement (including the Interim Financing Facility);
- (b) the continuation of the existing cash management arrangements, daily cash sweep and blocked account arrangements in place between the Agent and the Loan Parties, including the application by the Agent of Post-Filing Collections to repay the Pre-Filing Obligations;
- (c) authorization and direction for the Borrower to make all payments of principal, interest, fees, and expenses under this Agreement to the Agent;
- (d) the Interim Financing Charge;

- 11 -

- (e) an administration charge in an amount not to exceed \$1,000,000 (the "**Administration Charge**") which ranks in priority to all other encumbrances, including, without limitation, the Interim Financing Charge and the Agent's security pursuant to the Loan Documents;
- (f) a directors' and officers' indemnity charge in an amount not to exceed \$4,500,000 (the "**Directors' Charge**"), which ranks subordinate to the Administration Charge and in priority to all other encumbrances, including without limitation the Interim Financing Charge and the Agent's security pursuant to the Loan Documents;
- (g) a Key Employee Retention Plan (the "**KERP**"), which shall be secured by a charge (the "**KERP Charge**") against the Loan Parties' property in an amount not to exceed \$800,000. The KERP Charge shall rank in priority to all other encumbrances but subordinate to the Administration Charge and Directors' Charge.
- (h) certain purchase money security interests ("**PMSIs**") may also rank in priority to the Interim Financing Charge; and
- (i) that the Agent and the Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by or in respect of the Loan Parties under the CCAA, or under any proposal filed by or in respect of the Borrower under the BIA, with respect to any Obligations.

4.15.2 Within 10 days of the granting of the Initial Order, the Loan Parties shall seek CCAA Court approval of an amended and restated Initial Order (the "**Comeback Order**"), which shall be in form and substance satisfactory to the Agent, acting reasonably, including provisions addressing (among other things) the following:

- (a) approval of an increase in the amount to be advanced under the Interim Financing Facility, and if required, the quantum of the Interim Financing Charge, which amounts and quantum must be satisfactory to the Agent in its sole discretion;
- (b) granting of the Sale Approval Order (as defined below); and
- (c) confirmation of additional charges set out herein.

4.15.3 Within 10 days of the granting of the Initial Order, and in any event no later than 15 days after the Comeback Order, the Loan Parties shall seek CCAA Court approval of an order approving the Transaction (the "**Sale Approval Order**"), the terms of which, and all ancillary documents prepared in connection therewith, must be satisfactory in form and substance to the Agent in its sole discretion.

#### 4.16 Compliance with Loan Documents and Amendments to Credit Agreement

4.16.1 Each of the Loan Parties shall strictly adhere to all of the terms, conditions and covenants of this Agreement and the Loan Documents (as modified by this Agreement), including, without limitation, terms requiring prompt payment of principal, interest, fees, and other amounts when due. Without limiting the foregoing and for greater certainty, the obligation of the Lenders (or any member thereof, including the L/C Issuer) to make any Committed Loans under the Interim Financing Facility, issue Letters of Credit (or to extend any other credit thereunder) at any time shall be subject to satisfaction of the conditions precedent set forth in Section 4.2 of the Credit Agreement subject to all of the exclusions and qualifications set forth in Section 3.8 above.

4.16.2 The parties hereto agree that, effective as of the Effective Date, the Credit Agreement is amended as set forth in Schedule C (the "**Fourth Amending Agreement**"). The Fourth Amending Agreement is an amendment to the Credit Agreement. Unless the context of the Fourth Amending Agreement otherwise requires, the Credit Agreement and the Fourth Amending Agreement shall be read together and shall have effect as if the provisions of the Credit Agreement and the Fourth Amending Agreement were contained in one agreement. The term "Agreement" when used in the Credit Agreement means the Credit Agreement as amended by the Fourth Amending Agreement, together with all amendments, modifications, supplements, extensions, renewals, restatements and replacements thereof from time to time.

#### 4.17 Cooperation

Each of the Loan Parties shall cooperate fully with the Agent and its respective agents and employees, including the Agent's Advisors, by providing all information requested by the Agent, and by providing access to its books, records, property, assets, and personnel wherever they may be situated in whatever medium they may be recorded, except for confidential information, at the request of and at times convenient to the Agent, acting reasonably, which right of access shall include the right to inspect and appraise such property and assets.

#### 4.18 Professional Expenses

Each of the Loan Parties hereby covenants and agrees with the Agent and the Lenders to reimburse the Agent and the Lenders on demand for all reasonable and documented expenses incurred in connection with this Agreement, the CCAA Proceedings, including, without limitation, reasonable legal fees and other reasonable professional expenses that the Lenders have incurred or will incur arising out of its dealings with the Borrower in the CCAA Proceedings, including, without limitation, the reasonable fees and expenses (collectively, the "**Professional Expenses**") of Dentons Canada LLP, FTI Consulting Canada Inc. ("**FTI**") (collectively, the "**Agent's Advisors**"). The Borrower shall ensure that the Professional Expenses are provided for in the Budget. Nothing in this Agreement, shall derogate from the Loan Parties' obligation to pay for all of the Professional Expenses or shall constitute a cap on Professional Expenses. Notwithstanding the foregoing, the Agent shall add all of the Professional Expenses to the Post-Filing Obligations if the same are not paid when due. Each of the Loan Parties hereby acknowledges, confirms and agrees that the Professional Expenses which are added to the Post-Filing Obligations shall be secured and covered by the Loan Documents and the Interim Financing Charge.

#### 4.19 Repayment on Closing of a Transaction

As part of the closing of a Transaction, the Borrower shall:

- (a) repay in full the Interim Financing Facility and any remaining outstanding Pre-Filing Obligations simultaneously with the closing of a Transaction (as defined below); and
- (b) seek, as part of the Sale Approval Order from the CCAA Court, prior to the closing of a Transaction with respect to the repayment of the Interim Financing Facility and the Pre-Filing Obligations, that the Lenders be repaid in full on the closing of a Transaction, such order to be in form and substance satisfactory to the Borrower, Monitor and the Agent.

#### 4.20 Lender's Right to Appoint Financial Advisor

In connection with the CCAA Proceedings, each Loan Party acknowledges that the Agent has engaged FTI as an independent financial advisor (the "**Lender FA**") who shall be permitted to communicate fully and freely and without restriction with each Loan Party and its employees, agents, and professional advisors concerning the business and affairs of the Loan Parties and the CCAA Proceedings. Each Loan Party covenants and agrees that the Lender FA shall have access to any and all such documentation and information as may be relevant to or necessary in its review in the Agent's and the Lender FA's sole discretion. The parties acknowledge that all reasonable costs and expenses of the Lender FA, including, without limitation, to the extent incurred in connection with any communications with the Agent, its employees, agents and professional advisors, as aforesaid, shall be for the sole account of the Borrower, shall form part of the Post-Filing Obligations, and shall be secured and guaranteed by the Loan Documents and the Interim Financing Charge.

#### 4.21 Events of Default

In addition to the "**Events of Default**" provided for in Article 8 of the Credit Agreement, the following shall constitute Events of Default under the Credit Agreement and this Agreement (collectively, the "**Events of Default**"):

- (a) if the Initial Order, the Comeback Order, or the Sale Approval Order (or any other order relating to the Transaction) has been vacated, stayed or otherwise caused to be materially ineffective or is otherwise materially amended in a manner not approved by the Agent, for and on behalf of the Lenders;
- (b) if the CCAA Court fails to grant the Sale Approval Order, among other things, approving a Transaction that: (i) is in form and substance satisfactory to the Agent and the Lenders acting reasonably; and (ii) that provides for repayment of the Lenders in full;
- (c) the entry of an order dismissing the Loan Parties' CCAA Proceedings, which order is not stayed pending appeal thereof;
- (d) any proceeding, motion or application is commenced or filed by any of the Loan Parties or any other person to challenge in court: (i) the Initial Order; or (ii) the validity, enforceability or priority of the Interim Financing Charge; and the Loan Parties fail to secure the dismissal of such proceeding, motion or application within 10 days from the date such proceeding, application or motion is brought;
- (e) entry of an order which stays, modifies (other than extensions of the Initial Order), or reverses the Initial Order, the Comeback Order, or the Sale Approval Order, or which otherwise materially adversely affects the effectiveness of the Initial Order, the Comeback Order or the Sale Approval Order without the express written consent of the Agent;
- (f) the entry of any CCAA Court order without the prior written consent of the Agent which provides relief from the automatic stay made under the Initial Order, the Comeback Order, or the CCAA which permits any creditor to realize upon, or to exercise any right or remedy with respect to, any asset of the Loan Parties or to terminate any license, franchise, or similar agreement, where the exercise of such right or remedy or such

- 14 -

realization or termination would reasonably be likely to have a Material Adverse Effect as determined by the Agent in its sole discretion;

- (g) the application for, or consent to, by any Loan Party of any order of the CCAA Court or any change or amendment to any order of the CCAA Court which affects the Agent or the Lenders, without the prior written consent of the Agent or the Lenders, as applicable;
- (h) the failure of the Loan Parties (i) to comply with each and all of the terms and conditions of the Initial Order, the Comeback Order, or the Sale Approval Order; or (ii) to materially comply with any other order entered in the CCAA Proceedings, if such failure would reasonably likely result in a Material Adverse Effect as determined by the Agent in its sole discretion;
- (i) (i) the filing of any application by any Loan Party or the entry of any order in the CCAA Proceedings: (A) permitting any financing (other than ordinary course trade credit or unsecured debt) for a Loan Party from any Person other than the Agent and Lenders under the Loan Documents; (B) granting a Lien on, or security interest in any of the Collateral of a Loan Party equal or superior in ranking and status to that of the Interim Financing Charge, other than with respect to this Agreement or as otherwise permitted herein; or (C) dismissing the CCAA Proceedings; or (ii) the filing of any motion by any Person (other a Loan Party) regarding matters specified in the foregoing clause (i) that is not immediately stayed and dismissed or denied, or subject to a pending motion by the Loan Parties for the stay, dismissal or denial of such application, within 10 days of the date of the filing of such application;
- (j) the occurrence of any negative variances in excess of █████ in respect of the actual cumulative net cash flow against the forecast cumulative net cash flow in the Budget issued hereunder to the date of such negative variance for the period from the first Budget issued hereunder to the date of such negative variance;
- (k) (i) the occurrence of any negative variances in excess of █████ in respect of excess borrowing availability against the forecast excess borrowing availability in the Budget for the period from the First Budget issued hereunder to the date of such negative variance; and (ii) actual borrowing under the Existing Credit Facility and the Interim Financing Facility at any time during a week exceeds █████ of forecast borrowing for such week on the Budget;
- (l) the amendment, replacement or modification of the Budget other than in accordance with the terms of this Agreement;
- (m) the filing of any application by any Loan Party without the express prior written consent of the Agent for the approval of any super-priority claim or debtor in possession financing in the CCAA Proceedings which is *pari passu* with or senior to the priority of the Interim Financing Charge, or there shall arise any such super-priority claim under the CCAA;
- (n) the commencement, continuation or seeking CCAA Court approval of a transaction by any Loan Party in respect of the sale of all or any portion of the Loan Parties' assets that will not repay the Lenders in full, without the prior written consent of the Agent and the Lenders, in their sole discretion;

- (o) any transaction(s) that results in the sale of substantially all of the assets of the Loan Parties is (are) approved by the CCAA Court that is (are) not in a form and substance satisfactory to the Agent and the Lenders acting reasonably and/or that does not result in the Lenders being repaid in full;
- (p) the Interim Financing Facility (including all Post-Filing Obligations) has not been paid in full to the Agent by the Termination Date (as defined herein), which date may be extended with the consent of the Agent and the Lenders in their sole discretion;
- (q) other than leasing of inventory by the Loan Parties in the ordinary course business and consistent with past practice, the transfer, lease, farm-out or otherwise disposal of all or any part of a Loan Party's property, assets or undertaking, without the prior written consent of the Agent;
- (r) the making of investments or acquisitions of any kind, direct or indirect, in any business or otherwise other than as expressly provided for, or permitted to be incurred, in the Budget or pursuant to an order of the CCAA Court by any of the Loan Parties;
- (s) the making of any payments or distributions of any kind by any Loan Party, including payments of principal or interest in respect of existing (pre-filing) debts or obligations (other than the Obligations under the Loan Documents), other than as may be permitted by an order of the CCAA Court and that does not result in an Event of Default and is provided for in the Budget and in the Initial Order;
- (t) the creation of or permitting to exist indebtedness (including guarantees thereof or indemnities or other financial assistance in respect thereof) by any Loan Party other than (i) existing (pre-filing) debt; (ii) debt contemplated by this Agreement; (iii) post-filing trade payables or other post-filing unsecured obligations incurred in the ordinary course of business in accordance with the Budget and any order of the CCAA Court; and (iv) obligations or indebtedness expressly provided for, or permitted to be incurred, in the Budget and an order of the CCAA Court;
- (u) the making of or giving any additional financial assurances by any Loan Party, in the form of bonds, letters of credit, guarantees or otherwise, to any person (including, without limitation, any governmental authority) other than Letters of Credit permitted under the Interim Financing Facility (as described in Section 4.1 above);
- (v) a Loan Party creates or permits to exist, or seeks or supports a motion by another party to provide to any third party, a Lien (other than a Permitted Encumbrance) on any asset or property of a Loan Party;
- (w) except changes permitted under the CCAA Proceedings (including, without limitation, the disclaiming of leases and the termination of employees not being offered employment with the purchaser under a Transaction) that occur prior to the closing of a Transaction, any Loan Party ceasing or (or threatening to cease) to carry on business or activities as currently being conducted or the modification or alteration in any material manner the nature and type of the Borrower's operations, business or the manner in which such business is conducted, without the prior written consent of the Agent;



- (x) entry into any contract, amendment to contract or other agreement by any Loan Party which involves potential expenditures in excess of [REDACTED] in any fiscal year without the prior written consent of the Agent, other than contracts, amendments to contracts or other agreements made in the ordinary course of business, provided that any expenditure in respect of such contracts, amendments to contracts or other agreements is provided for in the Budget or would not otherwise give rise to an Event of Default;
- (y) the payment or other discharge by a Loan Party of any pre-petition indebtedness, except as expressly permitted hereunder, or generally permitted within the category and range in the Budget and by order in the CCAA Proceedings, to which payment or discharge the Agent has not provided its written prior consent;
- (z) the breach of any term, covenant or agreement by any Loan Party in this Agreement;
- (aa) any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Borrower, any other Loan Party herein, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; and
- (bb) the commencement of any application or motion or the granting of any order for the appointment of a receiver, trustee in bankruptcy or any similar court officer in respect of any Loan Party.

#### 4.22 Termination

Notwithstanding any other term or condition of the Credit Agreement, the Existing Credit Facility and the Interim Financing Facility shall terminate, and the Post-Filing Obligations shall be immediately due and payable by the Borrower to the Agent, on behalf of the Lenders, on the earlier of (a) November 30, 2020, which date may be extended with the consent of the Agent and the Lenders in their sole discretion; (ii) the closing of a Transaction, which in the aggregate is for all or substantially all of the Loan Parties' assets, is approved by a Sale Approval Order and results in the Lenders being repaid in full; and (iii) at the Agent's and Lenders' option upon the occurrence of an Event of Default (other than the Insolvency Events of Default) (the earlier date being the "**Termination Date**").

#### 4.23 Remedies Upon Event of Default and on Termination Date

If any Event of Default occurs and is continuing, or upon the Termination Date, the Agent may, or at the request of the Required Lenders, shall take any or all of the following actions:

- (a) declare the Interim Financing Facility to be terminated, whereupon the Interim Financing Facility shall be immediately terminated;
- (b) declare the Post-Filing Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties; and
- (c) exercise any or all of its rights and remedies available to it under this Agreement, the other Loan Documents, the CCAA, the BIA, the PPSA, and other applicable law, or otherwise.

**5.0 CONDITIONS PRECEDENT**

This Agreement shall be (and, without limitation, the obligation of the Lenders to make any advances to the Borrower under the Interim Financing Facility is) subject to the satisfaction of each of the following conditions precedent:

- (a) The Agent shall have received a copy of all required Loan Documents, including this Agreement, executed by each of the Loan Parties and the Lenders.
- (b) The Borrower shall pay to the Agent the Amendment Fee in accordance with the terms hereof.
- (c) The Borrower shall pay all reasonable and documented out-of-pocket expenses incurred by the Agent associated with the Interim Financing Facility, this Agreement and the negotiation, preparation and execution of the related documentation, including without limitation financial advisors' fees, and reasonable and documented legal fees and out of pocket disbursements.
- (d) All fees required to be paid to the Agent on or before the date of this Agreement shall have been paid in full and all other fees required to be paid to the Lenders on or before the date of this Agreement shall have been paid in full.
- (e) The Agent shall have received and be satisfied, in its sole discretion, with the Budget, and all such other information (financial or otherwise) reasonably requested by the Agent.
- (f) There shall not be pending any litigation or other proceeding, other than the CCAA Proceedings, the result of which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or form the basis for an appeal of the Initial Order.
- (g) All application materials, documents and orders of the CCAA Court, in connection with the CCAA Proceedings shall be in form and substance satisfactory to the Agent, acting reasonably.
- (h) The terms of the KERP and the KERP Charge must be in a form and substance satisfactory to the Agent.
- (i) The CCAA Court shall have approved the Interim Financing Facility and the Interim Financing Charge, in favour of the Agent for and on behalf of the Lenders, subject only to the Administration Charge, the Directors' Charge, the KERP Charge and certain PMSIs in the CCAA Proceedings.
- (j) The Agent, for and on behalf of the Lenders shall have reviewed and approved the draft, and if available, definitive forms of agreements giving effect to the Transaction, which approval may be withheld in the sole discretion of the Agent.
- (k) No Default or Event of Default shall exist (other than (i) existing Defaults and Events of Default acknowledged by the Agent and Lenders in this Agreement and the Fourth Amendment, which shall include the Insolvency Events of Default) and no event or circumstance which could reasonably be expected to result in a Material Adverse Effect

or form the basis for an appeal of the Initial Order in the CCAA Proceedings shall exist (other than existing Material Adverse Effects acknowledged by the Agent and Lenders in this Agreement and the Fourth Amendment, which shall include the Insolvency Events of Default).

- (l) The Initial Order, the Comeback Order and the Sale Approval Order (including any timelines thereunder), and any other order approving a sale and/or investment solicitation process (including any timeline thereunder) shall be in form and substance satisfactory to the Agent, acting reasonably.
- (m) The Initial Order and shall have been entered and be in full force and effect and shall not have been reversed, vacated, or stayed, subject to appeal or modified or superseded or negatively impacted in any material way in without the Agent's prior written consent, and all necessary consents and approvals to the transaction contemplated in this Agreement and in the Initial Order shall have been obtained to the satisfaction of the Agent, acting reasonably.
- (n) The Loan Parties shall be in compliance with all debt covenants and reporting as required by the Credit Agreement and this Agreement.
- (o) The Agent shall have received a current certificate of status or equivalent in respect of each Loan Party in respect of its jurisdiction of corporate or co-operative existence and certificates in form and substance satisfactory to the Agent and signed by a Responsible Officer of each Loan Party attaching certified copies of any modifications or amendments to such Loan Party's constating documents and by-laws to the extent any of the same are not reflected in the certified copies of such documents provided to the Agent pursuant to the officer's certificates given by Sandy Treagus, as officer of the Borrower and Treasurer of the Guarantor, each dated as of August 3, 2017.
- (p) The Agent shall have completed its business, financial and legal due diligence of the Loan Parties.
- (q) The Agent shall have received such other assurances, certificates, documents, consents or opinions as the Agent may reasonably require to give effect to this Agreement.
- (r) Prior to each advance under the Interim Financing Facility, the Borrower shall provide the Agent with a Committed Loan Notice in form and substance satisfactory to the Agent and approved by the Monitor and reviewed by the Agent's Advisors. Committed Loan Notices must be submitted by the Borrower to the Agent not later than 1:00 pm. EST one (1) Business Day prior to the requested date of any Borrowing of Prime Rate Loans. Notwithstanding anything to the contrary in the form of Committed Loan Notices, for certainty, Prime Rate Loans are the only type of Committed Loan available under the Interim Financing Facility.

## **6.0 AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment under the Credit Agreement (as amended by this Agreement), any Loan or other Secured Obligation remaining unpaid or unsatisfied or any Letter of Credit shall remain outstanding, the Loan Parties shall:

- (a) comply with the provisions of all court orders made in connection with the CCAA Proceedings;
- (b) conduct all activities in accordance with the Budget (subject to permitted variances);
- (c) not agree to any amendments to the terms of the Transaction or the related definitive documents for the Transaction, including without limitation, any asset purchase agreement, without the approval in writing of the Agent, for and on behalf of the Lenders; and
- (d) on closing of any Transaction, the Borrower will provide to the Agent, for and on behalf of the Lenders, cash in the face amount of any issued and outstanding Letters of Credit, to be held by the Agent, until such time as all outstanding Letters of Credit are released and returned.

## 7.0 **RELEASE AND INDEMNITY**

### 7.1 **Release and Indemnity**

7.1.1 The Loan Parties agree, on a joint and several basis, to indemnify and hold harmless the Agent and the Lenders and their respective directors, officers, employees, agents, attorneys, counsel, advisors and affiliates (all such persons and entities being referred to herein as "**Indemnified Persons**") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person (collectively, "**Claims**") as a result of or arising out of or in any way related to or resulting from the Interim Financing Facility, this Agreement, the Credit Agreement or any other Loan Document (regardless of whether such Claim is made in the CCAA Proceedings or any other proceeding, including a bankruptcy or insolvency proceeding) and, upon demand, to pay and reimburse any Indemnified Person for any legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation, any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, the Loan Parties shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability (a) to the extent it resulted from the gross negligence, bad faith or willful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction; or (b) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of a Loan Party.

7.1.2 The indemnities granted under this Agreement shall survive any termination of this Agreement, the Interim Financing Facility, the CCAA Proceedings and the Credit Agreement.

## 8.0 **GENERAL PROVISIONS**

### 8.1 **Effect of this Agreement**

Except as expressly modified pursuant hereto, no other changes or modifications to the terms of the Loan Documents are intended or implied. The Loan Documents as modified by this Agreement shall continue in full force and effect.

## 8.2 Loan Document

This Agreement is a Loan Document.

## 8.3 Further Assurances

The parties hereto shall execute and deliver such supplemental documents and take such supplemental action as may be necessary or desirable by the Agent to give effect to the provisions and purposes of this Agreement and the Interim Financing Charge all at the sole expense of the Borrower.

## 8.4 Binding Effect

This Agreement shall be binding upon and enure to the benefit of each of the parties hereto and their respective successors, heirs, executors, administrators, permitted assigns and legal representatives.

## 8.5 Assignment

A Lender may assign its rights and obligations hereunder, in whole or in part, or grant a participation in its respective rights and obligations hereunder in accordance with Section 10 of the Credit Agreement. The Loan Parties may not assign their rights and obligations under the Agreement.

## 8.6 Amendments, Waivers, etc.

No amendment or waiver of any provisions of this Agreement or consent to any departure by the Loan Parties from any provision thereof is effective unless it is made or given in accordance with Section 10 of the Credit Agreement. Such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.

## 8.7 Notices

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered in accordance with the notice provisions set out in the Credit Agreement in addition to the notice provisions set forth below:

- (a) in the case of the Loan Parties:

Mountain Equipment Co-operative and 1314625 Ontario Limited  
1077 Great Northern Way  
Vancouver, BC V5T 1E1

Attention: Philippe Arrata and Joanna Ban  
Email: [phil.arrata@mec.ca](mailto:phil.arrata@mec.ca) and [joanna.ban@mec.ca](mailto:joanna.ban@mec.ca)

- 21 -

with a copy to:

Norton Rose Fulbright Canada LLP  
400 3 Ave SW  
Calgary, AB T2P 4H2

Attention: Howard Gorman  
Email: [howard.gorman@nortonrosefulbright.com](mailto:howard.gorman@nortonrosefulbright.com)

(b) in the case of the Agent:

Royal Bank of Canada  
20 King Street West, 2<sup>nd</sup> Floor  
Toronto, ON M5H 1C4

Attention: Manager, Agency Services  
Facsimile: (416) 842-4023  
Email: [rbcmagnt@rbccm.com](mailto:rbcmagnt@rbccm.com)

with a copy to:

Royal Bank of Canada  
20 King Street West, 2<sup>nd</sup> Floor  
Toronto, ON M5H 1C4

Attention: Tania Litsos and Brent Miller  
Email: [tania.litsos@rbc.com](mailto:tania.litsos@rbc.com) and [brent.miller@rbc.com](mailto:brent.miller@rbc.com)

and with a copy to:

Dentons Canada LLP  
250 Howe Street  
Vancouver, BC V6C 3R8

Attention: John Sandrelli  
Email: [john.sandrelli@dentons.com](mailto:john.sandrelli@dentons.com)

(c) in the case of the Monitor:

Alvarez & Marsal Canada Inc.  
400 Burrard Street, Unit 1680,  
Vancouver, BC V6C 3A6

Attention: Todd Martin and Anthony Tillman  
Email: [tmartin@alvarezandmarsal.com](mailto:tmartin@alvarezandmarsal.com) / [atillman@alvarezandmarsal.com](mailto:atillman@alvarezandmarsal.com)

- 22 -

with copy to:

Cassels Brock & Blackwell LLP  
Suite 2200, HSBC Building, 885 West George St.  
Vancouver, BC V6C 3E8

Attention: Mary Buttery and Lance Williams  
Email: [mbuttery@cassels.com](mailto:mbuttery@cassels.com) and [lwilliams@cassels.com](mailto:lwilliams@cassels.com)

#### 8.8 Survival of Representations and Warranties

All representations and warranties made in this Agreement or any other document furnished in connection herewith shall survive the execution and delivery of this Agreement and such other document delivered in connection herewith, and no investigation by the Agent or Lenders or any closing shall affect the representations and warranties or the rights of the Agent or Lenders to rely upon such representations and warranties.

#### 8.9 No Novation

This Agreement will not discharge or constitute novation of any debt, obligation, covenant or agreement contained in the Loan Documents but the same shall remain in full force and effect save to the extent amended by this Agreement.

#### 8.10 Execution in Counterparts

This Agreement, and the documents to be delivered hereunder, and each other Loan Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement or any other Loan Document shall be deemed to include electronic signatures, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, as in provided Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Commerce Act, 2000* (Ontario), the *Electronic Transaction Acts* (British Columbia), the *Electronic Transactions Act* (Alberta), or any other similar laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada. The Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

[REMINDER OF PAGE DELIBERATELY LEFT BLANK]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first above mentioned.

**BORROWER:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

Per. Joanna Ban  
Authorized Signatory

**GUARANTOR:**


**1314625 ONTARIO LIMITED**

Per. Joanna Ban  
Authorized Signatory



**LENDERS:**

**ROYAL BANK OF CANADA**  
as L/C Issuer, Swingline Lender and a Lender

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE TORONTO-DOMINION BANK,**  
as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CANADIAN IMPERIAL BANK OF COMMERCE,**  
as a Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By:                     Louisy                    

Name: Chaz Louisy

Title: MCC - Asset Based Lending

By:                     Patrick Tong                    

Name: Patrick Tong

Title: Senior Analyst

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**LENDERS:**

**ROYAL BANK OF CANADA**  
as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:


**THE TORONTO-DOMINION BANK,**  
as a Lender

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**  
as a Lender

By:           *Matt Van Gelder*            
Name: Matt Van Gelder  
Title: Authorized signatory

By:                       
Name: Anthony Tsuen  
Title: Authorized Signatory

**AGENT:**

**ROYAL BANK OF CANADA,**  
in its capacity as the Agent

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**SCHEDULE A**  
**Loan Documents**

**SECURITY AND LOAN DOCUMENTS**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

as Borrower

**1314625 ONTARIO LIMITED**

as Guarantor

**ROYAL BANK OF CANADA, CANADIAN IMPERIAL BANK OF COMMERCE, and THE  
TORONTO-DOMINION BANK**

as Lenders

and

**ROYAL BANK OF CANADA**

as Administrative and Collateral Agent

- 2 -

1. General Security Agreement made as of August 3, 2017 (the "**GSA**") granted by Mountain Equipment Co-operative (the "**Borrower**") and 1314625 Ontario Limited (the "**Guarantor**", and together with the Borrower, the "**Loan Parties**") in favour of Royal Bank of Canada, as administrative and collateral agent for and on behalf of the lenders from time to time party to the Credit Agreement (as defined in the GSA);
2. Deed of Hypothec dated August 3, 2017 granted by the Borrower in favour of the Agent;
3. Share certificate NO. C-1 representing 1 common share in the Guarantor issued to the Borrower; and undated stock transfer power with respect to the Borrower's shares in the Guarantor;
4. Revolving credit note granted by the Borrower in favour of Royal Bank of Canada dated August 3, 2017;
5. Revolving credit note granted by the Borrower in favour of Canadian Imperial Bank of Commerce dated August 3, 2017;
6. Revolving credit note granted by the Borrower in favour of The Toronto-Dominion Bank dated August 3, 2017;
7. Guarantee made as of August 3, 2017 granted by the Guarantor in favour of the Agent;
8. Blocked Account Agreement dated August 3, 2017 among the Borrower, as debtor, the Agent, as secured party, and Royal Bank of Canada, as account bank;
9. British Columbia Form B Mortgage and Assignment of Rents dated August 2, 2017 and registered in the Land Title Office on August 3, 2017 (CA6198144 and CA6198145), granted by the Borrower (the "**BC Collateral Mortgage**") with respect to the following lands:
  - (a) 212-246 Brooksbank Ave, North Vancouver, BC;
  - (b) 13340 76 Ave, Surrey, BC;
10. Form C Modification of the BC Collateral Mortgage and Assignment of Rents dated July 29, 2020 and registered in the Land Title Office on July 30, 2020 (CA8334711 and CA8334712) granted by the Borrower in favour of the Agent;
11. Ontario Authorization and Direction of the Borrower and Mortgage and Assignment of Rents dated August 3, 2017 (receipted on August 3, 2017 as OC1916147, HR1478303 and AT4646897), granted by the Borrower with respect to the following lands (the "**Borrower Ottawa, Burlington and Toronto Lands**"):
  - (a) 366, 378 Richmond Road and 375 Danforth Ave, Ottawa, ON;
  - (b) 1030 Brant Street and 1428, 1430 Leighland Road, Burlington, ON;
  - (c) 784 Sheppard Ave E., Toronto, ON;
12. Ontario Authorization and Direction of the Borrower and Mortgage and Assignment of Rents dated August 3, 2017 (and receipted on August 3, 2017 as OC1916146) granted by the

- 3 -

Guarantor with respect to 374 Richmond Road, Ottawa, ON (the "**Guarantor Ottawa Lands**");

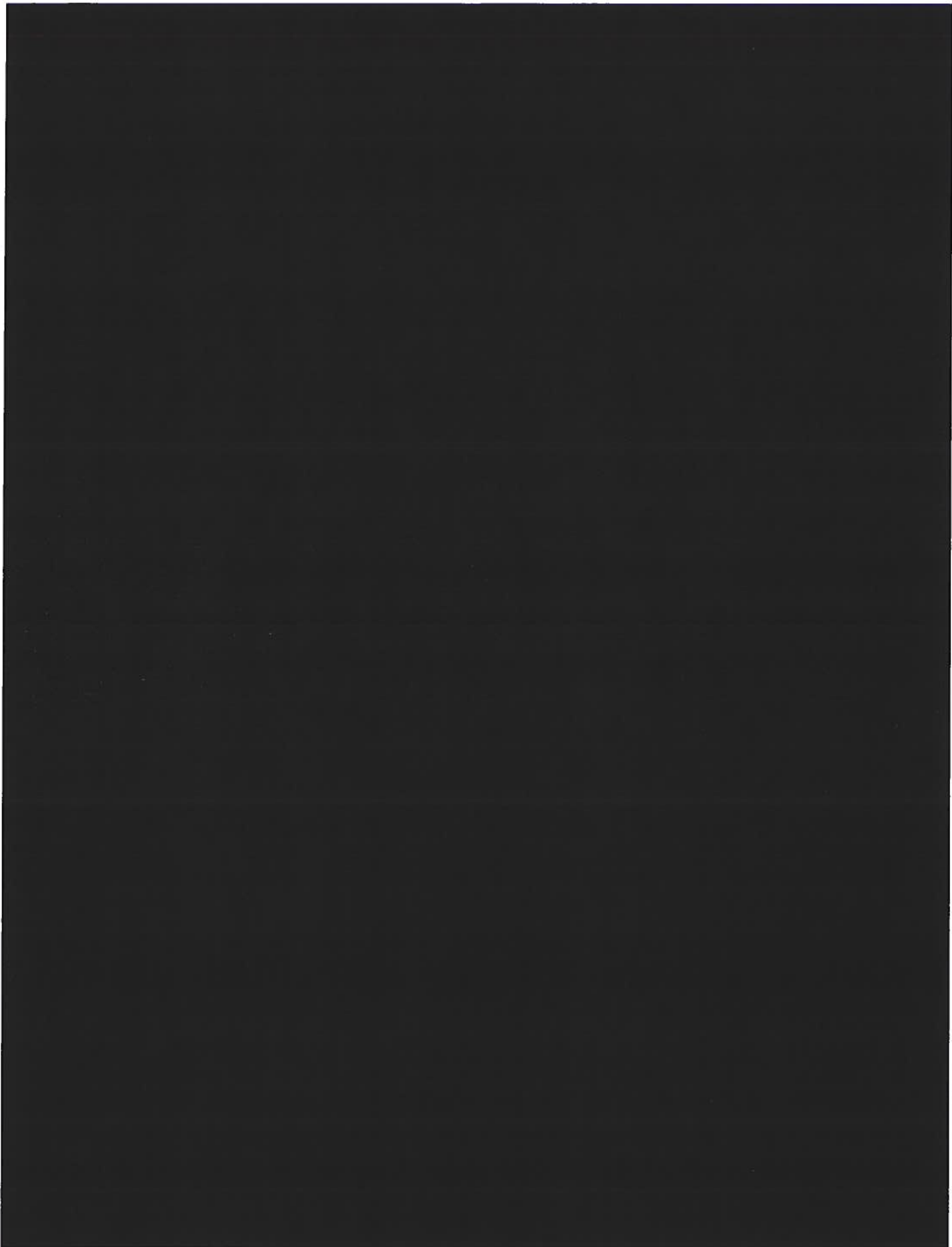
13. Ontario Beneficial Authorization of Charge regarding the Guarantor Ottawa Lands dated August 3, 2017;
14. Ontario Authorization and Direction of the Agent dated August 3, 2017 with respect to the Borrower Ottawa, Burlington and Toronto Lands;
15. Ontario Authorization and Direction of the Agent dated August 3, 2017 with respect to the Guarantor Ottawa Lands;
16. Mortgagee Assumption Agreement dated August 3, 2017 among the Borrower, the Agent and Park Towns Developments (Sheppard) Inc. (re: reciprocal easement and cost sharing agreement with Park Town Developments (Sheppard) Inc.);
17. Mortgage dated August 2, 2017 granted by the Borrower in favour of the Agent (the "**Alberta Collateral Mortgage**") (and registered in the Land Titles Office as 171183782) with respect to 830 10 Ave SW, Calgary, AB (the "**Calgary Property**");
18. Mortgage Amending Agreement made July 31, 2020 (and registered in the Land Titles Office as 201143810) granted by the Borrower in favour of the Agent with respect to the Alberta Collateral Mortgage;
19. General Assignment of Rents and Leases made as of August 2, 2017 (and registered in the Land Titles Office 171183783) granted by the Borrower in favour of the Agent with respect to the Calgary Property;
20. Affidavit re: Tariff of Fees dated August 2, 2017 executed by the Borrower with respect to the Calgary Property;
21. General Assignment of Leases and Rents made as of July 31, 2020 (and registered in the Land Titles Office as 201 143 811) granted by the Borrower in favour of the Agent with respect to the Calgary Property;
22. Environmental Indemnity Agreement dated August 3, 2017 granted by the Loan Parties in favour of the Agent;
23. Winnipeg Collateral Mortgage dated July 29, 2020 granted by the Borrower in favour of the Agent (the "**Winnipeg Mortgage**") (registered in the Property Registry as 5196018/1) with respect to 303 Portage Ave., Winnipeg, MB (the "**Winnipeg Property**");
24. General Assignment of Leases and Rents dated July 29, 2020 (registered in the Property Registry as 5196019/1 and the Manitoba Personal Property Registry) granted by the Borrower in favour of the Agent with respect to the Winnipeg Property;
25. Correction Letter dated July 31, 2020 from MLT Aikins LLP ("**MLT**") to Teranet Manitoba correcting certain typographical errors with respect to the Winnipeg Mortgage;
26. Correction Letter dated August 4, 2020 from MLT to Teranet Manitoba correcting certain typographical errors or errors of omission with respect to the Winnipeg Mortgage;



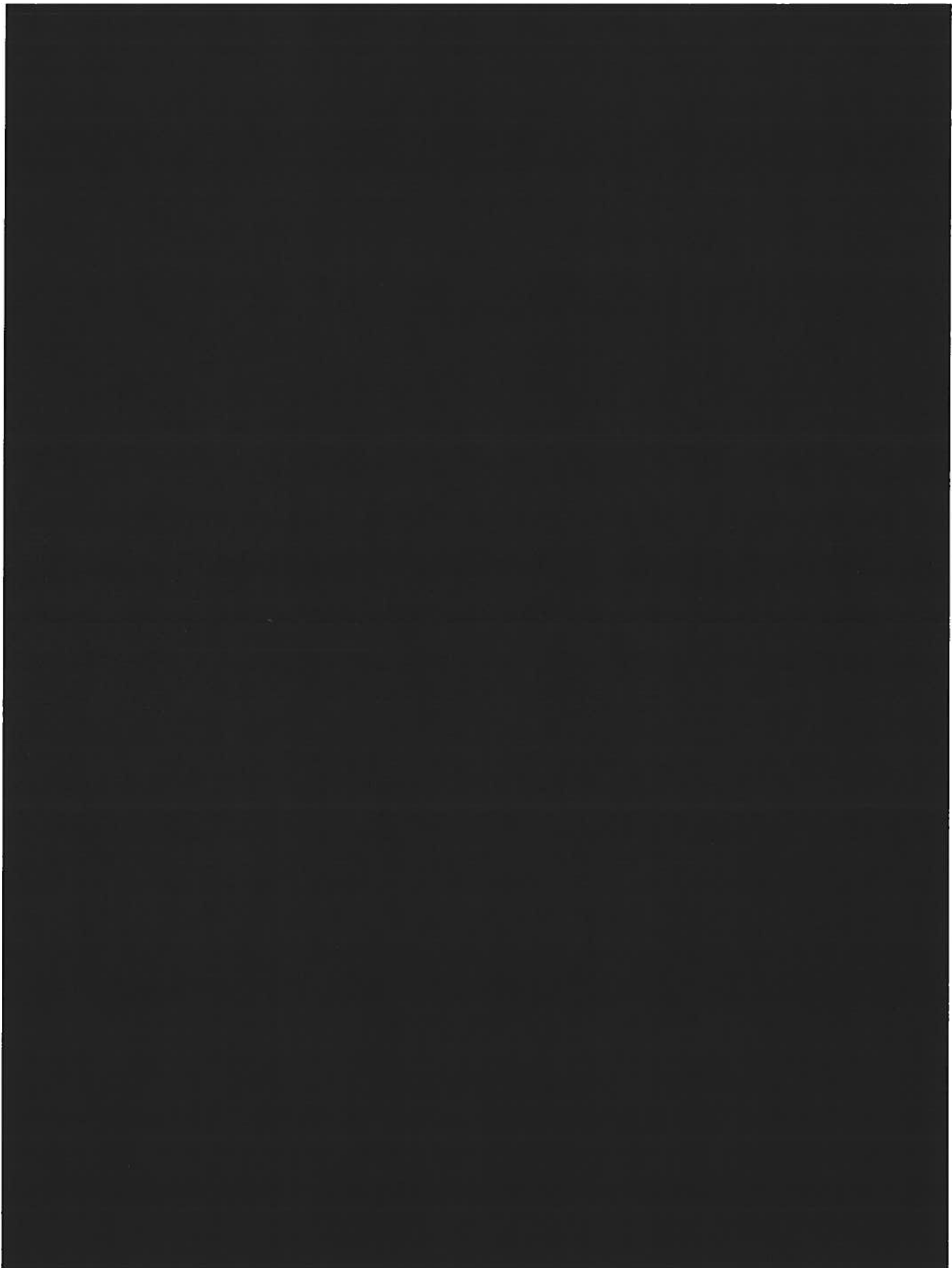
27. Declaration as to possession dated July 29, 2020 granted by the Borrower relating to the Winnipeg Property;
28. Confirmation of Grant of Security Interest in Canadian Intellectual Property dated July 31, 2020 granted by the Borrower in favour of the Agent;
29. Grant of Security Interest in United States Trademarks dated July 31, 2020 granted by the Borrower in favour of the Agent;
30. Assignment of Insurance Proceeds Agreement dated July 31, 2020 granted by the Loan Parties in favour of Agent;
31. UCC Filing Authorization Letter dated July 30, 2020 granted by the Borrower in favour of the Agent;
32. The following Bank Act Section 427 Security from the Borrower in favour of Royal Bank of Canada ("**RBC**"):
  - (a) Notice of Intention dated July 30, 2020 granted by the Borrower in favour of RBC;
  - (b) Agreement as to Loans and Advances and Security Under Section 427 of the Bank Act for Such Loans and Advances dated July 31, 2020 granted by the Borrower in favour of RBC;
  - (c) Promise to Give Security Under Section 427 of the Bank Act and Warehouse Receipts and/or Bills of Lading dated July 31, 2020 granted by the Borrower in favour of RBC;
  - (d) Assignment Under Section 427 of the Bank Act dated July 31, 2020 granted by the Borrower in favour of RBC; and
  - (e) Letter of Authorization for Section 427 Under the Bank Act dated July 31, 2020 granted by the Borrower in favour of RBC;
33. The following Bank Act Section 427 Security from the Borrower in favour of Canadian Imperial Bank of Commerce ("**CIBC**"):
  - (a) Notice of Intention dated July 30, 2020 granted by the Borrower in favour of CIBC;
  - (b) Contract Relative to Special Security under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;
  - (c) Application for Credit and Promise to give Special Security under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;
  - (d) Special Security in respect of specified property or classes of property described in section 427 of the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC; and
  - (e) Letter of Authorization for Section 427 under the Bank Act dated July 31, 2020 granted by the Borrower in favour of CIBC;

34. The following Bank Act Section 427 Security from the Borrower in favour of The Toronto-Dominion Bank ("TD"):
- (a) Notice of Intention to Give Security Under Section 427 of the Bank Act dated July 30, 2020 granted by the Borrower in favour of TD;
  - (b) Bank Act Security Agreement dated July 31, 2020 granted by the Borrower in favour of TD;
  - (c) Bank Act Security & Warehouse Liens/Bills of Lading Application for Credit dated July 31, 2020 granted by the Borrower in favour of TD; and
  - (d) Letter of Authorization for Section 427 under the Bank Act dated July 31, 2020 granted by the Borrower in favour of TD;
29. Amending Agreement made as of January 31, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security);
30. Second Amendment and Waiver Agreement made as of June 18, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security); and
31. Third Amending Agreement made as of July 31, 2020 between the Borrower, the Guarantor, the Agent, and the lenders party thereto (containing a confirmation of security).





1



**FOURTH AMENDING AGREEMENT**

THIS AGREEMENT is made as of September 11, 2020

BETWEEN:

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association duly incorporated under the laws of the Province of British Columbia

(the "**Borrower**")

AND:

**1314625 ONTARIO LIMITED**, a corporation duly incorporated under the laws of the Province of Ontario

(the "**Guarantor**")

AND:

**EACH LENDER PARTY TO THE CREDIT AGREEMENT**, as Lenders

AND:

**ROYAL BANK OF CANADA**, a Canadian chartered bank, as agent of the Lenders

(the "**Agent**")

WHEREAS the parties hereto have agreed to amend, and supplement certain provisions of the Credit Agreement as hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

**1.0 INTERPRETATION**

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

"**Agreement**" means this agreement, as amended, modified, supplemented or restated from time to time.

"**Credit Agreement**" means the credit agreement made as of August 3, 2017 and amended January 31, 2020 pursuant to a first amending agreement (the "**First Amending Agreement**"), June 18, 2020 pursuant to a second amendment and waiver agreement (the "**Second Amending Agreement**") and July 31, 2020 pursuant to a third amending agreement (the "**Third Amending**

**Agreement**"), among the Borrower, the Guarantor, the financial institutions party thereto as Lenders and the Agent.

1.2 Capitalized terms used herein without express definition shall have the same meanings herein as are ascribed thereto in the Credit Agreement, as amended by this Agreement.

1.3 The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, references herein to "Sections" are to Sections of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Section or other portion hereof and include any agreements supplemental hereto.

1.4 This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

## **2.0 AMENDMENTS, SUPPLEMENTS AND TEMPORARY WAIVERS**

Subject to and upon satisfaction of the conditions set out in Section 4.0 hereof, the Credit Agreement is amended and modified effective from and after the date hereof as follows:

2.1 A Cash Management Activation Event has occurred and is continuing and the Agent has issued an activation notice under the Cash Management Agreements. As a result of the occurrence of the Cash Management Activation Event, the Lenders, the Swingline Lender and the L/C Issuer hereby advise the Borrower that, notwithstanding anything else in the Credit Agreement, as of the date of this Agreement:

- (a) No further Committed Loans, Swingline Loans or letters of Credit shall be extended to the Borrower other than Committed Loans (in the form of Prime Rate Loans only) and Letters of Credit (subject to a Letter of Credit sublimit of [REDACTED]) under the Interim Financing Facility. The Swingline Lender shall no longer be required to extend any Swingline Loans; and
- (b) Any existing Committed Borrowing which is presently outstanding shall be automatically converted to a Prime Rate Loan or Base Rate Loan upon maturity of its existing Term, unless otherwise agreed by the Borrower, the Agent and the Lenders.

2.2 Each of the following definitions contained in section 1.1 of the Credit Agreement is deleted in its entirety and replaced with the following, and in the case of Agent's Financial Advisor is added:

"Administration Charge" means the administration charge contemplated by the Initial Order.

"Aggregate Commitments" means the Commitments of all the Lenders. As of the Closing Date, the Aggregate Commitments totalled \$130,000,000 and on or about July 31, 2020, the Aggregate Commitments were reduced to \$110,000,000. On or about September 14, 2020, the Aggregate Commitments are reduced to \$100,000,000.

"Applicable Margin" means, with respect to any Loan, the applicable rate per annum expressed as a percentage set forth in the relevant column in the table below:

Applicable Margin for LIBO Rate Loans or BA Rate Loans	Applicable Margin for Prime Rate Loans or Base Rate Loans	Applicable Margin for the Letter of Credit Fee
[REDACTED]	[REDACTED]	[REDACTED]

"Availability Period" means the period from and including the Closing Date to the earliest of: (i) the Maturity Date; (ii) the completion of the Transaction which is approved by the Sale Approval Order; and (iii) at the Agent and Lenders' option upon the occurrence of an Event of Default (other than the Insolvency Events of Default).

"Budget" means the Initial Budget as amended and modified with the prior written consent of the Agent in its sole discretion.

"CCAA Court" means the Supreme Court of British Columbia.

"CCAA Proceedings" means the proceedings commenced by the Loan Parties under the *Companies' Creditors Arrangement Act* in the CCAA Court to seek, among other things, the granting of an initial order and the appointment of Alvarez & Marsal Canada Inc. as monitor.

"Comeback Order" means an order of the CCAA Court approving an amended and restated Initial Order, which shall be in form and substance satisfactory to the Agent.

"Director's Charge" means the directors and officers charge contemplated by the Initial Order.

"Initial Budget" means a 13 week cash flow reviewed by the Monitor, which shall be filed with the CCAA Court in connection with the CCAA Proceedings and the related schedules including the borrowing base availability. The Initial Budget shall reflect on a line item basis, among other things, anticipated cash flow, cash receipts and disbursements, sales, net excess availability and receivables levels. The Initial Budget and the proposed use of funds provided for therein shall be satisfactory to the Agent in its sole discretion.

"Initial Order" means the initial order in the CCAA Proceedings.

"Insolvency Events of Default" means the Borrower's inability to pay its debts as they come due in the ordinary course of business and the commencement of the CCAA Proceedings.

"Interim Financing Charge" means a super-priority interim financing charge on all of the existing and after-acquired real and personal property of the Loan Parties as provided for in the Restructuring Support Agreement and in the Initial Order.

"Interim Financing Facility" means the interim financing facility established by the Agent and the Lenders in favour of the Borrower during the CCAA Proceedings.



"KERP Charge" means the key employee retention plan charge contemplated by the Initial Order or, if not the Initial Order, the Comeback Order.

"Letter of Credit Sublimit" means an amount equal to [REDACTED]. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments. A permanent reduction of the Aggregate Commitments shall not require a corresponding pro rata reduction in the Letter of Credit Sublimit; provided, however, that if the Aggregate Commitments are reduced to an amount less than the Letter of Credit Sublimit, then the Letter of Credit Sublimit shall be reduced to an amount equal to (or, at the Borrower's option, less than) the Aggregate Commitments.

"Maturity Date" means November 30, 2020, which date may be extended with the consent of the Agent and the Lenders in their sole discretion.

"Monitor" means Alvarez & Marsal Canada Inc. as monitor in the CCAA Proceedings.

"Request for Credit Extension" means (a) with respect to a Borrowing, conversion, or continuation of Committed Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Applications and, if required by the L.C Issuer, a Standby Letter of Credit Agreement or Documentary Letter of Credit Agreement, as applicable, and (c) with respect to a draw under the Interim Financing Facility, a Committed Loan Notice which must be submitted by the Borrower to the Agent not later than 1:00 pm EST one (1) Business Day prior to the requested date of any such requested draw.

"Restructuring Support Agreement" means the restructuring support agreement dated on or about September 14, 2020 between the Agent, the Lenders, the Borrower and the Guarantor, which established the Interim Financing Facility, as same may be amended, restated, modified or supplemented from time to time.

"Sale Approval Order" means an order of the CCAA Court approving the Transaction, the terms of which, and all ancillary documents prepared in connection therewith, must be satisfactory in form and substance to the Agent in its sole discretion.

"Termination Date" means the earlier of (a) the Maturity Date, which date may be extended with the consent of the Agent and the Lenders in their sole discretion; (ii) the closing of a Transaction, which in the aggregate is for all or substantially all of the Loan Parties' assets, is approved by the Sale Approval Order, and results in the Lenders being repaid in full; and (iii) at the Agent's and Lenders' option upon the occurrence of an Event of Default (other than the Insolvency Events of Default).

"Transaction" means the sale by the Borrower of substantially all of its assets, property, and undertaking in the context of the CCAA Proceedings pursuant to an asset purchase agreement with 1264686 BC Ltd. or its assignee, which agreement provides for the repayment of the Lenders in full, or such other asset purchase agreement as approved by the Agent and the Lenders."

2.3 The definition of "Availability" in section 1.1 of the Credit Agreement is hereby amended by deleting paragraph (b) and replacing it with the following:

"(b) the sum of the Total Outstandings as of such date plus the total amount outstanding under the Interim Financing Facility."

2.4 The definition of "Permitted Encumbrances" in section 1.1 of the Credit Agreement is hereby amended by adding the following as new paragraph (w):

"(w) Liens in connection with the Administration Charge, Director's Charge, and KERP Charge."

2.5 Schedule 2.1 of the Credit Agreement is hereby deleted in its entirety and replaced with the following:

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

2.6 Exhibit E - "Form of Borrowing Base Certificate" to the Credit Agreement is hereby deleted in its entirety and replaced with the new form of Borrowing Base Certificate attached hereto as Exhibit E.

2.7 Section 2.1(a) of the Credit Agreement is deleted in its entirety and replaced by the following:

"Subject to the terms and conditions set forth herein and in the Restructuring and Support Agreement, each Lender severally agrees to make loans (each such loan a "Committed Loan") to the Borrower from time to time, on any Business Day during the Availability Period to fund weekly and ad hoc draw requests from the Borrower under the Interim Financing Facility in accordance with the Budget in an aggregate amount not to exceed at any time outstanding the lesser of (x) the amount of such Lender's Commitment, or (y) such Lender's Applicable Percentage of the Borrowing Base; subject to the following limitations:

- (i) After giving effect to any Committed Loan:
  - (A) the Total Outstandings, plus
  - (B) without duplication, the total amount outstanding under the Interim Financing Facility, plus
  - (C) the amount of the Administration Charge, plus
  - (D) the amount of the Director's Charge, plus
  - (E) the amount of the KERP Charge,

shall not, in the aggregate, exceed the Loan Cap,

- (ii) After giving effect to any Committed Loan, the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations plus, without duplication, the amount advanced by such Lender under the Interim Financing Facility shall not exceed such lender's Commitment, and
- (iii) The Outstanding Amount of all L/C Obligations plus the face amount of all letters of credit issued under the Interim Financing Facility, without duplication, shall not at any time exceed the Letter of Credit Sublimit.

Notwithstanding anything else in this Agreement, on and after September \_\_\_\_, 2020, Committed Loans shall only be available under the Interim Financing Facility and shall only be available by way of Prime Rate Loans and Letters of Credit (subject to a Letter of Credit sublimit of [REDACTED]), with the proceeds of such Prime Rate Loans being deposited by the Agent into the Borrower's disbursement account."

2.8 Section 2.8(a) of the Credit Agreement is deleted in its entirety and replaced by the following:

**Commitment Fee.** The Borrower shall pay to the Agent for the account of each Lender (other than a Defaulting Lender) in accordance with its Applicable Percentage under the Credit Agreement and the percentage of its commitment under the Interim Financing Facility, a commitment fee equal to [REDACTED] times the actual daily amount by which the [REDACTED] [REDACTED] the sum of (i) the Outstanding Amount of Loans plus (ii) the Outstanding Amount of L/C Obligations plus (iii) the total amount outstanding under the Interim Financing Facility. The commitment fee shall accrue at all times until the Termination Date, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable monthly in arrears pm the first calendar day after the end of each month, commencing with the first such date to occur after the Closing Date, and on the Termination Date. The commitment fee shall be calculated monthly in arrears."

2.9 [REDACTED]

2.10 Section 6.19 of the Credit Agreement is hereby amended by adding the following new paragraphs (f) and (g):

- (f) Deliver to the Agent, a duly completed and executed Borrowing Base Certificate within [REDACTED] Business Days after the end of each week, in form and substance satisfactory to the Agent
- (g) Comply with all reporting and information covenants and requirements set out in the Restructuring and Support Agreement including but not limited to those set out in Sections 4.12, 4.13, 4.14 and 4.15."

2.11 The Credit Agreement is hereby amended by adding the following new Sections 6.23, 6.24 and 6.25:

**"6.23 Compliance with CCAA Proceedings**

So long as any Lender shall have any Commitment under the Credit Agreement, any Loan or other Secured Obligation remaining unpaid or unsatisfied or any Letter of Credit shall remain outstanding, the Loan Parties shall comply with the provisions of all court orders made in connection with the CCAA Proceedings.

#### **6.24 Compliance with Budget**

So long as any Lender shall have any Commitment under the Credit Agreement, any Loan or other Secured Obligation remaining unpaid or unsatisfied or any Letter of Credit shall remain outstanding, the Loan Parties shall conduct all activities in accordance with the Budget (subject to permitted variances);

#### **6.25 Cash Collateral in Connection with Transaction Closing**

On closing of any Transaction, the Borrower will provide to the Agent, for and on behalf of the Lenders, cash in the face amount of any issued and outstanding Letters of Credit issued under or in connection with the Credit Agreement or the Interim Financing Facility, to be held by the Agent, until such time as all outstanding Letters of Credit are released and returned."

2.12 The Credit Agreement is hereby amended by adding the following new Section 7.16:

#### **"7.16 No Amendment to Transaction**

The Loan Parties shall not agree to any amendments to the terms of the Transaction or the related definitive documents for the Transaction, including without limitation, any asset purchase agreement, without the prior approval in writing of the Agent, for and on behalf of the Lenders."

2.13 Section 8.1 of the Credit Agreement is hereby amended by adding the following new paragraphs (s) through (aa):

"(s) If the Initial Order, the Sale Approval Order, or any other order relating to the Transaction has been vacated, stayed or otherwise caused to be materially ineffective or is otherwise materially amended in a manner not approved by the Agent, for and on behalf of the Lenders.

(t) If the CCAA Court fails to grant the Sale Approval Order, among other things, approving a Transaction that: (i) is in form and in substance satisfactory to the Agent and the Lenders acting reasonably; and (ii) provides for repayment of the Lenders in full.

(u) The entry of an order dismissing the Borrower's proceedings under the CCAA Court, which order is not stayed pending appeal thereof.

(v) Any proceeding, motion or application is commenced or filed by any of the Loan Parties or any other person to challenge in CCAA Court: (i) the Initial Order; (ii) the Comeback Order or (iii) the validity, enforceability or priority of the Interim Financing Charge; and the Loan Parties fail to secure the dismissal of such proceeding, motion or application within 10-days from the date such proceeding, application or motion is brought.

(w) The occurrence of any negative variances in excess of ██████████ in respect of the actual cumulative net cash flow against the forecast cumulative net cash flow in the Budget for the period from the Initial Budget to the date of such negative variance.

(x) The occurrence of any negative variance in excess of [REDACTED] in respect of excess borrowing availability against the forecast excess borrowing availability in the Budget for the period from the Initial Budget to the date of such negative variance; and (ii) actual borrowings under the Existing Credit Facility and the Interim Financing Facility at any time during a week exceeds [REDACTED] of forecast borrowings for such week on the Budget.

(y) Any transaction(s) that result(s) in the sale of substantially all of the assets of the Loan Parties is(are) approved by the CCAA Court that is(are) not in form and substance satisfactory to the Agent and the Lenders acting reasonably and/or that does not result in the Lenders being repaid in full.

(z) The Interim Financing Facility (including all post-filing Obligations) has not been paid in full to the Agent by the Termination Date.

(aa) the occurrence of an "Event of Default" under and as defined in the Restructuring Support Agreement."

2.14 Exhibit A to the Credit Agreement is deleted and replaced with Exhibit A to this Agreement.

### 3.0 CONDITIONS PRECEDENT

3.1 The amendments, supplements and temporary waivers to the Credit Agreement contained in Section 2.0 shall be effective upon, and shall be subject to, the satisfaction of the following conditions precedent:

- (a) The Borrower shall pay to the Agent (for the rateable benefit of the Lenders) a non-refundable amendment fee of Cdn. \$250,000 (the "**Amendment Fee**") for the Lenders' additional time incurred and costs borne in connection with this Agreement. The Amendment Fee shall be fully earned as of the date of execution of this Agreement and shall be paid by the Borrower to the Agent (or, in the sole discretion of the Agent, may be debited immediately by the Agent to the account of the Borrower) upon CCAA Court approval of this Agreement.
- (b) The Borrower will pay all reasonable and documented out-of-pocket expenses incurred by the Agent associated with the Interim Financing Facility and this Agreement, and the negotiation, preparation and execution of the related documentation, including without limitation financial advisors', fees, and reasonable and documented legal fees and out of pocket disbursements, regardless of whether or not this Agreement is signed.
- (c) Execution and delivery of all required Loan Documents, including a copy of this Agreement, the Restructuring Support Agreement, and any Security and registration thereof;
- (d) Approval of the Interim Financing Facility and the Interim Financing Charge in favour of the Agent for and on behalf of the Lenders, by the Court, subject only to the Administration Charge, the Director's Charge, the KERP Charge and certain purchase money security interests in the CCAA Proceedings;

- 9 -

- (e) Review and approval of the draft and, if available, definitive forms of agreements giving effect to the Transaction by the Agent, for and on behalf of the Lenders, which approval may be withheld in the sole discretion of the Agent;
- (f) The terms of the key employee retention plan and of the KERP Charge must be in form and substance satisfactory to the Agent;
- (g) Delivery by the Borrower to the Agent of the Initial Budget in form and substance satisfactory to the Agent and the Lenders;
- (h) The Borrower shall have paid to the Agent, for its own account, all fees then payable pursuant to the agency fee agreement entered into between the Borrower and the Agent;
- (i) No Default or Event of Default shall exist (other than existing Defaults and Events of Default acknowledged by the Agent and Lenders in this Agreement and the Restructuring Support Agreement, which shall include the Insolvency Events of Default) and no event or circumstance which could reasonably be expected to result in a Material Adverse Effect or form the basis for an appeal of the Initial Order (other than existing Material Adverse Effects acknowledged by the Agent and Lenders in this Agreement and the Restructuring Support Agreement, which shall include the CCAA Proceedings);
- (j) No pending litigation or other proceeding, other than the CCAA Proceedings, the result of which could have a Material Adverse Effect or form the basis of an appeal of the initial order in these CCAA Proceedings, or the Initial Order;
- (k) All application materials, documents and orders of the CCAA Court in connection with the CCAA Proceedings shall be in form and substance satisfactory to the Agent, acting reasonably;
- (l) To the extent granted before or in connection with the entering into of this Agreement, the Initial Order, the Comeback Order, the Sale Approval Order, and any other order approving a sale and/or investment solicitation process (including any timeline thereunder) shall be in form and substance satisfactory to the Agent, acting reasonably;
- (m) The Initial Order shall have been entered and be in full force and effect and shall not have been reversed, vacated, or stayed, subject to appeal or modified or superseded or negatively impacted in any material way without the Agent's prior written consent and all necessary consents and approvals to the transaction contemplated in this Agreement and the Restructuring Support Agreement and the Initial Order shall have been obtained to the satisfaction of the Agent, acting reasonably;
- (n) The Loan Parties shall be in compliance with debt covenants and reporting as required by the Credit Agreement as amended by this Agreement and any further reporting required by the Restructuring Support Agreement;
- (o) The Borrower shall have provided the Agent with current certificates of status or equivalent for each Loan Party and certified copies of any modifications or amendments to such Loan Party's constating documents, and incumbency (to the extent any of the same are not reflected in the certified copies of such documents provided to the Agent pursuant to the officer's certificates given by Sandy Treagus, as officer of the Borrower

and the Guarantor, each dated August 3, 2017), and copies of any new authorizing resolutions;

- (p) The Agent shall have completed its business, financial and legal due diligence; and
- (q) All conditions precedent under the Restructuring Support Agreement shall have been satisfied.

3.2 The foregoing conditions precedent are inserted for the sole benefit of the Lenders and may be waived in writing by the Agent (with the consent of the Lenders), in whole or in part (with or without terms and conditions).

#### **4.0 CONFIRMATION OF OUTSTANDING AMOUNT**

4.1 As at September 11, 2020, the Borrower is indebted to the Agent and Lenders in respect of the following:

- (a) Loans under the Credit Agreement and accrued interest thereon in the aggregate amount of [REDACTED];
- (b) Letters of Credit under the Credit Agreement in the amount of [REDACTED]; and [REDACTED] and
- (c) the other Obligations under the Loan Documents, including without limitation, unpaid Letter of Credit Fees, Commitment Fees, amendment fees, Agent and Lender expenses, which, for greater certainty, are not included in the amounts in Sections 4.1 (a) and 4.1(b) hereof.

#### **5.0 CONFIRMATION OF CREDIT AGREEMENT AND OTHER LOAN DOCUMENTS**

5.1 The Credit Agreement and the other Loan Documents to which each Loan Party is a party and all covenants, terms and provisions thereof, except as expressly amended and supplemented by this Agreement, shall be and continue to be in full force and effect and the Credit Agreement, as amended and supplemented by this Agreement, and each of the other Loan Documents to which each Loan Party is a party is hereby ratified and confirmed and shall, from and after the date hereof, continue in full force and effect as herein amended and supplemented, with such amendments and supplements being effective from and as of the date hereof (upon satisfaction of the condition precedent set forth in Section 4 hereof).

5.2 Subject to and upon satisfaction of the conditions set out in Section 4.0 hereof, the Credit Agreement and the other Loan Documents are hereby modified and amended to the extent necessary to give effect to the foregoing, including without limitation, those amendments set out in Section 2.0 hereof.

5.3 The Borrower hereby agrees that the Borrower continues to be bound by the provisions of any Security Documents granted by the Borrower to the Agent for and on behalf of the Lenders (collectively, the "**Borrower Security**"); the Borrower Security continues in full force and effect; and the Borrower Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Borrower to the Agent and the Lenders, including all present and future indebtedness, liability and obligations of the Borrower to the Agent and the Lenders under or in connection with the Restructuring Support Agreement, the Interim Financing Facility and the Credit Agreement as amended by this

Agreement and, for certainty, including all post-filing Obligations of the Borrower to the Agent and the Lenders.

5.4 The Guarantor hereby agrees that it continues to be bound by the provisions of its Guarantee and Security Documents granted by the Guarantor to the Agent for and on behalf of the Lenders (the "**Guarantor Security**") to which it is a party; the Guarantee and the Guarantor Security continues in full force and effect; and the Guarantee and Guarantor Security shall continue to secure payment of all present and future indebtedness, liability and obligations of the Guarantor to the Agent and the Lenders, including all present and future indebtedness, liability and obligations of the Guarantor to the Agent and the Lenders under or in connection with the Restructuring Support Agreement, the Interim Financing Facility and the Credit Agreement as amended by this Agreement and, for certainty, including all post-filing Obligations of the Guarantor to the Agent and the Lenders.

#### **6.0 FURTHER ASSURANCES**

Each Loan Party, the Lenders and the Agent shall promptly cure any defect relating to their execution and delivery of this Agreement, the other Loan Documents or any of the agreements provided for hereunder to which it is a party. The parties hereto shall from time to time do all such further acts and things and execute and deliver all such documents as are required in order to effect the full intent of and fully perform and carry out the terms of this Agreement.

#### **7.0 ENUREMENT**

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns in accordance with the Credit Agreement.

#### **8.0 COUNTERPARTS; ELECTRONIC EXECUTION**

This Agreement, and the documents to be delivered hereunder, and each other Loan Document may be executed in one or more counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by fax or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The words "execution," "execute", "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement or any other Loan Document shall be deemed to include electronic signatures, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, as in provided Parts 2 and 3 of the Personal Information Protection and Electronic Documents Act (Canada), the Electronic Commerce Act, 2000 (Ontario), the Electronic Transaction Acts (British Columbia), the Electronic Transactions Act (Alberta), or any other similar laws based on the Uniform Electronic Commerce Act of the Uniform Law Conference of Canada. The Agent may, in its discretion, require that any such documents and signatures executed electronically or delivered by fax or other electronic transmission be confirmed by a manually-signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature executed electronically or delivered by fax or other electronic transmission.

*[The remainder of this page has been intentionally left blank; signature pages follow.]*



IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

**BORROWER:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

By: Joanna Ban  
Name: Joanna Ban  
Title: CFO

**GUARANTOR:**

**1314625 ONTARIO LIMITED**

By: Joanna Ban  
Name: Joanna Ban  
Title: Treasurer



**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By:           *Chaz Louisy*          

Name: Chaz Louisy

Title: MCC - Asset Based Lending

By:           *Patrick Tong*          

Name: Patrick Tong

Title: Senior Analyst

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**LENDERS:**

**ROYAL BANK OF CANADA**

as L/C Issuer, Swingline Lender and a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**THE TORONTO-DOMINION BANK,**

as a Lender

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**CANADIAN IMPERIAL BANK OF COMMERCE,**

as a Lender

By:           *Matt Van Gelder*          

Name: Matt Van Gelder

Title: Authorized signatory

By:                     

Name: Anthony Tsuen

Title: Authorized Signatory

**AGENT:**

**ROYAL BANK OF CANADA,**  
in its capacity as the Agent

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT A

## Form of Committed Loan Notice

## COMMITTED LOAN NOTICE

Date : \_\_\_\_\_

To: Royal Bank of Canada, as Agent

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement, dated as of August 3, 2017 (as amended, restated, supplemented or otherwise modified and in effect from time to time, the "Credit Agreement") by, among others, MOUNTAIN EQUIPMENT CO-OPERATIVE, a cooperative association incorporated under the laws of the Province of British Columbia, as the Borrower, the Lenders party thereto from time to time and the Royal Bank of Canada, as Agent. Capitalized terms used but not defined herein shall have the meanings set form in the Credit Agreement.

The Borrower hereby requests an advance under the Interim Financing Facility by way of Prime Rate Loan:

1. On \_\_\_\_\_ (a Business Day)
2. In the amount of \$ \_\_\_\_\_ in Canadian Dollars.

The Borrower hereby represents and warrants that (a) the borrowing requested herein complies with the provisions of the Restructuring Support Agreement and (b) that, subject to the Insolvency Events of Default, the conditions set out in Section 4.2(a) and 4.2(b) of the Credit Agreement have been satisfied on and as of the date of the applicable advance, provided that Section 3.2 of the Third Amending Agreement shall be incorporated by reference *mutatis mutandis* to Section 4.2(b) of the Credit Agreement.

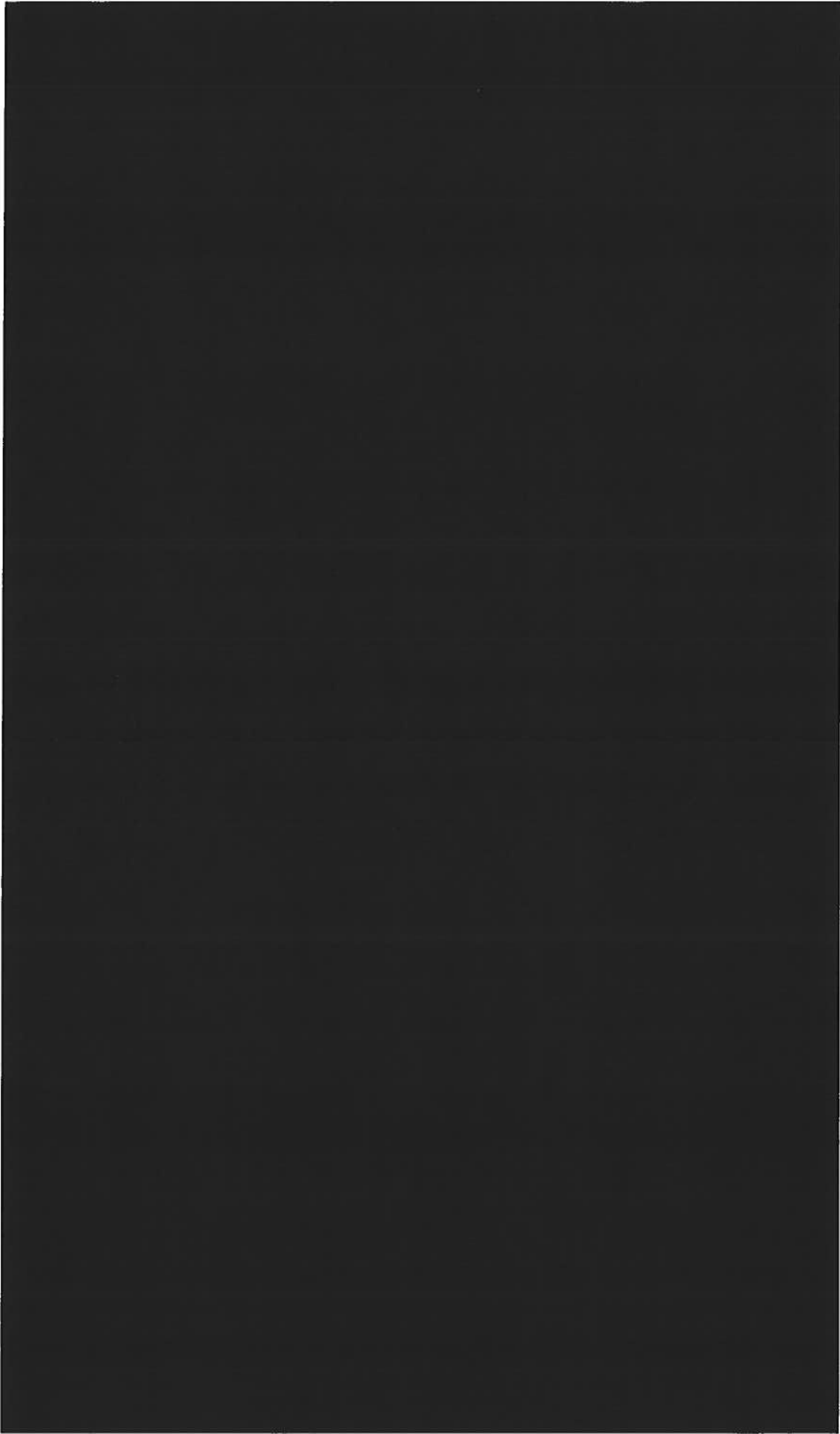
**MOUNTAIN EQUIPMENT CO-OPERATIVE,**  
as Borrower

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

Name:

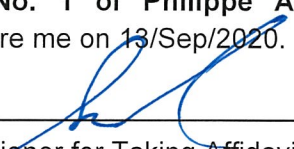
Title:







This is **Exhibit "N"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



Alvarez & Marsal Canada Securities ULC  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON M5J 2J1  
Phone: +1 416 847 5200  
Fax: +1 416 847 5201

February 10, 2020

Mr. Philippe Arrata, Chief Executive Officer  
Mountain Equipment Cooperative  
1077 Great Northern Way  
Vancouver, British Columbia  
V5T 1E1

Dear Mr. Arrata:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal Canada Securities ULC ("A&M") and Mountain Equipment Cooperative ("MEC"), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between MEC and A&M (the "Agreement").

1. Description of Services.

(a) A&M shall provide consulting services to MEC in connection with the following:

- (i) Hold kick off call, week of Feb 10 for MEC and A&M project team introductions, overview of financial model (MEC vs. A&M tools), and for A&M to provide a request for information.
- (ii) support and assist management with the development of a 13-week cash flow forecast model to project and track liquidity;
  - (A) review MEC's liquidity and borrowing base position;
  - (B) understand existing capital structure, terms, conditions and covenant levels in existing credit agreement;
- (iii) assist management in developing a recommended long-term capital structure to facilitate MEC's long-term strategy;
  - (A) review and understand MEC's operations and transformation strategy;
  - (B) understand MEC's existing and forecast asset base;
  - (C) review financial forecasts and borrowing base projections to appropriately size a new credit facility based on underlying collateral;

- 2 -

- (D) provide management with a summary report outlining rationale and anticipated terms of a recommended structure and assist management in reflecting updated capital structure in its financial projections;
- (iv) assist as needed with management's ongoing discussions with its existing lender(s);
- (v) assist management with identifying select potential financing partners.

(b) In connection with A&M's engagement, MEC will furnish A&M with all information concerning MEC which A&M reasonably deems appropriate and will provide A&M with access to MEC's officers, directors, employees, accountants, counsel and other representatives (collectively, the "Representatives"). It is understood that A&M will rely solely upon the information supplied by MEC and its' Representatives without assuming any responsibility for independent investigation or verification thereof. MEC represents and warrants that any financial projections provided to A&M have been, or will be, prepared on a basis reflecting the best currently available estimates and judgments of the future financial results and condition of MEC. MEC will, in writing, promptly notify A&M of any material inaccuracy or misstatement in, or material omission from, any information previously delivered to A&M or any interested party. MEC authorizes A&M to contact MEC professional advisors, which in A&M's discretion is deemed appropriate in connection with this engagement

(c) In rendering its services to MEC, A&M will report directly to the Chief Executive Officer and will make recommendations to and consult with the Chief Executive Officer and such senior officers as the Chief Executive Officer directs.

(d) Hugh Rowan-Legg, a Managing Director of A&M, will be responsible for the overall engagement and will be assisted by other A&M personnel, as appropriate. A&M personnel providing services to MEC may also work with other A&M clients in conjunction with unrelated matters. In connection with the services to be provided hereunder, from time to time A&M may utilize the services of employees of its affiliates (as defined below). Such affiliates are wholly owned by A&M's parent company and A&M's employees.

For the purposes of this Agreement, "affiliate" means, with respect to any specified person, any other person directly or indirectly controlling, controlled by or under common control with such specified person. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such person.



- 3 -

MEC understands that A&M is not undertaking to provide any legal, regulatory, accounting, insurance, tax advice. It is further understood and agreed that A&M's services will not include the preparation of a due diligence report, presentation or otherwise for MEC, and that A&M's services will not include the rendering of a fairness opinion. If you should request additional services not otherwise contemplated by this Agreement, MEC and A&M will enter into an additional letter agreement which will set forth the nature and scope of the services, appropriate compensation and other customary matters, as mutually agreed upon by MEC and A&M.

2. Compensation.

(a) A&M will receive fees based on time spent by its employees and agents in connection with this engagement at its standard hourly rates, which may be adjusted from time to time. In addition, A&M will be reimbursed for its reasonable disbursements and expenses incurred in connection with this Agreement (the "Travel Expenses"). All fees and expenses, including applicable sales or similar taxes, will be billed on a periodic basis, at A&M's discretion, and payable upon receipt. Further A&M agrees to cap Travel Expenses for the Initial Period (defined below) at CAD\$12,500.00

**For the initial period following the date of this Agreement and ending on March 23, 2020 (the "Initial Period"), A&M's fees will be fixed in the amount of CAD\$125,000 plus applicable taxes, payable at the end of the Initial Period. Provided that A&M is provided with timely access to the Company and the information requested, A&M agrees to undertake and complete Section 1(a)(i), (ii) and (iii) from the above scope of work during the Initial Period.**

**Any work performed by A&M thereafter will be pre-approved by MEC, milestones and estimated hours agreed upon, and then based on the time spent by A&M employees in accordance with our standard hourly rates as outlined below and invoiced bi-weekly.**

Hourly rates for our professionals are as follows (in \$CAD):

Managing Director	765-985
Senior Director	695-725
Director	520-610
Analyst/Associate/Senior Associate	325-500

(b) MEC shall promptly remit to A&M a retainer in the amount of CAD\$50,000 plus applicable taxes, which shall be credited against any amounts due at the termination of this engagement and returned upon the satisfaction of all obligations hereunder.

(c) All provisions in this Section 2 are in addition to any protections or remedies afforded to A&M at law or by statute.

-3-



- 4 -

3. Term.

The engagement will commence as of the date hereof and may be terminated by either party with immediate effect without cause by giving written notice to the other party. In the event of any such termination, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but were invoiced subsequent to such termination). A&M normally does not withdraw from an engagement unless MEC misrepresents or fails to disclose material facts, fails to pay fees or expenses, or makes it unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause exists. The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

4. Relationship of the Parties.

The parties intend that an independent contractor relationship will be created by this engagement letter. Neither A&M nor any of its personnel or subcontractors is to be considered an employee or agent of MEC. MEC acknowledges that A&M's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to generally accepted accounting principles or the rules of any provincial, territorial or national professional or regulatory body. A&M's work will not necessarily identify any errors or irregularities, if such exist, on the part of MEC or its officers or employees. Furthermore, A&M is entitled to rely on the accuracy and validity of the data disclosed to it or supplied to it by agents, advisors, employees and representatives of MEC. A&M is under no obligation to update data submitted to it or review any other areas unless specifically requested by MEC to do so. MEC agrees and acknowledges that the services to be rendered by A&M may include the assistance in the preparation and review of projections, forecasts and other forward-looking statements, and numerous factors can affect the actual results of MEC's operations, which may materially and adversely differ from those projections, forecasts and other forward-looking statements. A&M makes no representation or guarantee that any business plan or refinancing alternative is the best course of action. A&M shall not be required to certify any financial statements or information or to provide representations with respect therewith in connection with any audit or securities law disclosure documents. For greater certainty, during the course of this engagement, A&M shall be acting as a consultant to MEC in this matter and A&M shall not be assuming any decision making or other management responsibilities in connection with the affairs of MEC and A&M shall have no responsibility for the affairs of MEC during this engagement. In addition, A&M shall not do anything or perform any act pursuant to which A&M assumes any possession or control of the property, assets, undertakings, premises or operations of MEC for any purpose whatsoever.

5. No Third-Party Beneficiary.

MEC acknowledges that all advice (written or oral) given by A&M to MEC in connection with this engagement is intended solely for the benefit and use of MEC (limited to its Board and management) in considering the matters to which this



- 5 -

engagement relates. MEC agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

6. Conflicts.

A&M is not currently aware of any relationship that would create a conflict of interest with MEC or those parties-in-interest of which you made us aware. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on a global basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to or have business associations with other entities or people which had or have or may have relationships with MEC, including creditors. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the MEC's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained.

7. Confidentiality.

A&M shall keep as confidential all non-public information received from MEC in conjunction with this engagement and shall not disclose any non-public information to any third party without MEC's written approval, except: (i) as requested by MEC or its legal counsel; (ii) as required by legal proceedings; or (iii) as reasonably required in the performance of this engagement. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is or becomes public other than as a result of a breach of this provision.

8. Non-Solicitation.

MEC, on behalf of itself, its affiliates and any person (as such term is defined under the *Canada Business Corporations Act*) which may acquire all or substantially all of its assets, agrees that, until two years subsequent to the termination of this Agreement, it will not solicit, recruit, hire or otherwise engage any employee of A&M or its affiliates who worked on this engagement while employed by A&M or its affiliates ("Solicited Person"). Should MEC, any of its affiliates or any person who acquires all or substantially all of its assets extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the party extending such offer equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

9. Indemnification.

The indemnification provisions, attached hereto as Exhibit A, are incorporated herein by reference and the termination of this Agreement or the engagement shall not affect those

-5-



- 6 -

provisions, which shall survive termination. Furthermore, all those provisions contained in Exhibit A are in addition to any protections or remedies afforded to A&M at law or by statute.

As to the services MEC has requested and A&M has agreed to provide as set forth in this Agreement, the total aggregate liability of A&M under this Agreement to MEC and its successors and assigns, shall be limited to the actual damages incurred by MEC or its successors or assigns, respectively. In no event will A&M or any of its affiliates be liable to MEC or their successors or assigns for consequential, special or punitive damages, including loss of profit, data, business or goodwill. In no event shall the total aggregate liability of A&M under this Agreement to MEC and its successors and assigns exceed the total amount of fees received and retained by A&M hereunder.

10. Data Hosting

From time to time, as an accommodation to MEC, A&M as directed by MEC may arrange for a third party data hosting provider (i.e., Firmex or Intralinks) (the "Provider") to host documents and information relating to this engagement in a web/data room environment for MEC's and/or certain authorized parties review. For MEC's convenience, the Provider's service is generally provided based upon an agreement between A&M and the Provider to which MEC is not a party. Notwithstanding anything herein, it is understood and agreed that A&M does not warrant and is not responsible for the Provider's conduct and services. Otherwise, should MEC wish to arrange for a direct agreement with a Provider, A&M is happy to assist in that pursuit.

11. Miscellaneous.

This Agreement (together with the attached indemnity provisions): (a) shall be governed and construed in accordance with the laws of the Province of Ontario applicable therein without giving effect to such province's rules concerning conflicts of laws that might provide for any other choice of law; (b) incorporates the entire understanding of the parties with respect to the subject matter hereof; (c) may not be amended or modified except in writing executed of the parties hereto; (d) may be executed by facsimile and in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same agreement; and (e) notwithstanding anything herein to the contrary, A&M may reference or list MEC's name and/or a general description of the services in A&M's marketing materials with MEC's prior approval, including, without limitation, on A&M's website.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,  
Alvarez & Marsal Canada ULC

-6-



By:

  
\_\_\_\_\_  
Hugh Rowan-Legg  
Managing Director

Accepted and agreed:

Mountain Equipment Cooperative

By:

  
\_\_\_\_\_  
Name: Philippe Arrata  
Title: Chief Executive Officer







Alvarez & Marsal Canada ULC  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON M5J 2J1  
Phone: +1 416 847 5200  
Fax: +1 416 847 5201

## EXHIBIT A

### Indemnity Provisions

- A. MEC agrees to indemnify and hold harmless each of A&M, its affiliates and their respective shareholders, managers, members, employees, agents, representatives and subcontractors (each, an "Indemnified Party" and collectively, the "Indemnified Parties") against any and all losses, claims, damages, liabilities, penalties, obligations, disbursements and expenses, including the costs (fees and disbursements) for counsel or others (including employees of A&M, based on their then current hourly billing rates) in investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing the Agreement (including these indemnity provisions), as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties' acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. MEC also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to MEC for or in connection with the engagement of A&M, except to the extent for any such liability for losses, claims, damages, liabilities or expenses that are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. MEC further agrees that it will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceeding) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.
- B. These indemnification provisions shall be in addition to any liability which MEC may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified Party is required to produce any of its personnel (including former employees) or for examination, discovery, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, MEC will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.

- 9 -

- C. If any action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party will notify MEC with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify MEC will not relieve MEC from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. MEC shall promptly pay expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party hereby undertakes, and MEC hereby accepts its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against MEC, MEC may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents MEC, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and MEC such counsel is unable to represent both the Indemnified Party and MEC, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and MEC shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. MEC will be liable for any settlement of any claim against an Indemnified Party made with MEC's written consent, which consent shall not be unreasonably withheld.
- D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof provide for indemnification, then the relative fault of MEC, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.
- E. In the event MEC and A&M seek judicial approval for the assumption of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would continue to be engaged by MEC, MEC shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in




- 10 -

connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. MEC will also promptly pay the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed to it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

- F. Neither termination of the Agreement nor termination of A&M's engagement nor the filing of a petition or application under the *Companies' Creditors Arrangement Act* or *Bankruptcy and Insolvency Act* (Canada) (nor the conversion of an existing case to a different form of proceeding, including a receivership) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.
- G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or by-laws of MEC, any policy of insurance, any other agreements, any vote of shareholders or disinterested directors of MEC, any applicable law or otherwise.

By:

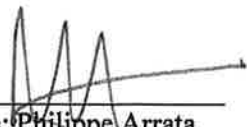


Hugh Rowan-Legg  
Title: Managing Director

Accepted and agreed:

Mountain Equipment Cooperative

By:

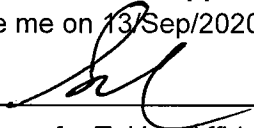


Name: Philippe Arrata  
Title: Chief Executive Officer

-10-



This is **Exhibit "O"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



May 28, 2020

Mr. Philippe Arrata, Chief Executive Officer  
Mountain Equipment Cooperative  
1077 Great Northern Way  
Vancouver, British Columbia  
V5T 1E1

Dear Mr. Arrata:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal Canada Securities ULC ("A&M") and Mountain Equipment Cooperative ("MEC"), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between MEC and A&M (the "Agreement"). This Agreement replaces the prior engagement agreement dated February 10, 2020 entered into between A&M and MEC as amended and supplemented to date (the "Prior Agreement"), which Prior Agreement is hereby terminated.

1. Description of Services.

- (a) A&M shall provide consulting services to MEC in connection with the following:
  - (i) Continue to support and assist management with the development of a 13-week cash flow forecast model to project and track liquidity;
  - (ii) assist MEC in connection with the proposed sale of MEC (the "**Sale Process**") to an interested party/parties (each an "**Interested Party**"). Activities will include:
    - (A) assist in preparing a Confidential Information Memorandum and other marketing materials for distribution and presentation to prospective Interested Parties;
    - (B) assist in soliciting and evaluating indications of interest in a transaction among prospective Interested Parties;
    - (C) assist in coordinating the due diligence investigations of prospective Interested Parties;

- (D) assist in negotiating the financial terms and structure of a transaction with an Interested Party; and
  - (E) as directed by the MEC, liaise and coordinate with other professionals in connection with the implementation, structuring and closing of a transaction with an Interested Party;
- (iii) assist in the evaluation of MEC's financial position and forecast outcomes under certain strategic alternatives and contingency planning for same;
  - (iv) assist as requested with management's ongoing discussions with its existing lender(s);
  - (v) provide other financial advisory, restructuring and investment banking services as agreed upon with MEC; and
  - (vi) advising the Board of Directors of MEC in respect of the Sale Process and any of the matters set out above, as may be requested from time-to-time by the Board of Directors or the special committee thereof established to oversee the Sale Process (the "Special Committee").
- (b) In connection with A&M's engagement, MEC will furnish A&M with all information concerning MEC which A&M reasonably deems appropriate and will provide A&M with access to MEC's officers, directors, employees, accountants, counsel and other representatives (collectively, the "Representatives"). It is understood that A&M will rely solely upon the information supplied by MEC and its Representatives without assuming any responsibility for independent investigation or verification thereof. MEC represents and warrants that any financial projections provided to A&M have been, or will be, prepared on a basis reflecting the best currently available estimates and judgments of the future financial results and condition of MEC. MEC will, in writing, promptly notify A&M of any material inaccuracy or misstatement in, or material omission from, any information previously delivered to A&M or any interested party. MEC authorizes A&M to contact MEC professional advisors, which in A&M's discretion is deemed appropriate in connection with this engagement
  - (c) In rendering its services to MEC, A&M will report directly to the Chief Executive Officer and will make recommendations to and consult with the Chief Executive Officer and such senior officers as the Chief Executive Officer directs and, as requested by the Chair of the Board of Directors or the Chair of the Special Committee, will also report to and make recommendations to and consult with the Board of Directors and/or the Special Committee.

- (d) Hugh Rowan-Legg, a Managing Director of A&M, will be responsible for the overall engagement and will be assisted by other A&M personnel, as appropriate. A&M personnel providing services to MEC may also work with other A&M clients in conjunction with unrelated matters. In connection with the services to be provided hereunder, from time to time A&M may utilize the services of employees of its affiliates (as defined below). Such affiliates are wholly owned by A&M's parent company and A&M's employees.

For the purposes of this Agreement, "affiliate" means, with respect to any specified person, any other person directly or indirectly controlling, controlled by or under common control with such specified person. For purposes of this definition, the terms "controlling," "controlled by" or "under common control with" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, or the power to elect at least 50% of the directors, managers, general partners, or persons exercising similar authority with respect to such person.

MEC understands that A&M is not undertaking to provide any legal, regulatory, accounting, insurance, tax advice. It is further understood and agreed that A&M's services will not include the preparation of a due diligence report, and that A&M's services will not include the rendering of a fairness opinion. If you should request additional services not otherwise contemplated by this Agreement, MEC and A&M will enter into an additional letter agreement which will set forth the nature and scope of the services, appropriate compensation and other customary matters, as mutually agreed upon by MEC and A&M.

Subject to a prospective Interested Party entering into a Confidentiality Agreement with MEC, MEC authorizes A&M to provide the Confidential Information Memorandum (as amended and supplemented and including any information incorporated therein by reference, the "**Sale Process CIM**") and other relevant information to prospective buyers.

MEC understands that this engagement does not constitute a commitment, express or implied, on the part of A&M to acquire any assets of MEC nor does it ensure the successful sale of any or all assets of MEC.

MEC understands that the services to be rendered by A&M may include providing MEC with assistance in the preparation of projections and other forward-looking statements regarding MEC and / or its businesses, subsidiaries or affiliates, and numerous factors can affect the actual results of MEC and / or its businesses, subsidiaries or affiliates, which may materially and adversely differ from those projections.

A&M makes no representation whatsoever that an appropriate transaction can or will be formulated, that any transaction in general or that any transaction in particular is the best course of action for MEC. Further, A&M assumes no responsibility for the selection and approval of any transaction presented to MEC, this determination shall rest strictly with MEC.

MEC will be solely responsible for the contents of any written or oral communications (“**Communications**”) provided by or on behalf of the MEC to any Interested Party and/or any other party in connection with a potential transaction. MEC represents and warrants that Communications will not contain any untrue statement of material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading. If an event occurs as a result of which any distributed materials (“**Distributed Materials**”) would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading, MEC will promptly notify A&M and A&M will suspend solicitations of prospective Interested Parties until such time as MEC prepares a supplement or amendment to the Distributed Materials that corrects such statement(s) and/or omission(s). MEC agrees that it will be solely responsible for ensuring that any transaction comply with applicable law.

2. Compensation.

- (a) A&M will receive fees based on time spent by its employees and agents in connection with this engagement at its standard hourly rates, which may be adjusted from time to time. In addition, A&M will be reimbursed for its reasonable disbursements and expenses incurred in connection with this Agreement. All fees and expenses, including applicable sales or similar taxes, will be billed on a periodic basis, at A&M's discretion, and payable upon receipt. Travel expenses in excess of \$5,000 must be approved by MEC in advance.

Hourly rates for our professionals are as follows (in \$CAD):

Managing Director	765-985
Senior Director	695-725
Director	520-610
Analyst/Associate/Senior Associate	325-500

- (b) A&M acknowledges receipt of a retainer in the amount of \$50,000 and confirms that this will be credited against any amounts due from MEC upon termination. All provisions in this Section 2 are in addition to any protections or remedies afforded to A&M at law or by statute.

3. Term.

The engagement will commence as of the date hereof and may be terminated by either party with immediate effect without cause by giving written notice to the other party. In the event of any such termination, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but were invoiced subsequent to such termination). A&M normally does not withdraw from an engagement unless MEC misrepresents or fails to disclose material facts, fails to pay fees or expenses, or



makes it unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause exists. The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

4. Relationship of the Parties.

The parties intend that an independent contractor relationship will be created by this engagement letter. Neither A&M nor any of its personnel or subcontractors is to be considered an employee or agent of MEC. MEC acknowledges that A&M's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to generally accepted accounting principles or the rules of any provincial, territorial or national professional or regulatory body. A&M's work will not necessarily identify any errors or irregularities, if such exist, on the part of MEC or its officers or employees. Furthermore, A&M is entitled to rely on the accuracy and validity of the data disclosed to it or supplied to it by agents, advisors, employees and representatives of MEC. A&M is under no obligation to update data submitted to it or review any other areas unless specifically requested by MEC to do so. MEC agrees and acknowledges that the services to be rendered by A&M may include the assistance in the preparation and review of projections, forecasts and other forward-looking statements, and numerous factors can affect the actual results of MEC's operations, which may materially and adversely differ from those projections, forecasts and other forward-looking statements. A&M makes no representation or guarantee that any business plan, refinancing or sale alternative is the best course of action. A&M shall not be required to certify any financial statements or information or to provide representations with respect therewith in connection with any audit or securities law disclosure documents. For greater certainty, during the course of this engagement, A&M shall be acting as a consultant to MEC in this matter and A&M shall not be assuming any decision making or other management responsibilities in connection with the affairs of MEC and A&M shall have no responsibility for the affairs of MEC during this engagement. In addition, A&M shall not do anything or perform any act pursuant to which A&M assumes any possession or control of the property, assets, undertakings, premises or operations of MEC for any purpose whatsoever.

MEC agrees that it may (although it is not obligated to) retain and take all necessary steps (including but not limited to applying to obtain approval from the Court) to appoint Alvarez & Marsal Canada ULC ("A&M ULC"), an affiliate of A&M, as monitor, or agent under any statute or under any court order and that MEC may seek and A&M ULC may (although it is not obligated), if necessary or desirable, accept any such appointment. The parties herein agree that no conflict would exist between this Agreement and such potential appointment. Notwithstanding anything in this Agreement to the contrary, including the provisions of Section 7, in the course of any such engagement, A&M ULC may use the information acquired by A&M it under this Agreement but such use by A&M ULC remains subject to the confidentiality provisions set out in this Agreement.

5. No Third-Party Beneficiary.

MEC acknowledges that all advice (written or oral) given by A&M to MEC in connection with this engagement is intended solely for the benefit and use of MEC (limited to its Board (including its Special Committee thereof) and management) in considering the matters to which this engagement relates. MEC agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

6. Conflicts.

A&M is not currently aware of any relationship that would create a conflict of interest with MEC or those parties-in-interest of which you made us aware. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on a global basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to or have business associations with other entities or people which had or have or may have relationships with MEC, including creditors. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the MEC's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained.

7. Confidentiality.

A&M shall keep as confidential all non-public information received from MEC in conjunction with this engagement and shall not disclose any non-public information to any third party without MEC's written approval, except: (i) as requested by MEC or its legal counsel; (ii) as required by legal proceedings; or (iii) as reasonably required in the performance of this engagement. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is or becomes public other than as a result of a breach of this provision.

8. Non-Solicitation.

MEC, on behalf of itself and its affiliates, agrees that, until two years subsequent to the termination of this Agreement, it will not solicit, recruit, hire or otherwise engage any employee of A&M or its affiliates who worked on this engagement while employed by A&M or its affiliates ("Solicited Person"). Should MEC, or any of its affiliates extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the party extending such offer equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

9. Indemnification.

The indemnification provisions, attached hereto as Exhibit A, are incorporated herein by reference and the termination of this Agreement or the engagement shall not affect those provisions, which shall survive termination. Furthermore, all those provisions contained in Exhibit A are in addition to any protections or remedies afforded to A&M at law or by statute.

As to the services MEC has requested and A&M has agreed to provide as set forth in this Agreement, the total aggregate liability of A&M under this Agreement to MEC and its successors and assigns, shall be limited to the actual damages incurred by MEC or its successors or assigns, respectively. In no event will A&M or any of its affiliates be liable to MEC or their successors or assigns for consequential, special or punitive damages, including loss of profit, data, business or goodwill. In no event shall the total aggregate liability of A&M under this Agreement to MEC and its successors and assigns exceed the total amount of fees received and retained by A&M hereunder.

10. Data Hosting

From time to time, as an accommodation to MEC, A&M as directed by MEC may arrange for a third party data hosting provider (i.e., Firmex or Intralinks) (the "Provider") to host documents and information relating to this engagement in a web/data room environment for MEC's and/or certain authorized parties review. For MEC's convenience, the Provider's service is generally provided based upon an agreement between A&M and the Provider to which MEC is not a party. Notwithstanding anything herein, it is understood and agreed that A&M does not warrant and is not responsible for the Provider's conduct and services. Otherwise, should MEC wish to arrange for a direct agreement with a Provider, A&M is happy to assist in that pursuit.

11. Miscellaneous.

This Agreement (together with the attached indemnity provisions): (a) shall be governed and construed in accordance with the laws of the Province of Ontario applicable therein without giving effect to such province's rules concerning conflicts of laws that might provide for any other choice of law; (b) incorporates the entire understanding of the parties with respect to the subject matter hereof; (c) may not be amended or modified except in writing executed of the parties hereto; (d) may be executed by facsimile and in counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same agreement; and (e) notwithstanding anything herein to the contrary, A&M may reference or list MEC's name and/or a general description of the services in A&M's marketing materials with MEC's prior written approval, including, without limitation, on A&M's website.

Depending on future developments the spread of the Coronavirus has the potential to affect the consulting services provided under this Agreement. Travel, work place and mobility restrictions (to include measures reasonably mandated by A&M with respect to

its employees and personnel) may restrict travel to MEC and other work sites as well as limit access to facilities, infrastructure, information and personnel of A&M, MEC or others. Such circumstances may adversely affect the timetable or content of A&M's deliverables and completion of the scope of consulting services included in this Agreement. We will discuss with you if we believe that the consulting services may be impacted in this way. You accept and acknowledge that A&M employees and personnel may attend at MEC's locations or physically interact with MEC's employees and personnel in connection with the consulting services, unless A&M or MEC decide that this should not be the case.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,  
Alvarez & Marsal Canada ULC

By:   
\_\_\_\_\_  
Hugh Rowan-Legg  
Managing Director

Accepted and agreed:

Mountain Equipment Cooperative

By:  06/10/2020  
\_\_\_\_\_  
Name: Philippe Arrata  
Title: Chief Executive Officer



## EXHIBIT A


### Indemnity Provisions

- A. MEC agrees to indemnify and hold harmless each of A&M, its affiliates and their respective shareholders, managers, members, employees, agents, representatives and subcontractors (each, an "Indemnified Party" and collectively, the "Indemnified Parties") against any and all losses, claims, damages, liabilities, penalties, obligations, disbursements and expenses, including the costs (fees and disbursements) for counsel or others (including employees of A&M, based on their then current hourly billing rates) in investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing the Agreement (including these indemnity provisions), as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties' acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. MEC also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to MEC for or in connection with the engagement of A&M, except to the extent for any such liability for losses, claims, damages, liabilities or expenses that are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. MEC further agrees that it will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceeding) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.
- B. These indemnification provisions shall be in addition to any liability which MEC may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified Party is required to produce any of its personnel (including former employees) or for examination, discovery, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, MEC will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.

- C. If any action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party will notify MEC with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify MEC will not relieve MEC from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. MEC shall promptly pay expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party hereby undertakes, and MEC hereby accepts its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against MEC, MEC may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents MEC, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and MEC such counsel is unable to represent both the Indemnified Party and MEC, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and MEC shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. MEC will be liable for any settlement of any claim against an Indemnified Party made with MEC's written consent, which consent shall not be unreasonably withheld.
- D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof provide for indemnification, then the relative fault of MEC, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.
- E. In the event MEC and A&M seek judicial approval for the assumption of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would continue to be engaged by MEC, MEC shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in

connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. MEC will also promptly pay the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed to it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

- F. Neither termination of the Agreement nor termination of A&M's engagement nor the filing of a petition or application under the *Companies' Creditors Arrangement Act* or *Bankruptcy and Insolvency Act* (Canada) (nor the conversion of an existing case to a different form of proceeding, including a receivership) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.
- G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or by-laws of MEC, any policy of insurance, any other agreements, any vote of members or disinterested directors of MEC, any applicable law or otherwise.

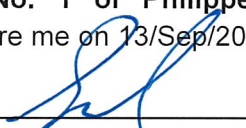
By:   
\_\_\_\_\_  
Hugh Rowan-Legg  
Title: Managing Director

Accepted and agreed:

Mountain Equipment Cooperative

By:  06/10/2020  
\_\_\_\_\_  
Name: Philippe Arrata  
Title: Chief Executive Officer

This is **Exhibit "P"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



**ASSET PURCHASE AGREEMENT**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

**- and -**

**1314625 ONTARIO LIMITED**

**as Sellers**

**- and -**

**1264686 B.C. LTD.**

**as Buyer**

## TABLE OF CONTENTS

	Page
ARTICLE 1 INTERPRETATION.....	1
1.1    Definitions.....	1
1.2    Statutes.....	19
1.3    Headings and Table of Contents.....	19
1.4    Gender and Number.....	19
1.5    Currency.....	19
1.6    Invalidity of Provisions.....	19
1.7    Knowledge.....	19
1.8    Entire Agreement.....	19
1.9    Waiver, Amendment.....	20
1.10   Governing Law; Jurisdiction and Venue.....	20
1.11   Schedules.....	20
ARTICLE 2 PURCHASE AND SALE.....	21
2.1    Agreement to Purchase and Sell Purchased Assets.....	21
2.2    Excluded Assets.....	25
2.3    Assumption of Liabilities.....	27
2.4    Excluded Liabilities.....	28
2.5    Information on Assumed Contracts and Personal Property Leases that are not Disclosed Documents.....	29
2.6    Assignment of Purchased Assets.....	30
2.7    Additions to Excluded Contracts and Final Schedules.....	31
2.8    Letters of Credit.....	31
ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS.....	32
3.1    Purchase Price.....	32
3.2    Purchase Price Allocation.....	33
3.3    Estimated Closing Date Working Capital and Estimated Closing Date Cash and Cash Equivalents.....	33
3.4    Post-Closing Working Capital Adjustment.....	33
3.5    Member Benefits.....	35
3.6    Withholding Tax.....	36
ARTICLE 4 REPRESENTATIONS AND WARRANTIES BY THE SELLERS.....	36
4.1    Corporate Existence.....	36
4.2    Due Authorization and Enforceability of Obligations.....	36
4.3    Approvals and Consents.....	37
4.4    Absence of Conflicts.....	37
4.5    Owned Real Property, Real Property Leases and Contracts.....	37
4.6    Employees.....	38
4.7    Residence of the Sellers.....	38
4.8    Taxes.....	38
4.9    Litigation.....	38
4.10   Compliance with Applicable Laws.....	39
4.11   No Other Representations, Warranties or Covenants.....	39

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER .....	39
5.1 Corporate Existence .....	39
5.2 Residence of the Buyer .....	39
5.3 Financial Ability .....	40
5.4 Absence of Conflicts .....	40
5.5 Due Authorization and Enforceability of Obligations .....	41
5.6 Approvals and Consents .....	41
5.7 GST, HST and QST Registration .....	41
5.8 Litigation .....	41
5.9 As Is, Where Is .....	42
5.10 Investment Canada Act .....	43
ARTICLE 6 CONDITIONS .....	43
6.1 Conditions for the Benefit of the Buyer and the Sellers .....	43
6.2 Conditions for the Benefit of the Buyer .....	44
6.3 Conditions for the Benefit of the Sellers .....	45
ARTICLE 7 ADDITIONAL AGREEMENTS OF THE PARTIES .....	45
7.1 Personal Information .....	45
7.2 Acknowledgements of the Buyer .....	46
7.3 Access to Information .....	46
7.4 Conduct of Business Until Closing Time .....	47
7.5 Approvals and Consents .....	48
7.6 Consents under Assumed Contracts, Personal Property Leases and Real Property Leases .....	50
7.7 Covenants Relating to this Agreement .....	53
7.8 Release .....	54
7.9 Tax Matters .....	54
7.10 Employee Matters .....	56
7.11 Certain Payments or Instruments Received from Third Persons .....	59
7.12 Intellectual Property Matters .....	60
7.13 Notice of Certain Events .....	60
7.14 Risk of Loss .....	60
7.15 Maintenance of Books and Records; Cooperation .....	61
7.16 Maintenance of MEC's Purpose and Values .....	61
7.17 Signage .....	62
ARTICLE 8 CCAA PROCEEDING AND COURT ORDERS .....	62
8.1 Court Orders .....	62
8.2 CCAA Process .....	63
ARTICLE 9 TERMINATION .....	63
9.1 Termination .....	63
9.2 Effect of Termination .....	64
ARTICLE 10 CLOSING .....	64
10.1 Location and Time of the Closing .....	64
10.2 Sellers' Deliveries at Closing .....	64

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
10.3 Buyer's Deliveries at Closing .....	65
10.4 Possession of Assets .....	66
10.5 Monitor .....	67
10.6 Simultaneous Transactions .....	67
<b>ARTICLE 11 GENERAL MATTERS .....</b>	<b>67</b>
11.1 Confidentiality and Transaction Personal Information.....	67
11.2 Public Notices and Communication.....	68
11.3 Survival.....	69
11.4 Expenses .....	69
11.5 Non-Recourse .....	69
11.6 Leasehold Interests.....	69
11.7 Assignment; Binding Effect.....	70
11.8 Notices .....	70
11.9 Subdivision Legislation .....	72
11.10 Counterparts; Electronic Signatures .....	72
11.11 Language.....	72

**ASSET PURCHASE AGREEMENT**

**THIS AGREEMENT** is made as of September 11, 2020

**AMONG:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association governed by the laws of British Columbia (“**MEC**”)

- and -

**1314625 ONTARIO LIMITED**, a corporation governed by the laws of Ontario (“**131 Ltd.**” and, collectively with MEC, the “**Sellers**”)

- and -

**1264686 B.C. LTD.**, a corporation governed by the laws of British Columbia (the “**Buyer**”)

**RECITALS:**

- A. The Sellers wish to sell to the Buyer, and the Buyer wishes to purchase from the Sellers, the Purchased Assets, and the Buyer further wishes to assume from the Sellers the Assumed Liabilities, subject to the terms and conditions of this Agreement and in accordance with the applicable provisions of the CCAA.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

**ARTICLE 1  
INTERPRETATION****1.1 Definitions**

In this Agreement,

- (a) “**Accounting Principles**” means the accounting-related principles listed on Schedule 1.1(uuu) and used in the preparation of the Illustrative Closing Working Capital Statement.
- (b) “**Accounts Receivable**” means accounts receivable, bills receivable, trade accounts, book debts and insurance claims relating to the Business, recorded as receivables in the books and records of the Sellers relating to the Business or the Purchased Assets, and other amounts due or deemed to be due to the Sellers relating to the Business including refunds and rebates receivable relating to the Business or the Purchased Assets.
- (c) “**Acquired Business**” means the business and operations of MEC, an outdoor gear

and clothing retail cooperative, at the Purchased Locations as well as any other business activity undertaken by MEC, but does not include the Membership Interests or the Excluded Assets.

- (d) **“Acquired Cash and Cash Equivalents”** means the value of all cash and cash equivalents owned or held by or for the account of the Sellers determined in accordance with the Accounting Principles which are located at any of the Purchased Locations (including all petty cash in a cash register).
- (e) **“affiliate”** of any Person means, at the time such determination is being made, any other Person controlling, controlled by or under common control with such first Person, in each case, whether directly or indirectly through one or more intermediaries, and **“control”** and any derivation thereof means the control by one Person of another Person in accordance with the following: a Person (“A”) controls another Person (“B”) where A has the power to determine the management and policies of B by contract or status (for example, the status of A being the general partner of B) or by virtue of beneficial ownership, directly or indirectly, of a majority of the voting interests in B; and, for certainty and without limitation, if A owns shares to which are attached more than 50% of the votes permitted to be cast in the election of directors (or other Persons performing a similar role) of B, then A controls B for this purpose.
- (f) **“Agreement”** means this Asset Purchase Agreement, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions **“hereof”**, **“herein”**, **“hereto”**, **“hereunder”**, **“hereby”** and similar expressions refer to this Asset Purchase Agreement, and unless otherwise indicated, references to Articles and Sections are to Articles and Sections in this Asset Purchase Agreement.
- (g) **“Allocation Statement”** has the meaning given to such term in Section 3.2.
- (h) **“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including without limitation the common law), statute, ordinance, rule, regulation, restriction, standard, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Governmental Authorizations, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the Sellers, the Buyer, the Acquired Business, or any of the Purchased Assets or the Assumed Liabilities.
- (i) **“Approval and Vesting Order”** means an order granted by the CCAA Court, in substantially the form attached as Schedule 1.1(i) (with only such changes as the Buyer and the Sellers approve in their reasonable discretion, but in the case of the Sellers, with the approval of the Lenders and the Monitor), and issued by the CCAA Court on a motion served in a manner satisfactory to the Sellers and the Buyer, on those Persons identified by the Sellers and the Buyer, which shall, among other things:

- (i) authorize and approve this Agreement and the execution and delivery thereof by the Sellers;
  - (ii) authorize and direct the Sellers to complete the transactions contemplated by this Agreement;
  - (iii) authorize and direct the Sellers to pay the Lenders in full on the Closing; and
  - (iv) provide for the vesting of title to the Purchased Assets in and to the Buyer and/or its permitted assignee(s) in accordance with the terms and conditions of this Agreement, free and clear of any and all claims against the Purchased Assets of every nature or kind whatsoever and howsoever arising, including all Encumbrances, save for Permitted Encumbrances, upon the delivery of the Monitor's Certificate to the Buyer indicating that the conditions precedent to the consummation of the transactions contemplated by this Agreement have been satisfied or waived (where permissible) and provided that the Lenders are paid in full on Closing or have otherwise expressly agreed in their sole discretion that Closing may proceed.
- (j) **"Assignment Order"** means an order or orders of the CCAA Court pursuant to section 11.3 and other applicable provisions of the CCAA, which the Sellers shall not seek until the earlier occurrence of: (i) September 25, 2020; and (ii) receipt by the Sellers of a written request from the Buyer to seek such an order, in form and substance acceptable to the Sellers and the Buyer (and in the case of the Sellers only, with the approval of the Lenders and the Monitor), each acting in a commercially reasonable manner, (i) authorizing and approving the assignment to the Buyer of any Real Property Lease for which a required consent has not been obtained, (ii) preventing any counterparty to the Real Property Lease from exercising any right or remedy under the Real Property Lease by reason of any default(s) arising from the CCAA Proceedings, the insolvency of the Sellers, the assignment of the Real Property Lease, or the failure of the Sellers to perform a non-monetary obligation under the Real Property Lease, and (iii) vesting in the Buyer all right, title, benefit and interest of the relevant Seller in such Real Property Lease. The Sellers shall not seek such an order in respect of any Assumed Contract or Personal Property Lease until the earlier occurrence of: (i) September 25, 2020; and (ii) receipt by the Sellers of a written request from the Buyer to seek such an order.
- (k) **"Assumed Contracts"** has the meaning given to such term in Section 2.1(i).
- (l) **"Assumed Liabilities"** has the meaning given to such term in Section 2.3.
- (m) **"Assumed Operating Liabilities"** means all of the Assumed Liabilities excluding any Assumed Property Liabilities;
- (n) **"Assumed Property Liabilities"** means those Assumed Liabilities arising from or relating to the Purchased Real Property Assets;

- (o) “**Base Purchase Price**” has the meaning given to such term in Section 3.1.
- (p) “**Business**” means the business and operations of MEC, an outdoor gear and clothing retail cooperative, including 22 stores located in British Columbia, Alberta, Manitoba, Ontario, Quebec and Nova Scotia, 2 distribution centers located in Ontario and British Columbia, 1 head office located in Vancouver, British Columbia as well as any other retail related business activity undertaken by MEC.
- (q) “**Business Day**” means any day, other than a Saturday or Sunday, on which the principal commercial banks in Vancouver, British Columbia are open for commercial banking business during normal banking hours.
- (r) “**Buyer**” has the meaning given to such term in the preamble to this Agreement.
- (s) “**Buyer Employee Plans**” means any Plans maintained or otherwise contributed to, or required to be maintained or contributed to, by or on behalf of the Buyer with respect to its employees.
- (t) “**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).
- (u) “**CCAA Court**” means the Supreme Court of British Columbia.
- (v) “**CCAA Proceedings**” means the proceedings to be commenced by the Sellers under the CCAA pursuant to the Initial Order.
- (w) “**Claims**” includes all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.
- (x) “**Closing**” means the successful completion of the sale and purchase of the Purchased Assets pursuant to this Agreement at the Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased Assets.
- (y) “**Closing Date**” means the first Monday that occurs between two (2) Business Days and ten (10) Business Days after the conditions set forth in Article 6 have been satisfied or waived (or such other date agreed to by the Parties in writing), other than the conditions set forth in Article 6 that by their terms are to be satisfied or waived at the Closing; provided that, the Closing Date shall be no later than the Sunset Date or such later date as the Sellers (with the consent of the Lenders and the Monitor) and the Buyer may agree to in writing, or in any event as otherwise ordered by the CCAA Court.



- (z) “**Closing Documents**” means all contracts, agreements and instruments required by this Agreement to be delivered by or on behalf of a Party at or before the Closing.
- (aa) “**Closing Time**” means 12:01 a.m. (Vancouver time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.
- (bb) “**Collective Agreements**” means, in respect of the Acquired Business or Purchased Assets, all of the collective bargaining agreements (including all letters of understanding and agreement) to which the Sellers are a party, or to which the Sellers are otherwise bound, including those listed on Schedule 1.1(bb).
- (cc) “**Commissioner**” means the Commissioner of Competition appointed under the Competition Act.
- (dd) “**Commitment Letter**” has the meaning given to such term in Section 5.3.
- (ee) “**Competition Act**” means the *Competition Act* (Canada).
- (ff) “**Competition Act Approval**” means any of:
  - (i) the Commissioner shall have issued an advance ruling certificate under Section 102 of the Competition Act with respect to the transactions contemplated by this Agreement;
  - (ii) each of the Parties shall have filed all notices and information required under Part IX of the Competition Act and the applicable waiting periods shall have expired or been terminated; or
  - (iii) the obligation to give the requisite notice has been waived pursuant to subsection 113(c) of the Competition Act;and, in the case of (ii) or (iii), the Commissioner or his delegate shall have advised the Buyer in writing that he does not, at that time, intend to make an application under Section 92 of the Competition Act in respect of the transactions contemplated herein.
- (gg) “**Confidential Information**” means non-public, confidential, or proprietary information or Personal Information which is furnished to either of the Parties by the other Party, or by any of the Sellers’ representatives or the Monitor, as applicable, including, without limitation, information about identifiable individuals (including information about employees, suppliers, customers, directors, officers, shareholders or members) any information relating to either Party and their affiliates, or any customer or supplier of either Party, but does not include information that is or becomes generally available to the public other than as a result of disclosure by the receiving party or its representatives in breach of this Agreement or that is received by the receiving party from an independent third party that, to the knowledge of the receiving party, after good faith inquiry, obtained it lawfully and was under no duty of confidentiality (except to the extent

that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the receiving party's employees or representatives without access or reference to any Confidential Information.

- (hh) **"Contracts"** means contracts, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements to which any of the Sellers is a party or by which any of the Sellers are bound or under which any of the Sellers has, or shall have, any right or any liability or contingent right or liability (in each case, whether written or oral, express or implied) relating to the Acquired Business or the Purchased Assets and includes quotations, orders, proposals or tenders which remain open for acceptance and warranties and guarantees, but excluding the Real Property Leases.
- (ii) **"Contracts Assignment and Assumption Agreements"** means the assignment and assumption agreements for the Assumed Contracts, in a form satisfactory to each of the Sellers and the Buyer acting in a commercially reasonable manner.
- (jj) **"Cure Costs"** means, in respect of any Assumed Contract or Real Property Lease, all amounts required to be paid under the CCAA to cure any monetary defaults as a condition to assuming the Assumed Contract or the Real Property Lease or in connection with obtaining an Assignment Order, other than those monetary defaults arising only by reason of the Sellers' insolvency, the commencement of the CCAA Proceedings, or the failure to perform a non-monetary obligation.
- (kk) **"Deposit Amount"** means the amount of [REDACTED] delivered by the Buyer to the Escrow Agent, and all interest, income and earnings thereon.
- (ll) **"Disclosure Schedules"** means the disclosure schedules to be delivered to the Buyer concurrently with this Agreement.
- (mm) **"DIP Facility"** means the interim financing facility available under the RBC Credit Agreement and subject to the terms of the Restructuring Support Agreement.
- (nn) **"DIP Restructuring Support Agreement"** means the restructuring support agreement entered into as of September 11, 2020 between MEC (as borrower), 131 Ltd. (as guarantor), Royal Bank of Canada (as agent), and the lenders party thereto, as the same may be amended, restated, supplemented and/or modified from time to time.
- (oo) **"Disclosed Documents"** means all documents disclosed by the Sellers to the Buyer in writing prior to or on the date hereof, including all material made available to the Buyer in a virtual data room made available to Buyer by or on behalf of Sellers or listed in Schedule 1.1(oo).
- (pp) **"Employee Plans"** means the employee benefit plans sponsored or maintained by the Sellers listed on Schedule 1.1(pp).
- (qq) **"Employees"** means, in respect of the Acquired Business and Purchased Assets,

any and all: (i) Employees of the Sellers who are actively at work (including full-time, part-time or temporary employees); and (ii) Employees of the Sellers who have been laid off on a temporary or indefinite basis; and (iii) Employees of the Sellers who are on statutory or approved leaves of absence (including maternity leave, parental leave, short-term or long-term disability leave, workers' compensation and other statutory leaves).

- (rr) **"Employees of the Sellers"** means all current or former officers, employees, individual consultants and individual service providers of the Sellers or any predecessors of the Sellers.
- (ss) **"Encumbrance"** means all liens (statutory or otherwise), charges, security interests, hypothecs, pledges, leases, offers to lease, rights of occupation, title retention agreements or arrangements, reservations of ownership, rights-of-way, easements, servitudes, mortgages, restrictions on transfer or dealings, restrictions on use, development or similar agreements, title defects, work orders, options, adverse claims, encroachments, prior claims, assignments, liabilities (direct, indirect, absolute or contingent), obligations, trusts, deemed trusts, judgments, writs of seizure or execution, legal notations, notices of sale, contractual rights, rights of first refusal, or any other right or interest of any nature or any other financial or monetary claims or any other arrangement or condition whether or not registered, published or filed, statutory or otherwise, secured or unsecured, or other encumbrances of any kind or character whatsoever; including, without limiting the generality of the foregoing: (i) any and all CCAA Court ordered charges granted in the CCAA Proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (British Columbia) or any other personal property registry system; (iii) those specific Encumbrances to be listed in the Approval and Vesting Order; and (iv) any Off-Title Compliance Matters.
- (tt) **"Environment"** means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata;
- (uu) **"Environmental Approvals"** means permits, certificates, licences, authorizations, consents, agreements, instructions, directions, registrations or approvals required by a Governmental Authority pursuant to an Environmental Law relating to the Acquired Business or the Purchased Assets;
- (vv) **"Environmental Law"** means Applicable Laws relating to the protection of human health and the Environment, and includes Applicable Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances;
- (ww) **"Escrow Agent"** means Alvarez & Marsal Canada, Inc.;
- (xx) **"Escrow Agreement"** means the escrow agreement between the Buyer, the Sellers and the Escrow Agent in substantially the form attached as Schedule 1.1(xx);

- (yy) **“Escrow Amount”** means [REDACTED].
- (zz) **“Estimated Closing Date Cash and Cash Equivalents”** has the meaning given to it in Section 3.3;
- (aaa) **“Estimated Closing Date Working Capital”** has the meaning given to it in Section 3.3;
- (bbb) **“Excluded Assets”** has the meaning given to such term in Section 2.2.
- (ccc) **“Excluded Cash and Cash Equivalents”** means the value of all cash and cash equivalents owned or held by or for the account of the Sellers determined in accordance with the Accounting Principles other than, for the avoidance of doubt, the Acquired Cash and Cash Equivalents. For the further avoidance of doubt, Excluded Cash and Cash Equivalents shall include (i) the Purchase Price (including the Deposit Amount and Escrow Amount), (ii) any amounts in the bank accounts of Sellers, and (iii) any (A) outstanding deposits in-transit, and (B) any amounts due from third party financial institutions for credit and debit card transactions, less any amounts paid to the Lenders.
- (ddd) **“Excluded Contracts”** has the meaning given to such term in Section 2.2(b).
- (eee) **“Excluded Employees”** means the Employees listed on Schedule 1.1(eee).
- (fff) **“Excluded Liabilities”** has the meaning given to such term in Section 2.4.
- (ggg) **“Excluded Real Estate Properties”** means, other than the Purchased Locations, all real or immovable property owned by the Sellers or in which a Seller has a freehold interest, and any premises either of the Sellers occupy pursuant to leases or other agreements entered into by or assigned in favour of any Seller.
- (hhh) **“Filing Date”** means the date that the Initial Order is originally issued by the CCAA Court.
- (iii) **“Final”** with respect to any order of any court of competent jurisdiction, means that such order shall not have been stayed, appealed, varied (except with the consent of the Buyer and Sellers, each acting in a commercially reasonable manner) or vacated, and all time periods within which such order could at law be appealed shall have expired.
- (jjj) **“Final Cash and Cash Equivalents”** has the meaning given to it in Section 3.4;
- (kkk) **“Final Statement”** has the meaning given to it in Section 3.4;
- (lll) **“Final Working Capital”** has the meaning given to it in Section 3.4;
- (mmm) **“General Assignments and Bills of Sale”** means the general assignments and bills of sale for the Purchased Assets, in a form reasonably satisfactory to each of the Sellers and the Buyer.

- (nnn) **“Governmental Authority”** means any applicable transnational, federal, provincial, municipal, state, local, national or other government, regulatory authority, governmental department, agency, commission, board, tribunal, bureau, ministry, court, system operator, judicial body, arbitral body or other law, rule or regulation-making entity, or any entity, officer, inspector, investigator or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case:
- (i) having jurisdiction over a Seller, the Buyer, the Acquired Business, the Purchased Assets or the Assumed Liabilities on behalf of any country, province, state, locality, or other geographical or political subdivision thereof; or
  - (ii) exercising or entitled to exercise any administrative, judicial, legislative, regulatory or taxing authority or power.
- (ooo) **“Governmental Authorizations”** means authorizations, approvals (including the Environmental Approvals), plans, franchises, orders, certificates, consents, directives, notices, licenses, permits, waivers, variances, registrations or other rights or privileges issued to or required by the Sellers relating to the Acquired Business or any of the Purchased Assets by or from any Governmental Authority.
- (ppp) **“GST”** means goods and services tax payable under the GST and HST Legislation.
- (qqq) **“GST/HST and QST Certificate, Undertaking and Indemnity”** has the meaning given to such term in Section 7.9(j).
- (rrr) **“GST and HST Legislation”** means Part IX of the *Excise Tax Act* (Canada).
- (sss) **“Hazardous Substances”** means pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods regulated by or under Environmental Laws.
- (ttt) **“HST”** means harmonized sales tax payable under the GST and HST Legislation.
- (uuu) **“Illustrative Closing Working Capital Statement”** means the illustrative working capital statement set out in Schedule 1.1(uuu).
- (vvv) **“including”** and **“includes”** shall be interpreted on an inclusive basis and shall be deemed to be followed by the words “without limitation”.
- (www) **“Initial Order”** means the Initial Order of the CCAA Court granting MEC and 131 Ltd. protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time), which Initial Order is expected to be obtained on or about September 14, 2020.
- (xxx) **“Insolvency Proceedings”** means any action, application, petition, suit or other proceeding under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency, winding-up or similar law of any jurisdiction now or

hereafter in effect, for the relief from or otherwise affecting creditors of any of the Sellers, including without limitation under the *Bankruptcy and Insolvency Act* (Canada) (including the filing of a notice of intention to make a proposal), CCAA (including the CCAA Proceedings), the *Winding-Up and Restructuring Act* (Canada) or the *Canada Business Corporations Act* by, against or in respect of any of the Sellers.

- (yyy) **“Intellectual Property”** means any and all intellectual property or similar proprietary rights used or held by the Sellers for use in or relating to the Business, including all patents, patent applications, trademarks, common law trademarks, industrial designs, trade names, business names, service marks and other source indicators (and all goodwill associated with any of the foregoing and any goodwill of any business symbolized therein), copyrights, inventions, works of authorship, technology, software, source code, object code, applications, data and database rights, trade secrets, proprietary information, websites and website content, domain names, know-how, formulae and processes and other intellectual property, whether registered or not, throughout the world.
- (zzz) **“Investment Canada Act”** means the *Investment Canada Act* (Canada).
- (aaa) **“IP Assignment and Assumption Agreements”** means the intellectual property assignment and assumption agreements for Intellectual Property owned by the Sellers and that is used or held for use in or otherwise relates to the Business, in a form reasonably satisfactory to each of the Sellers and the Buyer.
- (bbb) **“IT Assets”** has the meaning given to such term in Section 2.1(k).
- (ccc) **“KERPs”** means any key employee retention or management incentive plan(s) approved by the CCAA Court in the context of the CCAA Proceedings.
- (ddd) **“Landlord Consent”** has the meaning given to such term in Section 7.6.
- (eee) **“Landlords”** means, collectively, the landlords under the Real Property Leases.
- (fff) **“Lease Assignment and Assumption Agreements”** means the lease assignment and assumption agreements for the Personal Property Leases and Real Property Leases, in a form reasonably satisfactory to each of the Sellers and the Buyer.
- (ggg) **“Leased Property”** means collectively, the real or immovable property of which the Premises form part for the purposes of the Real Property Leases and includes the Landlords’ freehold or other ownership interest, ground leasehold interest or right of emphyteusis therein.
- (hhh) **“Leases”** means, in respect of Owned Real Property, any and all offers to lease (unless a lease with respect thereto has been entered into which supersedes any such offer to lease, agreements to lease (unless a lease with respect thereto has been entered into which supersedes any such agreement to lease), leases, renewals of leases, and other rights or licenses granted to possess or occupy space within the Owned Real Property.

- (iii) **“Lender Claims”** means the aggregate amount owing to the Lenders arising from or related to the Restructuring Support Agreement and the RBC Credit Agreement, which shall include to the maximum extent permissible under applicable documentation and law, without limitation, all accrued and unpaid principal, interest, default interest, premiums, fees and reasonable costs, charges and expenses all as may be due and payable under the aforementioned credit facilities and any ancillary documents, but in no circumstance shall such amount exceed [REDACTED], inclusive of the aggregate amount of the Letters of Credit, which for the purposes of this definition will always be calculated in the amount at which they stand as at the date hereof.
- (jjj) **“Lenders”** means the secured lenders under the RBC Credit Agreement.
- (kkk) **“Letters of Credit”** means letters of credit, letters of guarantee, deposits and/or security deposits provided by or on behalf of a Seller in respect of any of the Purchased Assets.
- (lll) **“Material Adverse Effect”** means any change, event, occurrence, effect, state of facts or circumstance, individually or in the aggregate, that is or could reasonably become: (i) a material adverse effect on the operations, assets, liabilities, results of operations or condition (financial or otherwise) of the Acquired Business, or (ii) a material and adverse impediment to the consummation of the transactions contemplated by this Agreement, but excluding, in the case of each of clauses (i) and (ii) any such change, event, occurrence, effect, state of facts or circumstance that results from or arises out of (A) changes in general economic conditions (B) changes generally affecting the industries and markets in which the Acquired Business operates, (C) changes in macroeconomic factors, interest rates, currency exchange rates or general financial or credit market conditions, (D) any state of emergency, acts of God, war, terrorism, civil unrest or hostilities, (E) any pandemic, including (whether or not the same is or continues to be declared a pandemic), the coronavirus (COVID-19) outbreak, any other viral outbreak or any other local, provincial, national or global health or safety event, or any issues, delays, directly or indirectly related thereto (including through the temporary closure of one or more of the MEC retail stores, the disruption or delay in the receipt or shipment of goods from suppliers or to customers, the disruption or delay in the availability of services to or by the Sellers, the need to undertake additional temporary layoff of Employees, the increase in sick leaves by Employees or a decrease in sales), (F) any change in Applicable Laws or its interpretation, administration or application or non-application by any Governmental Authority or in generally acceptable accounting principles, (G) any failure to meet any projections, forecasts, estimates or budgets of, or guidance relating to, revenue, cash flow, earnings or other financial metrics for any period, (H) any action taken (or omitted to be taken) by either Seller that is permitted under this Agreement or consented to by the Buyer, (I) any announcement or pendency of the transactions contemplated by this Agreement, including the impact of any of the foregoing on relationships with customers, suppliers, lenders, officers, Employees or any Governmental Authority, (J) any change or development in respect of any Excluded Asset, Excluded Liability or any matter disclosed pursuant to the terms of

this Agreement, (K) the announcement of or pendency of the CCAA Proceedings and any action approved by, or motion made before, the CCAA Courts, including the impact of any of the foregoing on relationships with customers, suppliers, lenders, officers, Employees or any Governmental Authority, (L) [REDACTED]

[REDACTED] (M) any other labour strike, lockage, labour certification or labour certification efforts, whether pending or threatened, affecting three (3) or less of the Purchased Locations in addition to the Sellers' store located at the premises identified in the immediately preceding item (J), or (N) any temporary labour slow down, temporary stoppage, picketing activity or boycott; except for any such change, event, occurrence, effect, state of facts or circumstance referred to in the foregoing clauses (A) through (F) (exclusive of clause (E)) that materially and disproportionately affects the Acquired Business as compared to other participants in the industry in which the Sellers conduct its business.

(nnnnn) **“Material Contracts”** means, collectively:

- (i) any Contract that is reasonably likely to involve payment to or by a Seller in excess of [REDACTED] in any fiscal year, as determined by the Seller's most recently completed fiscal year; and
- (ii) any Contract, which if terminated, would have a Material Adverse Effect.

(nnnn) **“Membership Interest”** means the interest of the members in MEC;

(oooo) **“Monitor”** means Alvarez & Marsal Canada, Inc. (or such other person as is appointed by the CCAA Court so determines) as appointed monitor of the Sellers pursuant to the Initial Order to be granted in the CCAA Proceedings and not in its personal capacity.

(pppp) **“Monitor's Certificate”** means the certificate contemplated in the Approval and Vesting Order to be filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Sellers and the Buyer that all conditions to Closing have been satisfied or waived by the applicable Parties and that the cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Buyer to the Sellers have been received by the Monitor.

(qqqq) **“NDA”** means the non-circumvention and non-disclosure working agreement between, *inter alios*, Kingswood Capital Management, LP and MEC dated July 10, 2020.

(rrrr) **“Off-Title Compliance Matters”** means open permits or files, work orders, Orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits.



- (ssss) **“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- (tttt) **“Owned Real Property”** has the meaning given to such term in Section 2.1(h).
- (uuuu) **“Parties”** means the Sellers and the Buyer collectively, and **“Party”** means either the Sellers, any Seller or the Buyer, as the context requires.
- (vvvv) **“Permitted Encumbrances”** means, except to the extent otherwise provided in the Approval and Vesting Order,
- (i) Encumbrances given by the Sellers as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any amounts not due or being disputed in good faith as at the Closing Date;
  - (ii) reservations, limitations, provisos and conditions, if any, expressed in any original grants of land from the Crown and any statutory limitations, exceptions, reservations (including, without limitation, royalties, reservations of mines, mineral rights, timber rights and other similar rights) and qualifications;
  - (iii) statutory liens for current property Taxes, assessments or other governmental charges not yet due and payable or the validity or amount of which are being disputed in good faith by appropriate proceedings;
  - (iv) minor discrepancies in the legal description of or minor title defects to the Owned Real Property or Leased Property or any adjoining real or immovable property which would be disclosed in an up to date survey, certificate of location, real property report or technical description;
  - (v) subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any property registered on title to an Owned Real Property or Leased Property or disclosed to the Buyer, provided, in each case, that if they have not been so registered or disclosed to the Buyer, in each case, as at September 10, 2020, they do not, individually or in the aggregate, materially or adversely impair the value, use, operation or marketability of the Owned Real Property;
  - (vi) any rights of expropriation, access or use or any other similar rights conferred or reserved by Applicable Law;
  - (vii) minor encroachments by the Owned Real Property or Leased Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Owned Real

Property or Leased Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners;

- (viii) rights-of-way for or reservations or rights of others for, sewers, drains, water lines, gas lines, electric lines, railways, telegraph, telecommunications and telephone lines, or cable conduits, poles, wires and cables, and other similar utilities, or zoning by-laws, ordinances or other restrictions as to the use of Owned Real Property or Leased Property, that arise in the ordinary course of business, provided, in each case, that: (i) they are registered on title to the Owned Real Property or Leased Property or have been disclosed to the Buyer, in each case, prior to September 10, 2020; or (ii) they do not, individually or in the aggregate, materially or adversely impair the value, use, operation, or marketability of the Owned Real Property or Leased Property;
- (ix) Encumbrances associated with, and financing statements evidencing, the rights of equipment lessors under any Personal Property Leases which are to be assigned to and assumed by the Buyer hereunder;
- (x) Encumbrances associated with, and financing statements evidencing, the rights of equipment lessors under any Personal Property Leases entered into from the date of this Agreement to the Closing Date in compliance with Section 7.4
- (xi) rail siding agreements or facility, operating, cost sharing, servicing, reciprocal use or other similar agreements, provided, in each case, that: (i) they are registered on title to the Owned Real Property or Leased Property or have been disclosed to the Buyer; or (ii) they do not, individually or in the aggregate, materially or adversely impair the value, use, operation, or marketability of the Owned Real Property or Leased Property;
- (xii) any easements, servitudes or rights-of-way in favour of any Governmental Authority, any private or public utility or any railway company or adjoining owner, provided, in each case, that (i) they are registered on title to the Owned Real Property or Leased Property or have been disclosed to the Buyer, in each case, prior to September 10, 2020, or (ii) they do not, individually or in the aggregate, materially or adversely impair the value, use, operation, or marketability of the Owned Real Property or Leased Property;
- (xiii) Encumbrances for charges for electricity, power, gas, water and other services and utilities in connection with the Owned Real Property or Leased Property that have accrued but are not yet due and owing;
- (xiv) restrictive covenants, private deed restrictions and other similar land use control agreements, provided, in each case, that: (i) they are registered on title to the Owned Real Property or Leased Property or have been disclosed to the Buyer, in each case, prior to September 10, 2020, or (ii)

they do not, individually or in the aggregate, materially or adversely impair the value, use, operation, or marketability of the Owned Real Property or Leased Property;

- (xv) the provisions of all Applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Owned Real Property or Leased Property;
- (xvi) the exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta) or Section 23(2) of the *Land Title Act* (British Columbia), or similar law in any jurisdiction;
- (xvii) the right of any municipality or governmental or other public authority to acquire portions of the Owned Real Property or Leased Property for road widening or interchange construction and the right of the municipality or public authority to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Owned Real Property or Leased Property;
- (xviii) permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, rights-of-way, public ways, rights in the nature of an easement and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, servitudes, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables); provided, in each case, that: (i) they are registered on title to the Owned Real Property or Leased Property or have been disclosed to the Buyer, in each case, prior to September 10, 2020; or (ii) they do not, individually or in the aggregate, materially or adversely impair the value, use, operation, or marketability of the Owned Real Property or Leased Property;
- (xix) any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario);
- (xx) all Off-Title Compliance Matters to the extent they cannot be satisfied under Applicable Law solely by the payment of a fine or other monetary claim;
- (xxi) all instruments which are registered against title to an Owned Real Property or Leased Property agreed to by the Buyer in writing or permitted by this Agreement;
- (xxii) the Encumbrances and other rights in favour of the Landlords contained in the Real Property Leases;

- (xxiii) the Encumbrances which the Real Property Leases and/or any Leased Property are stated to be subject to or bound by pursuant to the terms of the Real Property Leases;
  - (xxiv) all Encumbrances affecting a Landlord's freehold interest in any Leased Property; and
  - (xxv) any other Encumbrance disclosed in Schedule 2.3(j).
- (www) **"Person"** means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity, however designated or constituted.
- (xxxx) **"Personal Information"** means information about an identifiable natural person or that is protected by any Privacy Laws.
- (yyyy) **"Personal Property Leases"** has the meaning given to such term in Section 2.1(f).
- (zzzz) **"Plan"** means any plan, arrangement, agreement, program, policy, practice or undertaking, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, registered or unregistered, that provides any employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, pension, supplemental pension, retirement, stock option, stock purchase, stock appreciation, share unit, phantom stock, deferred compensation, health, welfare, medical, dental, disability, life insurance and any similar plans, programmes, arrangements or practices, in each case: (i) for the benefit of Employees or other Persons who are receiving remuneration for work or services provided to the Sellers who are not Employees (or any spouses, dependants, survivors or beneficiaries of such Persons); (ii) that are maintained, sponsored or funded by the Sellers; or (iii) under which the Sellers have, or shall have, any liability or contingent liability.
- (aaaa) **"Post-Closing Tax Period"** has the meaning given to such term in Section 7.9(b).
- (bbbb) **"Pre-Closing Tax Period"** has the meaning given to such term in Section 7.9(b).
- (cccc) **"Premises"** means, collectively, the lands and premises which are leased to the Sellers (or either of them) pursuant to the Real Property Leases.
- (dddd) **"Privacy Laws"** means the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (British Columbia) and any comparable law governing the collection, use, disclosure or protection of Personal Information.
- (eeee) **"Property Plans"** means all surveys, plans, specifications and drawings for the buildings located on an Owned Real Property or a Leased Real Property, including "as built" plans (architectural, mechanical, electrical, structural) of the buildings,

suite floor plans and other documentation prepared to illustrate or define a particular aspect of the buildings and the plans submitted with all buildings permits issued for such Owned Real Property or a Leased Real Property and building and occupancy permits.

- (fffff) **“Purchase Price”** has the meaning given to such term in Section 3.1.
- (ggggg) **“Purchased Assets”** has the meaning given to such term in Section 2.1.
- (hhhhh) **“Purchased Locations”** means the (i) real or immovable property owned by the Sellers or in which a Seller has a freehold interest, and (ii) any premises either of the Sellers occupy pursuant to leases or other agreements entered into by or assigned in favour of any Seller, that are identified on Schedule 1.1(hhhhh).
- (iiii) **“Purchased Operating Assets”** means all Purchased Assets other than the Purchased Real Property Assets.
- (jjjj) **“Purchased Real Property Assets”** means the Owned Real Property and the Real Property Leases.
- (kkkkk) **“QST”** means the Québec sales tax payable under the QST Legislation.
- (llll) **“QST Legislation”** means *An Act Respecting the Québec Sales Tax* (Québec).
- (mmmmm) **“RBC Credit Agreement”** means the revolving credit facility agreement dated August 3, 2017 as amended by a first amending agreement dated January 31, 2020, a second amending and waiver agreement dated June 18, 2020, a third amending agreement dated July 31, 2020 and a fourth amending agreement dated September 11, 2020, between MEC (as borrower), 131 Ltd. (as guarantor), Royal Bank of Canada (as agent, lead arranger and sole bookrunner), and the lenders party thereto, as the same may be amended, restated, supplemented and/or modified from time to time.
- (nnnnn) **“Real Property Leases”** has the meaning given to such term in Section 2.1(g).
- (oooo) **“Registrable Form of ROFR Waiver”** means a waiver agreement to be granted by [REDACTED] (or its successors or assigns), MEC, and the Buyer, substantially in the form attached as Schedule 1.1(oooo) hereto, with such changes as MEC and the Buyer may agree, acting reasonably (and in the case of MEC, with the approval of the Monitor).
- (ppppp) **“Regulatory Approvals”** means Competition Act Approval.
- (qqqqq) **“Release”** has the meaning prescribed in any Environmental Law and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction of any Hazardous Substances;
- (rrrrr) **“Restricted Rights”** has the meaning given to such term in Section 2.6.

- (sssss) **“Retained Employees Liabilities”** has the meaning given to such term in Section 2.3(e).
- (ttttt) **“Retained Employee Plans”** has the meaning given to such term in Section 7.10(f).
- (uuuuu) **“Retained Employees”** has the meaning given to such term in Section 7.10(c).
- (vvvvv) **“Sellers”** has the meaning given to such term in the preamble to this Agreement and **“Seller”** means any one of them.
- (wwwww) **“SISP”** means the Sale and Investment Solicitation Process (as amended, restated, supplemented and/or modified from time to time).
- (xxxxx) **“Sunset Date”** has the meaning given to such term in Section 9.1(b).
- (yyyyy) **“Tax”** and **“Taxes”** includes:
- (i) taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, British Columbia and other government pension plan premiums or contributions; and
  - (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee liability, operation of law or otherwise.
- (zzzzz) **“Target Working Capital”** means [REDACTED].
- (aaaaa) **“Working Capital”** means, as at any date, the difference between:
- (i) the amounts set out in the categories of assets of the Business (and only those categories of assets) listed on Schedule 1.1(uuu),  
minus
  - (ii) the amounts set out in the categories of liabilities of the Business (and only those categories of liabilities) listed on Schedule 1.1(uuu),

provided that for greater certainty, Working Capital shall be valued and calculated in accordance with the Accounting Principles and shall not (A) include any amounts included within the calculation of Acquired Cash and Cash Equivalents or (B) include any Excluded Assets or Excluded Liabilities.

## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute and the regulations thereunder as they may be amended, or to any restated or successor legislation of comparable effect.

## **1.3 Headings and Table of Contents**

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

## **1.4 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, and words importing gender include all genders.

## **1.5 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars. References to "\$" are to Canadian dollars.

## **1.6 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Upon such a determination of invalidity or unenforceability, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

## **1.7 Knowledge**

Where any representation or warranty, or other provision, contained in this Agreement is expressly qualified by reference to, or otherwise refers to, the "**Knowledge**" of: (a) the Sellers, it shall be deemed to refer to the actual or constructive knowledge of MEC's Chief Executive Officer, Chief Financial Officer and General Counsel, after due inquiry; and (b) the Buyer, it shall be deemed to refer to the actual or constructive knowledge of the Buyer's directors and officers, after due inquiry.

## **1.8 Entire Agreement**

This Agreement, the schedules to this Agreement, the NDA and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions

and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

## **1.9 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

## **1.10 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of British Columbia and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the CCAA Court prior to a Final Order of the CCAA Court closing the CCAA Proceedings and thereafter to the Courts of British Columbia for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.8 shall be deemed effective service of process on such Party.

## **1.11 Schedules**

The schedules to this Agreement, listed below, are an integral part of this Agreement:

<b><u>Schedule</u></b>	<b><u>Description</u></b>
Schedule 1.1(i)	Form of Approval and Vesting Order
Schedule 1.1(bb)	Collective Agreements
Schedule 1.1(oo)	Disclosed Documents
Schedule 1.1(pp)	Employee Plans
Schedule 1.1(eee)	Excluded Employees
Schedule 1.1(uuu)	Illustrative Working Capital Statement
Schedule 1.1(hhhh)	Purchased Locations
Schedule 1.1(mmmm)	Material Contracts
Schedule 1.1(oooo)	Registrable Form of ROFR Waiver



Schedule 2.1(f)	Personal Property Leases
Schedule 2.1(g)	Real Property Leases
Schedule 2.1(h)	Owned Real Property
Schedule 2.1(j)	Intellectual Property
Schedule 2.1(k)	IT Assets
Schedule 2.1(p)	Actions, etc.
Schedule 2.1(q)	Licences and Registrations
Schedule 2.1(t)	Other Assets
Schedule 2.2(a)	Specific Corporate Records and Other Specific Excluded Assets
Schedule 2.2(b)	Excluded Contracts
Schedule 2.3(a)	Key Suppliers and other Payables
Schedule 2.3(i)	Permitted Encumbrances
Schedule 4.1	List of Sellers and Jurisdiction of Incorporation
Schedule 6.2(f)	Material IT Contracts
Schedule 7.4	Conduct of Business Prior to Closing Time
Schedule 1.1(xx)	Escrow Agreement
Schedule 10.2(k)	Transition Services Agreement

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Agreement to Purchase and Sell Purchased Assets

Upon and subject to the terms and conditions of this Agreement (including the provisions of Section 2.6), at the Closing and effective as of the Closing Time, the Sellers shall sell, convey, transfer, assign and deliver, or cause to be sold, conveyed, transferred, assigned and delivered, pursuant to the Approval and Vesting Order and any applicable Assignment Order(s), and the Buyer shall purchase, free and clear of all Encumbrances other than Permitted Encumbrances, all of the Sellers' right, title, benefit and interest in, to and under, or relating to, the assets, property and undertaking owned or used or held for use by the Sellers in connection with the Business, as applicable, but excluding the Excluded Assets, Excluded Liabilities, the Excluded Employees, the Excluded Contracts and the Excluded Real Estate Properties (collectively, the "**Purchased Assets**"), including without limitation the following properties, assets and rights:

- (a) *Accounts Receivable* – the Accounts Receivable;
- (b) *Prepaid Expenses* – all prepaid expenses, including *ad valorem* Taxes, of the Sellers relating to the Acquired Business or the Purchased Assets, and all deposits of the Sellers with any supplier, public utility, or lessor under any Personal

Property Lease or Real Property Lease;

- (c) *Inventory* – all items that are owned by the Sellers for sale, license, rental, lease or other distribution in the ordinary course of business, or are being produced for sale, or are to be consumed, directly or indirectly, in the production of goods or services to be available for sale, of every kind and nature and wheresoever situated relating to the Acquired Business or located at the Seller’s distribution centres, including inventories of raw materials, spare parts, work in progress, finished goods and by-products, operating supplies and packaging materials;
- (d) *Fixed Assets and Equipment* – all machinery, equipment, furnishings, furniture, displays and signage, parts, dies, molds, tooling, tools, computer hardware, supplies, accessories, office equipment and other tangible personal and moveable property (other than inventory) owned by the Sellers for use in or relating to the Business and located on a Purchased Location or located at the Sellers’ corporate head office or a distribution centre of the Sellers, and, to the extent transferable, all rights of the Sellers under warranties, indemnities, licenses, and all similar rights of the Sellers against third Persons with respect to the equipment, fixed assets and tangible assets referenced herein;
- (e) *Vehicles* – all motor vehicles, including all forklifts owned by the Sellers for use in or relating to the Business, and, to the extent transferable, all rights of the Sellers under warranties, indemnities, licenses, and all similar rights of the Sellers against third Persons with respect to the motor vehicles referenced herein;
- (f) *Personal Property Leases* – subject to Section 2.6, all leases of personal or moveable property of the Sellers that relate to the Business listed on Schedule 2.1(f), including all benefits, rights and options of the Sellers pursuant to such leases and all leasehold improvements forming part thereof except those identified as an Excluded Contract (collectively, the “**Personal Property Leases**”);
- (g) *Real Property Leases* – subject to Section 2.6, the leases and other agreements to occupy the Premises for the Purchased Locations entered into by, or assigned in favour of any of the Sellers and listed on Schedule 2.1(g) (it being agreed that in the event any location operated by the Sellers is deemed no longer to constitute a Purchased Location in accordance with this Agreement, then the contents of such Schedule shall be automatically updated without further act or formality by deleting any item in the Schedule that relates solely to such excluded or otherwise non-Purchased Location.), including all purchase options, options to lease, registered short form leases or caveats, prepaid rents, security deposits, rights to appurtenances and improvements, easements, licenses and permits, including any transferable Governmental Authorizations relating thereto and all leasehold improvements thereon (but excluding, for greater certainty, the Excluded Real Estate Properties) (collectively, the “**Real Property Leases**”);
- (h) *Real Property* – the real or immovable property owned by the Sellers at the Purchased Locations, or in which a Seller has a freehold interest at the Purchased Locations and listed on Schedule 2.1(h) (but excluding, for greater certainty, the Excluded Real Estate Properties), and the Sellers’ right, title, benefit and interest in

all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon, forming part thereof, or benefiting such real or immoveable property and any permits, including any Governmental Authorizations, relating thereto (collectively, the “**Owned Real Property**”);

- (i) *Assumed Contracts* – subject to Section 2.6, all Contracts to which any of the Sellers is a party, including the Collective Agreements, any confidentiality, non-disclosure or similar agreements entered into in connection with the SISP, and the Material Contracts listed in Schedule 1.1(mmmm), as such Contracts may have been amended, assigned, supplemented or otherwise modified up to the date hereof, together with any Contracts that are entered into by the Sellers in the ordinary course of business from the date of this Agreement to the Closing Date (but excluding any Excluded Contracts) (collectively, the “**Assumed Contracts**”);
- (j) *Intellectual Property* – all Intellectual Property rights owned by the Sellers, including:
  - (i) the rights of the Sellers under all trade-marks, common law trademarks, trade names, business names, websites and domain names, certification marks, service marks, and other source indicators, and the goodwill associated therewith and the goodwill of any business symbolized thereby, patents, copyrights, software, source code, object code, applications, systems, databases, data, website content, know-how, formulae, processes, inventions, technical expertise, research data, trade secrets, industrial designs and other similar property or proprietary rights, including those listed and described in Schedule 2.1(j);
  - (ii) all registrations and applications for registration thereof, including those listed and described in Schedule 2.1(j);
  - (iii) the right to obtain renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations or similar legal protections related thereto, including those listed and described in Schedule 2.1(j); and
  - (iv) the right to bring an action at law or equity for the infringement of the foregoing before the Closing Time, including the right to receive all proceeds and damages therefrom;
- (k) *Information Technology Systems* – all software (including source code and object code form), computer hardware, licenses, and documentation therefor and rights therein owned by the Sellers used in the Business, and any other information technology systems owned by the Sellers and used in the Business, including all electronic data processing systems, program specifications, source codes, object code, input data, report layouts, formats, algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, operating manuals, training manuals and other related material (collectively, the “**IT Assets**”), including those listed and described in Schedule 2.1(k);

- (l) *Goodwill* – the goodwill of the Business and relating to the Purchased Assets, and information and documents of the Sellers relevant thereto, including lists of customers, members (as it relates to the Business and as permitted by Applicable Law) and suppliers, credit information, telephone and facsimile numbers, e-mail addresses, research materials, research and development files, business names, trade names, Confidential Information and the exclusive right of the Buyer to represent itself as carrying on the Business in succession to the Sellers;
- (m) *Employee Records* – personnel and employment records and employee manuals relating to the Retained Employees and the unionized Employees and the Retained Employee Plans;
- (n) *Business Records* – all business and financial records and files of the Business, including the general ledger and accounting records relating to the Business, marketing materials, market research, all customer and member lists (and as it relates to the Business and as permitted by Applicable Law) and lists of suppliers, information relating to any Tax imposed on the Purchased Assets, all operating manuals, plans and specifications and all of the right, interest and benefit, if any, thereunder and to and in the domain names, telephone numbers and facsimile numbers used by the Sellers in the conduct of the Business, and all records, files and information necessary for the Buyer to conduct or pursue the rights described in Section 2.1(p); provided, however, that, without limiting the obligation of the Buyer under Section 7.15, the Sellers may retain copies of all books and records included in the Purchased Assets to the extent necessary or useful for the administration of the CCAA Proceedings or any Insolvency Proceedings in respect of any of the Sellers or the filing of any Tax return or compliance with any Applicable Law or the terms of this Agreement or related to the Excluded Assets or Excluded Liabilities; provided further, that, subject to Applicable Laws or documents subject to solicitor-client privilege under the laws of the Province of British Columbia or any other applicable jurisdiction, in no event will the Sellers restrict the Buyer's access to or, following the Closing Date, its ownership of any business records or files of the Business, including, without limitation, member, customer and marketing lists and customer and marketing data;
- (o) *Acquired Cash and Cash Equivalents* – all Acquired Cash and Cash Equivalents;
- (p) *Actions, etc.* – any claims, refunds, causes of action, rights of recovery, rights of set-off, subrogation and rights of recoupment of the Sellers as plaintiff related to the Business or any of the Purchased Assets or any of the Assumed Liabilities or any of the Governmental Authorizations or any of the Property Plans, including those listed on Schedule 2.1(p), and the interest of the Sellers in any litigation as plaintiff and in the proceeds of any judgment, order or decree issued or made in respect thereof in respect of occurrences, events, accidents or losses suffered prior to the Closing Time (but excluding any of the foregoing in respect of any of the Excluded Assets or Excluded Liabilities);
- (q) *Licenses and Registrations* – all licenses or registrations issued to or held by any of the Sellers, relating to the Acquired Business to the extent transferable, including those listed on Schedule 2.1(q);

- (r) *Rights under Insurance* – all claims, actions or other rights the Sellers may have for insurance coverage under any past or present policies and insurance contracts or agreements insuring the Purchased Assets or the Acquired Business (but, for greater certainty excluding (i) any director and officer insurance covering the directors and officers of Sellers and (ii) any claims, actions or other rights the Sellers may have for insurance coverage to the extent it relates to the Excluded Liabilities or Excluded Assets, including for insurance coverage for liabilities (except as included in Assumed Liabilities) arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Time, including liabilities relating to any breach of law and product liability claims or any litigation, claim or proceeding where a Seller is a defendant);
- (s) *Legal and Title Opinions* – all legal and title opinions relating to the Purchased Assets or Acquired Business;
- (t) *Other Assets* – subject to Section 2.6, any other assets owned, used, licensed or held for use by the Sellers in connection with the Acquired Business, including those listed in Schedule 2.1(t); and
- (u) *Express Consents - Canada's Anti-Spam Law* – all express consents obtained by the Sellers under applicable privacy and anti-spam Applicable Laws from any person, including customers and members, to (i) send or cause to be sent an electronic message to such person, (ii) alter or cause to be altered the transmission data in an electronic message so that the message is delivered to a destination other than or in addition to that specified by such person.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the following assets of the Sellers (collectively, the “**Excluded Assets**”):

- (a) *Corporate Records* – original Tax records and books and records pertaining thereto, minute books, member registers, share ledgers, organizational documents, corporate seals, taxpayer and other identification numbers and other documents, in each case, relating to the organization, maintenance and existence of each Seller as a Person; provided that the Buyer may take copies of all Tax records and books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Acquired Business after Closing, including the filing of any Tax return to the extent permitted under Applicable Law, including all items identified on Schedule 2.2(a);
- (b) *Excluded Contracts* – all Personal Property Leases and other Contracts, if any, of the Sellers set forth on Schedule 2.2(b) and any Contracts that become an Excluded Contract pursuant to Section 2.7 (collectively, the “**Excluded Contracts**”);
- (c) *Excluded Collateral* – all letters of credit, cash or cash equivalents of the Sellers granted by the Sellers as collateral to secure outstanding letters of credit in respect of any Excluded Liability or Excluded Asset including, for certainty, any Excluded Real Estate Property;

- (d) *Rights under Agreements* – all of the Sellers’ rights under: (i) this Agreement (including all amounts paid to the Sellers hereunder); (ii) the NDA, (iii) the DIP Restructuring Support Agreement; (iv) the RBC Credit Agreement; (v) the Excluded Contracts; (vi) the Closing Documents and (vii) the transactions contemplated by hereby and thereby;
- (e) *Excluded Real Estate Properties* – the Excluded Real Estate Properties;
- (f) *Director and Officer Insurance Policies* – all rights of the Sellers and the directors and officers of the Sellers under any director and officer liability insurance policies including any proceeds received or receivable by such Persons thereunder;
- (g) *Ordinary Course Assets* – any inventory or asset of the Sellers that would otherwise constitute a Purchased Asset but for the fact that it is conveyed, leased or otherwise disposed of in the ordinary course of business in compliance with Section 7.4 or becomes obsolete during the period beginning on the date of this Agreement and ending on the Closing Date;
- (h) *Licenses and Registrations* – extra-provincial, sales, excise or other licenses or registrations issued to or held by any of the Sellers, whether relating to the Acquired Business or otherwise to the extent not transferable;
- (i) *Tax Refunds* – the benefit of the Sellers to any refundable Taxes payable or paid by a Seller, net of any amounts withheld by any Governmental Authority, having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, and the benefit of the Sellers to any claim or right of a Seller to any refund, rebate, or credit of Taxes, to the extent that such refundable Taxes, refund, rebate or credit relates solely to Taxes paid or payable by the Sellers in respect of a period ending on or before the Closing Date or a Pre-Closing Tax Period;
- (j) *Avoidance Claims* – all rights and Claims against any Person for any liability of any kind based on or arising out of the occurrence of any fraudulent conveyance, settlement, reviewable transaction, transfer at undervalue, fraudulent preference or similar claim;
- (k) *Employee Records* - personnel and employment records relating to any Employees that are not Retained Employees or unionized Employees;
- (l) *Insurance* - all insurance policies and insurance contracts or agreements insuring the Purchased Assets or the Business, together with any claim, action or other right Sellers may have for insurance coverage under any past or present policies and insurance contracts or agreements insuring the Excluded Assets;
- (m) *Litigation Documents* – documents prepared by or on behalf of the Sellers in contemplation of litigation and any other documents within the possession of Sellers which are subject to solicitor-client privilege under the laws of the Province of British Columbia or any other jurisdiction;
- (n) *Securities* – the Membership Interests, the 50 common shares of Park Towns

Development GP Inc. and the 50 limited partnership units in Park Towns Developments Limited Partnership currently registered to MEC;

- (o) *Excluded Prepaid Expenses* – all prepaid expenses and deposits not related to the Acquired Business or any Purchased Asset, including, for certainty, any prepaid taxes or amounts paid to a Governmental Authority;
- (p) *Excluded Inventory* – all inventory located at an Excluded Real Estate Property, other than inventory located at a distribution centre of the Sellers, which, in all cases, shall be included as a Purchased Asset;
- (q) *Excluded Fixed Assets and Equipment*– all fixed assets and equipment located or used exclusively at a retail store that is an Excluded Real Estate Property;
- (r) *SISP Records* - all valuations, bidder lists, presentations and communications developed or prepared in connection with the sales process undertaken by the Sellers, or either of them, prior to Pre-Filing Date and the SISP; and
- (s) *Excluded Cash and Cash Equivalents* – all Excluded Cash and Cash Equivalents and the bank accounts of each Seller.

### 2.3 Assumption of Liabilities

The Buyer shall assume as of the Closing Time and shall pay, discharge and perform, as the case may be, from and after the Closing Time, the following obligations and liabilities of the Sellers with respect to the Acquired Business or the Purchased Assets, other than the Excluded Liabilities (collectively, the “**Assumed Liabilities**”), which Assumed Liabilities shall consist of:

- (a) *Key Suppliers* – all liabilities and obligations of the Sellers relating to the Acquired Business owing to those vendors or service providers to the Acquired Business and other payables agreed to by the Parties and listed in Schedule 2.3(a) (the “**Key Suppliers**”) whether arising prior to, or after, the Closing Time, which are incurred in connection with the purchase of goods or services for the Acquired Business in the ordinary course of business;
- (b) *Obligations under Assumed Contracts, Personal Property Leases, Real Property Leases, etc.* – (i) without limiting the obligations owing by the Buyer under Section 2.3(a), all liabilities and obligations arising under the Assumed Contracts, Personal Property Leases and Real Property Leases to the extent first arising on or after the Closing Time, in each case, which are assigned to the Buyer hereunder and (ii) all Cure Costs;
- (c) *Deferred Revenues* – the portion of revenues from services to be performed or products to be delivered by the Acquired Business after the Closing Date that is recognized as a liability by the Sellers on the Closing Date on a basis consistent with the Accounting Principles;
- (d) *Warranties* – all liabilities arising out of or relating to services, products, or product or service warranties of MEC sold or distributed prior to or after the Closing Time;

- (e) *Employee Matters* – all liabilities and obligations (i) of or expressly assumed by the Buyer pursuant to Section 7.10; (ii) relating to the Buyer’s employment or termination of employment (whether or not arising under or in respect of any Buyer Employee Plan) of any Retained Employees or unionized Employees, to the extent arising on or after the Closing Date of such Employees; (iii) relating to the Buyer’s offer of employment or notice of continued employment to any Employee pursuant to the terms of Section 7.10; (iv) the failure of the Buyer to satisfy its obligations under Section 7.10 with respect to any Employee; (v) under any Buyer Employee Plan; (vi) relating to or arising from or in connection with any Employee Plan transferred (or the liabilities of which are transferred) to the Buyer pursuant to this Agreement or by operation of Applicable Law; and (vii) related to the Retained Employees and unionized Employees which arise out of or result from any termination of employment, layoff, or the closing or relocation of worksites or the like of such Employees by the Buyer on or after the Closing Date (collectively, the “**Retained Employees Liabilities**”);
- (f) *Environmental* – any liabilities to the extent arising out of or relating to the Acquired Business’ or the Purchased Assets’ non-compliance with Environmental Law or a Release to the Environment, and in either case, whether in respect of any facts, conditions or circumstances existing or occurring prior to or after the Closing Time;
- (g) *Taxes* – real property, personal property, and similar *ad valorem* obligations, in each case, relating to the Purchased Assets for a Tax period (or the portion thereof) beginning on or after the Closing Date, excluding, for the avoidance of doubt, any amounts described in this paragraph that are (i) income Tax or similar liabilities of the Sellers for any Tax period, (ii) any Tax or similar liability related to the Excluded Assets;
- (h) *Other Taxes* – all liabilities for (i) Canadian federal and provincial source deductions or withholding Taxes in respect of Retained Employees, arising after Closing; and (ii) any Tax that the Buyer is required to bear pursuant to Section 7.9;
- (i) *Gift Cards* – all liabilities relating to gift cards purchased by customers (including members) of the Acquired Business and store credits which can be redeemed for merchandise;
- (j) *Permitted Encumbrances* – all liabilities, if any, arising from or in relation to the Permitted Encumbrances; and
- (k) *Acquired Business and Purchased Assets* – all other liabilities and obligations relating to the Purchased Assets and the operation of the Acquired Business to the extent such liabilities and obligations consist of liabilities and obligations that arise in respect of and relate to the period on and after the Closing Time.

## 2.4 Excluded Liabilities

Except as assumed pursuant to Section 2.3, (i) all liabilities of or relating to the Business or Purchased Assets arising prior to the Closing Time and, (ii) except to the extent related to the



Acquired Business or Purchased Assets, all liabilities of the Sellers or any predecessors of the Sellers and the Sellers' affiliates arising from and after the Closing Time, in the case of each of (i) or (ii) of any kind or nature, shall remain the sole responsibility of the Sellers and their affiliates, including the following liabilities or obligations which shall be retained by, and which shall remain the sole responsibility of, the Sellers and their affiliates (collectively, the "**Excluded Liabilities**"):

- (a) *Contract and Real Property Leases Liabilities* – all liabilities of the Sellers under the Assumed Contracts, Personal Property Leases and Real Property Leases incurred prior to the Closing Time, excluding all Cure Costs and any liabilities or obligations whether incurred prior to or after the Closing Time to Key Suppliers, which, in each case, are Assumed Liabilities;
- (b) *Excluded Assets* – all liabilities and obligations relating to the Excluded Assets;
- (c) *Employee Matters* –
  - (i) the Plans, and any liabilities or other obligations arising under, relating to or with respect to any Plan, save and except for liabilities under the Retained Employee Plans; and
  - (ii) except as included in Section 2.3(e), all liabilities related to the Employees of the Sellers;
- (d) *Intercompany Accounts Payable* – any debts due or accruing due from the Sellers to any shareholder, director, officer (except amounts owing to any officer for service to the Acquired Business as an employee if such officer is a Retained Employee) or affiliate of the Sellers (for greater certainty, except all gift cards referred to in Section 2.3(i), which are Assumed Liabilities);
- (e) *RBC Credit Agreement and DIP Restructuring Support Agreement* – all liabilities, obligations and related guarantees relating to the RBC Credit Agreement and DIP Restructuring Support Agreement, if any;
- (f) *Taxes and CEWS* – all liabilities for Taxes of the Sellers and amounts payable to the Sellers pursuant to the Canada Emergency Wage Subsidy program or any other subsidy or relief program related to the coronavirus (COVID-19) outbreak; and
- (g) *Other* – except as included in Assumed Liabilities, Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Time, including without limitation liabilities relating to any breach of law and product liability claims or any litigation or proceeding where the Sellers are the defendants.

## **2.5 Information on Assumed Contracts and Personal Property Leases that are not Disclosed Documents**

The Sellers shall, as soon as reasonably practicable after the date hereof, use commercially reasonable efforts to provide or make available to the Buyer the Assumed Contracts and Personal

Property Leases that are not Disclosed Documents, if any, and any Assumed Contracts to be entered into by the Sellers relating to the Acquired Business or the Purchased Assets between the date hereof and the Closing Date in accordance with the terms of this Agreement. The Buyer shall, acting reasonably, be entitled to make follow-up requests relating thereto to the Sellers which the Sellers shall use commercially reasonable efforts to respond to in good faith.

## 2.6 Assignment of Purchased Assets

- (a) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer any Purchased Asset or any right thereunder if an attempted assignment or transfer (i) without the consent of a third Person, would constitute a breach or in any way adversely affect the rights of the Buyer thereunder or (ii) is not permitted or enforceable under Applicable Law (collectively, “**Restricted Rights**”), unless the assignment is subject to an Assignment Order. Subject to Sections 2.6(b) and (c), the Sellers shall use commercially reasonable efforts to take all such action, and do or cause to be done all such things as are reasonably necessary or proper, following the Closing Time, in order that the obligations of the Sellers under such Restricted Rights may be performed in such manner that the value of such Restricted Rights is preserved and enures to the benefit of the Buyer, and that any amounts due and payable from and after the Closing Time, or which become due and payable after the Closing Time, in and under the Restricted Rights are received by the Buyer and the liabilities accruing from and after the Closing Time are satisfied by the Buyer. Subject to payment of all liabilities in respect thereof accruing from and after the Closing Time by the Buyer, the Sellers shall reasonably promptly pay to the Buyer all amounts collected by or paid to the Sellers in respect of all such Restricted Rights. Subject to Section 7.4, the Sellers shall not, without the prior written consent of the Buyer, agree to any modification of any Restricted Rights.
- (b) If a consent to transfer the Restricted Rights to the Buyer is not obtained by the Closing Time or such assignment is not attainable, the Sellers and the Buyer shall cooperate and use their respective commercially reasonable efforts, from and after the Closing Time, to implement a mutually agreeable arrangement pursuant to which the Buyer shall obtain the benefits, and assume the liabilities and obligations, related to such Restricted Rights in accordance with this Agreement; provided, however, that the Buyer acknowledges and agrees that nothing in this Section 2.6 shall operate to prohibit or diminish in any way the right of a Seller to dissolve, windup or otherwise cease operations as it may determine in its sole discretion, or require any Seller to take any illegal action or commit fraud on any Person.
- (c) Notwithstanding the foregoing: (i) nothing in this Section 2.6 shall require any Seller to renew any Restricted Rights once they have expired, (ii) any efforts required of the Sellers pursuant to this Section 2.6 shall (A) be subject to receipt of adequate compensation in respect of all direct incremental costs and expenses incurred in respect of or related to such arrangement, (B) be strictly on an interim basis and in no event required to continue for more than 60 days following Closing, and (C) to the extent not prohibited, be of an administrative nature only, without

any substantive function. The Buyer shall reimburse the relevant Seller for any direct incremental cost incurred and indemnify and hold each Seller harmless from and against all Claims, incurred or asserted, as a result of any actions taken pursuant to this Section 2.6.

- (d) For the avoidance of doubt, the Parties acknowledge that the fact that any Purchased Asset constitutes a Restricted Right shall not (i) constitute a breach of any covenant hereunder, (ii) entitle Buyer to terminate this Agreement or (iii) result in any reduction of the Purchase Price payable hereunder. Any non-Restricted Right assigned pursuant to the terms of this Section 2.6 shall, when assigned, constitute an Assumed Contract, Personal Property Lease or a Real Property Lease hereunder from and after such date.

## **2.7 Additions to Excluded Contracts and Final Schedules**

- (a) Subject to Sections 2.7(b) and 7.10, the Buyer shall have the right by notice in writing to the Sellers and the Monitor no later than ten (10) Business Days prior to the Closing Date to designate as an Excluded Contract any Real Property Lease, Personal Property Lease or other Contract that is an Assumed Contract, Material Contract, Assumed Plans or other Contracts related to Retained Employees or union Employees so that any such Personal Property Lease or other Contract so designated shall not be transferred or assigned to the Buyer at Closing, without any adjustment to the Base Purchase Price.
- (b) Without limiting the generality of Section 2.7(a), no later than October 5, 2020, the Buyer shall provide the Sellers with (a) Schedule 1.1(eee) identifying the Excluded Employees to whom it does not intend to offer employment, representing no more than 25% of the Employees (excluding Employees of the Sellers who have been laid off on a temporary or indefinite basis); for certainty, the Buyer will make offers of employment to at least 75% of the Employees (excluding Employees of the Sellers who have been laid off on a temporary or indefinite basis) in accordance with Section 7.10, (b) Schedule 1.1(hhhh) identifying the Purchased Locations that it wishes to acquire or assume, representing not less than 17 of the Seller's retail stores, and (c) Schedule 2.3(a) identifying the Key Suppliers.
- (c) The Parties agree that effective immediately upon delivery of the Schedules referred to in Section 2.7(b), without any further action or formality Schedules 1.1(eee), 1.1(hhhh) and 2.3(a) shall be deemed to be amended and replaced.

## **2.8 Letters of Credit**

On the Closing Date, the Buyer shall issue replacement letters of credit and/or security deposits for the Letters of Credit, provided that Sellers have provided the Buyer notice of same with true copies not less than fifteen (15) Business Days prior to the Closing Date, and shall use commercially reasonable efforts to cause the Letters of Credit to be released and returned to the Sellers or, to the extent required under the RBC Credit Agreement, to the agent for the Lenders thereunder, without any further drawings thereunder, as soon as reasonably practicable but in no event later than sixty (60) days after the Closing Date.

**ARTICLE 3  
PURCHASE PRICE AND RELATED MATTERS**

**3.1 Purchase Price**

(a) Subject to adjustment in accordance with Section 3.4 and the timing and manner of payment as set forth herein, the aggregate consideration payable by the Buyer to the Sellers for the Purchased Assets (the “**Purchase Price**”) shall be, without duplication, equal to:

- (i) [REDACTED] (the “**Base Purchase Price**”);
- (ii) *minus*, the amount, if any, by which the Estimated Closing Date Working Capital is less than the Target Working Capital;
- (iii) *plus*, the amount, if any, by which the Estimated Closing Date Working Capital is greater than the Target Working Capital; and
- (iv) *plus*, the Estimated Closing Date Cash and Cash Equivalents;

provided that in no event shall the Purchase Price be less than the Lender Claims.

(b) At the Closing, the Buyer shall pay to the Sellers the aggregate sum of the Purchase Price (as calculated in accordance with Section 3.1(a)):

- (i) minus, the Escrow Amount (that shall instead be paid to the Escrow Agent, in trust, pursuant to Section 3.1(c));
- (ii) minus, the Deposit Amount;

free and clear of any withholding or deduction, by way of wire transfer of immediately available funds to such bank account as is designated by the Sellers and advised by the Sellers to the Buyer no later than two (2) Business Days prior to the Closing Date, and 100% of the Deposit Amount shall be released and paid to the Sellers or as the Sellers may otherwise direct.

- (c) At the Closing, the Buyer shall pay to the Escrow Agent the Escrow Amount, to be held by the Escrow Agent pursuant to the Escrow Agreement.
- (d) All interest, income and earnings on the Deposit Amount shall be for the account of (and, for all Tax purposes, shall be allocated to and deemed to be earned by) the Buyer. Upon Closing, the Deposit Amount shall be credited to the Purchase Price as provided herein.
- (e) If this Agreement is properly terminated by the Sellers as a result of the Buyer’s material breach or non-compliance with its obligations hereunder, then the Deposit Amount (less any applicable withholding tax) shall be forfeited by the Buyer to, and become the sole property of, the Sellers, as liquidated damages and not as a penalty forfeited to the Sellers in order to compensate the Sellers for

expenses incurred in connection with the transactions contemplated in this Agreement and the delay caused to the Sellers' efforts to sell the Purchased Assets, and the retention of the Deposit Amount shall be the sole and exclusive remedy of the Sellers, and the Sellers hereby expressly waive and renounce any other remedies whatsoever, whether at law or in equity, which the Sellers may or would otherwise be entitled to as against the Buyer or its Affiliates.

- (f) If this Agreement is properly terminated: (i) by the Sellers for any reason other than in accordance with Section 3.1(e); or (ii) by the Buyer pursuant to its termination rights hereunder; then in any such case the Deposit Amount shall be returned to the Buyer, less any applicable withholding tax, within five (5) Business Days following the date of termination of this Agreement and the return of the Deposit Amount shall be the sole and exclusive remedy of the Buyer, and the Buyer hereby expressly waives and renounces any other remedies whatsoever, whether at law or in equity, which the Buyer may or would otherwise be entitled to as against the Seller or its Affiliates.

### 3.2 Purchase Price Allocation

The Purchase Price, as may be finally adjusted in accordance with Section 3.4 hereof, shall be allocated among the Sellers and the Purchased Assets as mutually agreed to by the Parties prior to Closing (the "**Allocation Statement**"). The Buyer and the Sellers shall: (a) report the purchase and sale of the Purchased Assets in any income Tax returns relating to the transactions contemplated in this Agreement in accordance with the Allocation Statement; and (b) act in accordance with the Allocation Statement in the preparation, filing and audit of any Tax return.

### 3.3 Estimated Closing Date Working Capital and Estimated Closing Date Cash and Cash Equivalents

No later than five (5) Business Days before the Closing Date, the Seller shall prepare in good faith and deliver to the Buyer an unaudited statement setting out the estimated calculation of the Working Capital as at the Closing Date (the "**Estimated Closing Date Working Capital**") and estimated calculation of the Acquired Cash and Cash Equivalents as at the Closing Date (the "**Estimated Closing Date Cash and Cash Equivalents**"), in each case, subject to the Buyer's review and comment, acting reasonably, and without giving effect to the transactions contemplated by this Agreement. At Closing, the Purchase Price shall be calculated in accordance with the estimates set out in such statement, subject to adjustment pursuant to Section 3.4.

### 3.4 Post-Closing Working Capital Adjustment

- (a) Within sixty (60) days after the Closing, the Buyer shall prepare in good faith and deliver to the Sellers an unaudited statement (the "**Final Statement**") setting out in reasonable detail the calculation of the actual Working Capital for the Business as at the Closing Date (the "**Final Working Capital**") and the actual Acquired Cash and Cash Equivalents for the Business as at the Closing Date (the "**Final Cash and Cash Equivalents**"), in each case without giving effect to the transactions contemplated by this Agreement. Following the Buyer's delivery of the Final

Statement until the final resolution of the Final Working Capital and the Final Cash and Cash Equivalents pursuant to this Section 3.4, the Buyer shall provide the Sellers, the Monitor and their accountants or other Representatives reasonable access to (i) the working papers and all other supporting documentation used by the Buyer in preparing the Final Statement, (ii) any other books and records of the Business, and (iii) the Buyer's and the Business' accountants, management, or auditors.

- (b) If, within forty-five (45) days following delivery by the Buyer of the Final Statement, the Seller gives written notice (the "**Dispute Notice**") to the Buyer that it disputes the Final Statement, the Buyer and the Sellers shall work expeditiously and in good faith to resolve such dispute. The Sellers shall be deemed to have accepted the Final Statement if it does not notify the Buyer in writing of its objections thereto within forty-five (45) days following delivery by the Buyer of the Final Statement. Any item within the Buyer's Final Statement to which the Sellers do not object within the Dispute Notice shall be final and binding upon both the Buyer and the Sellers.
- (c) If the Parties are unable to reach agreement on the Final Working Capital or the Final Cash and Cash Equivalents, within ten (10) Business Days following delivery by the Seller of the Dispute Notice, the Parties shall mutually refer the dispute for determination by arbitration to a partner (with experience serving as an accounting arbitrator) at an independent, international accounting or consulting firm mutually agreeable to the Buyer and the Sellers. The arbitrator shall consider and make a determination regarding only those disputes set forth in the Dispute Notice that the Buyer and the Sellers have been unable to mutually settle. The determination by such arbitrator shall be made within a further twenty (20) Business Days of such referral and shall be final and binding on all Parties.
- (d) If the Final Working Capital plus the Final Cash and Cash Equivalents as agreed to by the Parties or as determined by the arbitrator, as applicable, exceeds the Estimated Closing Date Working Capital plus the Estimated Closing Date Cash and Cash Equivalents, then the Purchase Price shall be increased by the amount of such excess and (i) the Parties shall issue a joint direction to the Escrow Agent to release 100% of the Escrow Amount proceeds held in escrow by the Escrow Agent pursuant to the Escrow Agreement (together with all interest, income and earnings thereon) to the Seller (or as the Seller may direct); and (ii) an amount equal to 100% of the excess, on a dollar-for-dollar basis, shall be paid by the Buyer to the Sellers within five (5) Business Days of such agreement or such determination, as applicable.
- (e) If the Final Working Capital plus the Final Cash and Cash Equivalents as agreed to by the Parties or as determined by the arbitrator, as applicable, is less than the Estimated Closing Date Working Capital plus the Estimated Closing Date Cash and Cash Equivalents, then the Parties shall issue a joint direction to the Escrow Agent to have: (i) an amount equal to the amount by which the Final Working Capital plus the Final Cash and Cash Equivalents is less than the Estimated Closing Date Working Capital plus the Estimated Closing Date Cash and Cash Equivalents paid

from the Escrow Amount to the Buyer pursuant to the Escrow Agreement within five (5) Business Days of such agreement or such determination, as applicable; and (ii) the remainder, if any, of the Escrow Amount (after taking into account the payment to the Buyer in Section 3.4(e)(i)) paid to the Seller pursuant to the Escrow Agreement within five (5) Business Days of such agreement or such determination, as applicable; and the Purchase Price shall be decreased by such amount payable to the Buyer. The Buyer agrees that its sole recourse is to the payment of the Escrow Amount and the Seller shall not be liable to pay any additional amount to the Buyer in respect of the adjustment contemplated by this Section 3.4(e) in the event that the Escrow Amount is less than the difference between (X) the Final Working Capital plus the Final Cash and Cash Equivalents and (Y) the Estimated Closing Date Working Capital plus the Estimated Closing Date Cash and Cash Equivalents.

- (f) The Buyer and the Seller shall each bear their own fees and expenses in preparing, reviewing, disputing and settling, as the case may be, the calculation of the Final Working Capital, the Final Cash and Cash Equivalents and the Final Statement, provided that, unless otherwise determined by the arbitrator referred to in Section 3.4(c), the costs of that auditor shall be borne equally between the Sellers on the one hand and the Buyer on the other, and such arbitrator is authorized, but is not obligated, to award to one or more Parties such reasonable legal fees and costs in connection with the arbitration as the arbitrator, in his or her sole discretion, may determine are warranted.
- (g) The Buyer acknowledges and agrees that MEC has a liability for gift cards in an amount deducted as a liability in the calculation of Working Capital as set out on the Illustrative Closing Working Capital Statement and the Buyer shall honor such gift cards liability following Closing.

### **3.5 Member Benefits**

Since its founding in 1971, MEC has provided a lifetime membership for \$5 – the same price for five decades – attracting over 5.7 million current members across Canada. The Buyer understands the value of this loyal member base and upholding the same traditions and benefits that have attracted so many members since day one. Being a member at MEC means more than just being a customer at any other store – the Company’s “Rocksolid Guarantee,” 30-day price matching policy, and commitment to creating community hubs that are more than just simply store locations will remain in place post-closing. This will allow members to know that, despite a change in ownership structure, they can still count on MEC to provide the highest quality gear, with advice from the best staff members, at a fair price. Following the Closing Time, the Buyer envisions a transparent communication line with the member base confirming they will still be able to rely on MEC to be the best source for exploring the outdoors that multiple generations of Canadians have trusted. As a commitment to the member base, in accordance with the terms and conditions herein, the Buyer agrees to assume the liabilities associated with all gift cards and is attempting to keep as many store locations as possible open and is keeping active the returns and price matching policies they have come to enjoy. Additionally, the Buyer is thoughtfully planning various initiatives to provide value and benefits to members to demonstrate its commitment to them and the brand.

### 3.6 Withholding Tax

Notwithstanding any other provisions of this Agreement, the Buyer will be entitled to deduct and withhold from the amounts otherwise payable by it pursuant to this Agreement to any Person such amounts as it is required to deduct and withhold with respect to the making of such payment under the *Income Tax Act* (Canada) or any provision of applicable law. In the event that any amount is so deducted and withheld and paid to the appropriate Governmental Authority in accordance with Applicable Law, such withheld amounts will be treated for all purposes of this Agreement as having been paid to the Person to whom the payment from which such amounts were withheld was made.

## ARTICLE 4 REPRESENTATIONS AND WARRANTIES BY THE SELLERS

Subject to and except as may otherwise be set out in the Disclosure Schedules, the Sellers, jointly and severally, represent and warrant to the Buyer as follows, and acknowledge that the Buyer is relying upon the following representations and warranties in connection with its purchase of the Purchased Assets:

### 4.1 Corporate Existence

MEC is a cooperative duly formed and validly existing under the laws of its jurisdiction of formation, and 131 Ltd. is a corporation duly formed and validly existing under the laws of its jurisdiction of incorporation, as set out next to their respective names in Schedule 4.1.

### 4.2 Due Authorization and Enforceability of Obligations

Subject to the issuance of the Approval and Vesting Order:

- (a) each Seller has all necessary corporate power, authority and capacity to:
  - (i) enter into and deliver this Agreement and the Closing Documents;
  - (ii) carry out its obligations under this Agreement and the Closing Documents; and
  - (iii) own or lease and operate and use the Purchased Assets and carry on the Business as now conducted by such Seller;
- (b) the execution, delivery and performance of this Agreement and the Closing Documents, and the consummation of the transactions contemplated by this Agreement and the Closing Documents, have been duly authorized by all necessary corporate action of each Seller; and
- (c) assuming the accuracy of the representations and warranties of the Buyer in Article 5, this Agreement does and the Closing Documents when executed by the Sellers shall constitute valid and binding obligations of each Seller enforceable against it in accordance with its terms.



### **4.3 Approvals and Consents**

Except for (a) the issuance of the Approval and Vesting Order, (b) the Regulatory Approvals, and (c) any consent that may be required under any Contract in connection with the assignment of a Purchased Asset or the issuance of any Assignment Order, no authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Sellers, and each of the agreements to be executed and delivered by each of the Sellers hereunder or the sale, transfer, assignment or conveyance of any of the Purchased Assets hereunder, except for any authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that could not have a Material Adverse Effect or impair the ability of either of the Sellers to consummate the transactions hereunder.

### **4.4 Absence of Conflicts**

Neither Seller is a party to, bound or affected by or subject to (and the assets of each Seller are not affected by): (a) any constating document, charter or by-law provision; (b) any Applicable Law or governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority; or (c) any agreement or other document, in each case, that would be violated, breached by, or under which any default would occur or with notice or the passage of time would, be created as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any other agreement or document to be entered into or delivered under the terms of this Agreement, except in the case of (b) and (c) for any violations, breaches or defaults or any Applicable Law or any governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority, that could not have a Material Adverse Effect or impair the ability of either Seller to consummate the transactions hereunder.

### **4.5 Owned Real Property, Real Property Leases and Contracts**

- (a) The Sellers are or will be on the Closing Date the sole registered and beneficial owners of the Purchased Assets (other than Purchased Assets used by Sellers under any lease, licence or other contract), free and clear of all Encumbrances other than Permitted Encumbrances.
- (b) To the Knowledge of the Sellers, no Seller has received any written notice of any Off-Title Compliance Matters with respect to an Owned Real Property or a Leased Real Property which remains outstanding and unresolved.
- (c) The Real Property Leases, together with the Excluded Real Estate Properties, are the only leases of real property entered into by the Sellers and the Sellers have delivered or will deliver to the Buyer true and complete copies of each Real Property Lease.
- (d) The Owned Real Property, together with the Excluded Real Estate Properties, is the only real property owned by the Sellers and used in the Business. Other than those Leases described in Schedule 2.1(g), the Owned Real Property is not subject to any

Leases and will not be subject to any Leases on the Closing Date.

- (e) On Closing, there will be no Contracts assigned to and assumed by the Purchaser under the Contracts Assignment and Assumption Agreements other than the Assumed Contracts and the Sellers have delivered or will deliver to the Buyer true and complete copies of each of the Assumed Contracts, other than those entered into in the ordinary course of business consistent with past practices of the Acquired Business.
- (f) To the Knowledge of the Sellers there is no material default existing on the part of the Sellers or on the part of any other party under the Material Contracts that are Assumed Contracts, the Governmental Authorizations or the Permitted Encumbrances.
- (g) On the date hereof, the aggregate amount under the Letters of Credit is approximately [REDACTED]

#### **4.6 Employees**

- (a) The Sellers have no pension plans or other retirement plans and the Sellers are in material compliance with all Applicable Law respecting the employment of the Employees of the Sellers.
- (b) The Sellers have made all deductions for Employment Insurance, Canada Pension Plan and payroll Taxes required by Applicable Law to be made as at the date hereof from the Employees' remuneration.

#### **4.7 Residence of the Sellers**

Each of the Sellers is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

#### **4.8 Taxes**

MEC is duly registered under Subdivision (d) of Division V of the GST and HST Legislation with respect to the GST and HST, and MEC is (i) a registered collector under the *Provincial Sales Act* (British Columbia); (ii) duly registered under Division I of Chapter VIII of Title I of the QST Legislation with respect to the QST; and (iii) duly registered under *The Retail Sales Tax Act* (Manitoba), and shall provide its registration numbers to the Buyer prior to Closing. 131 Ltd is, or will be at Closing, duly registered under Subdivision (d) of Division V of the GST and HST Legislation with respect to HST, and shall provide such registration numbers to the Buyer prior to Closing.

#### **4.9 Litigation**

There are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the Knowledge of the Sellers, pending or threatened against or relating to the Sellers which, if determined adversely to the Sellers, would

- (a) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as

contemplated by this Agreement; or

- (b) prevent the Sellers from or delay the Sellers in fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

#### **4.10 Compliance with Applicable Laws**

The Sellers are conducting the Business in compliance with all Applicable Laws, except where the failure to comply would not reasonably be expected to have a Material Adverse Effect. The Sellers have not received, within the past three (3) years as at the date of this Agreement, written notice of any Claim with respect to, or material alleged breach or investigation under any Applicable Laws in respect of the Business.

#### **4.11 No Other Representations, Warranties or Covenants**

Unless and solely to the extent expressly set forth in this Agreement, no representation, warranty or covenant is expressed or implied by the Sellers, including any warranties as to title, Encumbrance, description, merchantability or fitness for a particular purpose, environmental compliance, condition, quantity or quality, or in respect of any other matter or thing whatsoever concerning the Acquired Business, the Purchased Assets, the Assumed Liabilities or the right of the Sellers to sell or assign the same, as applicable. The disclaimer in this Section 4.11 is made notwithstanding the delivery or disclosure to the Buyer or its directors, officers, employees, agents or representatives of any documentation or other information (including any financial projections, estimates, budgets, offering memoranda, management presentations, due diligence materials or other supplemental data not included in this Agreement). Without limiting the generality of the foregoing, any and all conditions, warranties or representations, express or implied, pursuant to Applicable Law (including under Article 1716 of the *Civil Code of Québec*, the *Sale of Goods Act* (British Columbia), the *International Convention on Contracts for the Sale of Goods* (Geneva Convention) and any other applicable sale of goods legislation) do not apply hereto and are hereby expressly waived by the Buyer.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Sellers as follows, and acknowledges that the Sellers are relying upon the following representations and warranties in connection with their sale of the Purchased Assets:

#### **5.1 Corporate Existence**

The Buyer is a corporation duly formed, validly existing and in good standing under the laws of the Province of British Columbia.

#### **5.2 Residence of the Buyer**

The Buyer is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

### 5.3 Financial Ability

As of the date hereof, subject to applicable borrowing conditions, the Buyer has firm commitments from Kingswood Capital Opportunities Fund I, LP and Kingswood Capital Opportunities Fund I-A, LP in an amount equal to the Purchase Price pursuant to executed equity commitment letters (the “**Commitment Letters**”, and individually, each a “**Commitment Letter**”) (a copy of which has been provided to the Sellers), which collectively are, and at Closing, shall be sufficient to allow it to pay the Purchase Price, and all other costs and expenses in connection with the consummation of the transactions contemplated by this Agreement. Notwithstanding anything to the contrary contained herein, the Buyer’s obligations to consummate the transactions contemplated by this Agreement are not conditioned or contingent in any way upon the receipt of financing from any person or the availability of funds to the Buyer.

Each Commitment Letter, in the form so delivered, is a valid and legally binding obligation of the Buyer, and to the Knowledge of the Buyer, the other parties thereto, and is enforceable by the Buyer in accordance with its terms, and is in full force and effect. The Buyer has fully paid any and all commitment fees or other fees required to be paid by the Buyer prior to the date of this Agreement pursuant to the terms of each Commitment Letter. As of the date of this Agreement, no event has occurred which, with or without notice, lapse of time or both, would constitute a default on the part of the Buyer under a Commitment Letter. As of the date of this Agreement, the Buyer has no reason to believe that it shall be unable to satisfy on a timely basis any term or condition of closing to be satisfied by it contained in a Commitment Letter. Each Commitment Letter constitutes, as of the date of this Agreement, the entire and complete agreement between the parties thereto with respect to the financing contemplated thereby (other than any fee letter executed in connection therewith), and, except as set forth, described or provided for therein, as of the date of this Agreement, (i) there are no conditions precedent to the respective obligations of any financing provider to provide the financing contemplated under a particular Commitment Letter, and (ii) there are no contractual contingencies or other provisions under any agreement (including any side letters) relating to the transactions contemplated by this Agreement to which the Buyer or any of its affiliates is a party that would permit the financing provider to reduce the total amount of the financing contemplated under a particular Commitment Letter below the amount required to enable to the Buyer to have sufficient funds available to pay the Purchase Price or impose any additional condition precedent to the availability of the financing under the Commitment Letter.

### 5.4 Absence of Conflicts

The Buyer is not a party to, bound or affected by or subject to (and the assets of the Buyer are not affected by): (a) any charter or by-law provision; (b) any Applicable Law or governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority; or (c) any agreement or other document, in each case, that would be violated, breached by, or under which any default would occur or with notice or the passage of time would, be created as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any other agreement or document to be entered into or delivered under the terms of this Agreement, except in the case of (b) and (c) for any violations, breaches or defaults or any Applicable Law or any governmental authorizations, approvals,

franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority, that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

### **5.5 Due Authorization and Enforceability of Obligations**

The Buyer has all necessary corporate power, authority and capacity to enter into and deliver this Agreement and the Closing Documents, and to carry out its obligations under this Agreement and the Closing Documents. The execution, delivery and performance of this Agreement and the Closing Documents, and the consummation of the transactions contemplated by this Agreement and the Closing Documents, have been duly authorized by all necessary corporate action of the Buyer. This Agreement does and, when executed and delivered by the Buyer, the Closing Documents shall constitute valid and binding obligations of the Buyer enforceable against it in accordance with its terms.

### **5.6 Approvals and Consents**

Except for (a) the issuance of the Approval and Vesting Order, (b) the Regulatory Approvals, and (c) any consent that may be required under any Contract in connection with the assignment of a Purchased Asset, no authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Buyer, and each of the agreements to be executed and delivered by the Buyer hereunder or the purchase of any of the Purchased Assets hereunder, except for any authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

### **5.7 GST, HST and QST Registration**

The Buyer is or shall be duly registered under subdivision (d) of Division V of the GST and HST Legislation with respect to the GST and HST, and QST Legislation with respect to the QST, and has provided or shall prior to Closing provide its registration number to the Sellers in accordance with Section 7.9(j).

### **5.8 Litigation**

There are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the Knowledge of the Buyer, pending or threatened against or relating to the Buyer which, if determined adversely to the Buyer, would

- (a) prevent the Buyer from paying the Purchase Price to the Sellers;
- (b) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by this Agreement; or
- (c) prevent the Buyer from or delay the Buyer in fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

## 5.9 As Is, Where Is

- (a) The Buyer acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Acquired Business, the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances), the Assumed Liabilities and all related operations of the Sellers, and, based solely thereon, has determined to proceed with the transactions contemplated by this Agreement. The Buyer has relied solely on the results of its own independent investigation and verification, and the representations and warranties of the Sellers expressly and specifically set forth in Article 4, and the Buyer understands, acknowledges and agrees that all other representations, warranties and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Sellers or the Acquired Business, or the quality, quantity or condition of the Purchased Assets) are specifically disclaimed by the Sellers. Except for the representations and warranties of the Sellers expressly and specifically set forth in Article 4, none of the Sellers makes or provides any warranty or representation, express or implied, as to the quality, merchantability, fitness for a particular purpose, conformity to samples or condition of the Purchased Assets, or any part thereof. THE BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLERS EXPRESSLY AND SPECIFICALLY SET FORTH IN ARTICLE 4: (A) THE BUYER IS ACQUIRING THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS; AND (B) NONE OF THE SELLERS, NOR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE SELLERS, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY OR THE MONITOR) IS MAKING, AND THE BUYER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE SELLERS, THE BUSINESS, THE PURCHASED ASSETS, THE ASSUMED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE BUYER OR ANY OF ITS RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO, THE REAL PROPERTY LEASES AND THE STATUS OF ANY OF THE REAL PROPERTY LEASES, THE PERMITTED ENCUMBRANCES, THE RENTABLE AREA OF THE PREMISES AND THE OWNED REAL PROPERTY, THE EXISTENCE OF ANY DEFAULT ON THE PART OF THE SELLERS OR LANDLORDS, THE USE PERMITTED AT ANY OF THE PREMISES AND THE OWNED REAL PROPERTY, THE EXISTENCE OF ANY ENCUMBRANCE AND/OR OFF-TITLE COMPLIANCE MATTERS AFFECTING THE PURCHASED ASSETS, OR THE SELLER'S LEASEHOLD INTEREST THEREIN; AND WITHOUT LIMITING THE FOREGOING, ANY AND ALL CONDITIONS OR WARRANTIES EXPRESSED OR IMPLIED PURSUANT TO THE SALE OF GOODS ACT (BRITISH COLUMBIA), OR

OTHER SIMILAR ACTS THE INTERNATIONAL CONVENTION ON CONTRACTS FOR THE SALE OF GOODS (GENEVA CONVENTION) AND ANY OTHER APPLICABLE SALE OF GOODS LEGISLATION, WILL NOT APPLY AND ARE HEREBY WAIVED BY THE SELLERS AND THE PARTIES AGREE TO EXCLUDE THE EFFECT OF THE LEGAL WARRANTY PROVIDED FOR BY ARTICLE 1716 OF THE CIVIL CODE OF QUÉBEC AND THAT THE BUYER IS PURCHASING THE PURCHASED ASSETS AT ITS OWN RISK WITHIN THE MEANING OF ARTICLE 1733 OF THE CIVIL CODE OF QUÉBEC, AND ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, REGARDING MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY FOR DEVELOPMENT, TITLE, DESCRIPTION, USE OR ZONING, ENVIRONMENTAL CONDITION, EXISTENCE OF LATENT DEFECTS, QUALITY, QUANTITY, ANY NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR REGARDING THE SCOPE, VALIDITY OR ENFORCEABILITY OF ANY TRANSFERRED INTELLECTUAL PROPERTY, ACQUIRED COMPANY INTELLECTUAL PROPERTY OR LICENSED INTELLECTUAL PROPERTY RIGHTS, OR ANY OTHER THING AFFECTING THE ACQUIRED BUSINESS, ANY OF THE PURCHASED ASSETS OR THE ASSUMED LIABILITIES, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAW IN ANY JURISDICTION, WHICH THE BUYER CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY THE BUYER.

- (b) The Buyer has received a copy of the Real Property Leases and is familiar with the terms, agreements, covenants, obligations and conditions therein.

#### **5.10 Investment Canada Act**

The Buyer is a “WTO Investor” within the meaning of the *Investment Canada Act*, and the regulations thereunder.

### **ARTICLE 6 CONDITIONS**

#### **6.1 Conditions for the Benefit of the Buyer and the Sellers**

The respective obligations of the Buyer and of the Sellers to consummate the transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no judgment, injunction, order or decree that prohibits the consummation of the purchase of the Purchased Assets or any of the other transactions pursuant to this Agreement shall be in effect;
- (b) *Regulatory Approvals* – the Regulatory Approvals shall have been obtained;

- (c) *Court Orders* – the Approval and Vesting Order and, where required, the Assignment Order shall have been issued and entered, and shall not be stayed by an order of the Supreme Court of British Columbia or the Court of Appeal of British Columbia and no application or other proceeding shall have been brought or threatened seeking any such stay; and
- (d) *Conditions in Approval and Vesting Order* – the condition of Closing in the Approval and Vesting Order contemplated by paragraph (d) of the definition of “Approval and Vesting Order” shall be met.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Sellers, on the one hand, and the Buyer, on the other hand. Any condition in this Section 6.1 may be waived by the Sellers, on the one hand, or by the Buyer, on the other hand, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Sellers or the Buyer, as applicable, only if made in writing.

## **6.2 Conditions for the Benefit of the Buyer**

The obligation of the Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by the Buyer of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Buyer):

- (a) *Compliance with Covenants* – there shall have been no breach or non-compliance with any of the covenants, agreements and conditions under this Agreement by the Sellers if such breach or non-compliance has resulted in a Material Adverse Effect;
- (b) *Truth of Representations and Warranties* – the representations and warranties of the Sellers contained in Article 4 shall be true and correct on and as of the Closing Date, as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date), except where the failure to be so true and correct would not, individually or in the aggregate, have a Material Adverse Effect;
- (c) *Officer’s Certificate* – the Buyer shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.2(a) (*Compliance with Covenants*) and 6.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of the Sellers without personal liability by an officer of each of the Sellers or other Persons reasonably acceptable to the Buyer, in each case in form and substance satisfactory to the Buyer acting in a commercially reasonable manner;
- (d) *No Material Damage* – no material damage to the whole or any material part of the Purchased Locations that could reasonably result in a material impact to the Acquired Business shall have occurred prior to the Closing Time;
- (e) *No Material Adverse Effect* – since the date of this Agreement, no effect which would constitute a Material Adverse Effect shall have occurred;



- (f) *Material Information Technology Contract Consents* – Sellers shall have obtained all Assumed Contract Consents relating to the material information technology contracts listed on Schedule 6.2(f), or, an Assignment Order, in respect of any Assumed Contract that is listed on Schedule 6.2(f) on or before the Closing Time; provided that, the Sellers shall not seek an Assignment Order in respect of an Assumed Contract listed on Schedule 6.2(f) until the earlier occurrence of: (i) September 25, 2020; and (ii) receipt by the Sellers of a written request from the Buyer to obtain such an order; and
- (g) *Closing Deliverables* – The Sellers shall have delivered the documents referred to in Section 10.2.

### 6.3 Conditions for the Benefit of the Sellers

The obligation of the Sellers to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Sellers of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Sellers):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Buyer at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – the representations and warranties of the Buyer contained in Article 5 shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date);
- (c) *Officer's Certificate* – the Sellers shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.3(a) (*Performance of Covenants*) and 6.3(b) (*Truth of Representations and Warranties*) signed for and on behalf of the Buyer without personal liability by an executive officer of the Buyer, in form and substance satisfactory to the Sellers, each acting in a commercially reasonable manner; and
- (d) *Closing Deliverables* – The Buyer shall have delivered the documents referred to in Section 10.3.

## ARTICLE 7 ADDITIONAL AGREEMENTS OF THE PARTIES

### 7.1 Personal Information

The Buyer's use and disclosure of Personal Information in connection with the conduct of the Acquired Business after Closing shall be carried out in compliance with all Applicable Laws.

## 7.2 Acknowledgements of the Buyer

- (a) The Buyer acknowledges and agrees that: (i) the representations and warranties of the Sellers set forth in Article 4 shall merge on, and shall not survive, the Closing; and (ii) the Sellers shall not have or be subject to any liability or indemnification obligation to the Buyer or any other Person resulting from (nor shall the Buyer or any other Person have any claim with respect to) the distribution to the Buyer, the Buyer's use of, or reliance on, any information, documents, projections, forecasts or other material made available to the Buyer in certain "data rooms," confidential information memoranda or management presentations in expectation of, or in connection with, the transactions contemplated by this Agreement, regardless of the legal theory under which such liability or obligation may be sought to be imposed, whether sounding in contract or tort, or whether at law or in equity, or otherwise, except in the event of fraud or wilful misconduct of either of the Sellers. None of the representatives of the Sellers, whether in an individual, corporate or other capacity, shall have or be subject to any such liability or indemnification obligations, except in the event of fraud or wilful misconduct.
- (b) The remedies expressly set forth in this Agreement are the Buyer's sole and exclusive remedies relating to this Agreement, the Closing Documents, the transactions contemplated hereby and thereby, the Acquired Business, the Purchased Assets, the Assumed Liabilities and all related operations of the Sellers or either of them.
- (c) This Section 7.2 and Section 5.10 shall not merge on Closing and are deemed incorporated by reference in all Closing Documents.
- (d) The Buyer acknowledges and agrees that the enforceability of this Agreement against the Sellers is subject to entry of the Approval and Vesting Order.

## 7.3 Access to Information

Until the Closing Time, subject to any orders of any Governmental Authority that would restrict, limit or otherwise hinder such access, including as a result of COVID-19, the Sellers shall give to the Buyer's personnel engaged in the transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisers and representatives during normal business hours full and unfettered access to its premises and to all of the books and records relating to the Business, the Purchased Assets and the Assumed Liabilities, and shall furnish them with all such information relating to the Business, the Purchased Assets and the Assumed Liabilities as the Buyer may request in connection with the transactions contemplated by this Agreement, including the financing of the Purchase Price; provided that any such access shall be conducted at the Buyer's expense, in accordance with Applicable Law, under the supervision of the Sellers' personnel and in such a manner as to maintain confidentiality and not to unreasonably interfere with the normal operations of the Business, and the Sellers shall not be required to provide access to or copies of any such books and records if (a) the provision thereof would cause the Sellers to be in contravention of any Applicable Law, (b) the Sellers reasonably consider such information to be commercially sensitive, (c) making such information available would (A) result in the loss of any lawyer-client or other legal privilege, or (B) cause the Sellers to be found in contravention of any Applicable Law, or contravene any fiduciary duty or

agreement (including any confidentiality agreement to which the Sellers or any of their affiliates are a party), it being understood that the Sellers shall cooperate using best efforts to make requests that would enable otherwise required disclosure to the Buyer to occur without so jeopardizing privilege or contravening such Applicable Law, duty or agreement.

The Buyer shall preserve and keep all books and records acquired by it pursuant to this Agreement for a period of six (6) years after Closing, or for any longer periods as may be required by any Laws applicable to such books and records. The Buyer shall make such books and records, as well as electronic copies of such books and records (to the extent reasonably feasible), available to the Monitor and the Sellers, their successors, and any trustee in bankruptcy or receiver of the Sellers, and any director of the Seller and shall, at such party's expense, permit any of the foregoing persons to take copies of such books and records as they may require.

#### **7.4 Conduct of Business Until Closing Time**

Except: (1) as set out in Schedule 7.4 or as otherwise contemplated or permitted by this Agreement; (2) as contemplated by the budget delivered in accordance with the DIP Facility and DIP Restructuring Support Agreement; (3) as necessary in connection with the CCAA Proceedings; (4) as otherwise provided in the Initial Order and any other order of the CCAA Court, prior to the Closing Time; (5) as required by Applicable Law, to the extent reasonably practicable having regard to the CCAA Proceedings; or (6) as consented to by the Buyer, such consent not to be unreasonably withheld, conditioned or delayed, and subject to the provisions set out in the final paragraph of this Section 7.4, each of the Sellers shall until Closing:

- (a) (i) operate the Business only in the ordinary course of business in all material respects consistent with past practice; (ii) use commercially reasonable efforts to preserve the Purchased Assets, the services of the Retained Employees and unionized Employees, the business relationships of the Business and goodwill with customers and suppliers of the Business; and (iv) use commercially reasonable efforts to maintain in full force and effect all material insurance policies and binders relating to the Acquired Business;
- (b) not, without the prior written consent of the Buyer (the granting of such consent to be in the Buyer's sole, arbitrary and unfettered discretion): (i) transfer, lease, license, sell, abandon, create any Encumbrance (other than Permitted Encumbrances) on or otherwise dispose of any of the Purchased Assets or any portion thereof or interest therein (except in the ordinary course of business, in all material respects consistent with past practice); (ii) increase the compensation or benefits of any Employee, except for increases in all material respects consistent with past practice or in accordance with employment Contracts or in accordance with any Collective Agreement; (iii) establish, adopt, enter into, amend or terminate any Employee Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be an Employee Plan if it were in existence as of the date of this Agreement; (iv) (A) amend, alter, surrender, terminate or assign any Personal Property Lease, Real Property Lease or other Material Contract included in the Purchased Assets or waive any material provision or right thereunder, (B) enter into any lease, Contract, license or other commitment related to the Acquired Business that would constitute a Real Property Lease or, except in the ordinary course of business consistent with past practice, Personal Property

Lease or other Material Contract; (v) enter into any Contract which materially restricts the ability of the Business to engage in any business in any geographic area or channel of distribution; (vi) acquire any material businesses or assets outside of the ordinary course of business in all material respects; or (vii) agree or make a commitment, whether in writing or otherwise, to do any of the foregoing;

- (c) comply with the covenants set out on Schedule 7.4; and
- (d) use commercially reasonable efforts, including having regard to the Sellers' cash flows in the CCAA Proceedings, to continue to purchase a quantity and an assortment of inventory for the Acquired Business in a manner materially consistent with the Open to Buy Report attached at Exhibit A to Schedule 7.4.

Notwithstanding the foregoing, the Buyer acknowledges that the operation of the Acquired Business has been and may continue to be disrupted or curtailed as a result of the coronavirus (COVID-19) outbreak (including through the temporary partial or full closure of one or more of the MEC retail stores, the disruption or delay in the receipt or shipment of goods from suppliers or to customers, the disruption or delay in the availability of services to or by the Sellers, the need to undertake additional temporary layoff of Employees, the increase in sick leaves by Employees, a decrease in sales, and in other ways) and may not be operated in the ordinary course. Therefore, Buyer agrees that Sellers shall not be in breach of Section 7.3 or this Section 7.4 as a result of any event, action, omission or circumstance taken or not taken by Sellers, using reasonable business judgement, reasonably related, or in response to, to the coronavirus (COVID-19) outbreak.

## **7.5 Approvals and Consents**

- (a) Within five (5) Business Days of the date of this Agreement,
  - (i) the Buyer shall file a request for an advance ruling certificate under the Competition Act or in the alternative a no action letter, and the Buyer and the Sellers shall each file their pre-merger notification filing under the Competition Act unless the Parties mutually agree no such pre-merger notification filings shall be made or agree to make such pre-merger notification filings at a later date; and
  - (ii) to the extent mutually determined to be required, the Sellers and the Buyer shall make all filings and submissions necessary under any other applicable competition, merger, antitrust, or other similar law, and the Buyer shall request any expedited processing available.
- (b) The Sellers and the Buyer shall cooperate and furnish to the other such necessary information and reasonable assistance as the other may request in connection with its preparation of any filing or submission in connection with obtaining the Regulatory Approvals.
- (c) Each of the Sellers, on the one hand, and the Buyer, on the other hand, shall provide to the other Party copies of all submissions and filings provided to a

Governmental Authority pursuant to the Competition Act and the Investment Canada Act or any other applicable antitrust or foreign investment regulation, and shall provide reasonable opportunity to comment on such filings and submissions prior to submitting same to the Governmental Authority; notwithstanding the foregoing, submissions, filings or other written communications to a Governmental Authority may be redacted as necessary before sharing with the other Party to address reasonable solicitor-client, attorney-client or other privilege or confidentiality concerns, provided that external legal counsel to the Buyer and the Sellers shall receive non-redacted versions of drafts or final submissions, filings or other written communications to the Governmental Authority on the basis that the redacted information shall not be shared with their respective clients.

- (d) The Sellers and the Buyer shall promptly inform the other of any material communication received by such Party from any Governmental Authority or proposed to be made to any Governmental Authority, and shall provide the other Party and its counsel an opportunity to attend and participate in any meetings of a substantive nature with a Governmental Authority, with respect to the Competition Act, or any other applicable antitrust or foreign investment regulation.
- (e) Each of the Sellers and the Buyer shall make and use best efforts to obtain the Regulatory Approvals and any other approval of any Governmental Authority required to consummate the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, the Buyer and Sellers shall each (i) use its respective best efforts to comply as expeditiously as possible with all requests of any Governmental Authority for additional information and documents, including, without limitation, information or documents requested under the Competition Act or other applicable antitrust regulation; (ii) not (A) extend any waiting period under the Competition Act or any applicable antitrust or foreign investment regulation; or (B) enter into agreement with any Governmental Authority not to consummate the transactions contemplated by this Agreement, except, in each case, with the prior consent of the other Parties hereto; and (iii) cooperate with the other Parties hereto and use best efforts to avoid, contest and resist any action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any order (whether temporary, preliminary or permanent) that delays, restricts, prevents or prohibits the consummation of the transactions contemplated by this Agreement.
- (f) The obligations of the Buyer pursuant to this Section 7.5 shall include committing to any and all undertakings, divestitures, licenses or hold separate or similar arrangements with respect to the Purchased Assets and Acquired Business, to any and all arrangements for the conduct of any business and/or terminating any and all existing relationships and contractual rights and obligations with respect to the Purchased Assets and Acquired Business, and any and all undertakings, divestitures, licences or hold separate or similar arrangements with respect to the business of the Buyer or any of its affiliates which may be required in order to obtain the Regulatory Approvals, as appropriate, on or before the Sunset Date, without any reduction of the Purchase Price.

- (g) The Buyer shall be responsible for payment of any applicable filing fees under the Competition Act or any other applicable antitrust regulation.
- (h) As soon as reasonably possible following the date hereof, the Sellers and the Buyer shall:
  - (i) make all such filings and seek all such consents, approvals, permits and authorizations with any other Governmental Authorities whose consent is required for consummation of the transactions contemplated by this Agreement, and the Buyer shall request any expedited processing available; and
  - (ii) use their reasonable best efforts to obtain the issuance of the Approval and Vesting Order on or before [REDACTED] or such other date as may be agreed by the Parties or as the Court in the CCAA Proceedings may direct.

#### **7.6 Consents under Assumed Contracts, Personal Property Leases and Real Property Leases**

- (a) Following issuance of the Initial Order, the Sellers, under the direction of and in full cooperation with the Buyer, covenant to use commercially reasonable efforts to obtain (i) the written consent of the Landlords to the assignment of the Real Property Leases by the Sellers to the Buyer, to the extent same is required by the terms of the Real Property Leases (collectively, the “**Landlord Consents**” and each a “**Landlord Consent**”), (ii) the written consent of the counterparties or any other Persons to the assignment of the Assumed Contracts that are Material Contracts by the Sellers to the Buyer, to the extent same is required by the terms of those Assumed Contracts (collectively, the “**Assumed Contract Consents**” and each an “**Assumed Contract Consent**”), and (iii) the written consent of the counterparties or any other Persons to the assignment of the Personal Property Leases by the Sellers to the Buyer, to the extent same is required by the terms of the Personal Property Leases (collectively, the “**Personal Property Lease Consents**” and each a “**Personal Property Lease Consent**”); subject to the terms of this Agreement as well as the terms of the Approval and Vesting Order and any Assignment Order, all on terms and conditions acceptable to the Buyer acting reasonably.
- (b) The Buyer agrees to co-operate with and assist the Sellers in pursuing and obtaining the Assumed Contract Consents, the Personal Property Lease Consents, and the Landlord Consents, the Approval and Vesting Order and any Assignment Order and such releases which the Sellers, may in their reasonable discretion, desire to pursue, as applicable, for the sale of the Purchased Assets including, the assignment and assumption of the Assumed Contracts, the Permitted Encumbrances, the Personal Property Leases and the Real Property Leases, provided however that whether or not the above-mentioned releases are obtained by the Sellers shall not affect any of their obligations hereunder. The Buyer’s co-operation includes, but is not limited to, providing any reasonable information requested by a counterparty to an Assumed Contract or a Personal Property Lease, a Landlord or the Court (including reasonable financial information, financing

structure and proposed management team for the business), providing certificates of insurance, posting replacement deposits and/or replacement security with a Landlord, and executing and delivering any necessary acknowledgements, indemnities and assumption agreements required by: (i) a counterparty to an Assumed Contract or a Personal Property Lease or a Landlord as a condition to the issuance of its consent and/or release that are commercially reasonable and contemplated by the applicable Assumed Contract, Personal Property Lease or Real Property Lease; or (ii) the Court as a condition to the issuance of the Approval and Vesting Order or an Assignment Order.

- (c) The Buyer shall be responsible for any and all expenses and fees in connection with obtaining the Landlord Consents, Personal Property Lease Consents and Assumed Contract Consents (including the Cure Costs). Any Landlord Consent, Personal Property Lease Consent and Assumed Contract Consent which impose more onerous obligations on the Buyer, that extend beyond those imposed on the applicable Seller assignee had such request to assign that Contract not been made, must be on terms which are acceptable to the Sellers and the Buyer, each acting reasonably.
- (d) Without limiting the foregoing, the Buyer agrees to provide to the Sellers within three (3) Business Days of the date hereof all such information as is necessary (including reasonable financial information, financing structure and proposed management team for the Buyer's business) or contemplated in the Assumed Contracts, Personal Property Leases or the Real Property Leases to demonstrate to the counterparties to the Assumed Contracts and Personal Property Leases and the Landlords that the Buyer is capable of performing all of the obligations of the Sellers, as counterparty under the Assumed Contracts, Personal Property Leases or tenant under the Real Property Leases and that it would be appropriate to assign all of the rights and obligations of the Sellers under the Assumed Contracts, Personal Property Leases or the Real Property Leases to the Buyer. Thereafter, the Buyer agrees to provide to the Sellers promptly upon request by the Seller such additional information as may be requested by any counterparty or Landlord in connection with such counterparty's or Landlord's consideration of the Seller's request for consent to assign the applicable Assumed Contract, Personal Property Lease or the Real Property Lease to the Buyer.
- (e) If the Sellers are unable to obtain the written consent of a counterparty or a Landlord to the assignment of the respective Real Property Lease to the Buyer on terms acceptable to the Sellers and the Buyer, acting reasonably, the Sellers covenant to make an application for an Assignment Order upon the earlier occurrence of: (i) [REDACTED] and (ii) the receipt by the Sellers of a written request from the Buyer to make such an order, assigning all of the rights and obligations of the Sellers under such Real Property Leases to the Buyer and compelling or deeming the applicable Landlord Consents or the equivalent thereof. If such Assignment Order is obtained by the Sellers in accordance with this Agreement, the Buyer agrees to accept such assignment of all of the rights and obligations of the Sellers under the Real Property Leases pursuant to the Assignment Order.

- (f) If the Sellers are unable to obtain the written consent of a counterparty to any Assumed Contract listed on Schedule 6.2(f) prior to [REDACTED], the Sellers shall bring a motion to the CCAA Court for issuance of an Assignment Order assigning all of the rights and obligations of the Sellers under any such Assumed Contract to the Buyer and compelling or deeming the applicable consent, approval or waiver (or equivalent thereof) of the counterparty to such assignment, such motion for the Assignment Order to be brought together with the motion for the Approval and Vesting Order. If such Assignment Order is obtained by the Sellers in accordance with this Agreement, the Buyer agrees to accept such assignment of all of the rights and obligations of the Sellers under any Assumed Contract listed on Schedule 6.2(f) that is assigned pursuant to the Assignment Order.
- (g) For greater certainty, the Buyer acknowledges and agrees that: (i) nothing herein shall prohibit the Sellers from seeking and requiring a release from the Landlords or from contractual counterparties in respect of the obligations of the Seller in respect of any or all of the Real Property Leases, Personal Property Leases or other Assumed Contracts, as the case may be, as a term of such consent, provided however that whether or not the above-mentioned releases are obtained by the Sellers shall not affect any of its obligations hereunder; (ii) the applicable Assumed Contract Consent, Personal Property Consent or Landlord Consent shall not be required if such counterparty's or Landlord's consent is not required to effect the transaction contemplated herein pursuant to the terms of such Assumed Contract, Personal Property Lease or Real Property Lease or is granted, deemed granted or deemed not to be necessary as a result of the Approval and Vesting Order or Assignment Order; and (iii) the Buyer's rights and remedies in respect of the Assumed Contracts, Personal Property Leases and Real Property Leases and the Premises shall also be subject to the provisions of the Initial Order.
- (h) To the extent that the Cure Costs are payable in connection with obtaining an Assignment Order in respect of any Assumed Contract, Personal Property Lease or Real Property Lease, the Buyer shall pay all Cure Costs as required by the CCAA in respect of such Assumed Contract, Personal Property Lease or Real Property Lease to the Monitor at or prior to Closing. Such Cure Costs received by the Monitor shall be held by the Monitor and disbursed in accordance with the Approval and Vesting Order and the Assignment Order.
- (i) The Parties agree that in the event they are not able to obtain any Landlord Consent, Assumed Contract Consent (other than with respect to an Assumed Contract listed on Schedule 6.2(f)), Personal Property Lease Consent or an Assignment Order in respect of any Assumed Contracts (other than with respect to an Assumed Contract listed on Schedule 6.2(f)) that are Material Contracts, Personal Property Leases or Real Property Leases on or before the Closing Date, the Parties shall proceed to complete the transactions contemplated herein on the Closing Date in accordance with the terms of this Agreement with respect to those Assumed Contracts, Personal Property Leases or Real Property Leases for which the Parties have received a Landlord Consent, an Assumed Contract Consent, a Personal Property Lease Consent or an Assignment Order and this Agreement shall be deemed amended to include such Assumed Contract, Personal Property Lease or



Real Property Lease for which the Assignment Order or Landlord's Consent has not been obtained in the definition of "Excluded Contract" or "Excluded Real Estate Properties". For greater certainty, this Agreement shall continue to apply *mutatis mutandis* to the remaining Purchased Assets in accordance with the terms and conditions hereof.

The Sellers agree to deploy reasonable commercial efforts to assist the Buyer in obtaining such acknowledgement, status certificate or estoppel certificate in respect of any Real Property Lease from any Landlord that may be requested by the Buyer's lenders.

## 7.7 Covenants Relating to this Agreement

- (a) Each of the Parties shall perform, and shall cause their affiliates to perform, all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and, subject to the directions of any applicable courts to the Sellers, use commercially reasonable efforts to do all such other acts and things as may be reasonably necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and in any event prior to the Sunset Date, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, each Party shall and, where appropriate, shall cause each of its affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the transactions contemplated hereby; and
  - (ii) not take any action, or refrain from taking any action, and use commercially reasonable efforts to not permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) The Buyer hereby agrees, and hereby agrees to cause its representatives to, keep the Sellers informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Sellers or the Monitor, as to the Buyer's progress in terms of the satisfaction of the conditions precedent contained herein. The Sellers hereby agree, and hereby agree to cause their representatives to, keep the Buyer informed on a reasonably current basis, and no less frequently than on a weekly basis through teleconference or other meeting, and as reasonably requested by the Buyer, as to the Sellers' progress in terms of the satisfaction of the conditions precedent contained herein.
- (c) The Sellers and the Buyer agree to execute and deliver such other documents,

certificates, agreements and other writings, and to take such other actions as may be reasonably required to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.

- (d) Notwithstanding anything to the contrary in this Agreement, the Buyer covenants and agrees with the Sellers that it is accepting all risk and exposure relating to the coronavirus (COVID-19) outbreak and shall not rely on the doctrine of frustration to void this Agreement.

## 7.8 Release

Except as otherwise contained herein, effective as of the Closing, the Buyer hereby releases and forever discharges each of the Sellers and the Monitor and their respective affiliates, and their respective successors and assigns, and all officers, directors, partners, members, shareholders, employees and agents of each of them (collectively, the “**Seller Parties**”), from and all actual or potential Claims which such Person had, has or may have in the future to the extent relating to the Purchased Assets or the Assumed Liabilities, unless arising from gross negligence or wilful misconduct of any of the Seller Parties.

## 7.9 Tax Matters

- (a) For purposes of any income Tax return related to the transactions contemplated in this Agreement, the Buyer and the Sellers agree to report the transactions contemplated in this Agreement in a manner consistent with the Allocation Statement, and the Buyer and the Sellers shall not voluntarily take any action inconsistent therewith in any such Tax return, refund claim, litigation or otherwise, unless required by applicable Tax laws. The Buyer and the Sellers shall each be responsible for the preparation of their own statements required to be filed under the *Income Tax Act* (Canada) and other similar forms in accordance with applicable Tax laws.
- (b) All real property Taxes, personal property Taxes and similar *ad valorem* obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between the Sellers and the Buyer based on the number of days of such taxable period up to and including the Closing Date (such portion of such taxable period, the “**Pre-Closing Tax Period**”) and the number of days of such taxable period after the Closing Date (such portion of such taxable period, the “**Post-Closing Tax Period**”). Except as otherwise provided herein, the Sellers shall be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and the Buyer shall be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period.
- (c) In respect of the purchase and sale of the Purchased Assets under this Agreement, to the extent permitted by Applicable Law, the Buyer shall pay direct to the appropriate Governmental Authority all sales and transfer Taxes (including, without limitation, property transfer taxes), registration charges and transfer fees payable by it and, upon the reasonable request of the Sellers, the Buyer shall furnish proof of such payment, and the Buyer shall otherwise be liable for and shall

pay to the Sellers an amount equal to any such Tax payable by the Buyer and collectible by the Sellers including under the GST and HST Legislation and the QST Legislation and under any similar provincial or territorial legislation imposing a similar value-added or multi-staged Tax. The Buyer shall deliver to Sellers any purchase exemption certificates being relied on by the Buyer in accordance with and in the form and manner as required under Applicable Laws governing provincial sales and transfer Taxes.

- (d) To the extent permitted under subsection 167(1) of the GST and HST Legislation, Section 75 of the QST Legislation and any equivalent or corresponding provision under any applicable provincial or territorial legislation imposing a similar value added or multi-staged Tax, the Buyer and the Sellers shall jointly elect that no Tax be payable with respect to the purchase and sale of the Purchased Assets under this Agreement. The Buyer and the Sellers shall make such election(s) in prescribed form containing prescribed information and the Buyer shall file such election(s) in compliance with the requirements of the applicable legislation. Notwithstanding such election(s), in the event it is determined by the Canada Revenue Agency or Revenue Quebec (or another applicable provincial Governmental Authority) that there is a liability of the Buyer to pay, or of a Seller to collect and remit, any Taxes payable under the GST and HST Legislation or the QST Legislation (or any applicable provincial legislation) in respect of the sale and transfer of the Purchased Assets, such Taxes shall be paid by the Buyer.
- (e) If requested by the Buyer and to the extent permitted thereunder, a Seller and the Buyer shall jointly execute, and each of them shall file promptly following the Closing Date, an election under Section 22 of the *Income Tax Act* (Canada), and any corresponding provisions of any applicable provincial income Tax legislation. For the purposes of such elections, the Buyer and the Sellers shall, acting reasonably, jointly determine the amount that the parties shall designate as the portion of the Purchase Price allocable to the receivables in respect of which such elections are made. For greater certainty, the Sellers and the Buyer agree to prepare and file their respective Tax returns in a manner consistent with such election(s).
- (f) The Buyer hereby waives compliance by the Sellers with Section 6 of the *Retail Sales Tax Act* (Ontario), the *Provincial Sales Act* (British Columbia), *The Retail Sales Tax Act* (Manitoba), and with any similar provision contained in any other Applicable Law in respect of all sales and transfer Taxes, registration charges and transfer fees payable.
- (g) To the extent permitted under Section 221(2) of the GST and HST Legislation and any equivalent or corresponding provision under the QST Legislation and any other applicable provincial or territorial legislation, the Buyer shall self-assess and remit directly to the appropriate Governmental Authority any GST and HST imposed under the GST and HST Legislation and any similar value added or multi-staged tax imposed by the QST Legislation and any other applicable provincial or territorial legislation payable in connection with the transfer of any of the Owned Real Property. The Buyer shall make and file a return(s) in accordance with the requirements of Section 228(4) of the GST and HST Legislation and any equivalent

or corresponding provision under the QST Legislation and any other applicable provincial or territorial legislation.

- (h) At Closing, the Sellers and the Buyer shall collectively execute, acknowledge, deliver and file all such returns and other documents as may be necessary to comply with the Applicable Laws regarding the transfer of the Owned Real Property in Canada and all sales and transfer Taxes, registration charges and transfer fees payable on such transfer.
- (i) If requested by the Buyer and to the extent permitted thereunder, a Seller and the Buyer shall jointly execute an election in the prescribed manner and within the prescribed time limits, to have the rules in subsection 20(24) of the *Income Tax Act* (Canada), and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply to the obligations of the Seller in respect of undertakings which arise from the operation of the Acquired Business and to which paragraphs 12(1) (a) and 12(1)(e) of the *Income Tax Act* (Canada) apply. For the purposes of such election(s), the Buyer, acting reasonably, shall determine the elected amount and the Buyer and the Sellers acknowledge that such Seller is transferring assets to the Buyer which have a value equal to such elected amount as consideration for the assumption by the Buyer of such obligations of such Seller.
- (j) On Closing, the Buyer shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the GST and HST Legislation, QST Legislation, the *Provincial Sales Act* (British Columbia) and *The Retail Sales Tax Act* (Manitoba), and incorporates the provisions of this Section 7.9 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”). The Buyer shall indemnify and save the Sellers harmless from and against, and shall reimburse or compensate them for, any and all Taxes including, transfer Taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the GST and HST Legislation, the QST Legislation, the *Provincial Sales Tax Act* (British Columbia); *The Retail Sales Tax Act* (Manitoba), and any other value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against any of the Sellers as a result of any failure by such Seller to collect and remit any goods and services tax or harmonized sales tax payable under the GST and HST Legislation and the QST Legislation or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Purchased Assets by the Sellers to the Buyer where such failure to collect and remit results from an exemption claimed by the Buyer, or any inaccuracy, misstatement, or misrepresentation made by the Buyer in connection with any matter raised in this Section 7.9 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Buyer to comply with the provisions of this Section 7.9 or the GST/HST and QST Certificate, Undertaking and Indemnity.

#### 7.10 Employee Matters

- (a) The Sellers have made available to the Buyer a schedule of all non-unionized Employees (without reference to names), together with, their positions, hours of

work, duties and terms of employment including wages/salary, incentive compensation, service date, benefits and vacation entitlement and accrual. The Sellers will provide to the Buyer an updated list of Employees (other than Excluded Employees) within 5 Business Days after the date hereof and will inform the Buyer on a periodic basis, or as requested, of any changes to the Employees (other than Excluded Employees).

- (b) No later than two (2) Business Days following the date on which the Approval and Vesting Order is granted, conditional on Closing and with effect as of the Closing Time, the Buyer shall in a form in compliance with Applicable Law, offer continuing employment to the non-unionized Employees other than the Excluded Employees on terms and conditions, including compensation, benefits, hours of work and duties, that are substantially similar and no less favourable in the aggregate to those they currently enjoy and are disclosed in the schedule referred to in Section 7.10(a). For purposes of this Agreement, to the extent certain terms and conditions of employment are required to be maintained under any Employee Plans in order to avoid Sellers' incurring severance or other employment termination obligations, such terms and conditions shall, for the purposes of this Agreement, be deemed to be required by Applicable Law and such terms and conditions of employment shall be offered by the Buyer in respect of those Employees. Employees' employment with the Buyer after the Closing Date shall not include a probationary period and shall not be conditioned upon such Employees satisfactorily completing a background investigation, drug test or other employment screening processes. Buyer shall notify the Sellers of the acceptance and rejections of offers of employment that have been received from each of the Employees upon request of the Sellers.
- (c) The non-unionized Employees (other than the Excluded Employees) who accept the Buyer's offer of employment, shall hereinafter be collectively referred to as the "**Retained Employees**". The Buyer shall recognize service of the Retained Employees with the Sellers. The Sellers shall cooperate with the Buyer in giving notice to the Employees of the Sellers concerning such matters referred to in this Section 7.10 as are reasonable under the circumstances.
- (d) Without limiting the application of Section 2.4(c), the Buyer shall assume and be responsible for all liabilities and obligations with respect to the Retained Employees following the Closing Date, including, but not limited to, any required notice of termination, termination or severance pay (required under Applicable Law or under any Contract), remittances for employment insurance, workplace safety and insurance/workers' compensation and Canada Pension Plan, salary or wages, vacation pay, overtime pay, payroll or employer health Taxes, commissions or vacation entitlements and accruals. Without limiting the generality of the foregoing, the Buyer shall also assume and be responsible for any vacation pay or wage liability with respect to the Retained Employees, whether accruing or arising prior to or following the Closing Date.
- (e) As of the Closing Date, the Buyer shall be bound by the terms and obligations of the Collective Agreements, if any, as a successor, assign or purchaser of the

relevant Seller in respect of the Acquired Business and Purchased Assets and shall employ the unionized Employees in accordance therewith. For the avoidance of doubt, the Buyer shall (i) be a successor employer to the unionized Employees; (ii) continue the unionized Employees' employment pursuant to Applicable Law; in each such case in accordance with the terms of the Collective Agreements, if any, effective immediately prior to the Closing Date; and (iii) be responsible for all liabilities and obligations with respect to the unionized Employees of the Sellers under the Collective Agreements, if any, including in respect of any vacation pay or wage liability (including under grievances) with respect to the unionized Employees, whether arising prior to or following the Closing Date.

(f) With respect to Employee Plans:

- (i) The Buyer shall at the Closing assume the Employee Plans included in or referenced by the Collective Agreements, those Employee Plans listed in Schedule 1.1(tttt) (to the extent transferable) and may, at its sole discretion provide written notice to the Sellers at least fifteen (15) Business Days prior to the Closing Date (or such lesser period of time as the Sellers may agree in writing) that the Buyer wishes to assume one or more other Employee Plans (to the extent transferable) other than the KERPs (together with the Plans included in or referenced by the Collective Agreements or in Schedule 1.1(tttt), the "**Retained Employee Plans**"), and, effective as of the Closing Date, the Sellers shall assign to the Buyer, and the Buyer assumes, the Retained Employee Plans and all agreements and policies forming part of or relating to any Retained Employee Plan and all of the Sellers' rights, obligations and liabilities under and in relation to the Retained Employee Plans and all agreements and policies forming part of or relating to any Retained Employee Plan and the Sellers and the Buyer agree to co-operate to take all reasonable steps to effect such assignment.
  - (ii) If the Buyer is unable to, or does not, assume all of the Employee Plans then the Buyer shall, at its own expense, establish or cause to be established, or designate, employee benefit plans for the Retained Employees or unionized Employees, as the case may be, that are no less favourable in the aggregate to the Employee Plans that the Buyer was unable to, or does not, assume.
- (g) In addition to the other obligations assumed pursuant to this Article 7, the Buyer shall be responsible for any and all Claims Incurred by or to the Retained Employees and any unionized Employees referred to in Section 7.10(e) (and their respective eligible spouses, beneficiaries and dependents) on and after the Closing Date. For these purposes, "Incurred" means, in relation to Claims under Employee Plans or Buyer Employee Plans, the date on which the event giving rise to such claim occurred and, in particular: (i) with respect to a death or dismemberment claim, shall be the date of the death or dismemberment; (ii) with respect to a short-term or long-term disability Claim, shall be the date that the period of short-term or long-term disability commenced; (iii) with respect to an extended health care claim,

including, without limitation, dental and medical treatments, shall be the date of the treatment; and (iv) with respect to a prescription drug or vision care claim, the date that the prescription was filled.

- (h) After the date hereof, the Sellers and the Buyer shall cooperate promptly and in good faith in preparing the transition of the Retained Employees and the unionized Employees as applicable from coverage under the Employee Plans that are not Assumed Plans to coverage under the Buyer Employee Plans effective as of the Closing Date. On and after the Closing Date, the Buyer shall be responsible for and make all required contributions and payments in relation to the Retained Employees and the unionized Employees referred to in Section 7.10(e) that are transitioned to coverage under the Buyer Employee Plans. If, at the Closing Date, the transition of any Retained Employees or unionized Employees referred to in Section 7.10(e) to coverage under any Buyer Employee Plan has not been completed, the Buyer shall be responsible for all liabilities and obligations under any Employee Plan in respect of any such Retained Employees or unionized Employees referred to in Section 7.10(e) until the Retained Employees or unionized Employees referred to in Section 7.10(e) have been transitioned to coverage under the applicable Buyer Employee Plan.
- (i) For purposes of the Buyer Employee Plans in which any Retained Employees or unionized Employees referred to in Section 7.10(e) participate, the Buyer shall recognize the service date of each such Employee, to the same extent that service credit would be given under the analogous Employee Plan, for purposes of eligibility and vesting, and with respect to any severance or vacation plan, the determination of levels of benefits, but not for purposes of benefit accrual. With respect to each Retained Employee (and their eligible dependents, as applicable), the Buyer shall use best efforts to cause such Buyer Employee Plans to (i) waive any eligibility periods, evidence of insurability or pre-existing condition limitations and (ii) honor any deductibles, co-payments, co-insurance or out-of-pocket expenses paid or incurred by such Employees, including with respect to their dependents, under comparable Employee Plans.

#### **7.11 Certain Payments or Instruments Received from Third Persons**

To the extent that, after the Closing Date: (a) Buyer or any of its affiliates receives any payment or instrument that is for the account of a Seller according to the terms of any Closing Document or relates to any Excluded Asset or Excluded Liability, the Buyer shall, and shall cause its affiliates to, promptly deliver such amount or instrument to the relevant Seller; or (b) any of the Sellers receive any payment or instrument that is for the account of the Buyer according to the terms of any Closing Document or that relates to the Acquired Business, Purchased Assets or Assumed Liabilities, the Sellers shall promptly deliver such amount or instrument to the Buyer. All amounts due and payable under this Section 7.11 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account designated in writing by the relevant Party. Notwithstanding the foregoing, each of the Sellers, on the one hand, and the Buyer, on the other hand, hereby undertakes to, as reasonably requested and at the other's expense, direct or forward all bills, invoices or like instruments to the appropriate Party.

### **7.12 Intellectual Property Matters**

The Sellers shall cooperate with and assist the Buyer, at the Buyer's expense, with the registration of the assignment of the registrable rights relating to Intellectual Property forming part of the Purchased Assets.

### **7.13 Notice of Certain Events**

The Sellers, on the one hand, and the Buyer, on the other hand, shall give prompt written notice to the other Party of: (a) the occurrence or non-occurrence of any fact, change, condition or event, the occurrence or non-occurrence of which would render any representation or warranty of such Party contained in this Agreement or any of the Closing Documents untrue or inaccurate in any material respect; (b) any failure of such Party to comply with or satisfy any covenant or agreement to be complied with or satisfied by such Party hereunder in any material respect or any event or condition that would otherwise reasonably be expected to result in the nonfulfillment of any of the conditions to such Party's obligations hereunder; (c) any written notice from any Person that is a counterparty to a Contract alleging that the consent of such Person is or may be required in connection with, or that any Contract with any such Person is or may be breached or otherwise violated in connection with, the consummation of the Closing or any of the other transactions contemplated by this Agreement or any of the Closing Documents; or (d) any proceeding pending or, to the Knowledge of such Party, threatened (other than such threats as the recipient considers to be frivolous), against such Party relating to the Agreement and the other transactions contemplated by this Agreement or any of the Closing Documents.

### **7.14 Risk of Loss**

The Purchased Assets shall be and remain at the risk of the Sellers until the Closing Date. In the event the Purchased Assets are damaged or destroyed or appropriated, expropriated or seized by any Person, on or prior to the Closing Date, the Sellers shall advise the Buyer in writing within twenty-four (24) hours of the Sellers learning of same. In the event that the whole or any material part of the Purchased Locations shall be materially damaged, destroyed or appropriated or seized by any Person prior to the Closing Date, which could reasonably result in a material impact to the Acquired Business, then the Buyer may elect, in its sole and absolute discretion, to terminate this Agreement by notice, in writing, within 10 calendar days after notification to the Buyer (or prior to the Closing Date if such notification takes place within 10 calendar days of the Closing Date) to the Sellers and in such event the Parties hereto shall be released from all obligations and liabilities hereunder and the Deposit Amount shall be promptly returned to the Buyer. If the Buyer does not elect to terminate this Agreement as provided above, then the Buyer shall complete the transactions contemplated by this Agreement without reduction of the Purchase Price. In any event of damage or destruction to, or appropriation, expropriation or seizure of the Purchased Assets (but for certainty only if this Agreement is not terminated by the Buyer pursuant to this Section) all proceeds of insurance or compensation for expropriation or seizure in respect thereof to a maximum of that portion of the Purchase Price allocated in the Purchased Assets relating to the Purchased Assets, Premises or Owned Real Property which are so damaged or expropriated, shall be payable to the Buyer at Closing and all right and claim of the Sellers to any such amounts not paid by the Closing Date shall be assigned to the Buyer.



### **7.15 Maintenance of Books and Records; Cooperation**

After the Closing, the Buyer shall preserve, until at least the seventh (7th) anniversary of the Closing Date or such longer time as may be required by Applicable Law, all pre-Closing books and records (including, for the avoidance of doubt, any loss run information with respect to insurance policies maintained by the Seller in respect of periods up to and including the Closing Date, any information or statutory records) possessed or to be possessed by the Buyer to the extent such records relate to the Excluded Assets or Excluded Liabilities or are necessary or useful for the administration of the CCAA Proceedings or any Insolvency Proceedings in respect of any of the Sellers, the preparation of financial statements of the Sellers up to and including the Closing Date, the preparation and filing of any Tax return of the Sellers including periods up to and including the Closing Date or compliance with any Applicable Law or the terms of this Agreement or for any other legitimate purpose of the Sellers. After the Closing Date and up until at least the seventh (7th) anniversary of the Closing Date or such longer time as may be required by Applicable Law, upon any reasonable request from a Seller or the Monitor or their representatives, the Buyer or its affiliates holding such portion of such records shall (a) provide to the requesting party or its representatives reasonable access to such portion of such records during normal business hours and (b) permit the requesting party or its representatives to make copies of such records, in each case at no cost to the requesting party or its representatives (other than for reasonable out-of-pocket expenses); provided, however, that nothing herein shall require the Buyer to take any action or provide any access pursuant to this Section 7.15 if doing so would (i) reasonably be likely to jeopardize the attorney-client privilege or other legal privilege, or (ii) contravene any Applicable Law, fiduciary duty or binding agreement (including any confidentiality agreement to which the Buyer or its affiliate is a party) (it being understood that the Buyer shall cooperate in any reasonable efforts and requests for waivers that would enable otherwise required disclosure to the Seller or the Monitor to occur without so jeopardizing privilege or contravening such Applicable Law, duty or agreement). In addition, following the Closing, the Buyer shall provide and shall cause its affiliates and their respective representatives to provide, such cooperation and assistance to the Sellers or the Monitor and their respective representatives (including, for the avoidance of doubt, such party's auditors), as may be reasonably requested by Sellers, the Monitor or their representatives upon reasonable advance written notice, to the extent related to the Excluded Assets or Excluded Liabilities or necessary or useful for the administration of the CCAA Proceedings or any Insolvency Proceedings in respect of any of the Sellers, the preparation of financial statements of the Sellers up to and including the Closing Date, the preparation and filing of or questions related to any Tax return of the Sellers including periods up to and including the Closing Date or compliance with any Applicable Law or the terms of this Agreement or for any other legitimate purpose of the Sellers.

### **7.16 Maintenance of MEC's Purpose and Values**

MEC's brand and member base have been built on a collective value set of integrity, cooperation, leadership, and quality while progressing an overall mission of being sustainable stewards for the environment and increasing the active participation of Canadians, particularly young Canadians, in exploring and experiencing the outdoors. Under the leadership of the Buyer, MEC's primary mission will continue to be best positioning MEC for long-term, sustainable success so that continued generations of Canadians will continue to choose MEC as their primary gateway to a lifetime of outdoor adventure. The Buyer will achieve this by improving merchandising assessment and assortment to continue maintaining the highest quality products,

operating facilities and operations with a sustainable footprint in line with Environmental, Social, and Governance investment criteria, and working together with community and store leaders to understand the needs of those who shop our stores and trust our brand. As soon as the mission and values of MEC are compromised, what differentiates MEC from other retailers may disappear – and as such, the Buyer will be doing everything it can to position MEC for the long-term and continue on its mission to making the world a better place.

#### **7.17 Signage**

The Sellers agree to use commercially reasonable efforts to remove or obscure all references to “MEC” or “Mountain Equipment Co-operative”, MEC values, trade dress and logos on all signage at the Excluded Real Estate Properties as soon as possible, and in any event within thirty (30) days after the Closing Date.

### **ARTICLE 8 CCAA PROCEEDING AND COURT ORDERS**

#### **8.1 Court Orders**

- (a) As promptly as practicable after execution of this Agreement, the Sellers shall file a petition for issuance of the Initial Order.
- (b) The Buyer shall cooperate with the Sellers acting reasonably, as may be necessary, including by providing such information and taking such actions as may be reasonably requested, in obtaining the Approval and Vesting Order and any Assignment Order.
- (c) The Sellers shall provide the Buyer and its counsel with a copy of the form of the Initial Order, Approval and Vesting Order, any Assignment Order, and all court materials to be filed in the CCAA Court by the Sellers in connection with this Agreement or the transactions contemplated hereunder, at least three (3) Business Days (and in the case of the Initial Order and court materials for the same, two (2) calendar days) before service thereof. The Sellers agree that all such documents shall be consistent with the terms and conditions of this Agreement. The Sellers shall immediately inform and provide the Buyer with copies of responses or objections received by it relating to this Agreement or the transactions contemplated hereunder in the event the Sellers or their counsel have reason to believe that counsel to the Buyer has not already separately received copies of the same.
- (d) Notice of the motion seeking the issuance of the Approval and Vesting Order shall be served by the Sellers on all Persons as may be required by the Buyer, including, without limitation, all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, and any other Person determined necessary or advisable by the Sellers or the Buyer, and the service of the motion materials shall be made at least seven (7) Business Days before the return date of the motion, unless otherwise agreed to in writing by the Buyer.
- (e) Notwithstanding any other provision herein, it is expressly acknowledged and

agreed that in the event that the Approval and Vesting Order has not been issued and entered by the CCAA Court by [REDACTED] or such later date agreed to in writing by the Buyer and the Sellers (with the consent of the Lenders), the Sellers may terminate this Agreement.

## 8.2 CCAA Process

If the Approval and Vesting Order or any other orders of the CCAA Court relating to this Agreement shall be appealed or motion for rehearing or reargument shall be filed with respect thereto, the Sellers agree to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion and the Buyer agrees to use its commercially reasonable efforts to cooperate in such efforts.

## ARTICLE 9 TERMINATION

### 9.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Buyer and the Sellers (with the consent of the Lenders and, following the Filing Date, the Monitor);
- (b) by the Sellers (with the consent of the Lenders (and following the Filing Date, the Monitor)) or the Buyer if Closing has not occurred on or before [REDACTED] (the "Sunset Date"); provided, that the terminating party is not in breach of any representation, warranty, covenant or other agreement in this Agreement to cause the conditions in Article 6 to be satisfied;
- (c) by the Sellers pursuant to Section 8.1(e);
- (d) by the Buyer pursuant to Section 7.14;
- (e) by the Buyer or the Sellers upon the dismissal of the CCAA Proceedings or upon permanent denial of the Initial Order;
- (f) by the Buyer or the Sellers upon permanent denial of the Approval and Vesting Order;
- (g) by the Buyer or the Sellers if a court of competent jurisdiction or other Governmental Authority has issued an order or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of Closing and such order or action has become Final (provided the same was not initiated by or on behalf of the Buyer or the Sellers or their respective affiliates);
- (h) by the Sellers, if required under any Order of a court of competent jurisdiction, including the CCAA Court;
- (i) by the Sellers, if there has been a material violation or breach by the Buyer of any covenant, representation or warranty which would prevent the satisfaction of the

conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Sunset Date and such violation or breach has not been waived by the Sellers or cured within ten (10) Business Days after written notice thereof from the Sellers, unless the Sellers are in material breach of their obligations under this Agreement; or

- (j) by the Buyer, if there has been a material violation or breach by either of the Sellers of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Sunset Date and such violation or breach has not been waived by the Buyer or cured within ten (10) Business Days after written notice thereof from the Buyer, unless the Buyer is in material breach of its obligations under this Agreement.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## **9.2 Effect of Termination**

In the event of termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that (a) this Section 9.2 and Sections 1.1, 3.1(e) and (f), 11.1, 11.3, 11.4, 11.5, 11.7 and 11.8 shall survive, (b) the confidentiality, non-use and non-disclosure obligations under the NDA shall survive in accordance with the terms of the NDA, and (c) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement.

## **ARTICLE 10 CLOSING**

### **10.1 Location and Time of the Closing**

The Closing shall take place at the Closing Time on the Closing Date at the offices of Norton Rose Fulbright Canada LLP located at 1800 - 510 West Georgia Street Vancouver, BC, or at such other location as may be agreed upon by the Parties, or by electronic transmission.

### **10.2 Sellers' Deliveries at Closing**

At Closing, the Sellers shall deliver to the Buyer the following:

- (a) a certified copy of the Approval and Vesting Order;
- (b) the General Assignments and Bills of Sale for the Purchased Assets duly executed by the applicable Sellers;
- (c) the Lease Assignment and Assumption Agreements for the Personal Property Leases and Real Property Leases duly executed by the applicable Sellers;
- (d) the Contracts Assignment and Assumption Agreements for the Assumed Contracts duly executed by the applicable Sellers;

- (e) all documents of title and instruments of conveyance (duly executed by the applicable Seller) necessary to transfer registered title and/or beneficial ownership to the Buyer of the Owned Real Property which is included in the Purchased Assets;
- (f) all documents of title and instruments of conveyance (duly executed by the applicable Sellers) necessary to transfer record and/or beneficial ownership to the Buyer of all vehicles owned by the Sellers which are included in the Purchased Assets;
- (g) the IP Assignment and Assumption Agreements duly executed by the applicable Sellers;
- (h) certified copies of any Assignment Order(s) obtained by the Sellers pursuant to this Agreement;
- (i) an executed copy of the Monitor's Certificate;
- (j) the certificates contemplated by Section 6.2(c);
- (k) a transition services agreement, in the form set out in Schedule 10.2(k), duly executed by MEC;
- (l) a duly executed election pursuant to GST and HST Legislation and QST Legislation (if such elections are to be made), and any certificates, elections or other documents required to be delivered pursuant to Section 7.9;
- (m) the Registrable Form of ROFR Waiver duly executed by [REDACTED]; and
- (n) all other documents required to be delivered by the Sellers on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Buyer in good faith.

### **10.3 Buyer's Deliveries at Closing**

At Closing, the Buyer shall deliver to the Sellers or, in the case of the Escrow Amount, the Escrow Agent:

- (a) the amount of the Purchase Price (less the Deposit and Escrow Amount) to be delivered pursuant to Section 3.1(b);
- (b) the Escrow Amount to be delivered to the Escrow Agent pursuant to Section 3.1(b);
- (c) any sales or transfer Taxes payable on Closing by the Buyer to the Sellers pursuant to Section 7.9(c) hereof;
- (d) the General Assignments and Bills of Sale for the Purchased Assets duly executed by the Buyer;

- (e) the Lease Assignment and Assumption Agreements for the Personal Property Leases and Real Property Leases duly executed by the Buyer;
- (f) the Contracts Assignment and Assumption Agreements for the Assumed Contracts duly executed by the Buyer;
- (g) the IP Assignment and Assumption Agreements duly executed by the Buyer;
- (h) an assumption of the Permitted Encumbrances;
- (i) the certificate contemplated by Section 6.3(c);
- (j) a transition services agreement, in the form set out in Schedule 10.2(k), duly executed by the Buyer;
- (k) a duly executed election pursuant to GST and HST Legislation and QST Legislation (if such elections are to be made), and any certificates, elections or other documents required to be delivered pursuant to Section 7.9;
- (l) the GST/HST and QST Certificate, Undertaking and Indemnity;
- (m) the Registrable Form of ROFR Waiver duly executed by the Buyer; and
- (n) all other documents required to be delivered by the Buyer on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Sellers in good faith.

#### **10.4 Possession of Assets**

On Closing, the Buyer shall take possession of the Purchased Assets wheresoever situated at Closing and shall affect any necessary registrations at the appropriate land title office(s) in accordance with solicitors undertakings or escrow agreements to be settled and agreed upon by the Buyer and the Sellers' solicitors, each acting reasonably. In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Buyer until the conditions set out in the Approval and Vesting Order have been satisfied, and the Buyer has satisfied all delivery requirements outlined in Section 10.3.

For certainty with respect to any Purchased Assets that at Closing are physically located at any Leased Property that is not a Purchased Location, it shall be the Buyer's responsibility to take possession of such Purchased Assets prior to a Seller losing its access to, and leasehold interest in, such Leased Property. The Sellers and the Buyer, each acting reasonably, shall cooperate to plan for the orderly removal of such Purchased Assets from such location(s), and the Buyer shall ensure that such removal is completed prior to MEC losing access to such Leased Property by reason of a disclaimer or termination of the applicable Real Property Lease (whether effective prior to or after the Closing Date). If the Sellers, in their sole discretion, permit such Purchased Assets to be removed from such a location prior to the Closing Date, such Purchased Assets shall be stored at a location mutually agreed upon by the Sellers and the Buyer, each acting reasonably, the Buyer shall be responsible for any reasonable removal and storage costs, and such removal shall not interfere with the operation of the Business by the Sellers prior to the Closing Date. To the extent the Buyer requires MEC's assistance with such removal, the Buyer

shall reimburse MEC's reasonable costs of undertaking that work and MEC shall not be responsible for any risk of loss or damage to such Purchased Assets resulting from such removal, storage or relocation of such Purchased Assets. Nothing in the foregoing shall be interpreted as transferring to the Buyer title to any such Purchased Assets prior to the Closing occurring.

### **10.5 Monitor**

The Parties hereby acknowledge and agree that the Monitor shall be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Sellers and the Buyer that all conditions to Closing have been satisfied or waived and upon receiving the cash portion of the Purchase Price and any sales or transfer Taxes confirmed in writing by the Sellers and the Buyer (on which the Monitor shall be entitled to rely without independent investigation) to be payable on Closing by the Buyer to the Sellers pursuant to Section 7.9(c) hereof, and the Monitor shall have no liability to the Sellers or the Buyer or any other Person as a result of filing the Monitor's Certificate or otherwise in connection with this Agreement or the transactions contemplated hereunder (whether based on contract, tort or any other theory).

### **10.6 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred simultaneously, and no such transaction shall be considered consummated unless all are consummated.

## **ARTICLE 11 GENERAL MATTERS**

### **11.1 Confidentiality and Transaction Personal Information**

The Parties shall treat confidential all Confidential Information and in accordance with the terms of the NDA. Each Party shall comply with all applicable Privacy Laws in the course of collecting, using and disclosing Personal Information in the possession, custody or control of either of the Parties that is or shall be (i) disclosed to the receiving party prior to or in connection with the Closing by the disclosing party or (ii) collected by the receiving party prior to or in connection with the Closing from the disclosing party, in either case in connection with the transactions contemplated by this Agreement ("**Transaction Personal Information**"). The receiving party shall not, without the consent of the individuals to whom such Personal Information relates or as permitted or required by Applicable Law, use or disclose Transaction Personal Information:

- (a) for purposes other than those for which such Transaction Personal Information was collected, or other than such Transaction Personal Information is permitted to be used or disclosed, prior to the Closing; and
- (b) which does not relate directly to the carrying on of the Acquired Business or to the carrying out of the purposes for which the transactions contemplated by this Agreement were implemented.

The Parties shall protect and safeguard the Transaction Personal Information against

unauthorized collection, use or disclosure, as provided by Privacy Laws with safeguards appropriate for the sensitivity of the information. The Buyer shall give effect to any withdrawal of consent to the extent required by Privacy Laws. The Sellers covenant and agree not to disclose any Confidential Information relating to the Acquired Business, the Purchased Assets or the Buyer to any third party after the Closing Date unless required by Applicable Law (including by a judicial or other legal proceeding, including the CCAA Proceedings), in which event, subject to Applicable Law, the Sellers shall (i) give the Buyer prompt notice of any such disclosure requirement and the proposed Confidential Information to be disclosed pursuant to it; and (ii) at the Buyer's request, co-operate with the Buyer in limiting the extent of the disclosure and in obtaining an appropriate protection or sealing order or pursuing such legal action, remedy or assurance as the Buyer deems reasonably necessary to preserve the confidentiality of such Confidential Information. In such circumstance, if a protective order or other remedy is not obtained, and the Sellers are legally compelled to disclose the Confidential Information at issue, the Sellers agree they may only disclose that portion of the Confidential Information that they are legally required to be disclosed.

## **11.2 Public Notices and Communication**

Except for the press release to be issued on or after the Initial Order by MEC in the form to be mutually agreed by the Buyer and the Sellers, each acting reasonably, prior to the Initial Filing, no press release or other announcement concerning the transactions contemplated by this Agreement shall be made by the Sellers, on the one hand, or by the Buyer, on the other hand, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings), or by any insolvency or other court, or other similar Governmental Authority having jurisdiction over such Party or any of its affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by the Sellers with the CCAA Court; (ii) MEC may communicate the transactions contemplated by this Agreement to the Lenders and the Buyer may communicate the transactions contemplated by this agreement to Kingswood Capital Management LP, Kingswood Capital Opportunities Fund I, LP, Kingswood Capital Opportunities Fund I-A, LP and any bank and non-bank institutional lenders who in the Buyer's reasonable opinion are qualified to lend money to the Buyer in relation to the Purchased Assets and for that purpose; (iii) MEC may communicate the transactions to MEC's members, Employees, customers, suppliers and Landlords and the Buyer may communicate the transactions to suppliers and Landlords, in each case, in a manner consistent with the press release or other communication materials mutually agreed upon by the Parties or otherwise consistent with such prior communications or mutually agreed upon by the Parties, and (iv) the transactions contemplated in this Agreement may be disclosed by the Sellers to the CCAA Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement



and the terms of such transactions; and

- (b) the Sellers and their professional advisors may prepare and file such reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement and the terms of such transactions as may reasonably be necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

Wherever possible, the Buyer shall be afforded an opportunity to review and comment on such materials prior to their filing. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to by them.

### **11.3 Survival**

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 11 and Sections 7.7, 7.8, 7.9, 7.10, 7.11, 7.12, 7.15, 7.16, 7.17, 11.1 and 11.4 to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

### **11.4 Expenses**

Except as otherwise specifically provided herein, each of the Sellers, on the one hand, and the Buyer, on the other hand, shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by each of them, respectively, in connection with the negotiation and settlement of this Agreement, and the completion of the transactions contemplated hereby.

### **11.5 Non-Recourse**

No past, present or future director, officer, employee, incorporator, member, partner, securityholder, affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Buyer or the Sellers, as applicable, under this Agreement, or for any Claim based on, in respect of or by reason of the transactions contemplated hereby.

### **11.6 Leasehold Interests**

Notwithstanding any provision of this Agreement to the contrary, for purposes of this Agreement and each Closing Document, (i) all references to "Real Property Lease" include any sublease or agreement to sublease by which the Sellers (as subtenant) holds its interest in, and/or right to occupy the related Premises, (ii) for the Premises which are subject to a sublease or agreement to sublease (rather than a lease) in favour of any of the Sellers, all references to a Seller's "leasehold" interest in such Premises shall mean the Seller's "subleasehold" interest, where applicable (rather than a leasehold interest) in such Premises, any reference to "Landlord" shall mean the sublandlord under the applicable sublease or agreement to sublease pursuant to which a Seller (as subtenant) holds its interest in, and/or right to occupy such Premises, and any

reference to “Sublease” shall mean a sub-sublease in such Premises in favour of the Sellers, and (iii) all other similar references relating to the Real Property Leases and Premises shall be interpreted and construed in a similar manner.

### 11.7 Assignment; Binding Effect

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent the Buyer may, upon prior notice to the other Parties, (i) assign and novate any part of this Agreement, or any or all of its rights and obligations hereunder, to one or more of its subsidiaries or affiliates, provided such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment; and (ii) may direct that title to all or some of the Purchased Assets, including the Purchased Real Property Assets, the Purchased Operating Assets, the Assumed Operating liabilities and the Assumed Property Liabilities, be transferred to, and the corresponding Assumed Liabilities be assumed by, one or more of its subsidiaries or affiliates; provided that no such assignment or direction shall relieve the Buyer of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Except as provided in Sections 7.8 and 7.9(d), nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

### 11.8 Notices

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

(a) in the case of a Notice to the Buyer at:

c/o Kingswood Capital Management  
11777 San Vicente Blvd. Suite 650  
Los Angeles, CA 90049

Attention: Alex Wolf  
Email: [awolf@kingswood-capital.com](mailto:awolf@kingswood-capital.com)

with copies (which shall not in themselves constitute notice) to:

Fasken Martineau DuMoulin LLP  
333 Bay Street, Suite 2400  
Toronto, Ontario M5H 2T6

Attention: Dylan Chochla  
Facsimile: 416-364-7813  
Email: [dchochla@fasken.com](mailto:dchochla@fasken.com)

(b) in the case of a Notice to the Sellers at:

Mountain Equipment Co-operative

Attention: President and Chief Executive Officer

Email: Phil.Arrata@mec.ca

with copies (which shall not in themselves constitute notice) to:

Norton Rose Fulbright Canada LLP

400 3<sup>rd</sup> Ave. SW, Suite 3700

Calgary, Alberta T2P 4H2 Canada

Attention: Howard Gorman, QC.

Email: howard.gorman@nortonrosefulbright.com

and the Monitor:

Alvarez & Marsal Canada, Inc.

Attention: Todd Martin

Email: tmartin@alvarezandmarsal.com

and counsel to the Monitor:

Cassels, Brock & Blackwell LLP

Attention: Mary Buttery / Lance Williams

Facsimile: 604.691.6120

Email: [mbuttery@cassels.com](mailto:mbuttery@cassels.com) / [lwilliams@cassels.com](mailto:lwilliams@cassels.com)

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day. Any Notice sent by e-mail shall be deemed to have been given or received on the date so sent, if the day is a Business Day and the e-mail was sent prior to 5:00 p.m. (addressee's local time), and otherwise on the next Business Day, provided that any Notice sent by e-mail is only effective if it is acknowledged by the addressee within 48 hours by return e-mail to the e-mail address of the addressor, and provided that if the 48-hour period ends on a non-Business Day, the 48-hour period shall be suspended for the duration of the non-Business Day and resume on the first day immediately following the last non-Business Day. A machine generated or other automated e-mail response (including, but not limited to a "read receipt") is not effective acknowledgment for the purposes of this Section.

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

#### **11.9 Subdivision Legislation**

This Agreement shall only be effective to create an interest in the Owned Real Property if the subdivision control provisions of the *Planning Act* (Ontario) or similar Applicable Law are complied with on or before Closing. The Sellers have no Knowledge that completion of the transactions provided for in this Agreement require any consent under the *Planning Act* (Ontario) or similar Applicable Law and if any consent is required, the Sellers shall obtain such consent prior to the Closing, at their sole cost and expense.

#### **11.10 Counterparts; Electronic Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by facsimile signature or by electronic image scan which, for all purposes, shall be deemed to be an original signature.

#### **11.11 Language**

*Les Parties aux présentes ont expressement exigé que le présent convention et tous les documents et avis qui y sont afférents soient rédigés en anglaise.* The Parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English.

*[Signature pages follow]*

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

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: 

\_\_\_\_\_  
Name: Judith Richardson  
Title: Board Chair

By: \_\_\_\_\_  
Name:  
Title:

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

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

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**1314625 ONTARIO LIMITED**

By:  \_\_\_\_\_  
Name: Philippe Arrata, President  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

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

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

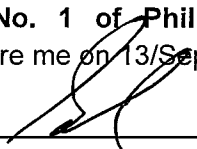
By: \_\_\_\_\_  
Name:  
Title:

**1264686 B.C. LTD.**

By: Alex Wolf  
Name: Alex Wolf  
Title:

By: M. Niessch  
Name: Michael Niessch  
Title:

This is **Exhibit "Q"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia



**- PRIVATE & CONFIDENTIAL -**

**DISCLOSURE SCHEDULE**

to

**ASSET PURCHASE AGREEMENT DATED SEPTEMBER 11, 2020**

between

**MOUNTAIN EQUIPMENT CO-OPERATIVE**

and

**1314625 ONTARIO LIMITED**

and

**1264686 B.C. Ltd.**

### Disclosure Schedule

This Disclosure Schedule (this "**Disclosure Schedule**"), which consists of these cover pages and all of the accompanying pages and attachments hereto, is made and delivered by the Sellers, pursuant to that certain Asset Purchase Agreement, dated as of September 11, 2020 (the "**Agreement**"), by and among the Sellers, and the Buyer. Capitalized terms used but not defined in this Disclosure Schedule shall have the same meanings given to them in the Agreement unless the context otherwise requires.

This Disclosure Schedule is arranged in sections and, if applicable, subsections corresponding to the sections and subsections contained in the Agreement, which are modified by the disclosures herein. With respect to these disclosures, the inclusion of any information or matter in this Disclosure Schedule shall not be deemed to be an admission or acknowledgement, in and of itself, that such information or matter is required by the terms of the Agreement to be disclosed, is material for purposes of the Agreement or this Disclosure Schedule, has had or would reasonably be likely to have, individually or in the aggregate, a Material Adverse Effect, actually constitutes non-compliance with, or a violation of, any Applicable Law or other topic to which disclosure is applicable, or proves or in any way tends to establish any liability on the part of the Sellers, or their affiliates to any third party. Although this Disclosure Schedule may contain supplementary information not specifically required under the Agreement, such supplementary information is being provided for informational purposes only and does not necessarily include other matters of a similar nature. Neither the specification of any dollar amount in any representation or warranty contained in the Agreement nor the inclusion of any specific item in the Disclosure Schedule is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no party shall use the fact of the disclosure of any such amount or the inclusion of any such item in any dispute or controversy between the parties as to whether any obligation, item or matter not described herein or included in the Disclosure Schedule is or is not material for purposes of the Agreement.

Any information disclosed pursuant to a particular section or subsection of this Disclosure Schedule with respect to any representation or warranty shall be deemed to be disclosed with respect to any other representation or warranty contained in the Agreement to the extent that it is reasonably apparent on its face that such disclosure is applicable to such other representations or warranties. This Disclosure Schedule is qualified in its entirety by reference to the specific provisions of the Agreement and is not intended to constitute, and shall not be construed as constituting, representations, warranties, covenants or agreements of the Sellers, or their affiliates, except as and to the extent provided in the Agreement. In addition, the information and disclosures contained in this Disclosure Schedule is intended only to qualify and limit the representations, warranties, covenants and agreements of the Sellers contained in the Agreement and shall not be deemed to expand in any way the scope or effect of any such representations, warranties, covenants and agreements.

**SCHEDULE 1.1(i)**  
**Form of Approval and Vesting Order**

See attached.

Confidential

No. \_\_\_\_\_  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO  
LIMITED

PETITIONERS

**ORDER MADE AFTER APPLICATION  
(Sale Approval and Vesting Order)**ON THE        BEFORE        THE HONOURABLE JUSTICE        \_\_\_\_/Sep/2020  
\_\_\_\_\_

APPLICATION OF the petitioners, Mountain Equipment Co-operative and 1314625 Ontario Limited (together, the "**Petitioners**") coming on for hearing at Vancouver, British Columbia on ▼/Sep/2020 and on hearing Howard A. Gorman, Q.C. and Scott M. Boucher, counsel for the Petitioners, and those other counsel listed in **Schedule "A"** attached hereto; AND UPON READING the material filed, including the Monitor's ▼ Report dated September ▼, 2020 (the "**Monitor's Report**"); AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Notice of Application and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and hereby dispenses with further service thereof.
2. Any capitalized term used and not defined herein shall have the meaning ascribed to it in the Asset Purchase Agreement dated September ▼, 2020 (the "**Sale Agreement**") between the Petitioners, as vendor, and 1264686 B.C. Ltd. (the "**Original Purchaser**"), as purchaser, a copy of which is attached to the Monitor's Report as Schedule "▼".
3. The sale transaction (the "**Transaction**") contemplated by the Sale Agreement is commercially reasonable and is hereby approved, with such minor amendments as the Petitioners may deem necessary with the consent of the Purchasers (as defined below) and the Monitor. The execution of the Sale Agreement by the Petitioners is hereby

authorized, ratified and approved, the Petitioners are authorized to take such additional steps as may be necessary or desirable to complete the Sale Agreement and execute such additional documents as may be necessary or desirable for the completion of the Transaction, and for the conveyance of the Purchased Assets (as set out and described in the Sale Agreement) to the Original Purchaser's permitted assignees under the Sale Agreement, as follows: (i) the Purchased Operating Assets to ▼, and (ii) the Purchased Real Property Assets as identified in **Schedule "B"** attached hereto to ▼ (▼ and ▼ are referred to together herein as the "**Purchasers**", and the Purchased Operating Assets and the Purchased Real Property Assets are referred to together herein as the "**Purchased Assets**").

4. The Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the Sale Agreement and this Order and shall not incur any liability in taking such steps.
5. Upon (a) the payment in full to Royal Bank of Canada, as agent for the Lenders (the **Lender Agent**) under the [**RBC Credit Agreement and DIP Restructuring Support Agreement**] (the "**Lenders**"), of an amount equal to the amount of the Petitioners' obligations owing to the Lenders under [**the RBC Credit Agreement and DIP Restructuring Support Agreement**], or the express agreement of the Lender Agent in its sole discretion that the Closing may proceed, and (b) receipt by the Monitor of confirmation from both the Purchasers and the Petitioners that all conditions precedent to the completion of the Sale Agreement have been satisfied or waived, the Monitor is hereby authorized and directed to execute and file in these proceedings a certificate in substantially in the form attached hereto as **Schedule "C"** (the "**Monitor's Certificate**"), and deliver a copy of the Monitor's Certificate to the Purchasers and the Petitioners.
6. Upon the filing with this Court of the Monitor's Certificate as provided for at paragraph 5 hereof, all of the Petitioners' right, title and interest in and to: (i) the Purchased Operating Assets shall vest absolutely in ▼; and (ii) the Purchased Real Property Assets shall vest absolutely in ▼ in fee simple; in each case, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered, published or filed, and whether secured, unsecured or otherwise (collectively, the "**Claims**"); including, without limiting the generality of the foregoing:
  - (a) any encumbrances or charges created by Order of this Court in these CCAA proceedings;
  - (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system of another province, including, without limitation, security

Confidential

evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in immovable property;

- (c) all charges, security interests or claims evidenced by registrations pursuant to the land registry offices in B.C., Alberta, Manitoba and Ontario, or any other real property registry system of another province;
- (d) all claims in respect of, or relating to, any taxes owing by the Petitioners as at the Closing Date (as defined in the Sale Agreement); and
- (e) those Claims listed in **Schedule “D”** (personal property) and **Schedule “E”** (real property) attached hereto

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances, easements and restrictive covenants listed in **Schedule “F”** (personal property) and **Schedule “G”** (real property) attached hereto, and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

7. Upon presentation of the required form with a true copy of this Order and the Monitor’s Certificate:
- (a) the Registrar of the Register of Personal and Movable Real Rights for the Province of Québec is hereby directed, to strike those registered Encumbrances listed in **Schedule “D”** (personal property) attached hereto, except for those listed in **Schedule “F”** (personal property) attached hereto, in each case under the heading “Quebec”, in connection with the Purchased Assets in order to allow the transfer to the Purchasers of the Purchased Assets free and clear of such registered Encumbrances;
  - (b) the Registrar of the Alberta Personal Property Registry shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests in the estate or interest of the Petitioners in any of the Purchased Assets, including, without limitation, those registered Encumbrances listed in **Schedule “D”** (personal property) attached hereto, except for those listed in **Schedule “F”** (personal property) attached hereto, in each case under the heading “Alberta”; and
  - (c) the Registrar of the British Columbia Personal Property Registry shall and is hereby directed to forthwith cancel and discharge any registrations at the British Columbia Personal Property Registry (whether made before or after the date of this Order) claiming security interests in the estate or interest of the Petitioners in any of the Purchased Assets, including, without limitation, those registered Encumbrances listed in **Schedule “D”** (personal property) attached hereto,

Confidential

except for those listed in **Schedule "F"** (personal property) attached hereto, in each case under the heading "British Columbia".

8. Upon presentation for registration of a certified copy of this Order, together with a copy of the Monitor's Certificate and a letter from Norton Rose Fulbright Canada LLP, counsel for the Petitioners, authorizing registration of this Order in the following land registry offices:
  - (a) in the Land Title Office for the Land Title District of New Westminster, the BC Registrar of Land Titles is hereby directed to enter ▼ as the owner of the Purchased Real Property Assets, as identified in **Schedule "B"** attached hereto under the heading "British Columbia" (the "**BC Real Property**"), together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the BC Real Property, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of ▼ in and to the BC Real Property is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of ▼ as aforesaid and, having considered the interests of third parties, to discharge, release, delete and expunge from title to the BC Real Property all Encumbrances, including, without limitation, those registered Encumbrances listed in **Schedule "E"** (real property) attached hereto (the Court having been satisfied on investigation that the Petitioners have given due notice of the within Application to the registrants of such Encumbrances), except for those Permitted Encumbrances listed in **Schedule "G"** (real property) attached hereto, in each case under the heading "British Columbia".
  - (b) in the Land Registry Office for the Land Titles Divisions of: (i) Ottawa-Carleton #4; (ii) Halton County #20; and (iii) Metropolitan Toronto # 80 (66 & 64), as applicable, of an Application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario), the Land Registrar is hereby directed to enter ▼ as the owner of the Purchased Real Property Assets, as identified in **Schedule "B"** attached hereto under the heading "Ontario" (the "**ON Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the ON Real Property all of the Encumbrances listed in **Schedule "E"** (real property) attached hereto, except for those Permitted Encumbrances listed in **Schedule "G"** (real property) attached hereto, in each case under the heading "Ontario";
  - (c) with the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below, the Land Titles Registrar shall and is hereby authorized, requested and directed to forthwith:

Confidential

- (i) cancel existing Certificates of Title No. ▼ for the Purchased Real Property Assets, as identified in **Schedule "B"** attached hereto under the heading "Alberta" and municipally described as 830 10 Ave SW, Calgary, AB T2R 0A9, Canada (the "**AB Real Property**");
  - (ii) issue a new Certificate of Title for the AB Real Property in the name of the ▼ (the "**New Certificate of Title**");
  - (iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule "G"** (real property) attached hereto under the heading "Alberta"; and
  - (iv) discharge and expunge all of the Encumbrances listed in **Schedule "E"** (real property) attached hereto under the heading "Alberta" and discharge and expunge any Claims including Encumbrances which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;
- (d) with the District Registrar of the Winnipeg Land Titles Office (the "**Winnipeg Registrar**"), and the Winnipeg Registrar is authorized, requested, and directed to cancel the existing certificate of title for those Purchased Real Property Assets identified in Schedule "B" hereto under the heading "Manitoba" and to issue a new certificate in respect of such Purchased Real Property Assets in the name of ▼, which certificate of title shall be expunged of all of the Encumbrances listed in **Schedule "E"** (real property) attached hereto, except for those Permitted Encumbrances listed in **Schedule "G"** (real property) attached hereto, in each case under the heading "Manitoba".
9. For the purposes of determining the nature and priority of the Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and from after the delivery of the Monitor's Certificate, all Claims shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the closing date of the Transaction, as if the Purchased Assets had not been sold and remained in the possession or control of the entity having had possession or control immediately prior to the closing date of the Transaction; provided that, for certainty, only upon the release of all or any portion of the Escrow Amount to the Petitioners under the terms of the Escrow Agreement shall any portion of the Escrow Amount constitute net proceeds for the purposes of this paragraph, and only that portion of the Escrow Amount that is so released shall form a part of the net proceeds.
10. On or after the Closing Date, each of the Petitioners shall be permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its corporate and business names in accordance with the Sale Agreement, and such articles, documents or other instruments shall be deemed to have been duly



Confidential

authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director, member or shareholder approval pursuant to any federal or provincial legislation.

11. Pursuant to Section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or Section 18(10)(o) of the *Personal Information Protection Act* of British Columbia, or any other personal privacy legislation of another province where applicable to the Petitioners, the Petitioners are hereby authorized and permitted to disclose and transfer to ▼ all human resources and payroll information in the Petitioners' records pertaining to the Petitioners' past and current employees. ▼ shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.
12. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including the Purchased Real Property Assets, shall be delivered by the Petitioners to the Purchasers at the Closing Time (as defined in the Sale Agreement), subject to the Permitted Encumbrances as set out in the Sale Agreement and listed on **Schedules "F"** (personal property) and **"G"** (real property) hereto.
13. Notwithstanding:
  - (a) these CCAA proceedings;
  - (b) any applications for a bankruptcy order in respect of either or both of the Petitioners now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made by or in respect of either or both of the Petitioners,

the vesting of the Purchased Assets in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by creditors of the Petitioners, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. [Confidential Appendix "▼" to the Monitor's Report, [schedules ▼ to the Sale Agreement] and other financial information contained in the Sale Agreement shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.]
15. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, including, without limitation, the applicable land registry offices in B.C., Alberta, Manitoba and Ontario, the Registrar of

Confidential

the Register of Personal and Movable Real Rights for the Province of Québec, and the Registrar of the Alberta Personal Property Registry, to give effect to this Order and to assist the Petitioners, the Monitor, and the Purchasers, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners, the Purchasers, or the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Petitioners, the Purchasers, and the Monitor and their respective agents in carrying out the terms of this Order.

16. The Petitioners, the Monitor, and the Purchasers, or any other party, each have liberty to apply for such further and other directions or relief as may be necessary or desirable to give effect to this Order.
17. Endorsement of this Order by counsel appearing on this application, other than counsel for the Petitioners, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

---

Signature of

party  lawyer for the Petitioners

Howard A. Gorman, Q.C.

By the Court.

---

Registrar

Confidential

## SCHEDULE "A" – List of Counsel

COUNSEL	NAME OF PARTY(IES) REPRESENTED
John Sandrelli, Q.C. Valerie Cross	Royal Bank of Canada as administrative agent and collateral agent under the Updated Credit Agreement
Mary I.A. Buttery, Q.C. Lance H. Williams	The Proposed Monitor, Alvarez & Marsal Canada Inc.
Dylan Chochla Kibben Jackson	Kingswood Capital Management LP and the Purchasers

**SCHEDULE "B" - DESCRIPTION OF REAL PROPERTY****BRITISH COLUMBIA****13340 76 Avenue, Surrey, BC****PID: 005-054-745**

Lot 67 Except: Part Subdivided By Plan 53690, Section 20 Township 2 New Westminster District Plan 52612

**212 Brooksbank Avenue, North Vancouver, BC****PID: 011-388-391**

Lot A (Explanatory Plan 11193) Block 31 District Lot 272 Plan 4692

**ALBERTA****830 10 Avenue SW, Calgary, AB****Title Number 991 373 010**

Plan 1423LK, Block 31, Containing 0.700 Hectares (1.73 Acres) More Or Less Excepting Thereout:

Plan	Number	Hectares (Acres)	More Or Less
Road	9610692	0.028	0.07

Excepting Thereout All Mines And Minerals.

**MANITOBA****303 Portage Avenue, Winnipeg, Manitoba****Title Number 2917179/1**LOTS 319 AND 320 BLOCK 3 PLAN 129 WLTO (W DIV)  
IN RL 1 PARISH OF ST. JOHN.**ONTARIO****1030 Brant Street, Burlington****PIN 07081-0411(LT)**

Part Lot 15, RCP Plan 99, Part 2, Plan 20R6976, Parts 2 - 6, Plan 20R6744 and as in 656180, save and except Part 17, Plan PE118, Part 1, Plan 20R9817 and Part 1, Plan 20R17605; Burlington, Subject to The rights of owners of adjoining parcels, if any, under 381621

**1428 Leighland Road, Burlington****PIN 07081-0253(LT)**

Part Lot 15, RCP Plan 99 as in 655061; Burlington

**1430 Leighland Road, Burlington**

**PIN 07081-0254(LT)**

Part Lot 15, RCP Plan 99 as in 190615; Burlington

**366 Richmond Road, Ottawa****PIN 04017-0142(LT)**

Part Lots 5 & 6, Plan 204 , south side of Richmond Road as in CR359870 ; Lots 5 & 6, Plan 204, north side of Danforth Avenue ; Ottawa/Nepean

**375 Danforth Avenue, Ottawa****PIN 04017-0145(LT)**

Part Lot 8, Plan 204, north side of Danforth Avenue as in CR559106; Subject to an easement over Part 15 on Plan 4R27018 in favour of Part of Lot 8 on Plan 204, south side of Richmond Road being Part 7 on Plan 4R27018 as in OC1475005; City of Ottawa

**378 Richmond Road, Ottawa****PIN 04017-0201(LT)**

Part of Lot 8 on Plan 204, south side of Richmond Road and Part of Lot 8 on Plan 204, north side of Danforth Avenue being Parts 4 to 6 and 8 to 13 on Plan 4R27018; Subject to an easement in gross over Part 4 on Plan 4R27018 as in OC1381026; Subject to an easement over Part 6 on Plan 4R27018 in favour of Part of Lot 8 on Plan 204, south side of Richmond Road being Part 7 on Plan 4R27018 as in OC1475004; Subject to an easement over Parts 10 and 11 on Plan 4R27018 in favour of Part of Lot 8 on Plan 204, south side of Richmond Road being Part 7 on Plan 4R27018 as in OC1475005; Subject to an easement over Parts 9, 10 and 13 on Plan 4R27018 in favour of Part of Lot 8 on Plan 204, south side of Richmond Road being Part 7 on Plan 4R27018 as in OC1475006; City of Ottawa

**784 Sheppard Avenue East, North York, Ontario****PIN 10059-0267(LT)**

Part Lot 16, Concession 2 EYS, designated as Parts 1, 4, 5, 6, 9, 10, 11, 12, 13 & 14, Plan 66R27498; Together with an easement over Part Lot 16, Concession 2 EYS, designated as Part 3, Plan 66R27498 as in AT3895818; Together with an easement over Part Lot 16, Concession 2 EYS, designated as Part 7, Plan 66R27498 as in AT3895818; Together with an easement over Part Lot 16, Concession 2 EYS, designated as Part 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 4, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 5, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 6, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 9, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 10, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 11, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 12, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 13, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to and easement over Part 14, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, designated as

**Confidential**

Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement in gross over Parts 1, 5, 10, 12, 13 & 14, Plan 66R27498 as described in AT4283935; Subject to an easement in gross over Parts 4, 5, 6, 9, 11, 12 & 13 Plan 66R27498 as in AT4337864; City of Toronto.

**Property Owned by 1314625 Ontario Limited**

**374 Richmond Road, Ottawa**

**PIN 04017-0143 (LT)**

Lot 7, Plan 204, south side of Richmond Road except NP44114; Lot 7, Plan 204, north side of Danforth Avenue; Ottawa/Nepean; Subject to an easement in gross over Part 1 on Plan 4R26209 as in OC1381028

Confidential

## SCHEDULE "C" –MONITOR'S CERTIFICATE

No. \_\_\_\_\_  
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO LIMITED

Petitioners

## MONITOR'S CERTIFICATE

1. Pursuant to an Order of the Honourable Madam Justice Fitzpatrick of the British Columbia Supreme Court (the "**Court**") dated September 14, 2020, Alvarez & Marsal Canada Inc. was appointed as the monitor (the "**Monitor**") of the Petitioners.
2. Pursuant to an Order of the Court dated ▼, 2020 (the "**Vesting Order**"), the Court ordered that all of the right, title and interest of the Petitioners in and to the Purchased Assets vest in the Purchasers effective upon (a) payment to the Lender Agent of an amount equal to the Petitioners' obligations under the **[RBC Credit Agreement and DIP Support Agreement]** or the express agreement by the Lender Agent that the Closing may proceed; and (b) the delivery by the Monitor of this certificate to the Purchaser confirming that the transactions contemplated by the Sale Agreement have been implemented.
3. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed thereto in the Vesting Order, or where not so defined, in the Sale Agreement.

**THE MONITOR HEREBY CERTIFIES as follows:**

1. The Petitioners and **[applicable Purchaser]** have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. **[The Lender Agent has received payment in full of an amount equal to the amount of the Petitioners' obligations owing to the Lenders under [the RBC Credit Agreement and DIP Restructuring Support Agreement],/[the Lender Agent has expressly agreed in its sole discretion that the Closing may proceed]**
3. The Monitor has received the Escrow Amount; and

4. The transactions contemplated by the Sale Agreement have been implemented;

Dated at the City of Vancouver, in the Province of British Columbia, this ▼ day of ▼, 2020.

Alvarez & Marsal Canada Inc., in its capacity  
as Court-appointed Monitor of the Petitioners  
and not in its personal capacity.

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

Name:

Title:



Confidential

## SCHEDULE "D" - CLAIMS TO BE VESTED OF PERSONAL PROPERTY

## 1. Mountain Equipment Co-operative

## (a) British Columbia

## (i) Personal Property Security Act (British Columbia)

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
1.	175058K / D4686730 Amended: 177631K / D4690163	MOUNTAIN EQUIPMENT CO-OPERATIVE  1314625 ONTARIO LIMITED	ROYAL BANK OF CANADA, AS AGENT	Expiry Date: JULY 31, 2022  ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

## (i) Bank Act (Canada)

	No.	Registration Name	Bank	Expiry Date
1.	01327945	MOUNTAIN EQUIPMENT CO-OPERATIVE	0003 ROYAL BANK OF CANADA	DECEMBER 31, 2025
2.	01327946	MOUNTAIN EQUIPMENT CO-OPERATIVE	0010 CANADIAN IMPERIAL BANK OF COMMERCE	DECEMBER 31, 2025
3.	01327947	MOUNTAIN EQUIPMENT CO-OPERATIVE	0004 THE TORONTO-DOMINION BANK	DECEMBER 31, 2025

## (ii) Litigation

	Court File No.	Case Opened Date	Plaintiff Appellant	Defendant Respondent	Case Type	Additional Information
1.	VLC-S-S-186294	JUNE 2018	1. SOO, BRANDON	DOE, JOHN MOUNTAIN EQUIPMENT CO-OP SELLE ITALIA SELLE ROYAL S.P.A. SELLE ROYAL USA, INC	SUPREME CIVIL (GENERAL)	Court Location: VANCOUVER LAW COURTS  Initiating Document: NOTICE OF CIVIL CLAIM FILED 01JUN2018  Last Document: RESPONSE TO CIVIL CLAIM FILED 07MAY2019

Confidential

	Court File No.	Case Opened Date	Plaintiff Appellant	Defendant Respondent	Case Type	Additional Information
2.	VLC-S-S-110606	JANUARY 31, 2011	LYON, BARBARA	130 BROADWAY WEST INVESTMENTS INC. MOUNTAIN EQUIPMENT CO-OPERATIVE	SUPREME CIVIL (GENERAL)	Court Location: VANCOUVER LAW COURTS Initiating Document: NOTICE OF CIVIL CLAIM FILED 31JAN2011 Last Document: CONSENT ORDER FILED 04MAR2014
3.	VIC-S-S-201286	MARCH 23, 2020	CHILTON, SARAH	MOUNTAIN EQUIPMENT CO-OPERATIVE	SUPREME CIVIL (GENERAL)	Court Location: VICTORIA LAW COURTS Initiating Document: NOTICE OF CIVIL CLAIM FILED 23MAR2020 Last Document: RESPONSE TO CIVIL CLAIM FILED 14APR2020

(b) *Alberta*(i) *Personal Property Security Act (Alberta)*

	Registration No.	Current Debtor	Current Secured Party	Current General Collateral Description and other Particulars
1.	17073129667 Amended: 17080116491	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA, AS AGENT	Expiry Date: JULY 31, 2022 ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.
2.	17073129676 Amended: 17080116556	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA, AS AGENT	Expiry Date: NONE

Confidential

(a) *Manitoba*(i) *Personal Property Security Act (Manitoba)*

	Registration No.	Current Debtor	Current Secured Party	Current General Collateral Description and other Particulars
1.	202012181800	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA, AS AGENT	<p>Expiry Date: JANUARY 30, 2025</p> <p>WITH RESPECT TO THE PROPERTY CIVICALLY KNOWN AS 303 PORTAGE AVENUE, WINNIPEG, MANITOBA, AND LEGALLY DESCRIBED AS:</p> <p>LOTS 319 AND 320 BLOCK 3 PLAN 129 WLTO (W DIV) IN RL 1 PARISH OF ST JOHN</p> <p>(THE "PROPERTY")</p> <p>THE BUSINESS DEBTOR HEREBY ASSIGNS, TRANSFERS AND SETS OVER TO THE SECURED PARTY, AS AGENT FOR AND ON BEHALF OF THE LENDERS, AND CREATES A SECURITY INTEREST IN (AS CONTINUING COLLATERAL AND ADDITIONAL SECURITY FOR THE OBLIGATIONS) ALL OF THE ASSIGNOR'S RESPECTIVE RIGHT, TITLE, BENEFIT AND INTEREST IN AND TO:</p> <p>(A) THE LEASES AND ALL BENEFITS, POWERS AND ADVANTAGES OF THE BUSINESS DEBTOR TO BE DERIVED THEREFROM AND ALL COVENANTS, OBLIGATIONS, UNDERTAKINGS AND AGREEMENTS OF TENANTS THEREUNDER; AND</p> <p>(B) THE RENTS, WITH FULL POWER AND AUTHORITY TO DEMAND, COLLECT, SUE FOR, RECOVER, RECEIVE AND GIVE RECEIPTS FOR THE RENTS, AND TO ENFORCE PAYMENT OF THE RENTS IN THE NAME OF THE BUSINESS DEBTOR.</p> <p>UNLESS OTHERWISE DEFINED HEREIN, ALL CAPITALIZED TERMS AND EXPRESSIONS USED HEREIN SHALL HAVE THE SAME MEANING AS SET OUT IN THE GENERAL ASSIGNMENT OF LEASES AND RENTS MADE BETWEEN THE SECURED PARTY AND THE BUSINESS DEBTOR DATED JULY 29, 2020.</p>
2.	201713932804	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA, AS AGENT	<p>Expiry Date: AUGUST 1, 2022</p> <p>*THE SECURITY INTEREST IS TAKEN IN ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.</p>

Confidential

(i) *Litigation*

	<b>Court File No.</b>	<b>Plaintiff Appellant</b>	<b>Defendant Respondent</b>	<b>Additional Information</b>
1.	CI11-01-73074	MULLIGAN, RUSSELL	MOUNTAIN EQUIPMENT CO-OPERATIVE THE CITY OF WINNIPEG	COURT LOCATION: WINNIPEG QB STATEMENT OF CLAIM REGISTERED JULY 11, 2011 STATEMENT OF DEFENCE REGISTERED DECEMBER 1, 2011 NOTICE OF DISCONTINUANCE OF ST/CL, AGST BOTH DEFS REGISTERED FEBRUARY 26, 2015

(b) *Ontario*(i) *Personal Property Security Act (Ontario)*

	<b>File No. / Registration No.</b>	<b>Current Debtor</b>	<b>Current Secured Party</b>	<b>Current Collateral Classification</b>	<b>Current Collateral Description and other Particulars</b>
1.	730382877 / 20170731 1539 1862 1162 Amended: 730382877 / 20170801 1201 1862 1238	MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	ROYAL BANK OF CANADA, AS AGENT	INVENTORY, EQUIPMENT, ACCOUNTS AND OTHER, WITH MOTOR VEHICLE INCLUDED	Expiry Date: JULY 31, 2022

(i) *Litigation*

	<b>Jurisdiction Court File No.</b>	<b>Case Opened Date</b>	<b>Case Status</b>	<b>Plaintiff Appellant</b>	<b>Defendant Respondent</b>	<b>Amount</b>	<b>Last Event / Result / Information</b>
1.	TORONTO / CV2000635554000	February 3, 2020	N/A	LASH, GEORGETTE	MOUNTAIN EQUIPMENT COOP ELM LANDSCAPING LTD.	\$200,000.00	N/A

Confidential

(b) *Quebec*(i) *Register of Personal and Movable Real Rights (Hypothecs And Hypothecary Rights)*

	Debtor(s)	Secured Party(ies)	Registration Number / Nature	Date / Expiry Date	Collateral Description	Comments
1.	MOUNTAIN EQUIPMENT CO-OPERATIVE COOPÉRATIVE MOUNTAIN EQUIPMENT	ROYAL BANK OF CANADA	17-0817207-0001 / CONV. HYP. WITHOUT DELIVERY	AUG. 3, 2017 / AUG. 3, 2027	THE UNIVERSALITY OF ALL MOVABLE PROPERTY.	AMOUNT: \$200,000,000.00

(c) *Nova Scotia*(i) *Personal Property Security Act (Nova Scotia)*

	Registration No. / File No.	Current Debtor	Current Secured Party	Current General Collateral Description and other Particulars
1.	28047462 / SM001511.172	MOUNTAIN EQUIPMENT CO-OPERATIVE	ROYAL BANK OF CANADA	Expiry Date: AUGUST 1, 2022 A SECURITY INTEREST IS TAKEN IN ALL OF THE DEBTOR'S PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.

2. **1314625 Ontario Limited**(a) *British Columbia*(i) *Personal Property Security Act (British Columbia)*

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
1.	175058K / D4686730 Amended by: 177631K / D4690163	MOUNTAIN EQUIPMENT CO-OPERATIVE 1314625 ONTARIO LIMITED	ROYAL BANK OF CANADA, AS AGENT	Expiry Date: JULY 31, 2022 ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.

Confidential

(a) *Ontario*(i) *Personal Property Security Act (Ontario)*

	<b>File No. / Registration No.</b>	<b>Current Debtor</b>	<b>Current Secured Party</b>	<b>Current Collateral Classification</b>	<b>Current Collateral Description and General and other Particulars</b>
1.	730382877 / 20170731 1539 1862 1162  Amended: 730382877 / 20170801 1201 1862 1238	MOUNTAIN EQUIPMENT CO-OPERATIVE  1314625 ONTARIO LIMITED	ROYAL BANK OF CANADA, AS AGENT	INVENTORY, EQUIPMENT, ACCOUNTS AND OTHER, WITH MOTOR VEHICLE INCLUDED	Expiry Date: JULY 31, 2022

Confidential

**SCHEDULE "E" - CLAIMS TO BE DELETED FROM TITLE TO REAL PROPERTY****BRITISH COLUMBIA****13340 76 Avenue, Surrey, BC****a) Instruments to be deleted from PID: 005-054-745**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
CA6198144	August 3, 2017	Mortgage	Unlimited	Mountain Equipment Co-operative	Royal Bank of Canada
CA6198145	August 3, 2017	Assignment of Rents		Mountain Equipment Co-operative	Royal Bank of Canada
CA8334711	July 30, 2020	Modification (of Mortgage CA6198144)		Mountain Equipment Co-operative	Royal Bank of Canada
CA8334712	July 30, 2020	Modification (of Assignment of Rents CA6198145)		Mountain Equipment Co-operative	Royal Bank of Canada

**212 Brooksbank Avenue, North Vancouver, BC****a) Instruments to be deleted from PID: 011-388-391**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
CA1773344	October 20, 2010	Notice of Interest, Builders Lien		Mountain Equipment Co-operative	Mountain Equipment Co-operative
CA6198144	August 3, 2017	Mortgage	Unlimited	Mountain Equipment Co-operative	Royal Bank of Canada
CA6198145	August 3, 2017	Assignment of Rents		Mountain Equipment Co-operative	Royal Bank of Canada
CA8334711	July 30, 2020	Modification (of Mortgage CA6198144)		Mountain Equipment Co-operative	Royal Bank of Canada
CA8334712	July 30, 2020	Modification (of Assignment of Rents CA6198145)		Mountain Equipment Co-operative	Royal Bank of Canada

**ALBERTA****830 10 Avenue SW, Calgary, AB****a) Instruments to be deleted from Title Number 991 373 010**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
171 183 782	August 18, 2017	Mortgage	\$200,000,000.00	Mountain Equipment Co-operative	Royal Bank of Canada

Confidential

171 183 783	August 18, 2017	Caveat re: Assignment of Rents and Leases		Mountain Equipment Co-operative	Royal Bank of Canada
201 143 810	August 15, 2020	Caveat re: Amending Agreement (amends Mortgage under Reg. No. 171 183 782)		Mountain Equipment Co-operative	Royal Bank of Canada
201 143 811	August 15, 2020	Caveat re: Assignment of Rents and Leases (amends Caveat re: Assignment of Rents and Leases under Reg. No. 171 183 783)		Mountain Equipment Co-operative	Royal Bank of Canada

**MANITOBA****303 Portage Avenue, Winnipeg, Manitoba****a) Instruments to be deleted from Title Number 2917179/1**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	Parties To
12956/1	July 7, 1903	Caveat		Etal M. Fortune	
5196018/1	July 31, 2020	Mortgage	\$200,000,000	Mountain Equipment Co-operative	Royal Bank of Canada
5196019/1	July 31, 2020	Caveat re: Assignments of Rents and Leases		Royal Bank of Canada	Goff Robley, as agent
5196020/1	July 31, 2020	Personal Property Security Notice (Expires 07/30/2025 (Payments under a lease)		Royal Bank of Canada	Goff Robley, as agent

**ONTARIO****1030 Brant Street, Burlington****a) Instruments to be deleted from PIN 04007081-0411 (LT), PIN 07081-0253 (LT) and PIN 07081-0254 (LT)**

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
HR1478303	August 3, 2017	Mortgage	\$200,000,000.00	Mountain Equipment Co-operative	Royal Bank of Canada



Confidential

**366 Richmond Road, Ottawa**

- a) Instruments to be deleted from PIN 04017-0142 (LT), PIN 04017-0145 (LT) and PIN 04017-0201 (LT)

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
OC1916147 *As to PIN 04017-0142 (LT), 04017-0145 (LT) and 04017-0201 (LT)	August 3, 2017	Mortgage	\$200,000,000.00	Mountain Equipment Co-operative	Royal Bank of Canada
OC1916146 * As to PIN 04017-0143 (LT)	August 3, 2017	Mortgage	\$200,000.00	1314625 Ontario Limited	Royal Bank of Canada
LT1207450 *As to PIN 04017-0142 (LT) only	June 30, 1999	Application to Annex Restrictive Covenants		Mountain Equipment Co-operative	Sun Life Assurance Company of Canada

**784 Sheppard Avenue East, North York, Ontario**

- a) Instruments to be deleted from PIN 10059-0267 (LT)

Reg. No.	Registration Date	Instrument Type	Amount	Parties From	In Favour of
AT4646897	August 3, 2017	Mortgage	\$200,000,000.00	Mountain Equipment Co-operative	Royal Bank of Canada

Confidential

## SCHEDULE "F" - PERMITTED ENCUMBRANCES - PERSONAL PROPERTY

Mountain Equipment Co-operative

British Columbia

Personal Property Security Act (British Columbia)

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
2.	939821H / D2402458	MOUNTAIN EQUIPMENT CO-OPERATIVE	CIT FINANCIAL LTD.	Expiry Date: MAY 6, 2021 PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.
3.	141283I / D2608843	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: AUGUST 22, 2020 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9769864-001)
4.	141299I / D2608871	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: AUGUST 22, 2020 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9769866-001)

Confidential

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
5.	3783521 / D2851671	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: JANUARY 7, 2021 ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)
6.	4317151 / D2906468	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: FEBRUARY 9, 2021 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796948-001)
7.	4317161 / D2906469	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: FEBRUARY 9, 2021 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796951-001)
8.	4317181 / D2906471	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: FEBRUARY 9, 2021 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796954-001)

Confidential

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
9.	453961I / D2929321 Renewed: 029225J / D3517375 Renewed: 083144J / D3572509 Collateral Added: 131142J / D3621603 Renewed: 463788K / D4982280 Renewed: 140201L / D5671343 Partially Discharged: 396565L / D5932781 Renewal: 886765L / D6431951	MOUNTAIN EQUIPMENT CO-OP	C. KEAY INVESTMENTS LTD. DBA OCEAN TRAILER C. KEAY INVESTMENTS LTD. C. KEAY INVESTMENTS LTD.	Expiry Date: FEBRUARY 23, 2021 Vehicle Type: TR Serial No.: 1JJV532T3SL275998 Year: 1995 Make/Model: WABASH 53T/A DRY VAN SPR Collateral: TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.
10.	537484J / D4036761	MOUNTAIN EQUIPMENT CO-OPERATIVE	WELLS FARGO EQUIPMENT FINANCE COMPANY	Expiry Date: SEPTEMBER 14, 2022 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9882171-001)
11.	562051J / D4061962	MOUNTAIN EQUIPMENT CO-OPERATIVE	CIT FINANCIAL LTD.	Expiry Date: SEPTEMBER 27, 2022 RICOH PRINTERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.

Confidential

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
12	415013K / D4932386	MOUNTAIN EQUIPMENT CO-OPERATIVE	APPLE CANADA INC.	<p>Expiry Date: NOVEMBER 22, 2020</p> <p>ALL GOODS WHICH ARE COMMUNICATION &amp; ELECTRONIC DEVICES MANUFACTURED, DISTRIBUTED OR SOLD BY APPLE CANADA INC., THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL (REFERENCE NO. 9946246-001) FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)</p>
13	884391K / D5410654	MOUNTAIN EQUIPMENT CO-OPERATIVE	LBEL INC.	<p>Expiry Date: JULY 10, 2024</p> <p>PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.</p>
14	669057L / D6210317	G.N. JOHNSTON EQUIPMENT CO. LTD.	MOUNTAIN EQUIPMENT CO-OPERATIVE	<p>Expiry Date: JULY 30, 2023</p> <p>Vehicle Collateral:  Type: MV  Serial No.: 560-19-B46074  Year: 2019  Make/Model: RAYMOND 560-OPC30TT</p> <p>Vehicle Collateral:  Type: MV  Serial No.: 560-19-B46076  Year: 2019  Make/Model: RAYMOND 560-OPC30TT</p> <p>Vehicle Collateral:  Type: TR  Serial No.: 560-19-B46078  Year: 2019  Make/Model: RAYMOND 560-OPC30TT</p> <p>(3) DEKA BATTERIES 18D125136C79 S/N 2005AI 2011AI 2012AI AND (3) DEKA CHARGERS Q4-24/36-150BB S/N 2-10-0119-00314 2-10-0519-20936 2-10-1218-20820 REF. 509297</p>

Confidential

	Registration No. / Control No.	Current Debtor	Current Secured Party	Current General Collateral Description and Other Particulars
15.	906149L / D6451746	MOUNTAIN EQUIPMENT CO-OPERATIVE	LBEL INC.	<p>Expiry Date: NOVEMBER 21, 2025</p> <p>PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS</p>
16.	108152M / D6657304	MOUNTAIN EQUIPMENT CO-OPERATIVE	WELLS FARGO EQUIPMENT FINANCE COMPANY	<p>Expiry Date: MARCH 9, 2026</p> <p>ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, 3D PRINTERS, PRODUCTION PRINTERS, INDUSTRIAL INKJETS, DIGITAL PRESSES, DIGITAL SIGNAGE, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE WHITEBOARDS, SERVERS, AND SOFTWARE, OFFICE FURNITURE (CHAIRS, TABLES, ACCESSORIES), TELEPHONY, COMPUTERS, TELECONFERENCING EQUIPMENT, MAILING SYSTEMS, FOLDER INSERTERS. THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL (REFERENCE NO. 8326544- 001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)</p>

Confidential

## Alberta

## Personal Property Security Act (Alberta)

	Registration No.	Current Debtor	Current Secured Party	Current General Collateral Description and other Particulars
17	15010726580	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: JANUARY 7, 2021 ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)
18	15020934670	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: FEBRUARY 9, 2021 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796939-001)
19	15020934682	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE VFS CANADA LIMITED PARTNERSHIP	Expiry Date: FEBRUARY 9, 2021 ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796937-001)
20	19112122796	MOUNTAIN EQUIPMENT CO-OPERATIVE	LBEL INC.	Expiry Date: NOVEMBER 21, 2025 PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

Confidential

**Manitoba***Personal Property Security Act (Manitoba)*

	Registration No.	Current Debtor	Current Secured Party	Current General Collateral Description and other Particulars
21	201920179806	MOUNTAIN EQUIPMENT CO-OPERATIVE	LBEL INC.	Expiry Date: NOVEMBER 21, 2025 PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

**Ontario***Personal Property Security Act (Ontario)*

	File No. / Registration No.	Current Debtor	Current Secured Party	Current Collateral Classification	Current General Collateral Description and other Particulars
22	757827126 / 20191121 1512 1901 4810	MOUNTAIN EQUIPMENT CO-OPERATIVE	LBEL INC.	EQUIPMENT AND OTHER	Expiry Date: NOVEMBER 21, 2025 PHOTOCOPIERS WITH ALL ACCESSORIES
23	720977499 / 20160927 1126 1616 0567	MOUNTAIN EQUIPMENT CO-OPERATIVE	CIT FINANCIAL LTD.	EQUIPMENT AND OTHER	Expiry Date: SEPTEMBER 27, 2022 RICOH PRINTERS AND ACCESSORIES
24	703529262 / 20150209 1851 5064 9241	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE CANADA LIMITED PARTNERSHIP	EQUIPMENT	Expiry Date: FEBRUARY 9, 2021 ACCOUNT SCHEDULE - 9796936001
25	703529271 / 20150209 1855 5064 9244	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE CANADA LIMITED PARTNERSHIP	EQUIPMENT	Expiry Date: FEBRUARY 9, 2021 ACCOUNT SCHEDULE - 9796933001
26	703529289 / 20150209 1856 5064 9245	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE CANADA LIMITED PARTNERSHIP	EQUIPMENT	Expiry Date: FEBRUARY 9, 2021 ACCOUNT SCHEDULE - 9796943001
27	703828387 / 20150107 1559 5064 8135	MOUNTAIN EQUIPMENT CO-OPERATIVE	GE CANADA LIMITED PARTNERSHIP	EQUIPMENT	Expiry Date: JANUARY 7, 2021 ACCOUNT SCHEDULE - 9792123001



Confidential

Quebec

## Register of Personal and Movable Real Rights (Other Registrations)

	Debtor(s)	Secured Party(ies)	Registration Number / Nature	Date / Expiry Date	Collateral Description	Comments
1.	COOPÉRATIVE MOUNTAIN EQUIPMENT  MOUNTAIN EQUIPMENT OPERATIVE CO-	LBEL INC.	19-1327984-0001 / RIGHTS OF OWNERSHIP OF THE LESSOR UNDER A LEASING AGREEMENT	NOV. 22, 2019 / OCT. 10, 2025	SPECIFICALLY DESCRIBED PRINTERS.	<u>CONTRACT NUMBER.</u> 100411519-19

Confidential

**SCHEDULE "G" - PERMITTED ENCUMBRANCES - REAL PROPERTY**

**GENERAL**

**(Applies to all Purchased Real Property Assets)**

[Note: to insert the real property related encumbrances that are set out in the definition of "Permitted Encumbrances" under the APA]

**SPECIFIC INSTRUMENTS**

**(per jurisdiction)**

**BRITISH COLUMBIA**

**13340 76 Avenue, Surrey, BC**

<b>Registration Number</b>	<b>Date</b>	<b>Instrument Type</b>
L67964	August 15, 1975	Right of First Refusal
N57158	June 8, 1977	Right of First Refusal (extending Right of First Refusal L67964)
AB200715	September 30, 1988	Right of First Refusal (Assignment of Right of First Refusal L67964)
BR347063	December 20, 2001	Right of First Refusal (modification of Right of First Refusal L67964)
BA527656	July 12, 2006	Modification (of Right of First Refusal L67964)
BA603353	December 22, 2006	Covenant
BA603354	December 22, 2006	Covenant

**212 Brooksbank Avenue, North Vancouver, BC**

<b>Registration Number</b>	<b>Date</b>	<b>Instrument Type</b>
556246M	May 29, 1972	Right of Way
G15282	March 12, 1979	Right of Way
BB1176148	July 29, 2010	Covenant
CA2060961	June 17, 2011	Covenant
CA2060962	June 17, 2011	Covenant
CA2060963	June 17, 2011	Covenant
CA2060964	June 17, 2011	Statutory Right of Way
CA2060965	June 17, 2011	Covenant
CA2060966	June 17, 2011	Statutory Right of Way
CA2314556	December 14, 2011	Covenant
CA2314557	December 14, 2011	Statutory Right of Way
CA2391685	February 14, 2012	Statutory Right of Way
CA2391686	February 14, 2012	Statutory Right of Way
CA2737044	August 27, 2012	Covenant
CA2752086	September 4, 2012	Statutory Right of Way

**ALBERTA**

Confidential

830 10 Avenue SW, Calgary, AB

Registration Number	Date	Instrument Type
161 271 171	November 14, 2016	Utility Right of Way

MANITOBA303 Portage Avenue, Winnipeg, Manitoba

**[Note : Manitoba counsel to confirm whether instrument number 12956/1 indicated in Schedule "E" hereto should be deleted from title or if such instrument is a permitted encumbrance. In the latter case, such instrument should be added to the table below.]**

ONTARIO1030 Brant Street, Burlington

Registration Number	Date	Instrument Type
HR567544	May 16, 2007	Transfer-PIN 07081-0411 (LT)
HR579483	June 29, 2007	Transfer PIN 07081-0253 (LT)
HR595183	August 17, 2007	Transfer PIN 07081-0254 (LT)
624841	August 21, 1985	Development Agreement PIN 07081-0411 (LT) only
805130	May 23, 1983	Agreement regarding Ingress and Egress PIN 07081-0411 (LT) only
HR641374	February 11, 2008	Development Agreement
HR648712	March 17, 2008	Agreement amending Development Agreement HR641374
19980	January 25, 1961	By-Law 1945
HR77893	October 10, 2001	Application (General)

366 Richmond Road, Ottawa

Registration Number	Date	Instrument Type
LT1207449	June 30, 1997	Transfer-PIN 04017-0142 (LT)
OC1207449	May 31, 2007	Transfer PIN 04017-0145 (LT)
OC696113	March 14, 2007	Transfer PIN 04017-0201 (LT)
LT1175950	January 26, 1999	Transfer PIN 04017-0143 (LT)
LT1180465	February 19, 1999	Transfer PIN 04017-0143 (LT)
OC1475005	May 8, 2013	Transfer Easement PIN 04017-0145 (LT) and PIN 04017-0201 (LT) and PIN 04017-0142
OC1381028	July 4, 2012	Transfer Easement PIN 04017-0143 (LT) only
OC1475004	May 8, 2013	Transfer Easement PIN 04017-0201 (LT) only
LT1229978	September 20, 1999	Site Plan Control Agreement PIN 04017-0142 (LT) and PIN 04017-0143
CR668702	April 9, 1975	Site Plan Agreement PIN 04017-0145 (LT) only

Confidential

NS6100	February 28, 1978	Amending Site Plan Agreement PIN 04017-0145 (LT) only
OC1339043	March 5, 2012	Site Plan Agreement
OC1339044	March 5, 2012	Maintenance & Liability Agreement
OC1339045	March 5, 2012	On Site Parking Agreement
LT1289591	June 8, 2000	Application to Annex Restrictive Covenants

**784 Sheppard Avenue East, North York, Ontario**

Registration Number	Date	Instrument Type
AT2974641	March 26, 2012	Transfer
AT3895818	May 28, 2015	Easement
AT4283935	July 10, 2016	Transfer Easement
AT3895820	May 28, 2015	Reciprocal Easement and Cost Sharing Agreement
AT4283934	July 20, 2016	Site Plan Agreement

Confidential

No. \_\_\_\_\_  
Vancouver Registry

---

In the Supreme Court of British Columbia  
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT*  
*ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND  
1314625 ONTARIO LIMITED

Petitioners

---

**ORDER MADE AFTER APPLICATION**

---

**NORTON ROSE FULBRIGHT CANADA LLP**

Barristers &amp; Solicitors

1800 – 510 West Georgia Street

Vancouver, BC V6B 0M3

Attention: Howard A. Gorman, Q.C.

Filing Agent: West Coast Title Search

SCB/ker

Matter# 1001118436

**SCHEDULE 1.1(bb)**  
**Collective Agreements**

1. Retail Wholesale Union Agreement dated January 19, 2018 between Retail Wholesale Union Local 580 and Mountain Equipment Co-operative, effective June 1, 2017 to May 31, 2020. [REDACTED]  
[REDACTED]
2. Collective Agreement dated November, 2018 between Mountain Equipment Co-operative and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union on behalf of its Local 9042, effective July 1, 2018 to June 30, 2021.
3. Collective Agreement between Mountain Equipment Co-operative (Vancouver and Victoria stores) and United Food & Commercial Workers, Local 1518, effective January 6, 2020 to June 1, 2021. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
4. A petition for union certification identifying Mountain Equipment Co-operative as employer was filed by the Syndicat des travailleuses et travailleurs du commerce - CSN with the Québec Tribunal administratif du travail on July 26, 2020 in relation to MEC's Montreal store. Further details on this certification are as disclosed separately to the Buyer in the Firmex virtual data room established by Alvarez & Marsal Canada Securities ULC in connection with the transaction that is the subject matter of the Agreement (the "Project Data Room") in subfolder N.1.a.

**SCHEDULE 1.1(oo)  
Disclosed Documents**

All documents, materials and other files disclosed by the Sellers to the Buyer in the Project Data Room.

**SCHEDULE 1.1(pp)  
Employee Plans**

**Employee benefit plans**

1. Group Policy no. 87418 with Sun Life Assurance Company of Canada (as amended), Amendment Agreement No. 45 effective January 1, 2020 and issued May 20, 2020. This policy includes basic and optional member life insurance, basic and option dependant life insurance, short term disability, optional critical illness insurance, and extended health (drug, vision care, supplementary hospital and health care benefits, out-of-province and travel assistance).
2. Group Policy no. 25516 with Sun Life Assurance Company of Canada (as amended), effective July 1, 2019 and issued October 25, 2019. This policy provides dental coverage.
3. Basic Accident Insurance (Accidental Death and Dismemberment) Policy no. 1J465, included in MEC's group plan with Sun Life and underwritten by SSQ Insurance Company Inc. While the policy wording is included in Sun Life booklets and is also administered online by Sun Life, the benefit is fully underwritten by SSQ.
4. Voluntary Accidence Insurance (Accidental Death and Dismemberment) Policy no. 1J490, included in MEC's group plan with Sun Life and underwritten by SSQ Insurance Company Inc. While the policy wording is included in Sun Life booklets and is also administered online by Sun Life, the benefit is fully underwritten by SSQ.
5. Group Insurance Benefit Policy no. 901496 with Royal Bank of Canada, effective September 1, 2017, current revision issued November 14, 2019. This policy provides long term disability insurance benefits. This benefit is currently up for renewal effective September 1, 2020.
6. Health Care Spending Account Agreement (HCSA), dated April 1, 2006, with Dehoney Financial Group, as amended, under which all MEC casual employees and part-time employees of the Western Distribution Centre are covered. The casual employee category is being phased out, with 9 employees remaining under coverage. The part-time WDC employees remain covered.
7. Group Retirement Savings Plan (Policy no. 38006) with The Great-West Life Assurance Company, as amended effective December 15, 2019, for Mountain Equipment Co-operative full-time employees, part-time employees and executives. The group annuity contract for the RRSP is issued by London Life Insurance Company, a subsidiary of Great-West Life. The RRSP includes the following informational guides:
  - (a) MEC Group RRSP Governance Manual, dated November 2015, providing a working guide for the governance of the Group Retirement Savings Plan referenced above.
  - (b) MEC Group RSP Statement of Investment Policies and Guidelines, dated November 2015, relating to the Group Retirement Savings Plan referenced above.
8. Professional Services Agreement, dated August 1, 2020, between Mountain Equipment Co-operative and Family Services Employee Assistance Programs (FSEAP) Vancouver, a division of Family Services of Greater Vancouver, under which eligible employees and family members receive certain employee and family assistance program services.
9. Private Health Services Plan (PHSP) for Mountain Equipment Co-op dated March 5, 2018, with Dehoney Financial Group, under which all employees can be covered by the maintained PHSP cost plus plan.



10.

**Other MEC employee perks and benefits - Policies and programs**

11. Employee Purchase Policy, under which all MEC employees (including those on approved leaves of absence) receive the following discounts for themselves and immediate family: [REDACTED] discount for MEC apparel; [REDACTED] discount for MEC hardgoods; [REDACTED] for all brand partners. Certain former employees with lengthy tenures who have demonstrated exceptional service to MEC have been awarded lifetime discounts. The award of lifetime discounts is granted by the executive team.
12. Supplier Promotion Deals (Pro Deals) Policy, under which all MEC staff and directors are eligible for certain supplier promotional deals, as managed by the Buying & Design department. This program was temporarily paused due to COVID-19. MEC intends to re-instate this program following COVID-19, but has not communicated to employees a date by which this policy will be resumed.
13. Equipment Demonstration Program & Rental Equipment Policy, under which MEC employees at MEC store locations and Home Office employees may borrow demonstration equipment for personal use free of charge, and rent full-service equipment at a discounted rate. This policy was paused due to COVID-19, and was recently re-instated for MEC store locations for hardgoods only, with proper sanitization of such equipment.
14. Paid Volunteerism Program, under which permanent employees with a minimum of one year of service with MEC may apply to have up to 16 hours per year of volunteer time paid by MEC. As communicated to employees on the related HR webpage, this program was temporarily paused in April of 2020 due to the COVID-19 pandemic. MEC has advised its employees that they would be updated when this program is re-instated, but has not communicated to employees a date by which this policy will be resumed.
15. Employee Gifts and Awards Policy, under which employees receive a gift card in the amount of \$10 per year of service after each 5 years of continuous service. This program is currently paused. MEC has not communicated to employees a date by which this policy will be resumed.
16. Membership in Professional Associations Policy, under which all full-time and part-time employees with a minimum of one year of service with MEC may apply for reimbursement of membership costs with professional associations that benefit the employee and MEC. As communicated to employees on the related HR webpage, this program was temporarily paused in April of 2020 due to the COVID-19 pandemic. MEC has advised its employees that they would be updated when this program is re-instated, but has not communicated to employees a date by which this policy will be resumed.
17. Tuition Reimbursement Program, under which regular full-time and part-time employees are entitled to [REDACTED] reimbursement of tuition costs per annum. As communicated to employees on the related HR webpage, this program was temporarily paused in April of 2020 due to the COVID-19 pandemic. MEC has advised its employees that they would be updated when this program is re-instated, but has not communicated to employees a date by which this policy will be resumed.
18. Referral Bonuses Policy, under which current employees receive a basic [REDACTED] referral bonus for referring a candidate who completes an initial 3 month induction period.

**SCHEDULE 1.1(xx)  
Escrow Agreement**

See attached.

**ESCROW AGREEMENT**

*(Working Capital Adjustment and Deposit Amount)*

**ESCROW AGREEMENT** (the "**Agreement**") dated as of September 11, 2020,

**AMONG:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association governed by the laws of British Columbia ("**MEC**")

- and -

**1314625 ONTARIO LIMITED**, a corporation governed by the laws of Ontario ("**131 Ltd.** " and, collectively with MEC, the "**Sellers**")

- and -

**1264686 B.C. Ltd.**, a corporation governed by the laws of British Columbia (the "**Buyer**")

- and -

**CASSELS BROCK & BLACKWELL LLP**, solely in its capacity as escrow agent (the "**Escrow Agent**")

**WHEREAS** the Sellers and the Buyer have entered into an Asset Purchase Agreement, dated as of September [11], 2020 (the "**Asset Purchase Agreement**"), under which, among other things, the Purchased Assets (as defined in the Asset Purchase Agreement) will be transferred to, and the Assumed Liabilities (as defined in the Asset Purchase Agreement) will be assumed by, the Buyer pursuant to the Asset Purchase Agreement and an Approval and Vesting Order (as defined in the Asset Purchase Agreement) under proceedings pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA Proceedings**");

**WHEREAS** the Asset Purchase Agreement contemplates that on the Closing Date (as defined in the Asset Purchase Agreement), the Buyer shall pay to the Escrow Agent, by wire transfer of immediately available funds an amount equal to [REDACTED] to be distributed in accordance with Section 3.4 of the Asset Purchase Agreement following the determination of the Final Working Capital and Final Cash and Cash Equivalents (as those terms are defined in the Asset Purchase Agreement), to be held (in a separate account), managed and distributed by the Escrow Agent on the terms and conditions set forth herein;

**WHEREAS** pursuant to the Asset Purchase Agreement, the Buyer concurrently with execution herewith shall deposit with the Escrow Agent, a deposit in the amount of [REDACTED] to be distributed in accordance with Section 3.1(d) through (f) of the Asset Purchase Agreement in the event of Closing or termination of the Asset Purchase Agreement, and to otherwise be held (in a separate account), managed and distributed by the Escrow Agent on the terms and conditions set forth herein;

WHEREAS, the Sellers and the Buyer wish to appoint the Escrow Agent to act as escrow agent in connection with the Asset Purchase Agreement; and

WHEREAS, the foregoing recitals are representations and statements of fact made by the Sellers and the Buyer and not by the Escrow Agent;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH THAT, in consideration of the foregoing recitals, the covenants and agreements hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement and not otherwise defined herein shall have the respective meanings assigned to them in the Asset Purchase Agreement. For the purposes of this Agreement, the following terms shall have the following meanings:
  - (a) "Asset Purchase Agreement" has the meaning specified in the recitals.
  - (b) "Business Day" means any day other than a Saturday, Sunday or any other day on which banking institutions in Vancouver, British Columbia are not open for the transaction of normal banking business.
  - (c) "Escrow Amount" means [REDACTED] plus (i) any interest or other amounts accrued thereon in accordance with Section 4, less (ii) any amount deducted pursuant to Sections 6 and 7 hereof, and less (iii) any amounts paid pursuant to this Agreement.
  - (d) "Deposit Amount" means [REDACTED] plus (i) any interest or other amounts accrued thereon in accordance with Section 4, less (ii) any amount deducted pursuant to Sections 6 and 7 hereof, and less (iii) any amounts paid pursuant to this Agreement
  - (e) "Held Amount" refers to the Deposit Amount or the Escrow Amount, as applicable in the circumstances, and "Held Amounts" refers to the Deposit Amount and Escrow Amount in all cases, including any interest earned thereon.
  - (f) "Loss Notice" has the meaning specified in Section 7.(a).
2. **Appointment of Escrow Agent.** The Sellers and the Buyer hereby appoint the Escrow Agent to act as agent on their behalf pursuant to this Agreement, and the Escrow Agent hereby accepts such appointment on the terms and conditions of this Agreement. The Sellers and Buyer both acknowledge that, in addition to acting as escrow agent hereunder, the Escrow Agent is, or will be proposed to be, counsel to the court-appointed monitor of the Sellers, pursuant to the CCAA Proceedings, and the Sellers and Buyer agree that acting as Escrow Agent does not create a conflict with the Escrow Agent's role as counsel to the court-appointed monitor.
3. **Delivery of the Deposit Amount and Escrow Amount.**
  - (a) Concurrently with the execution of this Agreement, the Buyer shall remit to the Escrow Agent the amount of [REDACTED] by way of wire transfer of immediately available funds. The Escrow Agent shall forthwith after receipt thereof acknowledge its receipt of such funds.

- (b) At the Closing, the Buyer shall remit to the Escrow Agent an amount equal to [REDACTED] by way of wire transfer of immediately available funds. The Escrow Agent shall forthwith after receipt thereof acknowledge its receipt of such funds.
- (c) The Escrow Agent will disburse monies according to this Agreement only to the extent that monies have been deposited with it and have actually cleared.

#### 4. Placement of Held Amounts.

- (a) Until released in accordance with this Agreement, each of the Deposit Amount and Escrow Amount shall be kept segregated in the records of the Escrow Agent and designated in the name of the Sellers and the Buyer and shall be deposited in a separate non-investment, interest-bearing trust account or accounts to be maintained by the Escrow Agent in the name of the Escrow Agent, as escrow agent for the Buyer and the Sellers, at one or more Schedule I Canadian banks (each such bank, an "**Approved Bank**"), and is not required to otherwise invest such funds. The Held Amounts shall be held as a trust fund and shall not be subject to any security interest, lien, attachment, garnishment or any judicial process of any creditor or any party hereto. The Escrow Agent shall not distribute or release the Held Amounts except in accordance with the express terms and conditions of this Agreement.
- (b) All amounts held by the Escrow Agent pursuant to this Agreement shall be held by the Escrow Agent for the Sellers and the Buyer and the delivery of the Held Amounts to the Escrow Agent shall not give rise to a debtor-creditor or other similar relationship. The amounts held by the Escrow Agent pursuant to this Agreement are at the sole risk of the Sellers and the Buyer and, without limiting the generality of the foregoing, the Escrow Agent shall have no responsibility or liability for any diminution of the Held Amounts which may result from any deposit made with an Approved Bank pursuant to this Section 4, including any losses resulting from a default by the Approved Bank or other credit losses (whether or not resulting from such a default) and any credit or other losses on any deposit liquidated or sold prior to maturity. The parties hereto acknowledge and agree that the Escrow Agent will have acted prudently in depositing the Held Amounts at any Approved Bank, and that the Escrow Agent is not required to make any further inquiries in respect of any such bank.
- (c) At any time and from time to time, the Buyer and the Sellers shall be entitled to jointly direct the Escrow Agent by joint written notice (a) not to deposit any new amounts in any Approved Bank specified in the notice and/or (b) to withdraw all or any of the Held Amounts that may then be deposited with any Approved Bank specified in the notice and re-deposit such amount with one or more of such other Approved Banks as specified in the notice. With respect to any withdrawal notice, the Escrow Agent will withdraw such amount specified in the notice as soon as reasonably practicable and the Sellers and the Buyer acknowledge and agree that such specified amount remains at the sole risk of the Buyer prior to and after such withdrawal.
- (d) Interest earned and paid on the Held Amounts (if any) ("**Interest**") will be added to and form part of the Held Amounts. Interest earned net of any bank charges or fees incurred on or related to the Held Amounts will be for the benefit of the party to whom such Held Amount is released.

5. **Authorized Disbursements.** The Escrow Agent is hereby authorized to disburse funds out of monies constituting the Held Amount, only in accordance with Sections 6 or 7. Prior to any final release of the Held Amounts, the Escrow Agent shall be entitled to deduct from the Held Amounts any amounts owing to it in respect of outstanding fees, expenses and disbursements and interest thereon and any applicable fees to be charged for the final release, notwithstanding that the party to whom such Held Amount is to be released may not be responsible for the outstanding fees and expenses payable to the Escrow Agent.
6. **Release from Escrow.** Subject to Section 7 hereof, the Escrow Agent shall retain the Held Amounts until disbursed from time to time as follows:
- (a) at any time upon receipt of a written joint notice from the Buyer and the Sellers substantially in the form attached hereto as Schedule "A", which joint notice will specify, among other things, the amounts to be released to each of the Buyer and the Sellers (or either of them), within two (2) Business Days of receipt of such notice, the Escrow Agent shall pay from the applicable Held Amount or any portion thereof, as applicable, to the Person(s) specified in such notice the amount(s) specified therein, together with any Interest which has accrued with respect to the portion of the Held Amount being distributed, by wire transfer of immediately available funds; or
- (b) in accordance with Section 7 hereof.

7. **Loss Notice.**

- (a) **Loss Notice.** If the Buyer and Sellers are unable to determine the disposition of all or any portion of the Held Amounts pursuant to, as applicable, Sections 3.1(e) and (f) or Section 3.4 of the Asset Purchase Agreement and either the Buyer or the Sellers reasonably determines that it has a claim in respect of all or a portion of a Held Amount, such party shall give a written notice of such determination to the Escrow Agent and to the other parties, setting out the reasons for the dispute as well as, in the case of a dispute with respect to the Escrow Amount only, the amount under dispute and reasonable details of the calculation of such amount (a "Loss Notice"), all in accordance with the Asset Purchase Agreement.

Upon receipt of a Loss Notice, the Escrow Agent shall promptly notify the other parties hereto in writing that it has received a Loss Notice, including a copy thereof, and shall set aside from the Held Amounts the amount claimed in the Loss Notice. The Escrow Agent shall hold the said amount until it disburses such amount, together with any Interest which has accrued with respect to such amount, in accordance with a final and binding determination by a court or arbitration panel of competent jurisdiction (which the parties acknowledge shall be, from and after the Filing Date, the CCAA Court) or is otherwise jointly instructed by the Buyer and Sellers in writing pursuant to Section 6.(a).

8. **Responsibility of Escrow Agent; Indemnification.**

- (a) The Buyer and the Sellers acknowledge and agree that the Escrow Agent as escrow agent hereunder (i) shall not be responsible or liable in any manner whatsoever for the

sufficiency, correctness, genuineness or validity of any instrument deposited with it (including, without limitation, the Asset Purchase Agreement or Loss Notice), for the form or execution of such instruments, for the identity, authority or right of any Person or party executing or depositing such instruments or for determining or compelling compliance therewith, and shall not otherwise be bound thereby; (ii) shall be obligated only for the performance of such duties as are expressly and specifically set forth in this Agreement on its part to be performed, and no implied duties or obligations of any kind shall be read into this Agreement against or on the part of the Escrow Agent and the Escrow Agent will have no duty or responsibility arising under any other agreement, including any agreement referred to in this Agreement, to which the Escrow Agent is not a party; (iii) shall not be required to take notice of any default or to take any action with respect to such default involving any expense or liability, unless notice in writing of such default is formally given to the Escrow Agent, and unless it is indemnified and funded, in a manner satisfactory to it, against such expense or liability; and (iv) may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction (including, without limitation, wire transfer instructions, whether incorporated herein or provided in a separate written instruction), instrument, statement, certificate, request or other document furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper Person, and shall have no responsibility for determining the accuracy thereof.

- (b) The Escrow Agent may employ such counsel, accountants, appraisers, other experts, agents and advisors as it may reasonably require for the purpose of discharging its duties under this Agreement, and the Escrow Agent may act, or not act, and shall be protected in acting, or not acting, in good faith on the opinion or advice or on information obtained from any such parties and shall not be responsible for any misconduct on the part of any of them. The reasonable costs of such services shall be added to and be part of the Escrow Agent's fee hereunder.
- (c) The Escrow Agent shall retain the right not to act and shall not be held liable for refusing to act unless it has received clear and reasonable documentation which complies with the terms of this Agreement. Such documentation must not require the exercise of any discretion or independent judgment by the Escrow Agent.
- (d) No provision of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or the exercise of any of its rights or powers unless indemnified and funded to its satisfaction or as provided for herein, other than as a result of its own gross negligence, wilful misconduct or bad faith.
- (e) The Escrow Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except for its own gross negligence, wilful misconduct or bad faith.
- (f) The Escrow Agent shall incur no liability with respect to the delivery or non-delivery of any cash whether delivered by hand, wire transfer, certified or registered mail or bonded courier.

- (g) The Sellers and the Buyer shall each pay 50% of the Escrow Agent's fees and the costs and expenses reasonably incurred by the Escrow Agent in providing the services hereunder, in connection with the administration of the escrow created hereby or the performance or observance of its duties hereunder and all amounts not otherwise covered by such remuneration including, without limitation, all out-of-pocket expenses and disbursements incurred or made by the Escrow Agent in the administration of its services and duties created hereby, whether in excess of its compensation for normal services or not (including the reasonable fees and disbursements of its outside counsel and other outside advisors required for discharge of its duties hereunder). If payment is not received when due, the Escrow Agent shall be entitled to draw down on the Held Amounts in order to effect such payment and may sell, liquidate, convey or otherwise dispose of any investment for such purpose.
- (h) The Buyer and the Sellers shall jointly and severally indemnify the Escrow Agent and its affiliates, their successors, assigns, and each of their partners, directors, officers, employees and agents (the "**Indemnified Parties**") and save them harmless against all actions, proceedings, liability, claims, damages, costs and expenses (including expert consultant and legal fees and disbursements on a solicitor and client basis) whatsoever arising from the performance of the Escrow Agent's duties hereunder (unless arising from the Escrow Agent's gross negligence, wilful misconduct or bad faith) and including any action or liability brought against or incurred by the Indemnified Parties in relation to or arising out of any breach by the Buyer or the Sellers. This indemnity shall survive the resignation or removal of the Escrow Agent and the termination or discharge of this Agreement. Notwithstanding any other provision of this Agreement, any liability of the Escrow Agent shall be limited to direct damages sustained by a party to this Agreement which in aggregate shall not exceed the amount of funds held pursuant to this Agreement. The Escrow Agent accepts the indemnification above in favour of each of the Indemnified Parties other than itself as agent and trustee. The Sellers and the Buyer agree that the Escrow Agent may enforce an indemnification in favour and on behalf of any of such Indemnified Parties.
- (i) Notwithstanding any other provision of this Agreement, and whether such losses or damages are foreseeable or unforeseeable, the Escrow Agent shall not be liable under any circumstances whatsoever for any (a) breach by any other party of securities law or other rule of any securities regulatory authority, (b) lost profits or (c) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages.
- (j) The Escrow Agent does not have any interest in the Held Amounts but is serving as escrow agent only and is not a debtor of the parties hereto in respect of the Held Amounts.
- (k) The Escrow Agent shall have no duties as escrow agent except those which are expressly set forth herein, and it shall not be bound by any notice of a claim or demand with respect to, or any waiver, modification, amendment, termination or rescission of, this Agreement, unless received by it in writing, and signed by the parties hereto and if its duties herein are affected, unless it shall have given its prior written consent thereto.
- (l) The Escrow Agent accepts the duties and responsibilities under this Agreement solely as custodian, bailee and agent, and no trust is intended to be, or is or will be, created



hereby and the Escrow Agent shall owe no duties hereunder as trustee to any other person.

- (m) The Escrow Agent will have no responsibility for seeking, obtaining, compiling, preparing or determining the accuracy of any information or document (including, but not limited to a Loss Notice), including the representative capacity in which a party purports to act, that the Escrow Agent receives as a condition to a release from escrow under this Agreement.
- (n) This Section 8 shall survive notwithstanding the expiry or any termination of this Agreement or the resignation or removal of the Escrow Agent.

9. **Dispute Resolution.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession and/or disposition of any of the Held Amounts, or should any claim be made upon the Escrow Agent or the Held Amounts by a third party, the Escrow Agent, upon receipt of notice of such dispute or claim, is authorized and shall be entitled (at its sole option and election), subject to Section 7 hereof, to retain in its possession without liability, all or any of said Held Amounts until such dispute shall have been settled either by the mutual written agreement of the parties involved or by a final order, decree or judgment of a court or arbitrator of competent jurisdiction (it being acknowledged for greater certainty, that such court or arbitrator of competent jurisdiction shall, from and after the Filing Date, be the CCAA Court), the time for perfection of an appeal of such order, decree or judgment having expired. A copy of any such settlement or final order, decree or judgment of a court or arbitrator of competent jurisdiction shall be delivered to the Escrow Agent by the Buyer or the Sellers forthwith upon receipt thereof. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Held Amounts.

10. **Disputes.**

- (a) Prior to the Filing Date, any disputes with respect to this Agreement shall be resolved by arbitration and any party may demand by written notice to the other party that the matter be submitted to arbitration. The notice shall set out the reasons for the dispute and reasonable details to support the dispute. From and after the Filing Date, the parties each irrevocably attorns and submits to the non-exclusive jurisdiction of the CCAA Court for any dispute arising with respect to this Agreement, and waives objection to the venue of any proceeding in the CCAA Court or that the CCAA Court provides an inconvenient forum.
- (b) The Buyer and the Sellers shall cooperate in completing any dispute resolution process as expeditiously as possible, the procedure to commence, subject to court availability for matters outside of arbitration, no later than thirty (30) days from the date the notice was sent, and, in any arbitration, the arbitrator may hire such experts as may appear to be appropriate. Unless otherwise determined by the arbitrator in such arbitration or by the CCAA Court, as applicable, the costs of that auditor shall be borne equally between the Sellers on the one hand and the Buyer on the other, and in the event of an arbitration, such arbitrator is authorized, but is not obligated, to award to one or more parties such reasonable legal fees and costs in connection with the arbitration as the arbitrator, in his or her sole discretion, may determine are warranted. In any arbitration,

any award rendered by the arbitrator shall be final and binding on the parties.

11. **Resignation of Escrow Agent; Successor by Merger**

- (a) **Resignation and delivery.** The Escrow Agent may at any time resign as such, subject to this Section 11, by delivering written notice of resignation to the other parties to this Agreement and by delivering the Held Amounts (less any portion thereof previously distributed in accordance with this Agreement) to any successor escrow agent designated by a joint written notice of the Buyer and the Sellers, or by a court of competent jurisdiction, whereupon the Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of the Escrow Agent will take effect on the earlier to occur of (the "**Resignation Date**"): (i) the appointment of a successor escrow agent as aforesaid or by a court of competent jurisdiction; or (ii) the day which is 30 days after the date of delivery of the Escrow Agent's written notice of resignation to the other parties hereto, or such shorter notice as the parties accept as sufficient. If the Escrow Agent has not received written notice of the designation of a successor escrow agent by the Resignation Date, the Escrow Agent's sole responsibility after such time shall be to retain and safeguard the Held Amounts until receipt of written notice of the designation of a successor escrow agent hereunder or pursuant to a final non-appealable order of a court of competent jurisdiction. If a successor escrow agent has not been appointed within 90 days of the date of the delivery of its written notice of resignation, the Escrow Agent shall deliver the Held Amounts (less any portion thereof previously distributed in accordance with this Agreement) to the legal counsel designated by a joint written notice of the Buyer and the Sellers and all of the Escrow Agent's duties and obligations under this Agreement shall thereupon cease immediately. Failing such designation by a joint written notice of the Buyer and the Sellers, the Escrow Agent shall deliver such Held Amounts into the Supreme Court of British Columbia whereupon this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations under this Agreement. The Buyer and the Sellers, acting together, shall have power at any time to remove the existing Escrow Agent and to appoint a successor escrow agent.
- (b) **Deduction of fees.** If the Escrow Agent resigns or is removed pursuant to this Section 11, the Escrow Agent shall be entitled, prior to delivery to any party of the Held Amounts, to deduct any amounts owing to it in respect to outstanding fees, disbursements and interest thereon whereupon this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations under this Agreement.
- (c) **Incapacity.** If the Held Amounts or any portion thereof are to be released hereunder to a party who has become bankrupt or has otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver the Held Amounts, less any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, into the CCAA Court, it being acknowledged for greater certainty that neither the issuance of the Initial Order nor the CCAA Proceedings shall qualify to render any one of the Sellers incapable of performing their rights and responsibilities under this Agreement for the purpose of this Section 11(c). If all of the parties hereunder have become bankrupt or have otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver the Held Amounts, less any amounts owing to it in respect to

outstanding fees, disbursements and interest thereon, into the CCAA Court and provide written notice to the Buyer and the Sellers of the disposition of such Held Amounts. Upon such delivery of the Held Amounts, this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations.

- (d) **Incapacity of Escrow Agent.** In the event of the Escrow Agent resigning or being removed as aforesaid or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Buyer and the Sellers acting together, shall forthwith appoint a successor escrow agent; failing such appointment by the Buyer and the Sellers, the retiring Escrow Agent, acting alone, may apply, at the expense of the Sellers and the Buyer (each responsible for 50% of the expense) to a justice of a court of competent jurisdiction, including the CCAA Court, on such notice as such justice may direct, for the appointment of a successor escrow agent; but any successor escrow agent so appointed by the court shall be subject to removal as aforesaid by the Buyer and the Sellers, acting together.
- (e) **Transfer and delivery; fees.** Any successor escrow agent appointed under any provision of this Section 11 shall be a corporation authorized to carry on the business of a trust company in the Province of British Columbia and, if required by the applicable legislation for any other jurisdiction, in such other jurisdictions. On any such appointment, the successor escrow agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Escrow Agent hereunder. At the request of the Buyer and the Sellers, by joint written notice, or the successor escrow agent, the retiring Escrow Agent, upon payment of the amounts, if any, due to it pursuant to this Agreement, including any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, shall duly transfer and deliver to the successor escrow agent all property and money held, and all records kept, by the retiring Escrow Agent hereunder or in connection herewith.

12. **Tax Reporting.**

- (a) The Buyer and the Sellers agree that, for tax reporting purposes, all interest or other taxable income earned from the investment of the Held Amounts in any tax year shall (i) to the extent such interest is distributed by the Escrow Agent to any person or entity pursuant to the terms of this Agreement during such tax year, be allocated to such person or entity, and (ii) otherwise be allocated to the Buyer in the taxation year that it was earned, notwithstanding that no such amount has been distributed.
- (b) The Buyer and the Sellers agree to provide the Escrow Agent with their certified tax identification numbers and others forms, documents and information that the Escrow Agent may request in order to fulfill any tax reporting function.

13. **Anti-money Laundering.**

- (a) Each party to this Agreement (in this paragraph referred to as a "**representing party**"), other than the Escrow Agent, hereby represents to the Escrow Agent that any account to be opened by, or interest to be held by, the Escrow Agent in connection with this Agreement, for or to the credit of such representing party, either (i) is not intended to be used by or on behalf of any third party; or (ii) is intended to be used by or on behalf of a

third party, in which case such representing party hereby agrees to complete, execute and deliver forthwith to the Escrow Agent a declaration, in such form as may be satisfactory to the Escrow Agent, as to the particulars of such third party.

- (b) The Escrow Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Escrow Agent, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Escrow Agent, in its sole judgment, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to the other parties to this Agreement, provided (i) that the Escrow Agent's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Escrow Agent's satisfaction within such ten (10) day period, then such resignation shall not be effective.
14. **Privacy.** The parties acknowledge that the Escrow Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:
- (a) to provide the services required under this Agreement and other services that may be requested from time to time;
- (b) to meet the Escrow Agent's legal and regulatory requirements; and
- (c) if Social Insurance Numbers are collected by the Escrow Agent, to perform tax reporting and to assist in verification of an individual's identity for security purposes.
15. **Notices.** Except as otherwise expressly provided herein, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) when transmitted as a scanned or .pdf attachment to an email (with electronic confirmation of receipt), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties at the address set forth below, or at such other address as such party may specify by written notice to the other parties hereto:

- (a) **to the Sellers at:**

**Mountain Equipment Co-operative**

Attention: President and Chief Executive Officer

Email: Phil.Arrata@mec.ca

with copies (which shall not in themselves constitute notice) to:

**Norton Rose Fulbright Canada LLP**

400 3rd Ave. SW, Suite 3700

Calgary, Alberta T2P 4H2 Canada

Attention: Howard Gorman, QC.

Telephone: [REDACTED]

Email: [howard.gorman@nortonrosefulbright.com](mailto:howard.gorman@nortonrosefulbright.com)

(b) **to the Buyer at:**

c/o Kingswood Capital Management

11777 San Vicente Blvd. Suite 650

Los Angeles, CA 90049

Attention: Alex Wolf

Telephone: [REDACTED]

Email: [awolf@kingswood-capital.com](mailto:awolf@kingswood-capital.com)

with copies (which shall not in themselves constitute notice) to:

Fasken Martineau DuMoulin LLP

333 Bay Street, Suite 2400

Toronto, Ontario M5H 2T6

Attention: Dylan Chochla

Telephone: [REDACTED]

Facsimile: 416-364-7813

Email: [dchochla@fasken.com](mailto:dchochla@fasken.com)

(c) **to the Escrow Agent at:**

**Cassels Brock & Blackwell LLP**

HSBC Building

2200 – 885 West Georgia St.

Vancouver, BC V6C 3E8

Attention: Mary Buttery, Q.C. and Lance Williams

Telephone: [REDACTED]

Email: [mbuttery@cassels.com/lwilliams@cassels.com](mailto:mbuttery@cassels.com/lwilliams@cassels.com)

with copies (which shall not in themselves constitute notice) to:

**Alvarez & Marsal Canada, Inc.**

Commerce Place

400 Burrard Street, Suite 1680

Vancouver, BC V6C 3A6

Attention: Todd Martin

Telephone: [REDACTED]

Email: [tmartin@alvarezandmarsal.com](mailto:tmartin@alvarezandmarsal.com)>

Any such communication shall be deemed to have been validly and effectively given and received on the date of personal delivery or transmission by facsimile or similar means of recorded communication in accordance with the foregoing in this Section 15 if such date is a Business Day and otherwise on the next Business Day. Any party to this Agreement may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

16. **Miscellaneous.**

- (a) The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- (b) Unless the context shall otherwise require, the singular shall include the plural and *vice versa*, and each pronoun in any gender shall include all other genders.
- (c) This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart by facsimile or other electronic means, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by all of the parties hereto. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.
- (d) This Agreement or any provision hereof may be amended or waived only by written instrument duly signed by each of the parties hereto.
- (e) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (f) No failure on the part of the Buyer or the Sellers to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.
- (g) If one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect under applicable law, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and the remaining provisions hereof shall remain in full force and effect.
- (h) This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other Person any rights, remedies or any other type or types of benefits.

- (i) No party may assign its rights hereunder without the prior written consent of the other parties, except that the Buyer may assign this Agreement in conjunction with a permitted assignment of the Asset Purchase Agreement provided such assignee agrees to be bound by the terms of this Agreement to the extent of such assignment and such assignment shall relieve the Buyer of its obligations under this Agreement.
  - (j) This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
  - (k) This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.
  - (l) All references herein to money amounts are to lawful money of Canada.
  - (m) The Escrow Agent shall have no obligations with respect to tax reporting other than to deliver the required annual statement of interest earned.
  - (n) The Schedule attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it. This Agreement shall override the Asset Purchase Agreement and the Schedule attached hereto to the extent of any inconsistency.
  - (o) Any reference to time of day or date means the local time or date in Vancouver, British Columbia, Canada.
16. **Force Majeure.** Except for the payment obligations of the Sellers and the Buyer contained herein, none of the parties shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, strikes, lockouts, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.
17. **Day Not A Business Day.** Whenever any payment shall be due, any period of time shall begin or end, any calculation is to be made or any other action is to be taken on, as of or from a period ending on a day other than a Business Day, such payment shall be made, such period of time shall begin or end and such other actions shall be taken, as the case may be, on, as of or from a period ending on the next succeeding Business Day.
18. **Termination.** This Agreement shall automatically terminate upon the disbursement in full by the Escrow Agent of all Held Amounts as directed herein.

(SIGNATURE PAGE FOLLOWS)

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement to be effective as of the date first above written.

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Authorized Signing Officer

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

**CASSELS BROCK & BLACKWELL LLP**

By: \_\_\_\_\_  
Authorized Signatory



**SCHEDULE A**  
**Form of Notice of Release**

---

Date: [●, 20●]

TO: Cassels Brock & Blackwell LLP ("Escrow Agent")

Pursuant to Section 6(a) of the Escrow Agreement dated as of [●], 2020 by and among Mountain Equipment Co-operative, 1314625 Ontario Limited, 1264686 B.C. Ltd. and the Escrow Agent (the "Escrow Agreement"), you are hereby instructed to:

release to ●, by wire transfer of immediately available funds to the account set forth below, out of the [Escrow Amount]/[Deposit Amount] (each as defined in the Escrow Agreement), the following amount: \$ \_\_\_\_\_:

**Wire Instructions:**

Account name:

Address:

Bank name:

Currency:

Account:

Routing:

SWIFT:

[and to release to Mountain Equipment Co-operative, by wire transfer of immediately available funds to the account set forth below, the balance of the [Escrow Amount]/[Deposit Amount]

**Wire Instructions:**

Account name: Mountain Equipment Co-operative

Address:

Bank name:

Currency:

Account:

Routing:

SWIFT:

*[Signature pages follow]*

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Authorized Signing Officer

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

**1264686 B.C. LTD.**

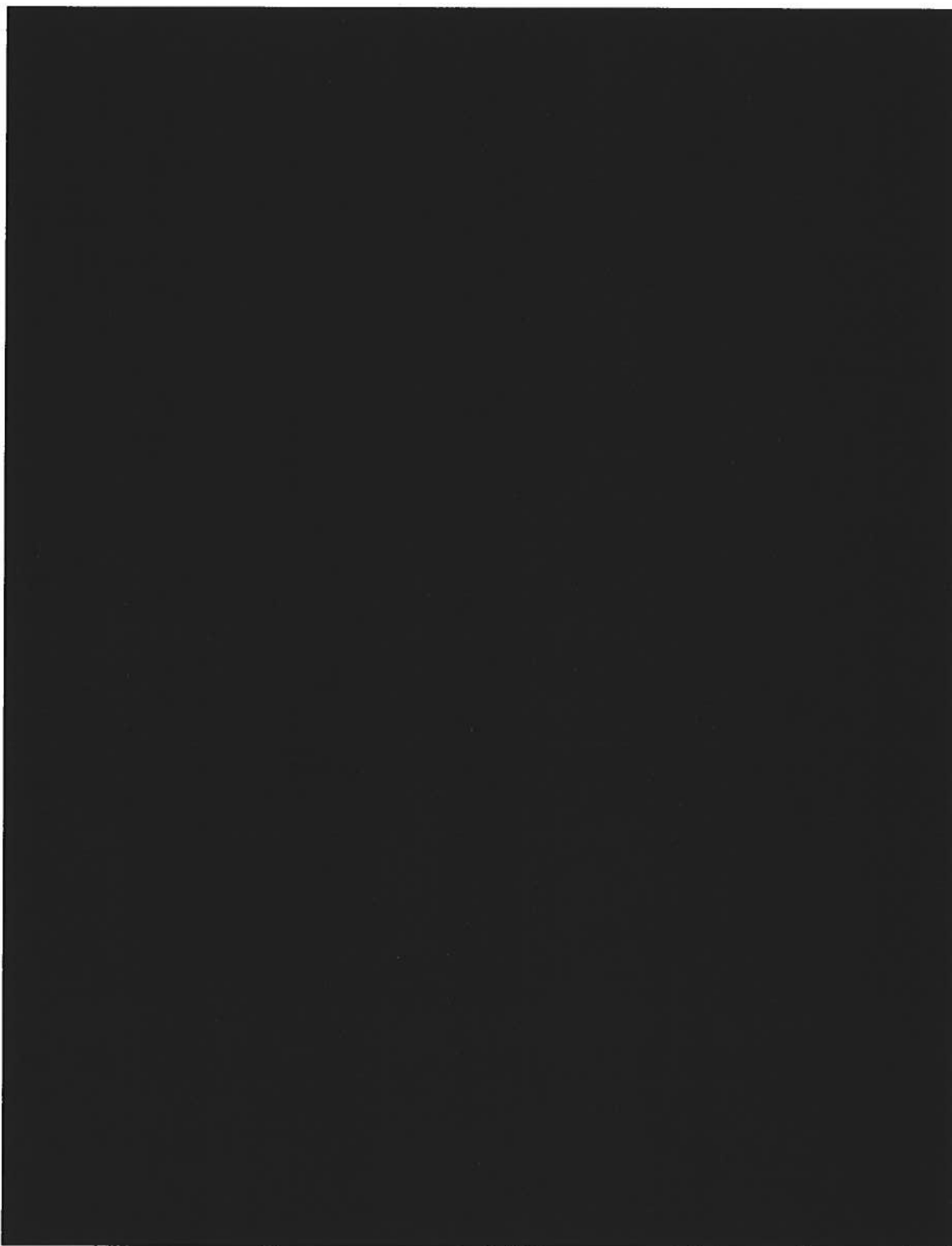
By: \_\_\_\_\_  
Authorized Signing Officer

**SCHEDULE 1.1(eee)  
Excluded Employees**

To be provided in accordance with Section 2.7(b) of the Agreement.

**SCHEDULE 1.1(uuu)**  
**Illustrative Closing Working Capital Statement**

See attached.















[REDACTED]













[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Confidential

[REDACTED]

*\*MEC does not have a hard copy of the Contracts with asterisks. Copies of these Contracts to be located.*

**SCHEDULE 1.1 (hhhhh)  
Purchased Locations**

To be provided in accordance with Section 2.7(b) of the Agreement.

**SCHEDULE 1.1(00000)  
Registrable Form of ROFR Waiver**

FORM\_C\_V25 (Release)

LAND TITLE ACT  
FORM C (Section 233) RELEASE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 4 PAGES

Your electronic signature is a representation that you are a designate authorized to certify this document under section 168.4 of the *Land Title Act*, RSEC 1996 c 250, that you certify this document under section 168.41(4) of the act, and that an execution copy, or a true copy of that execution copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Deduct LTSA Fees? Yes

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:  
[PID] [LEGAL DESCRIPTION]

**006-064-746 LOT 67 EXCEPT: PART SUBDIVIDED BY PLAN 53690, SECTION 20  
TOWNSHIP 2 NEW WESTMINSTER DISTRICT PLAN 52612**

STC? YES

3. NATURE OF INTEREST BEING RELEASED CHARGE NO ADDITIONAL INFORMATION  
**SEE SCHEDULE**

4. TERMS  
The charge described in item 3 is released or discharged as a charge on the land described in item 2.

5. TRANSFEROR(S):  
**SEE SCHEDULE**

6. TRANSFEREE(S) (including postal address(es) and postal code(s))  
**SEE SCHEDULE**

7. ADDITIONAL OR MODIFIED TERMS.  
**SEE SCHEDULE**

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any  
Officer Signature(s)

Execution Date		
Y	M	D
20		

Transferor(s) Signature(s)

 by  
its authorized signatory:

Gerald Linden

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM D1\_V25

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

0 2 4 4 pages  
0 4 4

Officer Signature(s)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Execution Date		
Y	M	D
20		

Transferor / Borrower / Party Sign

[NAME OF PURCHASER]  
by its authorized signatory(ies):

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

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

\_\_\_\_\_

\_\_\_\_\_

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM\_E\_V25

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

PAGE 3 OF 4 PAGES

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
Waiver of Right of First Refusal	AB200715	See L67962 being an assignment of L67964 as extended by N57158, see AB200705, modified by BR347063 and BA527656

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
-----------------------------------	------------	------------------------

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
-----------------------------------	------------	------------------------

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
-----------------------------------	------------	------------------------

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
-----------------------------------	------------	------------------------

NATURE OF INTEREST BEING RELEASED	CHARGE NO.	ADDITIONAL INFORMATION
-----------------------------------	------------	------------------------

FORM E /25

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

PAGE 4 OF 4 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

**6. TRANSFEREE(S): (including postal address(es) and postal code(s))**

[NAME OF PURCHASER] (Incorporation No. BC \_\_\_\_\_) of  
[ADDRESS OF PURCHASER]

**7. ADDITIONAL OR MODIFIED TERMS:**

**WAIVER OF RIGHT OF FIRST REFUSAL**

A. [REDACTED] is the holder of a right of first refusal registered under No. AB200715, see L67962 being an assignment of L67964 as extended by N57158, see AB200705, as modified by BR347063 and BA527656 (collectively, the "Right of First Refusal"), as a charge against the lands described in Item 2, Part 1 of this Form C - General Instrument (the "Lands").

B. Mountain Equipment Co-operative (the "Vendor") is the registered owner of the Lands and has requested SRY to agree to the transfer of the Lands to \_\_\_\_\_ (the "Purchaser").

**NOW THEREFORE, TAKE NOTICE THAT:**

1. SRY consents to the transfer of the Lands from the Vendor to the Purchaser (the "Transfer") and releases its rights under the Right of First Refusal to the extent necessary to permit the Transfer free and clear of all claims SRY may have under the Right of First Refusal against the Vendor in consequence of the Transfer.
2. The release contained in this instrument extends solely to those rights exercisable against the Vendor in relation to the Transfer and shall not operate to extinguish any equitable interest of SRY in the Lands that SRY may continue to have under the Right of First Refusal as hereby partially released and that is enforceable against the Purchaser in the future.
3. The Purchaser acknowledges and agrees that it takes title to the Lands subject to any continuing rights of SRY under the Right of First Refusal as hereby partially released.
4. Each of the parties hereto shall at the request of the other party execute and deliver any further or additional document or documents deemed necessary or appropriate to properly create or confirm title or otherwise give full effect to this Instrument, according to its true intent and meaning.
5. It is mutually understood, agreed and declared between the parties hereto that the expressions "SRY" and "Purchaser" herein contained shall be deemed to include the successors and assigns of such parties wherever the context so admits.

IN WITNESS WHEREOF the parties hereto have caused this Form C Schedule E to be executed in Item 2, Part 1 of this Form C - General Instrument.

Confidential

**SCHEDULE 2.1(f)**  
**Personal Property Leases**

This Schedule is as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.b and sets out a list of all equipment that is leased, but not owned, by the Sellers pursuant to all Personal Property Leases currently held by the Business. Pursuant to Sections 2.2(b) and 2.7(a) of the Agreement, any Personal Property Lease disclosed in such subfolder of the Project Data Room that is designated as an Excluded Contract shall not transfer to the Buyer and the Buyer shall not obtain any rights in the equipment or other items leased thereunder. The Buyer will promptly cooperate with the Sellers in arranging for the equipment or other leased items to be returned to the applicable lessors.



Confidential

**SCHEDULE 2.1(g)**  
**Real Property Leases**

**PER SECTION 2.1(G) AND 2.7 OF THE AGREEMENT, THIS SCHEDULE WILL BE AUTOMATICALLY AMENDED PRIOR TO THE CLOSING WITHOUT FURTHER ACT OR FORMALITY BY DELETING ANY ITEM IN THIS SCHEDULE THAT RELATES SOLELY TO ANY LOCATION OPERATED BY THE SELLERS THAT WILL NOT BE A PURCHASED LOCATION.**

MEC is in arrears for certain of the Real Property Leases, the locations and amounts of which are as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.c. [REDACTED]

The leases listed herein in Items #3, 4, 8, 10 and 12 pertain to MEC's retail locations that are temporarily closed as at September 3, 2020.

1. Ground Lease, dated February 8, 2010, between Riocan PS Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 61 Bryne Drive, Barrie, Ontario, L4N 8V8, Canada, as more particularly described in the Ground Lease.
2. Lease, dated for reference July 20, 2017, between Plateau Village Properties Inc. (as landlord) and MEC (as tenant), as amended by lease amending agreement dated October 5, 2018 in respect of certain lands and premises located in Calgary, Alberta, Canada known as "Gateway", as more particularly described in the Lease. [REDACTED]
3. Seton North Retail District Lease, dated May 19, 2016, between Brookfield Residential (Alberta) LP by its general partner, Carma Ltd. (as landlord), and MEC (as tenant) in respect of certain lands and premises located at 710 – 19587 Seton Crescent SE, Calgary, Alberta, T3M 2T5, Canada, as more particularly described in the Seton North Retail District Lease. [REDACTED]
4. Retail Lease, dated October 15, 2016, between First Capital Holdings (ALB) Corporation and Sun Life Assurance Company of Canada (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 11904 104 Avenue NW, Edmonton, Alberta, T5K 0G6, Canada, as more particularly described in the Retail Lease.
5. Lease, dated April 18, 2016, between Cameron Corporation (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 1624 99 Street NW, Edmonton, Alberta, T6N 1M5, Canada, as more particularly described in the Lease. [REDACTED]
6. Lease, dated May 25, 2001, between Racla Property Development Limited (as landlord) and MEC (as tenant), as amended by lease amending agreement dated November 29, 2011 in respect of certain lands and premises located at 1550 Granville Street, Halifax, Nova Scotia, B3J 1X1, Canada, as more particularly described in the Lease. [REDACTED]
7. Triple Net Shopping Centre Lease, dated June 15, 2015, between McIntosh Properties Ltd. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at Unit 100 – 1876 Cooper Road, Kelowna, British Columbia, V1Y 9N6, Canada, as more particularly described in the Triple Net Shopping Centre Lease. [REDACTED]

8. Retail Lease, dated January 18, 2017, between First Capital Holdings (Ontario) Corporation (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 10 Manitou Drive, Kitchener, Ontario, N2C 2N3, Canada, as more particularly described in the Retail Lease.
9. Lease, dated August 2, 2012, between Valley Properties Ltd. (as landlord) and MEC (as tenant) in respect of certain located at Unit #1 – 6121 200th Street, Langley, British Columbia, V2Y 1A2, Canada, as more particularly described in the Lease. [REDACTED]
10. Lease, dated August 5, 2016, between Le Carrefour Laval (2013) Inc. (as landlord) and MEC (as tenant) for certain lands and premises located at 2615, boulevard Daniel-Johnson, Laval, Québec, H7T 1S8, Canada, as more particularly described in the Lease. [REDACTED]
11. Retail Lease, dated December 23, 2015, between 9310924 Canada Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 1051 Wellington Road, London, Ontario, N6E 1W4, Canada, as more particularly described in the Retail Lease. [REDACTED]
12. Ground Lease, dated August 22, 2008, between ECL Developments Limited (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 4869, boulevard Taschereau, Greenfield Park, Québec, J4V 3K3, Canada, as more particularly described in the Ground Lease. [REDACTED]
13. Lease, commencing on the earlier of the date of the opening of the Premises (as defined in the Lease) to the public and June 1, 2003, between MCM Real Estate Trust (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 8989, boulevard de l'Acadie, Montreal, Québec, H4N 3K1, Canada, as more particularly described in the Lease.
14. Retail Lease, dated July 15, 2016, between Les Galeries de la Capitale Holdings Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 1475, boulevard Lebourgneuf, Québec City, Québec, G2K 2G3, Canada, as more particularly described in the Retail Lease.
15. Lease, dated July 28, 2017, between 2206181 Ontario Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 300 Queen Street West, Toronto, Ontario, M5V 2A2, Canada, as more particularly described in the Lease. [REDACTED]
16. Ground Lease, dated December 30, 2015, between Beedie Development Limited Partnership (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 101 East 2<sup>nd</sup> Avenue, Vancouver, British Columbia, V5T 1B4, Canada, as more particularly described in the Ground Lease.
17. Amended and Restated Lease dated for reference May 5, 2016, between The MAC & MAC Developments Ltd. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 1450 Government Street, Victoria, British Columbia, V8W 1Z2, Canada, as more particularly described in the Amended and Restated Lease. [REDACTED]
18. Lease, dated November 25, 2015, between 8875 Torbram Road LP by its General Partner 8875 Torbram Road GP Inc. (as landlord) and MEC (as tenant), as amended by (i) a letter amending agreement dated December 17, 2015, (ii) a lease amending agreement dated February 19, 2016, and (iii) a lease amending agreement dated February 8, 2017, in respect of certain lands and

premises located at 8875 Torbram Road, Brampton, Ontario, L6T 3V9, Canada, as more particularly described in the Lease.

19. Lease, dated for reference March 8, 2013, between I.G. Investment Management, Ltd. as trustee for Investors Real Property Fund (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 1077 Great Northern Way, Vancouver, British Columbia, V5T 1E1, Canada, as more particularly described in the Lease. RBC has issued, in relation to this property, (i) Irrevocable Standby Letter of Credit No. 10000898, date of issue February 28, 2013, covering Services Agreement between Mountain Equipment Co-operative and City of Vancouver for 1077 Great Northern Way dated January 28, 2013; and (ii) Irrevocable Standby Letter of Credit No. 10002476 date of issue October 17, 2014, covering Public Art Agreement between Mountain Equipment Co-operative and City of Vancouver for 1077 Great Northern Way.
20. Retail Space Lease, dated October 1, 2018, between Midtown Plaza Inc. (as landlord) by its agent and manager Cushman & Wakefield Asset Services ULC and MEC (as tenant), as (i) modified by addendum to agreement to lease dated November 8, 2018 and (ii) amended by lease amending agreement dated February 21, 2020 in respect of certain lands and premises located at 201 1 Avenue S, Saskatoon, Saskatchewan, S7K 1J9, Canada, as more particularly described in the Retail Space Lease. [REDACTED]
21. Lease, dated December 28, 2012, between 169159 Canada Inc. (as landlord) and MEC (as tenant) in respect of certain lands and premises located at 4394 St-Denis Street, Montreal, Québec, H2J 2L1, Canada, as more particularly described in the Lease. MEC and the landlord entered into a lease amending Agreement, dated July 27, 2020. This location is permanently closed. [REDACTED]
22. Lease, dated May 1, 2017, between Mountain Equipment Co-operative (as landlord) and Manitoba Eco-Network Inc. (as tenant), as amended by letter agreement dated February 10, 2020 in respect of certain lands and premises located at 297/299/301/303 Portage Avenue, Winnipeg, Manitoba, Canada, as more particularly described in the Lease. The lands and premises referred to in the Lease have been sub-leased to four entities pursuant to:<sup>1</sup>
  - a) a Sub-lease, dated May 1, 2018, between Manitoba Eco-Network Inc. (as sub-landlord) and Green Action Centre (as sub-tenant), as extended by a letter agreement dated August 17, 2020, in respect of certain lands and premises located at 297/299/301/303 Portage Avenue, Winnipeg, Manitoba, Canada;
  - b) a Sub-lease dated May 1, 2018, between Manitoba Eco-Network Inc. (as sub-landlord) and Western Canada Wilderness Committee, Manitoba (as sub-tenant), in respect of certain lands and premises located at 297/299/301/303 Portage Avenue, Winnipeg, Manitoba, Canada;
  - c) a Sub-lease dated October 1, 2018 between Manitoba Eco-Network Inc. (as sub-landlord) and Trails Manitoba (as sub-tenant), as extended by a letter agreement dated June 1, 2020, in respect of certain lands and premises located at 297/299/301/303 Portage Avenue, Winnipeg, Manitoba, Canada; and
  - d) a Sub-lease dated May 1, 2019, between Manitoba Eco-Network Inc. (as sub-landlord) and Canadian Parks and Wilderness Society (as sub-tenant), as extended by a letter agreement dated July 16, 2020, in respect of certain lands and premises located at 297/299/301/303 Portage Avenue, Winnipeg, Manitoba, Canada.
23. Sub-lease, dated February 2005 and commencing April 15, 2005, between MEC (as sub-landlord) and 6127657 Canada Inc. (as sub-tenant), as assigned to Green Café Franchise

<sup>1</sup> The sub-leases listed herein are disclosed for information purposes only as MEC is not party to such sub-leases

Restaurant Inc. (as sub-tenant) pursuant to an Assignment Agreement dated April 28, 2014 and consented to by MEC pursuant to the terms of a Consent to Assignment of Sublease Agreement dated May 13, 2014, as amended by a Letter Agreement, dated April 6, 2018, in respect of certain lands and premises located at 8989 Boulevard de l'Acadie, Montréal, Quebec, Canada, H4N 3K1, as more particularly described in the Sub-lease.

24. Sub-lease, dated September 1, 2019, between MEC (as sub-landlord) and Proscenium Architecture and Interiors Inc. (as sub-tenant) in respect of certain lands and premises located at 101 East 2<sup>nd</sup> Avenue, Vancouver, British Columbia, Canada, as more particularly described in the Sub-lease.
25. Sub-lease, dated September 1, 2019, between MEC (as sub-landlord) and Wylie-Crump Limited (as sub-tenant) in respect of certain lands and premises located at 101 East 2<sup>nd</sup> Avenue, Vancouver, British Columbia, Canada, as more particularly described in the Sub-lease.

**EXHIBIT 1**  
**Rent Arrears**



Confidential

**SCHEDULE 2.1(h)  
Owned Real Property**

**PER SECTION 2.1(G) AND 2.7 OF THE AGREEMENT, THIS SCHEDULE WILL BE AUTOMATICALLY AMENDED PRIOR TO THE CLOSING WITHOUT FURTHER ACT OR FORMALITY TO DELETE ANY LOCATION OPERATED BY THE SELLERS THAT WILL NOT BE A PURCHASED LOCATION.**

**A. Properties owned by Mountain Equipment Co-operative**

***British Columbia***

1. 212 Brooksbank Avenue, North Vancouver, British Columbia  
Parcel Identifier: 011-388-391, Lot A (Explanatory Plan 11193) Block 31 District Lot 272 Plan 4692
2. 13340 76 Avenue, Surrey, British Columbia  
Parcel Identifier: 005-054-745, Lot 67 Except: Part Subdivided by Plan 53690, Section 20 Township 2 New Westminster District Plan 52612

[REDACTED]

[REDACTED]

***Alberta***

3. 830 10 Avenue SW, Calgary, Alberta  
Plan 1423LK Block 31 Containing 0.700 Hectares (1.73 Acres) More or Less Excepting Thereout:  

Plan:	Number:	Hectares:	(Acres) More or Less
Road	9610692	0.028	0.07

 Excepting Thereout All Mines and Minerals

***Manitoba***

4. 303 Portage Avenue, Winnipeg, Manitoba  
Title No. 2917179/1, Lots 319 and 320 Block 3 Plan 129 WLTO (W Div) in RL 1 Parish of St John  
  
MEC leases a portion of this property, which may be further sub-leased, as described in Schedule 2.1(g), Item #22.

***Ontario***

5. 1030 Brant Street, Burlington, Ontario  
Property Identifier No. 07081-0411, PT LT 15, RCP PL99, PT 2, 20R6976, PTS 2-6, 20R6744 & AS IN 656180 S&E PT 17 PE118, PT 1, 20R9817 & PT 1, 20R17605; BURLINGTON. S/T THE RIGHTS OF OWNERS OF ADJOINING PARCELS, IF ANY, UNDER 381621
6. 1430 Leighland Road, Burlington, Ontario  
Property Identifier No. 07081-0254, PT LT 15 , RCP PL99 , AS IN 190615
7. 1428 Leighland Road, Burlington, Ontario

Property Identifier No. 07081-0253, PT LT 15 , RCP PL99 , AS IN 655061

8. 784 Sheppard Avenue E, North York, Ontario  
Property Identifier No. 10059-0267, PART LOT 16, CONC 2 EYS, DES AS PARTS 1, 4, 5, 6, 9, 10, 11, 12, 13 & 14, PLAN 66R27498; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 3, PLAN 66R27498 AS IN AT3895818; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 7, PLAN 66R27498 AS IN AT3895818; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 4, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 5, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 6, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 9, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 10, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 11, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 12, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PART 13, PLAN 66R27498 IN FAVOUR OF PART LOT 16, CON 2, EYS, DES AS PARTS 2, 3, 7 AND 8, PLAN 66R27498 AS IN AT3895818; SUBJECT TO AN EASEMENT OVER PARTS 1, 5, 10, 12, 13 & 14, 66R27498 AS IN AT4283935; SUBJECT TO AN EASEMENT IN GROSS OVER PTS 4, 5, 6, 9, 11, 12 & 13 PL 66R27498 AS IN AT4337864; CITY OF TORONTO
- [REDACTED]
9. 366 Richmond Road, Ottawa, Ontario  
Parcel Identifier No. 04017-0142, PT LTS 5 & 6, PL 204 , S/S OF RICHMOND RD; AS IN CR359870 ; LTS 5 & 6, PL 204 , N/S OF DANFORTH AV
10. 378 Richmond Road, Ottawa, Ontario  
Parcel Identifier No. 04017-0201, PART OF LOT 8 ON PLAN 204, SOUTH SIDE OF RICHMOND ROAD AND PART OF LOT 8 ON PLAN 204, NORTH SIDE OF DANFORTH AVENUE, BEING PARTS 4 TO 6 AND 8 TO 13 ON PLAN 4R-27018.; SUBJECT TO AN EASEMENT IN GROSS OVER PART 4 ON PLAN 4R-27018 AS IN OC1381026; SUBJECT TO AN EASEMENT OVER PART 6 ON PLAN 4R-27018 IN FAVOUR OF PART OF LOT 8 ON PLAN 204, SOUTH SIDE OF RICHMOND ROAD BEING PART 7 ON PLAN 4R-27018 AS IN OC1475004; SUBJECT TO AN EASEMENT OVER PARTS 10 AND 11 ON PLAN 4R-27018 IN FAVOUR OF PART OF LOT 8 ON PLAN 204, SOUTH SIDE OF RICHMOND ROAD BEING PART 7 ON PLAN 4R-27018 AS IN OC1475005; SUBJECT TO AN EASEMENT OVER PARTS 9, 10 AND 13 ON PLAN 4R-27018 IN FAVOUR OF PART OF LOT 8 ON PLAN 204, SOUTH SIDE OF RICHMOND ROAD BEING PART 7 ON PLAN 4R-27018 AS IN OC1475006
11. 375 Danforth Avenue, Ottawa, Ontario  
Parcel Identifier No. 04017-0145 , PT LT 8, PL 204, N/S OF DANFORTH AVE, AS IN CR559106; SUBJECT TO AN EASEMENT OVER PART 15 ON PLAN 4R-27018 IN FAVOUR OF PART OF LOT 8 ON PLAN 204, SOUTH SIDE OF RICHMOND ROAD, BEING PART 7 ON PLAN 4R-27018 AS IN OC1475005

**B. Property owned by 1314625 Ontario Limited**

12. 374 Richmond Road, Ottawa, Ontario  
Parcel Identifier No. 04017-0143, LT 7, PL 204 , S/S OF RICHMOND RD; EXCEPT NP44114 ;  
LT 7, PL 204 , N/S OF DANFORTH AV ; OTTAWA/NEPEAN; SUBJECT TO AN EASEMENT IN  
GROSS OVER PART 1 ON PLAN 4R-26209 AS IN OC1381028

131 Ltd. holds legal title to this property as the sole bare trustee and nominee for MEC pursuant to a Declaration of Trust dated February 19, 1999.



**SCHEDULE 2.1(j)**  
**Intellectual Property**

1. Mountain Equipment Co-operative – Registered Trademarks and Applications

See attached.

Trademark List (by Client)						
Client:	Mountain Equipment Co-Operative					
Trademark	Client Matter Country	Case Type	Application No. Filing Date	Registration No.	Registration Date	
MEC & Square Design	062100-00187	ORD	1550598		1550598	
	Australia		09-Apr-2013		11-Dec-2014	
MEC & Square Design	062100-00187	ORD	1643897		1643897	
	Australia		28-Aug-2014		18-Apr-2017	
SERRATUS	062100-00001	ORD	453.452		TMA273.825	
	Canada		09-May-1980		12-Nov-1982	
MEC & Design	062100-00041	ORD	1.275.760		TMA726.652	
	Canada		03-Oct-2005		23-Oct-2008	
MEC & Design	062100-00041	ORD	1.378.163		TMA816.334	
	Canada		07-Jan-2008		27-Jan-2012	
MEC.CA	062100-00042	ORD	1.275.761		TMA687.396	
	Canada		03-Oct-2005		09-May-2007	
MOUNTAIN EQUIPMENT CO-OP	062100-00045	ORD	1.287.005		TMA704.498	
	Canada		13-Jan-2006		11-Jan-2008	
LA COOPERATIVE DEPLEIN AIR	062100-00052	ORD	1.294.731		TMA705.178	
	Canada		07-Mar-2006		22-Jan-2008	
GARANTIE DE POINTE MEC & G DESIGN	062100-00060	ORD	1.299.194		TMA694.333	
	Canada		12-Apr-2006		20-Aug-2007	
ROCKSOLID GUARANTEE & R DESIGN	062100-00061	ORD	1.299.193		TMA695.259	
	Canada		12-Apr-2006		30-Aug-2007	
SWIRL DESIGN	062100-00074	ORD	1.344.200		TMA715.331	
	Canada		19-Apr-2007		27-May-2008	
THE BIG WILD	062100-00075	ORD	1.347.208		TMA768.044	
	Canada		11-May-2007		28-May-2010	
HORIZONS SAUVAGES	062100-00077	ORD	1.347.918		TMA768.151	
	Canada		17-May-2007		31-May-2010	
MOUNTAIN EQUIPMENT CO-OP & Design	062100-00082	ORD	1.378.162		TMA816.333	
	Canada		07-Jan-2008		27-Jan-2012	

**Trademark List (by Client)**

<b>Client:</b> Mountain Equipment Co-Operative		<b>Client Matter</b>	<b>Case</b>	<b>Application No.</b>	<b>Registration No.</b>
<b>Trademark</b>	<b>Country</b>	<b>Type</b>	<b>Filing Date</b>	<b>Registration Date</b>	
MEC SWEET SPOTS OUTDOOR VIDEO CONTEST & DESIGN	Canada	ORD	1,384,542	27-Jan-2011	TMA788,918
PANAMEC CONCOURS DE VIDEOS DE GRANDE NATURE & DESIGN	Canada	ORD	1,384,543	27-Jan-2011	TMA754,332
MEC	Canada	ORD	22-Feb-2008	01-Dec-2009	
	062100-00092	ORD	1,408,738	TMA813,503	
	Canada	ORD	27-Aug-2008	07-Dec-2011	
R2K	062100-00093	ORD	1,410,894	TMA755,121	
	Canada	ORD	16-Sep-2008	11-Dec-2009	
WATCHTOWER	062100-00095	ORD	1,419,490	TMA813,528	
	Canada	ORD	25-Nov-2008	07-Dec-2011	
CONTENTION	062100-00096	ORD	1,424,319	TMA816,512	
	Canada	ORD	13-Jan-2009	31-Jan-2012	
MOUNTAIN EQUIPMENT CO-OP	062100-00097	ORD	1,425,764	TMA815,630	
	Canada	ORD	27-Jan-2009	17-Jan-2012	
TWIN PEAKS Design	062100-00098	ORD	1,425,765	TMA816,511	
	Canada	ORD	27-Jan-2009	31-Jan-2012	
SKYWAY	062100-00101	ORD	1,432,152	TMA819,790	
	Canada	ORD	24-Mar-2009	13-Mar-2012	
SHADOWLANDS	062100-00102	ORD	1,432,147	TMA767,854	
	Canada	ORD	24-Mar-2009	26-May-2010	
NINETEEN SEVENTY ONE	062100-00103	ORD	1,432,146	TMA767,855	
	Canada	ORD	24-Mar-2009	26-May-2010	
MIDTOWN	062100-00104	ORD	1,432,145	TMA767,856	
	Canada	ORD	24-Mar-2009	26-May-2010	
LYNX	062100-00105	ORD	1,432,144	TMA767,851	
	Canada	ORD	24-Mar-2009	26-May-2010	
HOLD STEADY	062100-00106	ORD	1,432,143	TMA767,850	
	Canada	ORD	24-Mar-2009	26-May-2010	
DESIRE	062100-00107	ORD	1,432,142	TMA767,853	

**Trademark List (by Client)**

**Client:** Mountain Equipment Co-Operative

<b>Trademark</b>	<b>Client Matter Country</b>	<b>Case Type</b>	<b>Application No. Filing Date</b>	<b>Registration No. Registration Date</b>
COTE	Canada 062100-00108	ORD	1,432,141 24-Mar-2009	TMA767,852 26-May-2010
COL	Canada 062100-00109	ORD	1,432,140 24-Mar-2009	TMA767,849 26-May-2010
CHINOOK	Canada 062100-00110	ORD	1,432,139 24-Mar-2009	TMA789,177 31-Jan-2011
ACE	Canada 062100-00111	ORD	1,432,138 24-Mar-2009	TMA819,786 13-Mar-2012
ORIGAMI	Canada 062100-00114	ORD	1,433,166 01-Apr-2009	TMA821,169 30-Mar-2012
MEC BIKEFEST	Canada 062100-00116	ORD	1,434,925 17-Apr-2009	TMA823,724 10-May-2012
MEC PADDLEFEST	Canada 062100-00117	ORD	1,434,924 17-Apr-2009	TMA823,723 10-May-2012
FESTIVAGUE MEC	Canada 062100-00119	ORD	1,437,273 06-May-2009	TMA824,592 23-May-2012
FESTIVELLO MEC	Canada 062100-00120	ORD	1,437,275 06-May-2009	TMA824,593 23-May-2012
HYDROFOIL	Canada 062100-00126	ORD	1,442,795 25-Jun-2009	TMA828,875 31-Jul-2012
NATIONAL	Canada 062100-00132	ORD	1,474,582 25-Mar-2010	TMA842,141 01-Feb-2013
THE LIFT	Canada 062100-00135	ORD	1,483,101 31-May-2010	TMA792,976 15-Mar-2011
DASH	Canada 062100-00136	ORD	1,489,490 21-Jul-2010	TMA797,987 18-May-2011
SYNERGY	Canada 062100-00137	ORD	1,489,491 21-Jul-2010	TMA815,023 05-Jan-2012
TURTLE	Canada 062100-00142	ORD	1,493,412 24-Aug-2010	TMA802,099 13-Jul-2011

<b>Client: Mountain Equipment Co-Operative</b> <b>Trademark List (by Client)</b>						
<b>Trademark</b>	<b>Client Matter Country</b>	<b>Case Type</b>	<b>Application No. Filing Date</b>	<b>Registration No. Registration Date</b>		
ATTACK	062100-00143 Canada	ORD	1.493.254 23-Aug-2010	TMA833.585 03-Oct-2012		
CHANCE	062100-00144 Canada	ORD	1.493.256 23-Aug-2010	TMA815.551 13-Jan-2012		
ÉTAPE	062100-00145 Canada	ORD	1.493.257 23-Aug-2010	TMA803.168 28-Jul-2011		
PURSUIT	062100-00146 Canada	ORD	1.493.255 23-Aug-2010	TMA812.778 25-Nov-2011		
TRAIL MOTION	062100-00148 Canada	ORD	1.510.422 07-Jan-2011	TMA819.787 13-Mar-2012		
PREMIERS PAS DANS LA NATURE AVEC MEC & Design	062100-00151 Canada	ORD	1.515.152 14-Feb-2011	TMA815.641 17-Jan-2012		
MEC FIRST STEPS INTO NATURE & DESIGN	062100-00152 Canada	ORD	1.517.564 03-Mar-2011	TMA815.642 17-Jan-2012		
MEC SNOWFEST	062100-00158 Canada	ORD	1.539.546 12-Aug-2011	TMA969.381 27-Apr-2017		
FESTINEIGE MEC	062100-00159 Canada	ORD	1.539.547 12-Aug-2011	TMA969.380 27-Apr-2017		
NORTHERN LITE	062100-00161 Canada	ORD	1.551.527 10-Nov-2011	TMA889.695 07-Nov-2014		
AQUANATOR	062100-00162 Canada	ORD	1.551.521 10-Nov-2011	TMA865.471 19-Nov-2013		
DELUGE	062100-00163 Canada	ORD	1.551.522 10-Nov-2011	TMA889.694 07-Nov-2014		
UPLINK	062100-00164 Canada	ORD	1.551.891 14-Nov-2011	TMA889.700 07-Nov-2014		
MOUNTAIN EQUIPMENT CO-OP & Design	062100-00171 Canada	ORD	451.324 17-Mar-1980	TMA281.752 29-Jul-1983		
MEC & Square Design	062100-00175 Canada	ORD	1.600.518	TMA937.400		

Client: Mountain Equipment Co-Operative Trademark List (by Client)						
Trademark	Client Matter Country	Case Type	Application No. Filing Date	Registration No. Registration Date		
WE ARE ALL OUTSIDERS	Canada 062100-00177	ORD	1,600,522 31-Oct-2012	TMA970.196 10-May-2016		
SERRATUS	Canada 062100-00191	ORD	1,623,618 23-Apr-2013	TMA936.923 05-May-2016		
SPEED	Canada 062100-00194	ORD	1,625,985 09-May-2013	TMA932.677 24-Mar-2016		
MEC GARANTIE DE POINTE MEC & Design	Canada 62100-00196	ORD	1,637,147 29-Jul-2013	TMA976.997 27-Jul-2017		
MEC ROCKSOLID GUARANTEE &	Canada 062100-00197	ORD	1,637,146 29-Jul-2013	TMA976.996 27-Jul-2017		
ADANAC 500	Canada 062100-00198	ORD	1,639,964 19-Aug-2013	TMA942.560 06-Jul-2016		
PROVINCIAL ROAD 222	Canada 062100-00204	ORD	1,706,998 12-Dec-2014	TMA934.273 08-Apr-2016		
CROSS WIND	Canada 062100-00211	ORD	1,747,793 25-Sep-2015	TMA1,016,529 04-Mar-2019		
ON SE REJOINT DEHORS	Canada 062100-00222	ORD	1,775,655 05-Apr-2016	TMA1,049,096 14-Aug-2019		
DRIBASE	Canada 062100-00227	ORD	1,888,648 16-Mar-2018			
GOOD TIMES OUTSIDE	Canada 062100-00227	ORD	1,800,819 16-Sep-2016	TMA1,049,066 14-Aug-2019		
PROVINCIAL ROAD 233	Canada 062100-00232	ORD	1,836,142 05-May-2017			
PROVINCIAL TRAIL	Canada 062100-00239	ORD	1,837,981 16-May-2017			
PROVINCIAL TRAIL	Canada 062100-00239	ORD	1,864,395 24-Oct-2017			
PROVINCIAL ROAD	Canada 062100-00240	ORD	1,864,394 24-Oct-2017	TMA1,049,073		

Trademark List (by Client)						
Client: Mountain Equipment Co-Operative						
Trademark	Client Matter Country	Case Type	Application No. Filing Date	Registration No. Registration Date		
MEC ADVENTURES	Canada 062100-00256	ORD	1,920,778 19-Sep-2018			14-Aug-2019
MEC ALL OUT	Canada 062100-00262	ORD	1,940,785 15-Jan-2019			
MEC TOUS DEHORS	Canada 062100-00263	ORD	1,944,441 04-Feb-2019			
HYPERLOFT	Canada 062100-54384	ORD	1,026,047 17-Aug-1999	TMA579.152 08-Apr-2003		
MOUNTAIN EQUIPMENT CO-OP & DESIGN	Canada 062100-54384	ORD	483,254 04-Mar-1982	TMA276.091 28-Jan-1983		
MOUNTAIN EQUIPMENT CO-OP & Design	Canada 062100-00048	ORD	5157005 15-Feb-2006	5157004 07-May-2009		
MOUNTAIN EQUIPMENT CO-OP & Design	China (People's Republic) 062100-00048	ORD	5157004 13-Feb-2006	5157004 07-May-2009		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249181 26-Apr-2013	1249181 21-Mar-2015		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249172 26-Apr-2013	1249172 28-Jul-2015		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249180 26-Apr-2013	1249180 06-Sep-2015		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249179 26-Apr-2013	1249179 21-Oct-2016		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249178 26-Apr-2013	1249178 21-Apr-2015		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249177 26-Apr-2013	1249177 14-Dec-2014		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249176 26-Apr-2013	1249176 28-Sep-2014		
MEC & Square Design	China (People's Republic) 062100-00188	ORD	1249175 26-Apr-2013	1249175 28-Sep-2014		

<p style="text-align: center;"><b>Trademark List (by Client)</b></p>						
<p><b>Client: Mountain Equipment Co-Operative</b></p>						
<b>Trademark</b>	<b>Client Matter Country</b>	<b>Case Type</b>	<b>Application No. Filing Date</b>	<b>Registration No. Registration Date</b>		
MEC & Square Design	China (People's Republic)	ORD	26-Apr-2013	07-Sep-2015		
	062100-00188		12491974	12491974		
	China (People's Republic)		26-Apr-2013	07-May-2015		
MEC & Square Design	062100-00188	ORD	12491973	12491973		
	China (People's Republic)		26-Apr-2013	28-Sep-2014		
MEC & Design	062100-00067	ORD	005440268	005440268		
	European Union (Community)		06-Nov-2006	25-Feb-2008		
MEC & Square Design	062100-00189	ORD	011725711	011725711		
	European Union (Community)		10-Apr-2013	15-Oct-2015		
MEC & Square Design	062100-00180	ORD	2515639	2515639		
	India		18-Apr-2013	29-Aug-2018		
MEC	062100-00265	ORD	4381434			
	India		18-Dec-2019			
MOUNTAIN EQUIPMENT CO-OP & Design	062100-00050	ORD	514851/2006	2716106		
	Japan					
MEC & Square Design	062100-00181	ORD	2013-026618	30-Sep-1996		
	Japan		10-Apr-2013	5893190		
MEC & Square Design	062100-00182	ORD	975406	04-Nov-2016		
	New Zealand		09-Apr-2013	975406		
MEC & Square Design	062100-00183	ORD	102021123	03-Feb-2015		
	Taiwan		23-Apr-2013	01638893		
MEC & Design	062100-00055	ORD		16-Apr-2014		
	United Kingdom		31-Mar-2006	2418345		
UPLINK	062100-00169	ORD	85/620.280	24-Nov-2006		
	United States of America		09-May-2012	5,003,570		
AQUANATOR	062100-00171	ORD	85/620.720	19-Jul-2016		
	United States of America		09-May-2012	4,527,705		
MEC & Square Design	062100-00185	ORD	85/917.842	13-May-2014		
	United States of America		29-Apr-2013	5,111,827		
WE ARE ALL OUTSIDERS	062100-00186	ORD	85/917.826	03-Jan-2017		
	United States of America		29-Apr-2013	5,583,161		
				16-Oct-2018		



Trademark List (by Client)						
Client: Mountain Equipment Co-Operative						
Trademark	Client Matter Country	Case Type	Application No. Filing Date	Registration No. Registration Date		
SERRATUS	062100-00192 United States of America	ORD	85/924.023 06-May-2013	5,084,521 22-Nov-2016		
CROSS WIND	062100-00220 United States of America	ORD	86/947.374 02-Mar-2016	5,881,866 15-Oct-2019		
MEC ALL OUT	062100-00275	ORD	88/507.162 10-Jul-2019			
MOUNTAIN EQUIPMENT CO-OP & Design	062100-54384	ORD	74/189.840	1,814,839		
MEC & Design	United States of America 062100-00057 Vietnam	ORD	17-Mar-1980 4-2006-04850 03-Apr-2006	04-Jan-1994 98562 31-Mar-2008		
MEC & Square Design	062100-00184 Vietnam	ORD	4-2013-08349 26-Apr-2013	239187 21-Jan-2015		

2. Mountain Equipment Co-operative – Registered Copyrights and Applications

Title	Current Owner	Reg. No. / Reg. Date	Category of Work
MOUNTAIN EQUIPMENT CO-OP SPRING/SUMMER 1997	Mountain Equipment Co-operative	462162 1997-05-30	Literary/Artistic
Mountain Equipment Co-op Spring and Summer 1998 Retail Catalogue	Mountain Equipment Co-operative	471871 1998-08-14	Literary/Artistic
Mountain Equipment Co-op Spring and Summer 1998 Catalogue	Mountain Equipment Co-operative	471872 1998-08-14	Literary/Artistic
Mountain Equipment Co-op Spring and Summer 2000 Catalogue	Mountain Equipment Co-operative	489696 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Spring / Summer 1996 Catalogue	Mountain Equipment Co-operative	451463 1996-04-10	Literary/Artistic
Safety and Rescue Equipment Spring 1996	Mountain Equipment Co-operative	452026 1996-04-26	Literary/Artistic
MOUNTAIN EQUIPMENT CO-OP FALL & WINTER 1996	Mountain Equipment Co-operative	454842 1996-07-25	Literary/Artistic
Safety and Rescue Equipment Spring 1997	Mountain Equipment Co-operative	462223 1997-06-03	Literary/Artistic
Fall and Winter 1997	Mountain Equipment Co-operative	462224 1997-06-03	Literary/Artistic
Mountain Equipment Co-op Fall and Winter 1998 Catalogue	Mountain Equipment Co-operative	471873 1998-08-14	Literary/Artistic

Title	Current Owner	Reg. No. / Reg. Date	Category of Work
Mountain Equipment Co-op Spring and Summer 1999 Catalogue	Mountain Equipment Co-operative	489695 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Fall – Winter 1999 Catalogue	Mountain Equipment Co-operative	489697 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Fall – Winter 2000 Catalogue	Mountain Equipment Co-operative	489698 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Paddlecraft & Paddles 1999	Mountain Equipment Co-operative	489699 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Paddlecraft & Paddles Spring/Summer 2000	Mountain Equipment Co-operative	489700 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Safety and Rescue Equipment 1999	Mountain Equipment Co-op*	489701 2001-02-01	Literary/Artistic
Mountain Equipment Co-op Safety & Rescue Equipment Catalogue 2000	Mountain Equipment Co-operative	489702 2001-02-01	Literary/Artistic

\*Request for Certificate of Correction to update owner name to Mountain Equipment Co-operative filed with the Canadian Intellectual Property Office July 24, 2020.

### 3. Mountain Equipment Co-operative – Domain Names

In addition to those domain names listed below, MEC is the registered owner of the domain names set out in Exhibit A to this Schedule, as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.d.

Domain Name	Renewal Date
mec.mobi	2020-09-26
mountainequipment.mobi	2020-09-26
mec.bike	2021-02-24
mec.clothing	2021-02-24
generationpleinair.ca	2021-04-08

outdoornation.ca	2021-05-05
meclistens.ca	2021-05-24
onserejointdehors.ca	2021-06-08
outdoorgearswap.com	2021-06-21
goodtimesoutside.ca	2021-06-22
goodtimesoutside.com	2021-06-22
goodtimesoutside.net	2021-06-22
goodtimesoutside.org	2021-06-22
onserejointdehors.com	2021-10-10
cooperativedepleinair.com	2022-03-21
mec.qc.ca	2022-04-30
mec.ca	2023-02-18
mecnet.ca	2026-02-23
cooperativedepleinair.ca	2026-03-21
meccooperativedepleinair.ca	2026-03-21
meccooperativedepleinair.com	2026-03-21
mountainequipmentcoop.ca	2026-09-11
mountainequipmentcoop.com	2026-11-16
mountainequipmentco-op.com	2026-11-16
mec.coop	2022-10-26
mountainequipment.coop	2023-02-07

4. Other Intellectual Property

- a) Mountain Equipment Co-operative commissioned the development and installation of public artwork in connection with its head office located at Great Northern Way in Vancouver, by artist Hannah Jickling pursuant to the Mountain Equipment Co-op Head Office Artwork Detailed Design Agreement (such contract as disclosed in Schedule 1.1(mmmm)). [REDACTED]

**SCHEDULE 2.1(k)**  
**IT Assets**

This Schedule is as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.e.

The list disclosed in such subfolder of the Project Data Room describes certain of the IT Assets used in the Business. Notwithstanding that Section 2.1(k) provides that the Sellers owns those IT Assets listed in Schedule 2.1(k), certain of the IT Assets disclosed in such subfolder of the Project Data Room are used by MEC pursuant to Contracts with third party vendors, as specified below.

1. Part 1(Hardware) of this Schedule 2.1(k), as disclosed separately in the subfolder specified above, sets out certain of the computer hardware owned by the Sellers and used in the Business. Per Section 2.2(q) of the Agreement, any hardware that is located or used exclusively at a retail store that is an Excluded Real Estate Property shall not be included in the Purchased Assets and the Buyer shall not obtain the Sellers' title to and rights in such hardware.
2. Part 2 (Software) of this Schedule 2.1(k), as disclosed separately in the subfolder specified above, sets out certain of the software or systems used in the Business, which software or systems are used by MEC under Contract from third party vendors. Pursuant to Section 2.2(b) of the Agreement, any Contracts under which a license or right to use that software that are designated as an Excluded Contract shall not transfer to the Buyer and the Buyer shall not obtain any right or license to such software and shall promptly de-install and/or discontinue its use of such software from computer hardware included in the Purchased Assets unless, and for so long as, its use is continuing by Buyer or Sellers under the Transition Services Agreement. The Buyer will promptly cooperate with the Sellers in providing any confirmations of the foregoing to the applicable third party counterparty to the Excluded Contract applicable to such use of such system or software.
3. Part 3 (Firewall) and Part 4(ESX Servers) of this Schedule 2.1(k), as disclosed separately in the subfolder specified above, sets out certain firewalls and servers owned by the Sellers and used in the Business. Notwithstanding the inclusion of such assets in this Schedule 2.1(k), any such assets located or used exclusively at a location that is an Excluded Real Estate Property shall not be included in the Purchased Assets and the Buyer shall not obtain the Sellers' title to and rights in such equipment.

As indicated in Schedule 2.2(a), MEC will retain computers used primarily by the governance team, notwithstanding the inclusion of such computers in the list in Schedule 2.1(k).

**SCHEDULE 2.1(p)**  
**Actions, etc.**

This Schedule is as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.f.









**SCHEDULE 2.2(a)**  
**Specific Corporate Records and Other Specific Excluded Assets**

1. Books, records and five Dell Latitude model laptops that are used primarily for corporate governance purposes and to be retained in accordance with Section 2.2(a) of the Agreement.

**SCHEDULE 2.2(b)**  
**Excluded Contracts**

**A. Excluded Contracts Designated by the Buyer**

1. All Contracts designated as Excluded Contracts pursuant to Section 2.7(a) of the Agreement.

**B. Pre-Determined Excluded Contracts**

The Contracts relating to the matters set out below shall be Excluded Contracts and shall not be designated by the Buyer as Assumed Contracts without the agreement of the Buyer and Sellers.

1. Engagement agreements with legal counsel
2. Engagement agreements with trademark prosecution firms
3. Engagement agreements with A&M
4. Engagement agreements with accounting firms
5. Engagement agreement with Navigator
6. Insurance policies
7. Agreements related to the corporate governance of MEC and 131 Ltd. and the compliance by them with their obligations under, in the case of MEC the *Cooperative Association Act* (British Columbia) and the MEC rules, and, in the case of 131 Ltd., the *Corporations Act* (Ontario) and its articles and bylaws, including but not limited to agreements with (i) board members (in their capacity as such), and (ii) contractors and consultants engaged to assist with cooperative or corporate governance matters, including MEC's voting processes.
8. Agreements related to the [REDACTED] board management portal software
9. Retention agreements entered into by MEC and key employees pursuant to any Key Employee Retention Plan approved by the Board of Directors of MEC as disclosed separately to the Buyer in the Project Data Room in subfolder I.6.

**SCHEDULE 2.3(a)**  
**Key Suppliers**

Key Suppliers shall include

[REDACTED]

Confidential

**SCHEDULE 2.3(j)  
Permitted Encumbrances**

<b>BRITISH COLUMBIA PPSA</b>	
<b>Secured Party:</b> CIT FINANCIAL LTD.	<b>Base Reg.:</b> 939821H
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> MAY 06, 2021
<b>Collateral:</b> PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 141283I
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> AUG22, 2020
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9769864-001)	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 141299I
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> AUG22, 2020
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9769866-001)	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 378352I
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> JAN07, 2021
<b>Collateral:</b> ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 431715I
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> FEB09, 2021
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796948-001)	

<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 431716I			
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> FEB 09, 2021			
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796951-001)				
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 431718I			
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> FEB 09,2021			
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796954-001)				
<b>Secured Party:</b> C. KEAY INVESTMENTS LTD. DBA OCEAN C. KEAY INVESTMENTS LTD. C. KEAY INVESTMENTS LTD.	<b>Base Reg.:</b> 453961I			
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OP	<b>Expiry Date:</b> FEB 23,2021			
<b>Vehicle Collateral:</b>				
Type	Serial #	Year	Make/Model	MH Reg.#
TR	1JJV532T3SL275998	1995	WABASH 53'T/A DRY VAN SPR	
<b>General Collateral:</b> TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.				
<b>Secured Party:</b> WELLS FARGO EQUIPMENT FINANCE COMPANY	<b>Base Reg.:</b> 537484J			
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> SEP 14, 2022			
<b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9882171-001)				
<b>Secured Party:</b> CIT FINANCIAL LTD.	<b>Base Reg.:</b> 562051J			
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> SEP 27, 2022			
<b>Collateral:</b> RICOH PRINTERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR				

INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.	
<b>Secured Party:</b> APPLE CANADA INC.	<b>Base Reg.:</b> 415013K
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> NOV22, 2020
<b>Collateral:</b> ALL GOODS WHICH ARE COMMUNICATION & ELECTRONIC DEVICES MANUFACTURED, DISTRIBUTED OR SOLD BY APPLE CANADA INC., THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL. (REFERENCE NO. 9946246-001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)	
<b>Secured Party:</b> LBEL INC.	<b>Base Reg.:</b> 884391K
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> JUL 10, 2024
<b>Collateral:</b> PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS.	
<b>Secured Party:</b> G.N. JOHNSTON EQUIPMENT CO. LTD.	<b>Base Reg.:</b> 669057L
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> JUL 30, 2023
<b>Vehicle Collateral:</b>	
Type	Serial #
MV	560-19-B46074
MV	560-19-B46076
MV	560-19-B46078
Year	Make/Model
2019	RAYMOND 560-OPC30TT
2019	RAYMOND 560-OPC30TT
2019	RAYMOND 560-OPC30TT
<b>General Collateral:</b> (3) DEKA BATTERIES 18D125136C79 S/N 2005AI 2011AI 2012AI AND (3) DEKA CHARGERS Q4-24/36-150BB S/N 2-10-0119-00314 2-10-0519-20936 2- 10-1218-20820 REF. 509297	
<b>Secured Party:</b> LBELINC.	<b>Base Reg.:</b> 906149L
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> NOV21, 2025
<b>Collateral:</b> PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS	
<b>Secured Party:</b> WELLS FARGO EQUIPMENT FINANCE	<b>Base Reg.:</b> 108152M

COMPANY	
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> MAR09, 2026
<p><b>Collateral:</b> ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, 3D PRINTERS, PRODUCTION PRINTERS, INDUSTRIAL INKJETS, DIGITAL PRESSES, DIGITAL SIGNAGE, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE WHITEBOARDS, SERVERS, AND SOFTWARE, OFFICE FURNITURE (CHAIRS, TABLES, ACCESSORIES), TELEPHONY, COMPUTERS, TELECONFERENCING EQUIPMENT, MAILING SYSTEMS, FOLDER INSERTERS. THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL. (REFERENCE NO. 8326544-001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)</p>	

ALBERTA PPSA	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 15010726580
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2021-Jan-07
<p><b>Collateral:</b> ALL GOODS WHICH ARE PRINTERS AND COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9792123-001)</p>	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 15020934670
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2021-Feb-09
<p><b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796939-001)</p>	
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP	<b>Base Reg.:</b> 15020934682
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2021-Feb-09
<p><b>Collateral:</b> ALL GOODS WHICH ARE COPIERS TOGETHER WITH ALL REPLACEMENTS AND SUBSTITUTIONS THEREOF AND ALL PARTS, ACCESSORIES, ACCESSIONS AND ATTACHMENTS THERETO AND ALL PROCEEDS THEREOF, INCLUDING ALL PROCEEDS WHICH ARE ACCOUNTS, GOODS, CHATTEL PAPER, INVESTMENT PROPERTY, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, CROPS OR INSURANCE PROCEEDS (REFERENCE NO. 9796937-001)</p>	
<b>Secured Party:</b> LBEL INC.	<b>Base Reg.:</b> 19112122796
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2025-Nov-21
<p><b>Collateral:</b> PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES.</p>	



ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS

MANITOBA PPSA	
<b>Secured Party:</b> LBEL INC.	<b>Base Reg.:</b> 201920179806
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2025-11-21
<b>Collateral:</b> PHOTOCOPIERS TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES. ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO. ALL PROCEEDS FROM THE AFORESAID COLLATERAL THAT ARE GOODS, INTANGIBLES, CHATTEL PAPER, DOCUMENTS OF TITLE, INSTRUMENTS, MONEY OR INVESTMENT PROPERTY (ALL AS DEFINED IN THE PERSONAL PROPERTY SECURITY ACT) AND INCLUDING INSURANCE PROCEEDS	

QUEBEC	
<b>Secured Party:</b> LBEL INC.	<b>Base Reg.:</b> 19-1327984-0001
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE	<b>Expiry Date:</b> 2025-10-10
<b>Collateral:</b> (1) IMPRIMANTE RICOH P C600, ns: 5329X601827; (3) IMPRIMANTE RICOH AFICIO SP 5300DN, ns: Y029X355575; Y029X355584; Y028X842771  Les biens meubles décrits ci-dessus, où qu'ils se trouvent, incluant toutes les pièces, accessoires, biens de remplacement, ajouts et dispositifs s'y rattachant, corporels et incorporels (incluant tout logiciel), présents et futurs, reliés à ces biens meubles ou fixés sur ceux-ci, ainsi que tous les produits et toute la documentation, les manuels ou les informations fournis relativement à ces biens meubles.	

ONTARIO PPSA						
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP				<b>Reg. No.:</b> 20150107 1559 5064 8135		
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2021-Jan-07		
<b>Collateral:</b>						
<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	
		X				
<b>General Collateral Description:</b> EQUIPMENT - ACCOUNT SCHEDULE- 9792123001						
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP				<b>Reg. No.:</b> 20150209 1851 5064 9241		
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2021-Feb-09		
<b>Collateral:</b>						
<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	
		X				
<b>General Collateral Description:</b> EQUIPMENT - ACCOUNT SCHEDULE- 9796936001						
<b>Secured Party:</b>				<b>Reg. No.:</b> 20150209 1855 5064 9244		

GE VFS CANADA LIMITED PARTNERSHIP						
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2021-Feb-09		
<b>Collateral:</b>						
<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	
		X				
<b>General Collateral Description:</b> ACCOUNT SCHEDULE- 9796933001						
<b>Secured Party:</b> GE VFS CANADA LIMITED PARTNERSHIP.				<b>Reg. No.:</b> 20150209 1856 5064 9245		
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2021-Feb-09		
<b>Collateral:</b>						
<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	
		X				
<b>General Collateral Description:</b> ACCOUNT SCHEDULE- 9796943001						
<b>Secured Party:</b> CIT FINANCIAL LTD.				<b>Reg. No.:</b> 20160927 1126 1616 0567		
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2022-Sept-27		
<b>Collateral:</b>						
<b>Consumer Goods</b>	<b>Inventory</b>	<b>Equipment</b>	<b>Accounts</b>	<b>Other</b>	<b>Motor Vehicle Included</b>	
		X		X		
<b>General Collateral Description:</b> RICOH PRINTERS AND ACCESSORIES						
<b>Secured Party:</b> LBEL INC.				<b>Reg. No.:</b> 20191121 1512 1901 4810		
<b>Base Debtor:</b> MOUNTAIN EQUIPMENT CO-OPERATIVE				<b>Expiry Date:</b> 2025-Nov-21		
<b>General Collateral Description:</b> PHOTOCOPIERS WITH ALL ACCESSORIES						

**British Columbia Real Property – Permitted Encumbrances**

1. As to Parcel Identifier: 011-388-391, Lot A (Explanatory Plan 11193) Block 31 District Lot 272 Plan 4692
  - (a) RIGHT OF WAY 556246M IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (b) RIGHT OF WAY G15282 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (c) COVENANT BB1176148 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (d) COVENANT CA2060961 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER

- (e) COVENANT CA2060962 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (f) COVENANT CA2060963 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (g) STATUTORY RIGHT OF WAY CA2060964 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (h) COVENANT CA2060965 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (i) STATUTORY RIGHT OF WAY CA2060966 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (j) COVENANT CA2314556 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (k) STATUTORY RIGHT OF WAY CA2314557 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (l) STATUTORY RIGHT OF WAY CA2391685 IN FAVOUR OF BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
  - (m) STATUTORY RIGHT OF WAY CA2391686 IN FAVOUR OF TELUS COMMUNICATIONS INC.
  - (n) COVENANT CA2737044 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
  - (o) STATUTORY RIGHT OF WAY CA2752086 IN FAVOUR OF THE CORPORATION OF THE CITY OF NORTH VANCOUVER
2. As to Parcel Identifier: 005-054-745, Lot 67 Except: Part Subdivided by Plan 53690, Section 20 Township 2 New Westminster District Plan 52612:
- (a) RIGHT OF FIRST REFUSAL L67964 (EXTENDED BY N57158 AND ASSIGNED TO AB200715) IN FAVOUR OF SOUTHERN RAILWAY OF BRITISH COLUMBIA LIMITED
  - (b) RIGHT OF FIRST REFUSAL N57158 (EXTENSION OF L67964)
  - (c) RIGHT OF FIRST REFUSAL AB200715 (ASSIGNMENT OF L67964)
  - (d) RIGHT OF FIRST REFUSAL BR347063 (MODIFICATION OF L67964 (SEE ALSO N57158 AND AB200715))
  - (e) MODIFICATION BA527656 (MODIFICATION OF L67964 (SEE ALSO N57158 AND AB200715))
  - (f) COVENANT BA603353 IN FAVOUR OF THE CITY OF SURREY
  - (g) COVENANT BA603354 IN FAVOUR OF THE CITY OF SURREY

**Alberta Real Property – Permitted Encumbrances**

1. As to Plan 1423LK Block 31 Containing 0.700 Hectares (1.73 Acres) More or Less Excepting Thereout:
- | Plan | Number  | Hectares | (Acres) More or Less |
|------|---------|----------|----------------------|
| Road | 9610692 | 0.028    | 0.07                 |
- Excepting Thereout All Mines and Minerals:
- (a) REG NO. 161 271 171 UTILITY RIGHT OF WAY IN FAVOUR OF THE CITY OF CALGARY

**Manitoba Real Property – Permitted Encumbrances**

1. As to Title No. 2917179/1, Lots 319 and 320 Block 3 Plan 129 WLTO (W Div) in RL 1 Parish of St John:
- (a) CAVEAT 12956/1

**Ontario Real Property – Permitted Encumbrances**

1. As to PIN No. 04017-0142 (LT), Part Lots 5 & 6, Plan 204 , S/S of Richmond Road; as in CR359870 ; Lots 5 & 6, Plan 204 , N/S of Danforth Av; Ottawa/Nepean:
- (a) Instrument No. LT1207450 being an Application to Annex Restrictive Covenants
- (b) Instrument No. LT1229978 being a Notice of a Site Plan Agreement
- (c) Instrument No. LT1289591 being an Application to Annex Restrictive Covenants
- (d) Instrument No. OC1339043 being a Notice of a Site Plan Agreement
- (e) Instrument No. OC1339044 being a Notice of a Maintenance and Liability Agreement
- (f) Instrument No. OC1339045 being a Notice of a Parking Agreement
- (g) Instrument No. OC1475005 being a Transfer Easement in favour of No Qualms Holdings Inc.
2. As to PIN No. 04017-0143 (LT), Lot 7, Plan 204 , S/S of Richmond Road; Except NP44114 ; Lot 7, Plan 204 , N/S of Danforth Av ; Ottawa/Nepean; Subject to an Easement in gross over Part 1 on Plan 4R-26209 as in OC1381028:
- (a) Instrument No. LT1229978 being a Notice of a Site Plan Control Agreement
- (b) Instrument No. OC1339043 being a Notice of a Site Plan Agreement
- (c) Instrument No. OC1339044 being a Notice of a Maintenance and Liability Agreement
- (d) Instrument No. OC1339045 being a Notice of a Parking Agreement
- (e) Instrument No. OC1381028 being a Transfer Easement in favour of Hydro Ottawa Limited

3. As to PIN No. 04017-0145 (LT), Part Lot 8, Plan 204, N/S of Danforth Ave, as in CR559106; Subject to an Easement over Part 15 on Plan 4R-27018 in favour of Part of Lot 8 on Plan 204, South Side of Richmond Road, being Part 7 on Plan 4R-27018 as in OC1475005; City of Ottawa:
  - (a) Instrument No. CR668702 being a Development Agreement
  - (b) Instrument No. NS6100 being a Site Plan Agreement
  - (c) Instrument No. OC1339043 being a Notice of a Site Plan Agreement
  - (d) Instrument No. OC1339044 being a Notice of a Maintenance and Liability Agreement
  - (e) Instrument No. OC1339045 being a Notice of a Parking Agreement
  - (f) Instrument No. OC1475005 being a Transfer Easement in favour of No Qualms Holdings Inc.
  
4. As to PIN No. 04017-0201 (LT), Part of Lot 8 on Plan 204, South Side of Richmond Road and Part of Lot 8 on Plan 204, North Side of Danforth Avenue, being Parts 4 to 6 and 8 to 13 on Plan 4R-27018.; Subject to an Easement in gross over Part 4 on Plan 4R-27018 as in OC1381026; Subject to an easement over Part 6 on Plan 4R-27018 in favour of Part of Lot 8 on Plan 204, South Side of Richmond Road being Part 7 on Plan 4R-27018 as in OC1475004; Subject to an easement over Parts 10 and 11 on Plan 4R-27018 in favour of Part of Lot 8 on Plan 204, South Side of Richmond Road being Part 7 on Plan 4R-27018 as in OC1475005; Subject to an easement over Parts 9, 10 and 13 on Plan 4R-27018 in favour of Part of Lot 8 on Plan 204, South Side of Richmond Road being Part 7 on Plan 4R-27018 as in OC1475006; City of Ottawa
  - (a) Instrument No. OC1339043 being a Notice of a Site Plan Agreement
  - (b) Instrument No. OC1339044 being a Notice of a Maintenance and Liability Agreement
  - (c) Instrument No. OC1339045 being a Notice of a Parking Agreement
  - (d) Instrument No. OC1381026 being a Transfer Easement in favour Hydro Ottawa Limited
  - (e) Instrument No. OC1475004 being a Transfer Easement in favour of No Qualms Holdings Inc.
  - (f) Instrument No. OC1475005 being a Transfer Easement in favour of No Qualms Holdings Inc.
  - (g) Instrument No. OC1475006 being a Transfer Easement in favour of No Qualms Holdings Inc.
  
5. As to PIN No. 10059-0267 (LT), Part Lot 16, Concession 2 EYS, Designated as Parts 1, 4, 5, 6, 9, 10, 11, 12, 13 & 14, Plan 66R27498; TOGETHER WITH AN EASEMENT OVER PART LOT 16, CON 2 EYS, DES AS PART 3, PLAN 66R27498 AS IN AT3895818; Together with an easement over Part Lot 16, Concession 2 EYS, Designated as Part 7, Plan 66R27498 as in AT3895818; Together with an easement over Part Lot 16, Concession 2 EYS, Designated as Part 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 4, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 5, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 6, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 9, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 10, Plan

- 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 11, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 12, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 13, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement over Part 14, Plan 66R27498 in favour of Part Lot 16, Concession 2, EYS, Designated as Parts 2, 3, 7 and 8, Plan 66R27498 as in AT3895818; Subject to an easement in gross over Parts 1, 5, 10, 12, 13 & 14, 66R27498 as in AT4283935; Subject to an easement in gross over Parts 4, 5, 6, 9, 11, 12 & 13 Plan 66R27498 as in AT4337864; City of Toronto:
- (a) Instrument No. AT3895820 being a Notice of an unregistered estate, right or interest in the lands in favour of Park Towns Developments (Sheppard) Inc.
  - (b) Instrument No. AT4283934 being a Notice of a Site Plan Agreement
  - (c) Instrument No. AT4283935 being a Transfer Easement in favour of the City of Toronto
  - (d) Instrument No. AT4337864 being a Transfer Easement in favour of Toronto Hydro-Electric System Limited
6. As to PIN No. 07081-0411 (LT), Part Lot 15, RCP PL99, Part 2, 20R6976, Parts 2-6, 20R6744 & as in 656180 S&E Part 17 PE118, Part 1, 20R9817 & Part 1, 20R17605; Burlington. S/T the rights of owners of adjoining parcels, if any, under 381621:
- (a) Instrument No. 119980 being a By-Law in favour of the Corporation of the Town of Burlington (By-Law No. 1945)
  - (b) Instrument No. 624841 being a Development Agreement
  - (c) Instrument No. 805130 being an Agreement relating to the ingress and egress to and from Brant Street
  - (d) Instrument No. HR641374 being a Notice of a Development Agreement
  - (e) Instrument No. HR648712 being a Notice of Amendment to the Development Agreement registered as Instrument No. HR641374
7. As to PIN No. 07081-0253 (LT), Part Lot 15, RCP PL99, as in 655061; Burlington:
- (a) Instrument No. 119980 being a By-Law in favour of the Corporation of the Town of Burlington (By-Law No. 1945)
  - (b) Instrument No. HR77893 being an Application (General) to remove a writ from the thumbnail description
  - (c) Instrument No. HR641374 being a Notice of a Development Agreement
  - (d) Instrument No. HR648712 being a Notice of Amendment to the Development Agreement registered as Instrument No. HR641374
8. As to PIN No. 07081-0254 (LT), Part Lot 15, RCP PL99, as in 190615; Burlington:
- (a) Instrument No. 119980 being a By-Law in favour of the Corporation of the Town of Burlington (By-Law No. 1945)

- (b) Instrument No. HR641374 being a Notice of a Development Agreement
- (c) Instrument No. HR648712 being a Notice of Amendment to the Development Agreement registered as Instrument No. HR641374

**SCHEDULE 4**  
**Other Qualifications**

This Schedule is as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.g. The representations and warranties provided by the Sellers in the Sections of the Agreement referenced in this Schedule are qualified by the disclosures set out in the Project Data Room under folder N.1.



Confidential

**SCHEDULE 4.1**  
**List of Sellers and Jurisdiction of Incorporation**

<b>Name of Seller</b>	<b>Jurisdiction of Incorporation</b>
Mountain Equipment Co-operative	British Columbia
1314625 Ontario Limited	Ontario

**SCHEDULE 6.2(f)**  
**Material IT Contracts**



Confidential

**SCHEDULE 7.4**  
**Conduct of Business Prior to Closing Time**

1. To the extent not already paid on or prior to the Filing Date, the Sellers may pay to each Employee directly an amount equal to all accrued but unpaid vacation pay owing to such Employee.
2. For certainty, the Sellers may elect to obtain run-off coverage under any applicable director and officer liability insurance policies maintained in respect of current or former directors and/or officers of the Sellers, and shall be entitled to take such steps as may be reasonably necessary or desirable to ensure that such run-off coverage is obtained, including the payment of any additional premium or the acceptance of any additional terms, conditions, exclusions and limitations required by the insurers thereunder, all in connection with the CCAA Proceedings and/or closing of the transactions contemplated by this Agreement.
3. MEC may [REDACTED]
4. MEC may [REDACTED]
5. As at the Closing Time, each of the Sellers shall no longer engage in any of the following activities as set out in the definition of "cultural business" contained in subsection 14.1(6) of the Investment Canada Act, as part of or in connection with a Canadian business: (a) the publication, distribution or sale of books, magazines, periodicals or newspapers in print or machine readable form, other than the sole activity of printing or typesetting of books, magazines, periodicals or newspapers; (b) the production, distribution, sale or exhibition of film or video recordings; (c) the production, distribution, sale or exhibition of audio or video music recordings; (d) the publication, distribution or sale of music in print or machine readable form; or (e) radio communication in which the transmissions are intended for direct reception by the general public, any radio, television and cable television broadcasting undertakings and any satellite programming and broadcast network services.
6. Notwithstanding anything to the contrary in the Agreement, MEC shall have the right to [REDACTED]
7. For certainty, subject to the Transition Services Agreement to be executed and delivered by the Parties in accordance with Sections 10.2(k) and 10.3(j), and the provision of the MEC Services (as defined therein), the Sellers shall be entitled to disclaim and/or terminate as applicable, any Real Property Lease, Personal Property Lease, or other Contract that is either (a) designated as an Excluded Contract in accordance with the Agreement; or which relates solely to a retail or office location operated by a Seller that is not designated as a Purchased Location in accordance with the Agreement; and the Sellers shall be entitled to do so forthwith upon such designation.

EXHIBIT A  
Open to Buy Report

This Exhibit A is as disclosed separately to the Buyer in the Project Data Room in subfolder N.1.h.

**SCHEDULE 10.2(k)**  
**Transition Services Agreement**

See attached.

**TRANSITION SERVICES AGREEMENT**

**THIS TRANSITION SERVICES AGREEMENT**(this “**Agreement**”) is dated as of ●, 2020,  
**BETWEEN:**

**1264686 B.C. LTD.**, a British Columbia corporation governed by the laws of British Columbia, (the “**Buyer**”)

- and -

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association governed by the laws of British Columbia (“**MEC**”, and together with the Buyer, the “**Parties**”, and each a “**Party**”)

**WHEREAS:**

- (A) Pursuant to an Asset Purchase Agreement dated as of September ●, 2020 by and among the Buyer, 1314625 Ontario Limited (“**131 Ltd.**”), and MEC (the “**Asset Purchase Agreement**”), MEC and 131 Ltd. have agreed to sell the Purchased Assets to the Buyer under proceedings pursuant to the *Companies’ Creditors Arrangement Act* (Canada).<sup>2</sup>
- (B) At Closing under the Asset Purchase Agreement the Buyer and MEC shall execute and deliver a transition services agreement in substantially the form of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained in the Asset Purchase Agreement and this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

**Article 1**  
**Interpretation**

**1.1 Defined Terms.**

Capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to those terms in the Asset Purchase Agreement.

**1.2 Interpretation**

The interpretation of this Agreement shall be subject to the interpretation terms contained in Article 1 [Interpretation] of the Asset Purchase Agreement, as applicable, *mutatis mutandis*.

**1.3 References**

- (a) The words **Article** or **Section** followed by a number or letter mean and refer to the specified Article or Section of this Agreement.

---

<sup>2</sup> NTD: Recitals to be updated if Asset Purchase Agreement assigned by the Buyer to its Affiliates.

- (b) The exhibits or schedules attached to this Agreement or otherwise forming part of it, as the same may be amended, restated, replaced, supplemented or novated from time to time form an integral part of this Agreement.

#### 1.4 Accounting Terms

All accounting and financial terms and references not defined in this Agreement are to be interpreted in accordance with ASPE.

#### 1.5 Governing Law

- (a) This Agreement is governed by and is to be interpreted, construed and enforced in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.
- (b) Each of the Parties consent to the exclusive jurisdiction and venue of the CCAA Court prior to a Final Order of the CCAA Court closing the CCAA Proceedings and thereafter to the Courts of British Columbia for the resolution of any disputes arising under this Agreement. Each of the Parties waives objection to the venue of any action or proceeding in such court or any argument that such court provides an inconvenient forum.
- (c) Each of the Parties hereby irrevocably waives any and all rights to trial by jury in any legal proceeding arising out of or related to this Agreement.

### Article 2 Services To Be Provided

#### 2.1 Services

The Parties agree that, upon the terms and subject to the conditions set forth in this Agreement, the Buyer shall provide to MEC, 131 Ltd., and the Monitor from and after the Closing Date, the services described on Schedule A (collectively, the “**Buyer Services**” and each a “**Buyer Service**”).

The Parties agree that, upon the terms and subject to the conditions set forth in this Agreement, MEC shall provide to the Buyer the services described on Schedule B (collectively, the “**MEC Services**” and each an “**MEC Service**”). The MEC Services together with the Buyer Services are referred to herein as the “**Services**”.

The Parties acknowledge the transitional nature of the Services. Accordingly, as promptly as practicable following the execution of this Agreement, (i) MEC agrees to use commercially reasonable efforts to complete all transition or other activities requiring the Buyer Services, and (ii) the Buyer agrees to use commercially reasonable efforts to make a transition of the MEC Services to its own internal organization or to obtain alternate third-party sources or to otherwise eliminate its need for the MEC Services.

## 2.2 Cooperation and Project Managers

Each Party shall cooperate and, to the extent it has personnel available to do so, provide such assistance as is reasonably required for the other Party to provide the applicable Services to it in the manner required by this Agreement. Further, each Party will appoint an individual to serve as such Party's representative to deal with issues arising out of the performance of this Agreement and facilitate the orderly provision of the Services. The initial representatives shall be [name], [phone], [email] for the Buyer and [name], [phone], [email] for MEC. Each of the Parties may change its designated representative by giving notice to the other Party.

## 2.3 Subcontractors

Neither Party may subcontract its duties to perform its respective Services under this Agreement except with the prior written consent of the other Party (which consent shall not be unreasonably withheld), and provided that such subcontracting shall not relieve the Party subcontracting its Services of any of its obligations under this Agreement.

## 2.4 Personnel

All labour matters relating to employees of any Party (including employees involved in the provision of the Services) shall be within the exclusive control of such Party, and the other Parties shall not have any responsibility or authority with respect to such matters. For the avoidance of doubt, all employees, contractors and other representatives of either Party providing Services hereunder shall not be deemed to be employees, contractors, or other representatives of the other Party.

## 2.5 Control

For the avoidance of doubt, the Buyer shall have exclusive control of the operations of the Acquired Business at all times from and after the date of this Agreement. To the extent within the scope of the Buyer Services, any and all actions taken by MEC with respect to the Acquired Business shall be deemed taken by or on behalf of MEC and not by or on behalf of the Buyer. No provisions of this Agreement shall be deemed to place upon MEC any obligations with respect to the Acquired Business, other than those relating to the MEC Services.

## 2.6 Services Subject to Legal Requirements

Nothing herein shall be construed to require any Person to provide any Service in violation of any Laws to which such Person is subject. Each Party shall comply in all material respects with: (a) all Laws with respect to the provision of their respective Services hereunder and the use of or exercise of any entitlements (including in the case of the MEC Services, any use by the Buyer of the MEC Services); and (b) the accounting and reporting requirements of any Governmental Authority having jurisdiction over it with respect to activities related to such Party's performance of their respective Services.



### Article 3 Standard of Service

#### 3.1 Standard of Service.

Subject to, and in accordance with, the provisions in Section 2.6 above, each Party shall perform their respective Services with a reasonable standard of care consistent with prudent business practices applicable to the particular Services. MEC acknowledges and agrees that from time to time the Buyer's operation of the Acquired Business may, as is reasonable under the circumstances, take precedence over the timing of completion of any particular Buyer Service to the extent there is a competing material deadline for which the Buyer reasonably requires the services of the same Retained Employee(s).

Each Party acknowledges and agrees that the other Party is not a professional services organization and is not in the business of providing the applicable Services to third parties and will not be held to the standard of professional providers of such services or any other standard other than the standard set forth in this Section 3.1.

### Article 4 Compensation and Payment Terms

#### 4.1 Compensation and Reimbursement

- (a) **Buyer Services.** In consideration of the provision of the MEC Services pursuant to this Agreement, the Buyer shall provide up to ■ hours of time of Buyer Services each month of the Term (as defined in section 5.1). The Buyer shall not exceed that number of hours of Buyer Services without written prior authorization from MEC or the Monitor. In addition to such amount, if the Buyer or any of its affiliates incurs reasonable and documented out-of-pocket expenses in the provision of any Buyer Service, including, without limitation, licence fees in respect of the portion of software or systems licenses that MEC or the Monitor requests be made available for use by MEC or the Monitor as part of the Buyer Services (the approximate cost of which shall be agreed upon in advance between the Buyer and MEC or the Monitor, each acting reasonably) and payments to permitted third-party service providers or subcontractors, but excluding payments made to employees of the Buyer or any of its affiliates (such included expenses, collectively, the "**Out-of-Pocket Costs**"), MEC shall reimburse the Buyer for all such Out-of-Pocket Costs in accordance with the invoicing procedures set forth in Section 4.2. For any hours of Buyer Services provided by the Buyer in excess of such number of hours and approved in writing by MEC or the Monitor, MEC shall reimburse the Buyer for the pro rated hourly equivalent actual base salary and benefit costs of the particular Retained Employees providing such Buyer Services, subject to any cap on the number of hours of Buyer Services that may be specified by MEC or the Monitor in such written authorization.

- (b) **MEC Services.** The Buyer shall reimburse MEC for the reasonable and documented out-of-pocket expenses in the provision of any MEC Services during the MEC Services Term as set out in Schedule B.

#### 4.2 **Payment**

- (a) On or before the 10<sup>th</sup> Business Day of each calendar month, commencing the month immediately following the month in which the Closing Date occurs and ending with the month immediately following the first occurring month in which either (a) the expiry of the Term; or (b) this Agreement is terminated, the Buyer shall deliver to MEC an invoice containing reasonably detailed information reflecting the hours of Buyer Services provided in the previous month and, if applicable, the fees payable pursuant and subject to Section 4.1(a). Subject to Section 4.3(a), MEC shall make payment of the amount due to the Buyer on any invoice within fifteen (15) Business Days after MEC's receipt of the invoice and reasonably detailed supporting records relating to the provided Buyer Services.
- (b) On or before the tenth Business Day of each calendar month, commencing the month immediately following the month in which the Closing Date occurs and ending with the month immediately following the first occurring month in which either (a) the expiry of the MEC Services Term; or (b) this Agreement is terminated, MEC shall deliver to the Buyer an invoice containing reasonably detailed information reflecting the fees payable pursuant and subject to Section 4.1(b). Subject to Section 4.3(b), the Buyer shall make payment of the amount due to MEC on any invoice within fifteen (15) Business Days after the Buyer's receipt of the invoice and reasonably detailed supporting records relating to the provided MEC Services.

#### 4.3 **Payment Disputes**

- (a) In the event that MEC in good faith disputes any invoice from the Buyer issued hereunder, or portion thereof, MEC shall pay the undisputed portion of the invoice and provide the Buyer written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.
- (b) In the event that the Buyer in good faith disputes any invoice from MEC issued hereunder, or portion thereof, the Buyer shall pay the undisputed portion of the invoice and provide MEC written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.

#### 4.4 No Right of Offset

Neither Party shall have a right to offset, deduct or withhold any monies from any amounts due under this Agreement based on any amounts owed or claimed to be owed by the other Party.

#### 4.5 Taxes

The consideration payable to either Party pursuant to this Agreement shall exclude any and all Taxes imposed on the provision of the Services, and any and all Taxes otherwise imposed on, sustained or incurred with respect to, or applicable to, the provision of the Services; provided that MEC shall bear any and all sales, use and other similar Taxes imposed on the provision of the Buyer Services and the Buyer shall bear any and all sales, use and other similar Taxes imposed on the provision of the MEC Services.

### Article 5 Termination

#### 5.1 Term

Unless the Parties otherwise agree in writing, (i) the Buyer's obligation to provide the Buyer Services set forth on Schedule A will begin on the Closing Date and automatically terminate, with no further action by either Party, on the expiry of the term set forth in Schedule A (the "Term") and (ii) MEC's obligation to provide the MEC Services will begin on the Closing Date and automatically terminate, with no further action by either Party, on the 60<sup>th</sup> day after the Closing Date. This Agreement shall expire and terminate as a whole upon the earlier of (a) the date of termination if this Agreement is terminated under Sections 5.2(a), 5.2(b), or 5.2(c), or (b) the last day of the Term.

#### 5.2 Early Termination

- (a) This Agreement may be terminated at any time by mutual written agreement of the Parties.
- (b) MEC may terminate this Agreement with respect to all or any of the Buyer Services (or portion thereof) at any time on not less than 5 Business Days prior written notice to the Buyer.
- (c) The Buyer may terminate any or all of the MEC Services (or with respect to either of the MEC Services described in Schedule B) at any time on not less than 5 Business Days prior written notice to MEC.
- (d) The Buyer may terminate this Agreement by written notice to MEC if MEC shall fail to make an undisputed payment when due and owing under this Agreement, and such failure remains unremedied after 15 days following the date on which the Buyer provided MEC with written notice of such failure.

- (e) MEC may terminate this Agreement by written notice to the Buyer if the Buyer shall fail to make an undisputed payment when due and owing under this Agreement, and such failure remains unremedied after 15 days following the date on which MEC provided the Buyer with written notice of such failure.

### 5.3 **Effect of Termination**

Upon expiry or termination of this Agreement, all rights and obligations of each Party hereunder in respect of this Agreement or such Services, as applicable, shall cease as of the date of the termination except for the Parties' rights and obligations under Article 4, Article 6 and Article 7, each of which shall survive termination of this Agreement. Notwithstanding the foregoing, the termination of this Agreement pursuant to any of the provisions hereof shall be without prejudice to any rights, or diminution of any obligation or liability of either Party, that may have accrued prior to the effective date of such termination.

## **Article 6 Warranty, Release and Indemnity**

### 6.1 **Disclaimer of Warranties**

Except as expressly herein provided, the Services are provided "as is", "where is" and each Party and its affiliates expressly disclaim and negate any representation or warranty, express, implied, at common law, by statute or otherwise, relating to their respective Services.

### 6.2 **Waiver of Punitive and Consequential Damages**

Notwithstanding anything to the contrary in this Agreement, in no event shall any Party be liable under, or with respect to any matter related to, this Agreement for: (a) any consequential, indirect or special damages, (b) any damages for loss of profits or diminution in value, or (c) punitive damages; except in each case, to the extent necessary to reimburse the indemnified person for judgements actually awarded to third parties in respect of such types of damages.

### 6.3 **Limitation of Liability**

Notwithstanding any other provision in this Agreement, in no event shall the aggregate liability of either Party under this Agreement or from or in connection with performance of their respective Services exceed an amount equal to the aggregate compensation paid to the Buyer under this Agreement.

## **Article 7 Miscellaneous**

### **7.1 No Agency**

Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the Parties or constitute or be deemed to constitute either Party the agent or employee of the other Party for any purpose whatsoever, and neither Party shall have authority or power to bind the other Party or to contract in the name of, or create a liability against, the other Party in any way or for any purpose.

### **7.2 Entire Agreement**

This Agreement (including all Schedules) is the Transition Services Agreement referred to in the Asset Purchase Agreement and constitutes the entire agreement between the Buyer and MEC and supersede all prior agreements, understandings, negotiations and discussions relating to the subject matter thereof, whether oral or written. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties relating to the subject matter hereof except as specifically set forth in this Agreement and the Asset Purchase Agreement. If there is any conflict or inconsistency between the provisions of this Agreement and the provisions of the Asset Purchase Agreement, the provisions of the Asset Purchase Agreement will govern.

### **7.3 Confidentiality**

The obligations set out in Section 11.1 [Confidentiality and Transaction Personal Information] of the Asset Purchase Agreement shall apply *mutatis mutandis* to the obligations of the Parties under this Agreement.

### **7.4 Force Majeure**

The obligations of each Party under this Agreement with respect to any Service shall be suspended during the period and to the extent that a Party is prevented or hindered from providing such Service, or the other Party is prevented or hindered from receiving such Service, due to any of the following causes beyond such party's reasonable control (such causes, "**Force Majeure Events**"): (i) acts of God, (ii) flood, fire or explosion, (iii) war, invasion, riot or other civil unrest, (iv) Governmental Authorizations or Applicable Law, (v) actions, embargoes or blockades in effect on or after the date of this Agreement, (vi) action by any Governmental Authority, (vii) national or regional emergency, including pandemics, (viii) strikes, labour stoppages or slowdowns, picketing or other industrial disturbances, (ix) shortage of adequate power or transportation facilities, or (x) any other event that is beyond the reasonable control of such party. The Party suffering a Force Majeure Event shall give notice of suspension as soon as reasonably practicable to the other party stating the date and extent of such suspension and the cause thereof, and the Party providing such suspended Service shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. Neither the Buyer nor MEC shall be liable for the non-performance or delay in performance of its respective

obligations under this Agreement when such failure is due to a Force Majeure Event. In no event shall the length of term for any Service so suspended be extended as a result of the occurrence of a Force Majeure Event.

#### 7.5 **Assignments**

This Agreement will become effective when executed by the Parties and thereafter will be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, duties or obligations under this Agreement are assignable or transferable by MEC without the prior written consent of the Buyer and any attempt to assign any of MEC's rights, duties or obligations in this Agreement without such written consent is void. The Buyer may, upon prior notice to MEC, assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its subsidiaries or Affiliates who employs the Retained Employees or otherwise acquires the portion of the Acquired Business necessary to perform the Buyer Services, provided such assignee agrees to be bound by the terms of this agreement to the extent of the assignment; and such assignment shall relieve the Buyer of its obligations hereunder.

#### 7.6 **Counterparts**

This Agreement may be executed in any number of separate counterparts and all such signed counterparts will together constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its signature on the execution page hereof to the other Party by email or other means of recorded electronic transmission (including in PDF form) and such transmission shall constitute valid delivery of an executed copy of this Agreement to the receiving Party.

[Signature page follows.]

IN WITNESS WHEREOF the Parties have executed this Transition Services Agreement.

**MOUNTAIN EQUIPMENT CO-  
OPERATIVE**

By: \_\_\_\_\_  
Name:  
Title:

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "A"**  
**BUYER SERVICES**

Description of Buyer Services

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**SCHEDULE "B"**  
**MEC SERVICES**

Description of MEC Services

[Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

■ [Redacted]

[REDACTED]

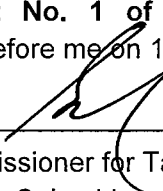
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This **Exhibit "R"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.



---

A Commissioner for Taking Affidavits  
for British Columbia

**ESCROW AGREEMENT**

*(Working Capital Adjustment and Deposit Amount)*

**ESCROW AGREEMENT** (the "**Agreement**") dated as of September 11, 2020,

**AMONG:**

**MOUNTAIN EQUIPMENT CO-OPERATIVE**, a cooperative association governed by the laws of British Columbia ("**MEC**")

- and -

**1314625 ONTARIO LIMITED**, a corporation governed by the laws of Ontario ("**131 Ltd.** " and, collectively with MEC, the "**Sellers**")

- and -

**1264686 B.C. Ltd.**, a corporation governed by the laws of British Columbia (the "**Buyer**")

- and -

**CASSELS BROCK & BLACKWELL LLP**, solely in its capacity as escrow agent (the "**Escrow Agent**")

**WHEREAS** the Sellers and the Buyer have entered into an Asset Purchase Agreement, dated as of September [11], 2020 (the "**Asset Purchase Agreement**"), under which, among other things, the Purchased Assets (as defined in the Asset Purchase Agreement) will be transferred to, and the Assumed Liabilities (as defined in the Asset Purchase Agreement) will be assumed by, the Buyer pursuant to the Asset Purchase Agreement and an Approval and Vesting Order (as defined in the Asset Purchase Agreement) under proceedings pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA Proceedings**");

**WHEREAS** the Asset Purchase Agreement contemplates that on the Closing Date (as defined in the Asset Purchase Agreement), the Buyer shall pay to the Escrow Agent, by wire transfer of immediately available funds an amount equal to [REDACTED] to be distributed in accordance with Section 3.4 of the Asset Purchase Agreement following the determination of the Final Working Capital and Final Cash and Cash Equivalents (as those terms are defined in the Asset Purchase Agreement), to be held (in a separate account), managed and distributed by the Escrow Agent on the terms and conditions set forth herein;

**WHEREAS** pursuant to the Asset Purchase Agreement, the Buyer concurrently with execution herewith shall deposit with the Escrow Agent, a deposit in the amount of [REDACTED] to be distributed in accordance with Section 3.1(d) through (f) of the Asset Purchase Agreement in the event of Closing or termination of the Asset Purchase Agreement, and to otherwise be held (in a separate account), managed and distributed by the Escrow Agent on the terms and conditions set forth herein;

**WHEREAS**, the Sellers and the Buyer wish to appoint the Escrow Agent to act as escrow agent in connection with the Asset Purchase Agreement; and

**WHEREAS**, the foregoing recitals are representations and statements of fact made by the Sellers and the Buyer and not by the Escrow Agent;

**NOW, THEREFORE, THIS AGREEMENT WITNESSETH THAT**, in consideration of the foregoing recitals, the covenants and agreements hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

1. **Definitions.** Capitalized terms used in this Agreement and not otherwise defined herein shall have the respective meanings assigned to them in the Asset Purchase Agreement. For the purposes of this Agreement, the following terms shall have the following meanings:
  - (a) "**Asset Purchase Agreement**" has the meaning specified in the recitals.
  - (b) "**Business Day**" means any day other than a Saturday, Sunday or any other day on which banking institutions in Vancouver, British Columbia are not open for the transaction of normal banking business.
  - (c) "**Escrow Amount**" means [REDACTED] plus (i) any interest or other amounts accrued thereon in accordance with Section 4, less (ii) any amount deducted pursuant to Sections 6 and 7 hereof, and less (iii) any amounts paid pursuant to this Agreement.
  - (d) "**Deposit Amount**" means [REDACTED] plus (i) any interest or other amounts accrued thereon in accordance with Section 4, less (ii) any amount deducted pursuant to Sections 6 and 7 hereof, and less (iii) any amounts paid pursuant to this Agreement
  - (e) "**Held Amount**" refers to the Deposit Amount or the Escrow Amount, as applicable in the circumstances, and "**Held Amounts**" refers to the Deposit Amount and Escrow Amount in all cases, including any interest earned thereon.
  - (f) "**Loss Notice**" has the meaning specified in Section 7.(a).
2. **Appointment of Escrow Agent.** The Sellers and the Buyer hereby appoint the Escrow Agent to act as agent on their behalf pursuant to this Agreement, and the Escrow Agent hereby accepts such appointment on the terms and conditions of this Agreement. The Sellers and Buyer both acknowledge that, in addition to acting as escrow agent hereunder, the Escrow Agent is, or will be proposed to be, counsel to the court-appointed monitor of the Sellers, pursuant to the CCAA Proceedings, and the Sellers and Buyer agree that acting as Escrow Agent does not create a conflict with the Escrow Agent's role as counsel to the court-appointed monitor.
3. **Delivery of the Deposit Amount and Escrow Amount.**
  - (a) Concurrently with the execution of this Agreement, the Buyer shall remit to the Escrow Agent the amount of [REDACTED] by way of wire transfer of immediately available funds. The Escrow Agent shall forthwith after receipt thereof acknowledge its receipt of such funds.

- (b) At the Closing, the Buyer shall remit to the Escrow Agent an amount equal to [REDACTED] by way of wire transfer of immediately available funds. The Escrow Agent shall forthwith after receipt thereof acknowledge its receipt of such funds.
- (c) The Escrow Agent will disburse monies according to this Agreement only to the extent that monies have been deposited with it and have actually cleared.

4. **Placement of Held Amounts.**

- (a) Until released in accordance with this Agreement, each of the Deposit Amount and Escrow Amount shall be kept segregated in the records of the Escrow Agent and designated in the name of the Sellers and the Buyer and shall be deposited in a separate non-investment, interest-bearing trust account or accounts to be maintained by the Escrow Agent in the name of the Escrow Agent, as escrow agent for the Buyer and the Sellers, at one or more Schedule I Canadian banks (each such bank, an "**Approved Bank**"), and is not required to otherwise invest such funds. The Held Amounts shall be held as a trust fund and shall not be subject to any security interest, lien, attachment, garnishment or any judicial process of any creditor or any party hereto. The Escrow Agent shall not distribute or release the Held Amounts except in accordance with the express terms and conditions of this Agreement.
- (b) All amounts held by the Escrow Agent pursuant to this Agreement shall be held by the Escrow Agent for the Sellers and the Buyer and the delivery of the Held Amounts to the Escrow Agent shall not give rise to a debtor-creditor or other similar relationship. The amounts held by the Escrow Agent pursuant to this Agreement are at the sole risk of the Sellers and the Buyer and, without limiting the generality of the foregoing, the Escrow Agent shall have no responsibility or liability for any diminution of the Held Amounts which may result from any deposit made with an Approved Bank pursuant to this Section 4, including any losses resulting from a default by the Approved Bank or other credit losses (whether or not resulting from such a default) and any credit or other losses on any deposit liquidated or sold prior to maturity. The parties hereto acknowledge and agree that the Escrow Agent will have acted prudently in depositing the Held Amounts at any Approved Bank, and that the Escrow Agent is not required to make any further inquiries in respect of any such bank.
- (c) At any time and from time to time, the Buyer and the Sellers shall be entitled to jointly direct the Escrow Agent by joint written notice (a) not to deposit any new amounts in any Approved Bank specified in the notice and/or (b) to withdraw all or any of the Held Amounts that may then be deposited with any Approved Bank specified in the notice and re-deposit such amount with one or more of such other Approved Banks as specified in the notice. With respect to any withdrawal notice, the Escrow Agent will withdraw such amount specified in the notice as soon as reasonably practicable and the Sellers and the Buyer acknowledge and agree that such specified amount remains at the sole risk of the Buyer prior to and after such withdrawal.
- (d) Interest earned and paid on the Held Amounts (if any) ("**Interest**") will be added to and form part of the Held Amounts. Interest earned net of any bank charges or fees incurred on or related to the Held Amounts will be for the benefit of the party to whom such Held Amount is released.

5. **Authorized Disbursements.** The Escrow Agent is hereby authorized to disburse funds out of monies constituting the Held Amount, only in accordance with Sections 6 or 7. Prior to any final release of the Held Amounts, the Escrow Agent shall be entitled to deduct from the Held Amounts any amounts owing to it in respect of outstanding fees, expenses and disbursements and interest thereon and any applicable fees to be charged for the final release, notwithstanding that the party to whom such Held Amount is to be released may not be responsible for the outstanding fees and expenses payable to the Escrow Agent.
6. **Release from Escrow.** Subject to Section 7 hereof, the Escrow Agent shall retain the Held Amounts until disbursed from time to time as follows:
- (a) at any time upon receipt of a written joint notice from the Buyer and the Sellers substantially in the form attached hereto as Schedule "A", which joint notice will specify, among other things, the amounts to be released to each of the Buyer and the Sellers (or either of them), within two (2) Business Days of receipt of such notice, the Escrow Agent shall pay from the applicable Held Amount or any portion thereof, as applicable, to the Person(s) specified in such notice the amount(s) specified therein, together with any Interest which has accrued with respect to the portion of the Held Amount being distributed, by wire transfer of immediately available funds; or
- (b) in accordance with Section 7 hereof.

7. **Loss Notice.**

- (a) **Loss Notice.** If the Buyer and Sellers are unable to determine the disposition of all or any portion of the Held Amounts pursuant to, as applicable, Sections 3.1(e) and (f) or Section 3.4 of the Asset Purchase Agreement and either the Buyer or the Sellers reasonably determines that it has a claim in respect of all or a portion of a Held Amount, such party shall give a written notice of such determination to the Escrow Agent and to the other parties, setting out the reasons for the dispute as well as, in the case of a dispute with respect to the Escrow Amount only, the amount under dispute and reasonable details of the calculation of such amount (a "**Loss Notice**"), all in accordance with the Asset Purchase Agreement.

Upon receipt of a Loss Notice, the Escrow Agent shall promptly notify the other parties hereto in writing that it has received a Loss Notice, including a copy thereof, and shall set aside from the Held Amounts the amount claimed in the Loss Notice. The Escrow Agent shall hold the said amount until it disburses such amount, together with any Interest which has accrued with respect to such amount, in accordance with a final and binding determination by a court or arbitration panel of competent jurisdiction (which the parties acknowledge shall be, from and after the Filing Date, the CCAA Court) or is otherwise jointly instructed by the Buyer and Sellers in writing pursuant to Section 6.(a).

8. **Responsibility of Escrow Agent; Indemnification.**

- (a) The Buyer and the Sellers acknowledge and agree that the Escrow Agent as escrow agent hereunder (i) shall not be responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of any instrument deposited with it (including, without limitation, the Asset Purchase Agreement or Loss Notice), for the

form or execution of such instruments, for the identity, authority or right of any Person or party executing or depositing such instruments or for determining or compelling compliance therewith, and shall not otherwise be bound thereby; (ii) shall be obligated only for the performance of such duties as are expressly and specifically set forth in this Agreement on its part to be performed, and no implied duties or obligations of any kind shall be read into this Agreement against or on the part of the Escrow Agent and the Escrow Agent will have no duty or responsibility arising under any other agreement, including any agreement referred to in this Agreement, to which the Escrow Agent is not a party; (iii) shall not be required to take notice of any default or to take any action with respect to such default involving any expense or liability, unless notice in writing of such default is formally given to the Escrow Agent, and unless it is indemnified and funded, in a manner satisfactory to it, against such expense or liability; and (iv) may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction (including, without limitation, wire transfer instructions, whether incorporated herein or provided in a separate written instruction), instrument, statement, certificate, request or other document furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper Person, and shall have no responsibility for determining the accuracy thereof.

- (b) The Escrow Agent may employ such counsel, accountants, appraisers, other experts, agents and advisors as it may reasonably require for the purpose of discharging its duties under this Agreement, and the Escrow Agent may act, or not act, and shall be protected in acting, or not acting, in good faith on the opinion or advice or on information obtained from any such parties and shall not be responsible for any misconduct on the part of any of them. The reasonable costs of such services shall be added to and be part of the Escrow Agent's fee hereunder.
- (c) The Escrow Agent shall retain the right not to act and shall not be held liable for refusing to act unless it has received clear and reasonable documentation which complies with the terms of this Agreement. Such documentation must not require the exercise of any discretion or independent judgment by the Escrow Agent.
- (d) No provision of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur financial liability in the performance of its duties or the exercise of any of its rights or powers unless indemnified and funded to its satisfaction or as provided for herein, other than as a result of its own gross negligence, wilful misconduct or bad faith.
- (e) The Escrow Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except for its own gross negligence, wilful misconduct or bad faith.
- (f) The Escrow Agent shall incur no liability with respect to the delivery or non-delivery of any cash whether delivered by hand, wire transfer, certified or registered mail or bonded courier.
- (g) The Sellers and the Buyer shall each pay 50% of the Escrow Agent's fees and the costs and expenses reasonably incurred by the Escrow Agent in providing the services hereunder, in connection with the administration of the escrow created hereby or the



performance or observance of its duties hereunder and all amounts not otherwise covered by such remuneration including, without limitation, all out-of-pocket expenses and disbursements incurred or made by the Escrow Agent in the administration of its services and duties created hereby, whether in excess of its compensation for normal services or not (including the reasonable fees and disbursements of its outside counsel and other outside advisors required for discharge of its duties hereunder). If payment is not received when due, the Escrow Agent shall be entitled to draw down on the Held Amounts in order to effect such payment and may sell, liquidate, convey or otherwise dispose of any investment for such purpose.

- (h) The Buyer and the Sellers shall jointly and severally indemnify the Escrow Agent and its affiliates, their successors, assigns, and each of their partners, directors, officers, employees and agents (the "**Indemnified Parties**") and save them harmless against all actions, proceedings, liability, claims, damages, costs and expenses (including expert consultant and legal fees and disbursements on a solicitor and client basis) whatsoever arising from the performance of the Escrow Agent's duties hereunder (unless arising from the Escrow Agent's gross negligence, wilful misconduct or bad faith) and including any action or liability brought against or incurred by the Indemnified Parties in relation to or arising out of any breach by the Buyer or the Sellers. This indemnity shall survive the resignation or removal of the Escrow Agent and the termination or discharge of this Agreement. Notwithstanding any other provision of this Agreement, any liability of the Escrow Agent shall be limited to direct damages sustained by a party to this Agreement which in aggregate shall not exceed the amount of funds held pursuant to this Agreement. The Escrow Agent accepts the indemnification above in favour of each of the Indemnified Parties other than itself as agent and trustee. The Sellers and the Buyer agree that the Escrow Agent may enforce an indemnification in favour and on behalf of any of such Indemnified Parties.
- (i) Notwithstanding any other provision of this Agreement, and whether such losses or damages are foreseeable or unforeseeable, the Escrow Agent shall not be liable under any circumstances whatsoever for any (a) breach by any other party of securities law or other rule of any securities regulatory authority, (b) lost profits or (c) special, indirect, incidental, consequential, exemplary, aggravated or punitive losses or damages.
- (j) The Escrow Agent does not have any interest in the Held Amounts but is serving as escrow agent only and is not a debtor of the parties hereto in respect of the Held Amounts.
- (k) The Escrow Agent shall have no duties as escrow agent except those which are expressly set forth herein, and it shall not be bound by any notice of a claim or demand with respect to, or any waiver, modification, amendment, termination or rescission of, this Agreement, unless received by it in writing, and signed by the parties hereto and if its duties herein are affected, unless it shall have given its prior written consent thereto.
- (l) The Escrow Agent accepts the duties and responsibilities under this Agreement solely as custodian, bailee and agent, and no trust is intended to be, or is or will be, created hereby and the Escrow Agent shall owe no duties hereunder as trustee to any other person.
- (m) The Escrow Agent will have no responsibility for seeking, obtaining, compiling,

preparing or determining the accuracy of any information or document (including, but not limited to a Loss Notice), including the representative capacity in which a party purports to act, that the Escrow Agent receives as a condition to a release from escrow under this Agreement.

- (n) This Section 8 shall survive notwithstanding the expiry or any termination of this Agreement or the resignation or removal of the Escrow Agent.

9. **Dispute Resolution.** It is understood and agreed that should any dispute arise with respect to the delivery, ownership, right of possession and/or disposition of any of the Held Amounts, or should any claim be made upon the Escrow Agent or the Held Amounts by a third party, the Escrow Agent, upon receipt of notice of such dispute or claim, is authorized and shall be entitled (at its sole option and election), subject to Section 7 hereof, to retain in its possession without liability, all or any of said Held Amounts until such dispute shall have been settled either by the mutual written agreement of the parties involved or by a final order, decree or judgment of a court or arbitrator of competent jurisdiction (it being acknowledged for greater certainty, that such court or arbitrator of competent jurisdiction shall, from and after the Filing Date, be the CCAA Court), the time for perfection of an appeal of such order, decree or judgment having expired. A copy of any such settlement or final order, decree or judgment of a court or arbitrator of competent jurisdiction shall be delivered to the Escrow Agent by the Buyer or the Sellers forthwith upon receipt thereof. The Escrow Agent may, but shall be under no duty whatsoever to, institute or defend any legal proceedings which relate to the Held Amounts.

10. **Disputes.**

- (a) Prior to the Filing Date, any disputes with respect to this Agreement shall be resolved by arbitration and any party may demand by written notice to the other party that the matter be submitted to arbitration. The notice shall set out the reasons for the dispute and reasonable details to support the dispute. From and after the Filing Date, the parties each irrevocably attorns and submits to the non-exclusive jurisdiction of the CCAA Court for any dispute arising with respect to this Agreement, and waives objection to the venue of any proceeding in the CCAA Court or that the CCAA Court provides an inconvenient forum.
- (b) The Buyer and the Sellers shall cooperate in completing any dispute resolution process as expeditiously as possible, the procedure to commence, subject to court availability for matters outside of arbitration, no later than thirty (30) days from the date the notice was sent, and, in any arbitration, the arbitrator may hire such experts as may appear to be appropriate. Unless otherwise determined by the arbitrator in such arbitration or by the CCAA Court, as applicable, the costs of that auditor shall be borne equally between the Sellers on the one hand and the Buyer on the other, and in the event of an arbitration, such arbitrator is authorized, but is not obligated, to award to one or more parties such reasonable legal fees and costs in connection with the arbitration as the arbitrator, in his or her sole discretion, may determine are warranted. In any arbitration, any award rendered by the arbitrator shall be final and binding on the parties.

11. **Resignation of Escrow Agent; Successor by Merger**

- (a) **Resignation and delivery.** The Escrow Agent may at any time resign as such, subject to this Section 11, by delivering written notice of resignation to the other parties to this Agreement and by delivering the Held Amounts (less any portion thereof previously distributed in accordance with this Agreement) to any successor escrow agent designated by a joint written notice of the Buyer and the Sellers, or by a court of competent jurisdiction, whereupon the Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of the Escrow Agent will take effect on the earlier to occur of (the "**Resignation Date**"): (i) the appointment of a successor escrow agent as aforesaid or by a court of competent jurisdiction; or (ii) the day which is 30 days after the date of delivery of the Escrow Agent's written notice of resignation to the other parties hereto, or such shorter notice as the parties accept as sufficient. If the Escrow Agent has not received written notice of the designation of a successor escrow agent by the Resignation Date, the Escrow Agent's sole responsibility after such time shall be to retain and safeguard the Held Amounts until receipt of written notice of the designation of a successor escrow agent hereunder or pursuant to a final non-appealable order of a court of competent jurisdiction. If a successor escrow agent has not been appointed within 90 days of the date of the delivery of its written notice of resignation, the Escrow Agent shall deliver the Held Amounts (less any portion thereof previously distributed in accordance with this Agreement) to the legal counsel designated by a joint written notice of the Buyer and the Sellers and all of the Escrow Agent's duties and obligations under this Agreement shall thereupon cease immediately. Failing such designation by a joint written notice of the Buyer and the Sellers, the Escrow Agent shall deliver such Held Amounts into the Supreme Court of British Columbia whereupon this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations under this Agreement. The Buyer and the Sellers, acting together, shall have power at any time to remove the existing Escrow Agent and to appoint a successor escrow agent.
- (b) **Deduction of fees.** If the Escrow Agent resigns or is removed pursuant to this Section 11, the Escrow Agent shall be entitled, prior to delivery to any party of the Held Amounts, to deduct any amounts owing to it in respect to outstanding fees, disbursements and interest thereon whereupon this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations under this Agreement.
- (c) **Incapacity.** If the Held Amounts or any portion thereof are to be released hereunder to a party who has become bankrupt or has otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver the Held Amounts, less any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, into the CCAA Court, it being acknowledged for greater certainty that neither the issuance of the Initial Order nor the CCAA Proceedings shall qualify to render any one of the Sellers incapable of performing their rights and responsibilities under this Agreement for the purpose of this Section 11(c). If all of the parties hereunder have become bankrupt or have otherwise become incapable of performing their rights and responsibilities under this Agreement, the Escrow Agent shall forthwith deliver the Held Amounts, less any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, into the CCAA Court and provide written notice to the Buyer and the Sellers of the disposition of such Held Amounts. Upon such delivery of the Held Amounts, this Agreement shall terminate and the Escrow Agent shall have no further duties and obligations.

- (d) **Incapacity of Escrow Agent.** In the event of the Escrow Agent resigning or being removed as aforesaid or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Buyer and the Sellers acting together, shall forthwith appoint a successor escrow agent; failing such appointment by the Buyer and the Sellers, the retiring Escrow Agent, acting alone, may apply, at the expense of the Sellers and the Buyer (each responsible for 50% of the expense) to a justice of a court of competent jurisdiction, including the CCAA Court, on such notice as such justice may direct, for the appointment of a successor escrow agent; but any successor escrow agent so appointed by the court shall be subject to removal as aforesaid by the Buyer and the Sellers, acting together.
- (e) **Transfer and delivery; fees.** Any successor escrow agent appointed under any provision of this Section 11 shall be a corporation authorized to carry on the business of a trust company in the Province of British Columbia and, if required by the applicable legislation for any other jurisdiction, in such other jurisdictions. On any such appointment, the successor escrow agent shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Escrow Agent hereunder. At the request of the Buyer and the Sellers, by joint written notice, or the successor escrow agent, the retiring Escrow Agent, upon payment of the amounts, if any, due to it pursuant to this Agreement, including any amounts owing to it in respect to outstanding fees, disbursements and interest thereon, shall duly transfer and deliver to the successor escrow agent all property and money held, and all records kept, by the retiring Escrow Agent hereunder or in connection herewith.

12. **Tax Reporting.**

- (a) The Buyer and the Sellers agree that, for tax reporting purposes, all interest or other taxable income earned from the investment of the Held Amounts in any tax year shall (i) to the extent such interest is distributed by the Escrow Agent to any person or entity pursuant to the terms of this Agreement during such tax year, be allocated to such person or entity, and (ii) otherwise be allocated to the Buyer in the taxation year that it was earned, notwithstanding that no such amount has been distributed.
- (b) The Buyer and the Sellers agree to provide the Escrow Agent with their certified tax identification numbers and others forms, documents and information that the Escrow Agent may request in order to fulfill any tax reporting function.

13. **Anti-money Laundering.**

- (c) Each party to this Agreement (in this paragraph referred to as a "**representing party**"), other than the Escrow Agent, hereby represents to the Escrow Agent that any account to be opened by, or interest to be held by, the Escrow Agent in connection with this Agreement, for or to the credit of such representing party, either (i) is not intended to be used by or on behalf of any third party; or (ii) is intended to be used by or on behalf of a third party, in which case such representing party hereby agrees to complete, execute and deliver forthwith to the Escrow Agent a declaration, in such form as may be satisfactory to the Escrow Agent, as to the particulars of such third party.

- (d) The Escrow Agent shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Escrow Agent, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline. Further, should the Escrow Agent, in its sole judgment, determine at any time that its acting under this Agreement has resulted in its being in non-compliance with any applicable anti-money laundering, anti-terrorist or economic sanctions legislation, regulation or guideline, then it shall have the right to resign on ten (10) days written notice to the other parties to this Agreement, provided (i) that the Escrow Agent's written notice shall describe the circumstances of such non-compliance; and (ii) that if such circumstances are rectified to the Escrow Agent's satisfaction within such ten (10) day period, then such resignation shall not be effective.
14. **Privacy.** The parties acknowledge that the Escrow Agent may, in the course of providing services hereunder, collect or receive financial and other personal information about such parties and/or their representatives, as individuals, or about other individuals related to the subject matter hereof, and use such information for the following purposes:
- (a) to provide the services required under this Agreement and other services that may be requested from time to time;
  - (b) to meet the Escrow Agent's legal and regulatory requirements; and
  - (c) if Social Insurance Numbers are collected by the Escrow Agent, to perform tax reporting and to assist in verification of an individual's identity for security purposes.
15. **Notices.** Except as otherwise expressly provided herein, all notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given (a) when personally delivered, (b) when transmitted as a scanned or .pdf attachment to an email (with electronic confirmation of receipt), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties at the address set forth below, or at such other address as such party may specify by written notice to the other parties hereto:
- (a) **to the Sellers at:**

**Mountain Equipment Co-operative**  
Attention: President and Chief Executive Officer  
Email: Phil.Arrata@mec.ca

with copies (which shall not in themselves constitute notice) to:

**Norton Rose Fulbright Canada LLP**  
400 3rd Ave. SW, Suite 3700

Calgary, Alberta T2P 4H2 Canada  
 Attention: Howard Gorman, QC.  
 Telephone: [REDACTED]  
 Email: howard.gorman@nortonrosefulbright.com

- (b) **to the Buyer at:**  
 c/o Kingswood Capital Management  
 11777 San Vicente Blvd. Suite 650  
 Los Angeles, CA 90049  
 Attention: Alex Wolf  
 Telephone: [REDACTED]  
 Email: awolf@kingswood-capital.com

with copies (which shall not in themselves constitute notice) to:

Fasken Martineau DuMoulin LLP  
 333 Bay Street, Suite 2400  
 Toronto, Ontario M5H 2T6

Attention: Dylan Chochla  
 Telephone: [REDACTED]  
 Facsimile: 416-364-7813  
 Email: dchochla@fasken.com

- (c) **to the Escrow Agent at:**

**Cassels Brock & Blackwell LLP**  
 HSBC Building  
 2200 – 885 West Georgia St.  
 Vancouver, BC V6C 3E8  
 Attention: Mary Buttery, Q.C. and Lance Williams  
 Telephone: [REDACTED]  
 Email: mbuttery@cassels.com/lwilliams@cassels.com

with copies (which shall not in themselves constitute notice) to:

**Alvarez & Marsal Canada, Inc.**  
 Commerce Place  
 400 Burrard Street, Suite 1680  
 Vancouver, BC V6C 3A6  
 Attention: Todd Martin  
 Telephone: [REDACTED]  
 Email: tmartin@alvarezandmarsal.com>

Any such communication shall be deemed to have been validly and effectively given and received on the date of personal delivery or transmission by facsimile or similar means of recorded communication in accordance with the foregoing in this Section 15 if such date is a Business Day and otherwise on the next Business Day. Any party to this

Agreement may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to such party at its changed address.

16. **Miscellaneous.**

- (a) The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- (b) Unless the context shall otherwise require, the singular shall include the plural and *vice versa*, and each pronoun in any gender shall include all other genders.
- (c) This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart by facsimile or other electronic means, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by all of the parties hereto. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.
- (d) This Agreement or any provision hereof may be amended or waived only by written instrument duly signed by each of the parties hereto.
- (e) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (f) No failure on the part of the Buyer or the Sellers to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.
- (g) If one or more of the provisions hereof shall for any reason be held to be invalid, illegal or unenforceable in any respect under applicable law, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and the remaining provisions hereof shall remain in full force and effect.
- (h) This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other Person any rights, remedies or any other type or types of benefits.
- (i) No party may assign its rights hereunder without the prior written consent of the other parties, except that the Buyer may assign this Agreement in conjunction with a permitted assignment of the Asset Purchase Agreement provided such assignee agrees to be bound by the terms of this Agreement to the extent of such assignment and such assignment shall relieve the Buyer of its obligations under this Agreement.

- (j) This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
  - (k) This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.
  - (l) All references herein to money amounts are to lawful money of Canada.
  - (m) The Escrow Agent shall have no obligations with respect to tax reporting other than to deliver the required annual statement of interest earned.
  - (n) The Schedule attached to this Agreement shall, for all purposes of this Agreement, form an integral part of it. This Agreement shall override the Asset Purchase Agreement and the Schedule attached hereto to the extent of any inconsistency.
  - (o) Any reference to time of day or date means the local time or date in Vancouver, British Columbia, Canada.
16. **Force Majeure.** Except for the payment obligations of the Sellers and the Buyer contained herein, none of the parties shall be liable to the other, or held in breach of this Agreement, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, strikes, lockouts, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this Agreement shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section.
17. **Day Not A Business Day.** Whenever any payment shall be due, any period of time shall begin or end, any calculation is to be made or any other action is to be taken on, as of or from a period ending on a day other than a Business Day, such payment shall be made, such period of time shall begin or end and such other actions shall be taken, as the case may be, on, as of or from a period ending on the next succeeding Business Day.
18. **Termination.** This Agreement shall automatically terminate upon the disbursement in full by the Escrow Agent of all Held Amounts as directed herein.

(SIGNATURE PAGE FOLLOWS)

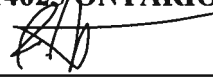


IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By:  \_\_\_\_\_  
Authorized Signing Officer

**1314625 ONTARIO LIMITED**

By:  \_\_\_\_\_  
Authorized Signing Officer

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

**CASSELS BROCK & BLACKWELL LLP**

By: \_\_\_\_\_  
Authorized Signatory

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

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Authorized Signing Officer

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

**1264686 B.C. LTD.**

By: Alex Wolf \_\_\_\_\_  
Authorized Signing Officer

**CASSELS BROCK & BLACKWELL LLP**

By: \_\_\_\_\_  
Authorized Signatory

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

**MOUNTAIN EQUIPMENT  
CO-OPERATIVE**

By: \_\_\_\_\_  
Authorized Signing Officer

**1314625 ONTARIO LIMITED**

By: \_\_\_\_\_  
Authorized Signing Officer

**1264686 B.C. LTD.**

By: \_\_\_\_\_  
Authorized Signing Officer

**CASSELS BROCK & BLACKWELL LLP**

By:  \_\_\_\_\_  
Authorized Signatory

**SCHEDULE A**  
**Form of Notice of Release**

---

Date: [●, 20●]

TO: Cassels Brock & Blackwell LLP ("Escrow Agent")

Pursuant to Section 6(a) of the Escrow Agreement dated as of [●], 2020 by and among Mountain Equipment Co-operative, 1314625 Ontario Limited, 1264686 B.C. Ltd. and the Escrow Agent (the "Escrow Agreement"), you are hereby instructed to:

release to ●, by wire transfer of immediately available funds to the account set forth below, out of the [Escrow Amount]/[Deposit Amount] (each as defined in the Escrow Agreement), the following amount: \$ \_\_\_\_\_:

**Wire Instructions:**

Account name:

Address:

Bank name:

Currency:

Account:

Routing:

SWIFT:

[and to release to Mountain Equipment Co-operative, by wire transfer of immediately available funds to the account set forth below, the balance of the [Escrow Amount]/[Deposit Amount]

**Wire Instructions:**

Account name: Mountain Equipment Co-operative

Address:

Bank name:

Currency:

Account:

Routing:

SWIFT:

*[Signature pages follow]*

This **Exhibit "S"** referred to in the  
**Affidavit No. 1 of Philippe Arrata**  
Sworn before me on 13/Sep/2020.

---

A Commissioner for Taking Affidavits  
for British Columbia

No. \_\_\_\_\_  
Vancouver Registry

In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE AND 1314625 ONTARIO  
LIMITED

Petitioners

**CONSENT TO ACT AS MONITOR**

Alvarez & Marsal Canada Inc. hereby consents to act as Monitor of the Petitioners with respect to the *Companies' Creditors Arrangement Act* proceedings to be commenced on or about September 14, 2020 or following.

DATED at the City of Vancouver, in the Province of British Columbia, this 11<sup>th</sup> day of September, 2020.

Alvarez & Marsal Canada Inc.

Per: 

Todd M. Martin, Senior Vice President

No. \_\_\_\_\_  
Vancouver Registry

---

In the Supreme Court of British Columbia

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF MOUNTAIN EQUIPMENT CO-OPERATIVE  
AND 1314625 ONTARIO LIMITED

Petitioners

---

**AFFIDAVIT**

---

**NORTON ROSE FULBRIGHT CANADA LLP**

Barristers & Solicitors

1800 – 510 West Georgia Street

Vancouver, BC V6B 0M3

Attention: Howard A. Gorman, Q.C.

SCB/ker

Matter# 1001118436