

DEED OF HYPOTHEC

ON THIS second (2nd) day of February, two thousand sixteen (2016).

BEFORE Mtre. Amanda Gutberg, notary, practising in the City of Montreal, Province of Québec.

APPEARED:

BANK OF AMERICA, N.A., a legal person, having a place of business at 100 Federal Street, 9th Floor, Boston, MA 02110, herein acting as Agent (as hereinafter defined) which includes its acting as hypothecary representative ("*fondé de pouvoir*") under Article 2692 of the *Civil Code of Québec* and represented by Arnold Cohen, its representative, hereunto duly authorized for the purposes hereof as he so declares;

Notice of address of the Hypothecary Representative has been registered at the Register of Personal and Movable Real Rights of the Province of Québec under number 031475.

AND:

HUDSON'S BAY COMPANY / COMPAGNIE DE LA BAIE D'HUDSON, a legal person governed by the laws of Canada, having its registered office at 401 Bay Street, Suite 500, Toronto, Ontario M5H 2Y4, herein acting and represented by Elizabeth Labrie, its representative, duly authorized for the purposes hereof in virtue of a resolution of its board of directors, a certified copy, an extract or a duplicate of which remains hereto annexed after having been acknowledged as true and signed for identification by the said representative in the presence of the undersigned notary;

WHEREAS the Borrower has, under its governing law and constating documents, the power to hypothecate, pledge or otherwise create security in all or any property of the Borrower, now owned or subsequently acquired, to secure the Obligations and is duly authorized to secure the same as provided for by this Deed.

WHEREAS the Borrower is desirous of securing the Obligations in the manner hereinafter set forth.

WHEREAS all necessary corporate proceedings and resolutions have been duly taken and passed by the Grantor and other actions have been taken to authorize the obligations of the Grantor hereunder, the execution of this Deed and the securing of the Obligations in conformity herewith.

WHEREAS as continuing collateral security for the fulfilment of the Obligations, the Grantor has agreed to hypothecate all of its right, title and interest both present and future, in and to the property, assets and rights more fully described herein.

NOW, THEREFORE, THE PARTIES HERETO HAVE AGREED AS FOLLOWS:

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Credit Agreement. As used herein, the following terms have the following meanings unless there is something in the subject matter or context inconsistent therewith:

"Agent" means BANK OF AMERICA, N.A., as administrative agent and collateral agent under the Credit Agreement, together with any successor administrative agent or collateral agent appointed in accordance with the terms of the Credit Agreement.

"Borrower" means HUDSON'S BAY COMPANY / COMPAGNIE DE LA BAIE D'HUDSON and includes its successors and permitted assigns.

"Collateral" means collectively:

- (i) all Claims;
- (ii) all Inventory;
- (iii) all cash;
- (iv) all cash equivalents;
- (v) all DDAs, all securities accounts and all futures accounts;
- (vi) all Title Documents, Instruments and chattel paper evidencing, governing, securing or otherwise relating to the movable property described in this definition of Collateral;

- (vii) all letters of credit evidencing, governing, securing or otherwise relating to the movable property described in this definition of Collateral;
- (viii) (a) all incorporeal property constituting amounts due or to become due arising out of the use of a credit card, debit card or charge card or information contained on or for use with such credit card, debit card or charge card, including, without limitation, all Credit Card Receivables, (b) all other incorporeal property evidencing, governing, securing or otherwise relating to the personal property described in this definition of Collateral, and (c) all incorporeal property consisting of tax refunds and rebates;
- (ix) all present and future Contracts, contract rights and insurance claims evidencing, governing, securing or otherwise relating to the personal property described in this definition of Collateral;
- (x) all books and records (including customer lists, credit files, computer programs, printouts and other computer materials and records, as well as all deeds, documents, writings and papers) relating to the foregoing Collateral; and

all Proceeds and products of each of the foregoing and all accessions and accretions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Grantor from time to time with respect to any of the foregoing.

"Claims" means, with respect to the Grantor, the universality consisting of all the right, title and interest of the Grantor from time to time in and to all present and future claims directly or indirectly held or owned by it including, without limitation:

- (i) all accounts receivable, book accounts, book debts, loan receivables including principal, interest and accessories, debts, claims, customer accounts, all sums of money, claims arising from or related to deposits made into any savings or other accounts maintained with any bank or other financial institution together with all interest paid or payable thereon, rentals, revenues, income, receivables, sale proceeds, judgments, bills of exchange, bonds, shares, stocks, warrants, debentures, notes, negotiable instruments, certificates of deposit, letters of credit or guarantee, promissory notes, rebates, refunds, amounts owing by or claimable from the Crown or any departments, agents or agencies thereof (but only to the extent that same may be hypothecated pursuant to applicable Laws), and any other amounts or demands of every nature and kind howsoever arising

(including, without limitation, those arising under Contracts), whether or not secured, which are now or become hereafter due or owing to the Grantor;

(ii) all movable and immovable security present or future including all legal or conventional hypothecs and other security held from time to time by the Grantor under or in connection with the foregoing; and

(iii) all indemnities and insurance proceeds (other than those paid under insurance contracts covering rents produced by an immovable property) which may be received or to which the Grantor is or may become entitled.

"Contracts" shall mean all contracts, undertakings, or agreements (other than rights evidenced by chattel paper, securities or Instruments) in or under which the Grantor may now or hereafter have any right, title or interest, including any agreement relating to the terms of payment or the terms of performance of any Claim.

"Credit Agreement" means the credit agreement dated or to be dated on or about January 29, 2016 among, *inter alios*, Borrower, as Canadian borrower, the other Loan Parties party thereto from time to time, the Agent and the other Persons party thereto from time to time as lenders (as may be from time to time amended, supplemented, replaced, restated or otherwise modified from time to time).

"Credit Card Issuer" means any person (other than a Loan Party (as defined in the Credit Agreement) who issues or whose members issue credit cards, including, without limitation, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche and other non-bank credit or debit cards, including, without limitation, credit or debit cards issued by or through American Express Travel Related Services Company, Inc., Novus Services, Inc., and Capital One Bank (Canada branch) (with respect to private label credit cards) and other issuers approved by the Agent.

"Credit Card Processor" means any servicing or processing agent (including, without limitation PayPal) or any factor or financial intermediary who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to the Grantor's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"Credit Card Receivables" means each incorporeal property, or Claim, together with all income, payments and proceeds thereof, owed by a Credit Card Issuer or Credit Card Processor to the Grantor resulting from charges by a customer of the Grantor on credit or debit cards issued by such Credit Card Issuer in connection with the sale of goods by the Grantor, or

services performed by the Grantor, in each case in the ordinary course of its business.

"DDAs" means each chequing, savings or other demand deposit account maintained by the Grantor. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and the Hypothecary Representative shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

"Excluded Property" has the meaning given thereto in the Security Agreement, but excludes Special Property (as defined in Section 2.3 hereof).

"Grantor" means the Borrower.

"Hypothecary Representative" means BANK OF AMERICA, N.A., as Agent which includes its acting as hypothecary representative (*"fondé de pouvoir"*) for the Credit Parties, and includes its successors and assigns.

"Instrument" means, (a) a bill, note or cheque within the meaning of the *Bills of Exchange Act* (Canada) or any other writing that evidences a right to the payment of money and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, or (b) a letter of credit and an advice of credit if the letter or advice states that it must be surrendered upon claiming payment thereunder, but does not include a writing that constitutes part of chattel paper, a document of title or investment property.

"Intellectual Property" has the meaning given thereto in the Security Agreement.

"Inventory" means, with respect to the Grantor, the universality consisting of all the right, title and interest of the Grantor from time to time in and to all present and future goods in stock, inventory, merchandise, materials, raw materials, work in progress, finished goods, advertising, packaging and shipping materials and supplies owned by the Grantor or held on its behalf, including movable property held for the purpose of being sold, rented or altered by means of transformation or manufacturing process of a good destined for sale or for rent or with respect to services offered, or goods held by third parties with respect to a rental agreement, leasing contract, franchise contract or licence or other agreement executed with the Grantor, regarding raw materials, manufactured or semi-manufactured or treated materials or products, or goods used or consumed in the business of the Grantor and all warehouse receipts, bills of lading and other documents or instruments now or hereafter issued with respect to the foregoing; goods that were part of any goods in stock which, pursuant to an alienation contract executed with respect thereto for the benefit of a third party, shall remain the property of the Grantor pursuant to a reservation of ownership in

its favour shall be deemed to be goods in stock as long as the ownership thereof is not transferred to such third parties; are also deemed to be goods in stock, goods which, after having been alienated, have again become the property of the Grantor as a result of a resolution, termination or repossession.

"Obligations" shall mean the Obligations (as defined in the Credit Agreement) and the Guaranteed Obligations (as defined in the Guarantee); provided, however, that Other Liabilities shall be Secured Obligations solely to the extent that there is sufficient Collateral following satisfaction of the Obligations described in clause (a) of the definition of Obligations.

"Patents" has the meaning given thereto in the Security Agreement.

"Proceeds" means the universality consisting of all identifiable or traceable movable property, present or future, in any form derived directly or indirectly from any dealing with the Collateral or the proceeds therefrom including any payment or right to a payment or insurance representing an indemnity or compensation for loss of or damage to the Collateral or any part thereof or proceeds therefrom.

"Security Agreement" means the General Security Agreement dated or to be dated on or about February 3, 2016 among, *inter alios*, the Grantor and the Agent, as same may be amended, modified, supplemented, restated, extended, renewed, or superseded from time to time.

"This Deed", "these presents" and similar expressions refer to this deed including all schedules, amendments, supplements, extensions, renewals, replacements or restatements from time to time.

"Title Documents" means, with respect to the Grantor, the universality consisting of all present and future warehouse receipts and similar documents of title relating to Inventory.

Section 1.2 Severability

If any one or more of the provisions contained in this Deed shall for any reason be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall be severable from and shall not affect any other provision of this Deed, but this Deed shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Deed.

Section 1.3 Interpretation and Headings

The Grantor acknowledges that this Deed is the result of negotiations between the parties and shall not be construed in favour of or against any party by reason of the extent to which any party or its legal counsel participated in its preparation or negotiation. The words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to

the whole of this Deed including, without limitation, these additional provisions, and not to any particular Section or other portion thereof or hereof and extend to and include any and every document supplemental or ancillary hereto or in implementation hereof. Words in the singular include the plural and words in the plural include the singular. Words importing the masculine gender include the feminine and neuter genders where the context so requires. Words importing the neuter gender include the masculine and feminine genders where the context so requires. The headings do not form part of this Deed and have been inserted for convenience of reference only. Any reference to "including" shall mean "including without limitation" whether or not expressly provided.

Section 1.4 Enurement

This Deed shall enure to the benefit of and be binding upon the heirs, executors, administrators, successors (including any successor by reason of amalgamation) and permitted assigns of the parties hereto.

Section 1.5 Currency

All dollar references in this Deed are expressed in Canadian Dollars.

ARTICLE 2 CHARGE

Section 2.1 Hypothec

To secure the full and timely payment and performance of the Obligations, the Grantor hereby hypothecates all of its right, title and interest in and to the Collateral held or owned or hereafter held or owned by the Grantor in favour of the Hypothecary Representative, as hypothecary representative ("*fondé de pouvoir*"), for the equal and rateable benefit of the Credit Parties, for the principal sum of FIVE BILLION DOLLARS (\$5,000,000,000), together with interest thereon from the date hereof at the rate of twenty-five percent (25%) per annum, calculated semi-annually and not in advance.

Section 2.2 Continuing Security

The hypothec created herein is continuing security and will subsist notwithstanding any fluctuation or repayment of the Obligations hereby secured. The Grantor shall be deemed to obligate itself again, as provided in Article 2797 of the *Civil Code of Québec*, with respect to any future obligation hereby secured.

Section 2.3 Special Property

The hypothecs created hereby shall be suspended with respect to any permit, lease, license, contract, agreement, franchise, right or instrument ("**Contractual Right**") in which the Grantor now or hereafter has rights if

the granting of a hypothec on such Contractual Right in the manner contemplated by this Deed under the terms thereof or under applicable Law, is prohibited and would result in the termination or breach thereof or give the other parties thereto the right to terminate, accelerate or otherwise materially and adversely alter the Grantor's right, title and interest thereunder (including upon giving of notice or the lapse of time or both), in each case, after giving effect to any applicable Law, other than Claims, provided, in each case, that any such limitation on the hypothecs granted hereunder shall only apply to the extent that any such prohibition could not be rendered unenforceable pursuant to any applicable Law, collectively the "Special Property"), in each case, until it is no longer Special Property including, without limitation until (x) such prohibition no longer exists or has been waived or consented to (y) the granting of a hypothec no longer creates a breach or right of termination or acceleration in such Special Property or no longer materially and adversely alters the Grantor's right, title and interest thereunder, whereupon the suspensive condition shall immediately be lifted with respect to such Special Property and the hypothecs created hereunder shall then have full effect with respect to same without further action on the part of the Grantor or the Hypothecary Representative. "Special Property" shall not include any proceeds, substitutions or replacements of such Special Property, unless they would themselves constitute Special Property.

Section 2.4 Excluded Property

Notwithstanding the grant of the hypothec above over all of the Collateral of the Grantor, the Hypothecary Representative hereby irrevocably renounces to the exercise of any hypothecary or other right or recourse against any Collateral of the Grantor which, at the time of the exercise of any such hypothecary or other right or recourse, constitutes Excluded Property or identifiable Proceeds of Term Priority Collateral (as defined in the Security Agreement) (collectively, "Restricted Property"). For greater certainty, the Hypothecary Representative does not renounce to any hypothecary rights or recourses with respect to Restricted Property which ceases to be Restricted Property. Upon request by the Grantor, the Hypothecary Representative shall execute and deliver to the Grantor any document or instrument that the Grantor shall reasonably request to evidence the release and discharge by the Hypothecary Representative of the hypothecs against any of such Restricted Property.

ARTICLE 3 ADDITIONAL PROVISIONS WITH RESPECT TO THE HYPOTHECS ON CLAIMS

Section 3.1 Debt Collection

The Hypothecary Representative hereby authorizes the Grantor to collect all Claims in the ordinary course of business as and when they

become due, save and except as otherwise provided for under the terms of the Credit Agreement or the terms hereof.

Section 3.2 Withdrawal of Authorization to Collect

After the occurrence and during the continuation of a Cash Dominion Event, the Hypothecary Representative may, at its discretion, withdraw the authorization granted in Section 3.1 above, by giving notice as prescribed by law, whereupon the Hypothecary Representative shall immediately be entitled to collect all Claims referred to in such notice.

Section 3.3 Accounts and Records

Should the Hypothecary Representative serve a notice withdrawing the authorization granted to the Grantor to collect the Claims as provided for in Section 3.2 above, the Grantor hereby agrees that all accounts and records maintained by the Hypothecary Representative with respect to any such Claims received and their application by the Hypothecary Representative shall be *prima facie* conclusive and binding unless proven to be wrong or incorrect.

Section 3.4 Powers in Connection with Collection of Claims

Without limiting or otherwise restricting the Hypothecary Representative's rights as set forth herein or pursuant to applicable Law, after the occurrence and during the continuance of a Cash Dominion Event, the Hypothecary Representative is irrevocably authorized in connection with the collection of Claims, as the Grantor's agent and mandatary, to:

- (a) grant delays, take or abandon securities;
- (b) grant releases and discharges, whole and partial, with or without consideration;
- (c) endorse all cheques, drafts, notes and other negotiable instruments issued to the order of the Grantor in payment of Claims;
- (d) take conservatory measures and appropriate proceedings to obtain payment of Claims;
- (e) negotiate and settle out of Court with the debtors of Claims, their trustee if there is a bankruptcy or insolvency, or any other legal representative, the whole as it deems appropriate; and
- (f) deal with any other matter relating to the Claims, in its discretion, without the intervention or the consent of the Grantor;

the Hypothecary Representative shall not however be liable for any damages or prejudice which may result from its fault, other than resulting from its gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

Section 3.5 Remedies Relating to Claims

After the occurrence and during the continuation of an Event of Default, the Grantor will promptly upon request of the Hypothecary Representative instruct all account debtors to remit all payments in respect of Claims to a mailing location selected by the Hypothecary Representative. In addition, after the occurrence and during the continuation of an Event of Default, the Hypothecary Representative shall have the right to enforce the Grantor's rights against its customers and account debtors, and the Hypothecary Representative or its designee may notify the Grantor's customers and account debtors of the Hypothecary Representative's hypothec thereon, and may (either in its own name or in the name of the Grantor or both) demand, collect (including by way of a lockbox arrangement), receive, take receipt for, sell, sue for, compound, settle, compromise and give acquittance for any and all amounts due or to become due on any Claim, and, in the Hypothecary Representative's discretion, file any claim or take any other action or proceeding to protect and realize upon the rights of the Hypothecary Representative in the Claims. The Grantor acknowledges and agrees that the Proceeds of its Claims remitted to or on behalf of the Hypothecary Representative in accordance with the provisions hereof shall be held subject to the hypothecs created herein until applied as provided in Section 6.6 hereof and that the Grantor shall not have any right, title or interest in such Claims or in any such other amounts except as expressly provided herein.

Section 3.6 Waiver

The Grantor hereby waives any obligation the Hypothecary Representative may have to inform the Grantor of any irregularity in the payment of any Claims.

Section 3.7 Limitation of Hypothecary Representative's Liability

The Hypothecary Representative shall not be liable or accountable for any failure to collect, realize, dispose of, enforce or otherwise deal with the Claims or any part thereof and shall not be bound to institute proceedings for any such purposes or for the purpose of preserving any rights of the Hypothecary Representative, the Grantor or any other Person in respect of the Claims and shall not be liable or responsible for any loss or damage whatsoever whether resulting from any act or failure to act by the Hypothecary Representative or any of its officers, servants, solicitors, attorneys, receivers or otherwise other than by way of their own gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

Section 4.1 Security Agreement Representations and Warranties Incorporated

Each of the representations and warranties of the Grantor contained in the Security Agreement is incorporated in this Deed by reference, is restated and shall apply, *mutatis mutandis*, to the present Deed and the Collateral (with all adjustments to the language of such representations and warranties which may be necessary or desirable to conform to the laws of the Province of Québec) and as such, is confirmed as being true and correct as at the date of the Security Agreement.

ARTICLE 5 COVENANTS

Section 5.1 Security Agreement Covenants Incorporated

Each of the covenants of the Grantor contained in the Security Agreement is incorporated herein by reference, is restated and shall apply, *mutatis mutandis*, to the present Deed and the Collateral with all adjustments to the language of such provisions which may be necessary or desirable to conform to the laws of the Province of Québec.

ARTICLE 6 REMEDIES

Section 6.1 Enforcement

After the occurrence and during the continuation of an Event of Default, the hypothecs created under this Deed shall become enforceable and the Hypothecary Representative shall, in addition to any other rights, recourses and remedies it has under this Deed and otherwise at law, forthwith be entitled to exercise any and all hypothecary rights prescribed by the *Civil Code of Québec*.

Section 6.2 Agent

The Hypothecary Representative may appoint any one or more agents who shall be entitled to perform the powers vested in the Hypothecary Representative pursuant to this Deed and at law. Upon the appointment of an agent or agents from time to time, the following provisions shall apply:

- (a) that every such agent shall be the irrevocable agent and mandatary of the Grantor for the exercise of the rights, recourses and remedies available to the Hypothecary Representative and which are performed by such agent;

- (b) that every such agent, in carrying out the duties delegated to it by the Hypothecary Representative, shall be entitled to exercise all of the same rights, powers and discretions available to the Hypothecary Representative hereunder or at law in respect of such matters;
- (c) that the agent shall be entitled to deduct reasonable remuneration out of the receipts from any part of the Collateral;
- (d) that every such agent shall, so far as concerns responsibility for his acts or omissions, be deemed the agent and mandatary of, or employed or engaged by the Grantor and in no event the agent, mandatary or employee of the Hypothecary Representative; and
- (e) that the appointment of every such agent by the Hypothecary Representative shall not incur or create any liability on the part of the Hypothecary Representative to the agent in any respect and such appointment or anything which may be done by any such agent or the removal of any agent or termination of any such appointment or engagement shall not have the effect of creating any liability of any nature whatsoever of any such agent towards the Grantor, except in case of gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

Section 6.3 Hypothecary Representative's Right to Perform Obligations

If the Grantor shall fail, refuse or neglect to make any payment or perform any act required hereunder, then while any Event of Default exists and is continuing, and without notice to or demand upon the Grantor and without waiving or releasing any other right, remedy or recourse the Hypothecary Representative may have because of such Event of Default, the Hypothecary Representative may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of the Grantor, and shall have the right to take all such action and undertake such expenditures as it may deem necessary or appropriate. If the Hypothecary Representative shall elect to pay any sum due with reference to the Collateral, the Hypothecary Representative may do so in reliance on any bill, statement or assessment procured from the appropriate governmental authority or other issuer thereof without inquiring into the accuracy or validity thereof. Similarly, in making any payments to protect the security intended to be created hereunder, the Hypothecary Representative shall not be bound to inquire into the validity of any apparent or threatened adverse title, hypothec, encumbrance, claim or charge before making an advance for the purpose of preventing or removing the same.

Section 6.4 Mise en demeure

Except as otherwise expressly herein provided, or in the Loan Documents, no notice or mise en demeure of any kind shall be required to be given to the Grantor by the Hypothecary Representative for the purpose of putting the Grantor in default, the Grantor being in default by the mere lapse of time allowed for the performance of an obligation or by the mere occurrence of an event constituting an Event of Default hereunder.

Section 6.5 Exercise of Recourses

In exercising any of the rights, recourses or remedies available hereunder, the Hypothecary Representative may at its discretion, in respect of all or any part of the Collateral or any other security held by the Hypothecary Representative, exercise such rights, recourses and remedies as are available hereunder or at law, as it elects to exercise, without prejudicing the other rights, recourses and remedies available to the Hypothecary Representative in respect of all or part of the Collateral or any other security held by the Hypothecary Representative. The Hypothecary Representative may exercise any of such rights, recourses and remedies in respect of all or any part of the Collateral (or any other security held by the Hypothecary Representative), simultaneously or successively. It is further understood that the Hypothecary Representative shall be entitled to exercise and enforce all of the rights and remedies available to it, free from any control of the Grantor provided, however, that the Hypothecary Representative shall not be bound to realize any specific security nor exercise any right or remedy as aforesaid and shall not be liable for any loss which may be occasioned by any failure to do so.

Section 6.6 Application of Proceeds

After the occurrence and during the continuation of an Event of Default, subject to the terms of the Intercreditor Agreement, any payments in respect of the Obligations and any proceeds of the Collateral, when received by the Hypothecary Representative in cash or its equivalent, will be applied in reduction of the Obligations in the order set forth in Section 8.03 of the Credit Agreement, and the Grantor irrevocably waives the right to direct the application of such payments and proceeds and acknowledges and agrees that the Hypothecary Representative shall have the continuing and exclusive right to apply and reapply any and all such payments and proceeds in the Hypothecary Representative's sole discretion, notwithstanding any entry to the contrary upon any of its books and records.

Section 6.7 Surrender

If a prior notice of the Hypothecary Representative's intention to exercise a hypothecary right is given to the Grantor, which can only be given after the occurrence and during the continuation of an Event of Default, the Grantor shall be deemed to have surrendered the Collateral if,

within the delays determined by law or by a tribunal to surrender, the Grantor has not notified in writing the Hypothecary Representative of its intention to oppose the exercise of the hypothecary rights set forth in the prior notice, shall then cause any other Person in possession of the Collateral subject to such prior notice and then belonging to the Grantor, to immediately surrender same to the Hypothecary Representative and shall execute, and cause to be executed, all deeds and documents required to evidence such surrender to the Hypothecary Representative.

Section 6.8 Extension of Time and Waiver

Neither any extension of time given by the Hypothecary Representative to the Grantor or any Person claiming through the Grantor, nor any amendment to this Deed or other dealing by the Hypothecary Representative with a subsequent owner of the Collateral will in any way affect or prejudice the rights of the Hypothecary Representative against the Grantor or any other Person or Persons liable for payment of the Obligations. The Hypothecary Representative may waive any Event of Default in its sole discretion. No waiver will extend to a subsequent Event of Default, whether or not such subsequent Event of Default is the same as or similar to the Event of Default waived, and no act or omission by the Hypothecary Representative will extend to, or affect, any subsequent Event of Default or the rights of the Hypothecary Representative arising from such Event of Default. Any such waiver must be in writing and signed by the Hypothecary Representative. No failure on the part of the Hypothecary Representative or the Grantor to exercise, and no delay by the Hypothecary Representative or the Grantor in exercising, any right pursuant to this Deed will operate as a waiver of such right. No single or partial exercise of any such right will preclude any other or further exercise of such right.

Section 6.9 License

Solely for the purpose of enabling the Hypothecary Representative, during the occurrence of an Event of Default that is continuing, to exercise rights and remedies hereunder, the Grantor hereby grants to the Hypothecary Representative, to the extent it has the right to do so, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Grantor) to use, license or sublicense, upon the occurrence and during the continuance of any Event of Default, any and all assets of the Grantor (including, without limitation, all Equipment and Intellectual Property) now owned or hereafter acquired by such Grantor, and to occupy any Real Estate owned or leased by such Grantor, in each case wherever the same may be located and whether or not constituting Collateral, subject to the Grantor's right, title and interest in and to such assets, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof. The Grantor shall not grant a license or a Lien with respect to the Intellectual Property in favour of any Person unless, in a writing in form and substance reasonably

satisfactory to the Hypothecary Representative and duly executed by such Person, such Person acknowledges the Hypothecary Representative's rights set forth in this Section 6.9 and agrees that such Person's rights are subject thereto.

ARTICLE 7 ADDITIONAL RIGHTS OF THE HYPOTHECARY REPRESENTATIVE

The Grantor agrees that after the occurrence and during the continuation of an Event of Default, the following provisions shall apply to supplement the provisions of any applicable Laws and without limiting any other provisions of this Deed or the Loan Documents dealing with the same subject matter:

- (a) The Hypothecary Representative shall be the irrevocable mandatary and agent of the Grantor, with power of substitution, in respect of all matters relating to the enforcement of all rights, recourses and remedies of the Hypothecary Representative. The Hypothecary Representative shall, as regards all of the powers, authorities and discretions vested in it hereunder, have the absolute and unfettered discretion as to the exercise thereof whether in relation to the manner or as to the mode or time for their exercise.
- (b) Without limiting the generality of paragraph (a) hereinabove, the Grantor agrees that the Hypothecary Representative may, but is not obliged to, at the expense of the Grantor, for the purposes of protecting or realizing upon the value of the Collateral or its rights:
 - (i) cease or proceed with, in any way the Hypothecary Representative sees fit, any enterprise of the Grantor, and the administration of the Collateral, including, without limitation, the generality of the foregoing:
 - (A) sign any loan agreement, security document, lease, service contract, maintenance contract or any other agreement, contract, deed or other document in the name of and on behalf of the Grantor in connection with the Collateral or any enterprise operated by or on behalf of the Grantor and renew, cancel or amend from time to time any such agreement, contract, deed or other document;

- (B) maintain, repair, operate, alter, complete, preserve or extend any part of the Collateral in the name of the Grantor;
 - (C) reimburse for and on behalf of the Grantor any third person having a claim against any part of the Collateral;
 - (D) borrow money or lend its own funds for any purposes related to the Collateral; and
 - (E) receive the revenues, rents, fruits, products and profits from the Collateral and endorse any cheque, securities or other instrument;
 - (ii) dispose of any part of the Collateral likely to rapidly depreciate or decrease in value;
 - (iii) use the information it has concerning the Grantor or any information obtained during the exercise of its rights;
 - (iv) fulfil any of the undertakings of the Grantor or of any other Person;
 - (v) use, administer and exercise any other right pertaining to the Collateral; and
 - (vi) do all such other things and sign all documents in the name of the Grantor as the Hypothecary Representative may deem necessary or useful for the purposes of exercising its rights, recourses and remedies hereunder, under the other Loan Documents or any of them or at law.
- (c) In the event of the exercise by the Hypothecary Representative of any right, recourse or remedy after the occurrence and during the continuation of an Event of Default:
- (i) the Hypothecary Representative shall only be accountable to the Grantor to the extent of its commercial practice and within the delays normally observed by the Hypothecary Representative and the Hypothecary Representative shall not be obliged to, with respect to the Collateral or any enterprise operated by or on behalf of the Grantor:
 - (A) make inventory, take out insurance or furnish any security;

- (B) advance any sums of money in order to pay any expenses, not even those expenses that may be necessary or useful; or
- (C) maintain the use for which the enterprise of the Grantor is normally intended, make it productive or continue its use;

and shall not be held liable for any loss whatsoever other than as a result of its gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement;

- (ii) subject to the provisions of Section 6.6 hereof, any and all sums of money remitted to or held by the Hypothecary Representative may be invested at its discretion, without the Hypothecary Representative being bound by any legislative provisions relating to the investment or administration of the property of others; the Hypothecary Representative is not obliged to invest or pay interest on amounts collected even where such amounts exceed the amounts due by the Grantor;
- (iii) the Hypothecary Representative may itself, directly or indirectly, become the owner of the whole or any part of the Collateral to the extent not prohibited by law;
- (iv) the Hypothecary Representative may, at the time it exercises its rights, renounce to a right belonging to the Grantor, make settlements and grant discharges and mainlevées, even without consideration;
- (v) in the event the Hypothecary Representative exercises its hypothecary right of taking in payment and the Grantor requires the Hypothecary Representative to sell the whole or any part of the Collateral, the Grantor acknowledges that the Hypothecary Representative shall not be required to renounce to its hypothecary right of taking in payment unless, prior to the expiration of the time limit to surrender, the Hypothecary Representative (i) shall have received security, which the Hypothecary Representative deems satisfactory, to the effect that the sale will be made at a price sufficient to enable the Hypothecary Representative to be paid its claim in full, (ii) shall have been reimbursed the costs it shall have incurred, and (iii) shall have been

advanced all amounts necessary for the sale of the Collateral;

- (vi) in the event that the Hypothecary Representative sells the whole or any part of the Collateral, it will not be required to obtain any prior appraisal from a third party; and
 - (vii) the sale of the Collateral may be made with legal warranty on the part of the Grantor or, at the option of the Hypothecary Representative, with total or partial exclusion of warranty.
- (d) The Hypothecary Representative shall only be bound to exercise reasonable prudence and diligence in the execution of its rights and performance of its obligations under the terms of this Deed or at law and the Hypothecary Representative shall not be responsible for prejudice that may result from its fault or that of its agents or representatives, except if resulting from gross or intentional fault.
- (e) The Hypothecary Representative shall not be responsible in respect of any obligations undertaken in the exercise of its powers under the terms of this Deed or at law, or by reason of any delay, omission or any other act made in good faith by the Hypothecary Representative or its representatives with the exception of obligations undertaken or acts made further to gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

ARTICLE 8 THE HYPOTHECARY REPRESENTATIVE

Section 8.1 Acting as the Hypothecary Representative

The Hypothecary Representative shall hold the hypothec granted pursuant to this Deed for the benefit of the Credit Parties and shall act as hypothecary representative ("*fondé de pouvoir*") of the Credit Parties within the meaning of Article 2692 of the *Civil Code of Québec*. The Grantor hereby appoints the Hypothecary Representative to act as such hypothecary representative ("*fondé de pouvoir*") in accordance with the terms hereof.

Section 8.2 Subsequent Credit Party

Any Person who becomes a Credit Party shall benefit from the provisions hereof and the appointment of the Hypothecary Representative as hypothecary representative ("*fondé de pouvoir*") for the Credit Parties and, upon becoming a Credit Party, irrevocably authorizes the Hypothecary Representative to perform such function.

Section 8.3 Protection of Persons Dealing with Hypothecary Representative

No person dealing with the Hypothecary Representative or its agents need inquire whether the hypothec hereby constituted has become enforceable or whether the powers which the Hypothecary Representative is purporting to exercise have become exercisable.

Section 8.4 Delegation of Powers

The Hypothecary Representative may delegate the exercise of its rights or the performance of its obligations hereunder to another Person, including a Credit Party. In that event, the Hypothecary Representative may furnish that Person with any information it may have concerning the Grantor or the Collateral. The Hypothecary Representative shall not be responsible for damages resulting from such delegation or from any fault committed by such delegate, except for gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

Section 8.5 Liability of Hypothecary Representative

The Hypothecary Representative shall only be accountable for reasonable diligence in the performance of its duties and the exercise of its rights hereunder, and shall only be liable for its own gross and intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement.

Section 8.6 Unfettered Discretion to Exercise Powers

The Hypothecary Representative, except as herein otherwise provided, shall, with respect to all rights, powers and authorities vested in it, have absolute and uncontrolled discretion as to the exercise thereof, whether in relation to the manner or as to the mode and time for the exercise thereof, and in the absence of fraud, it shall be in no way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof.

Section 8.7 Hypothecary Representative not Required to Act and Limitation of Hypothecary Representative's Liability in Acting

The Hypothecary Representative shall have the rights in its discretion to proceed in its name as the hypothecary representative ("*fondé de pouvoir*") hereunder to the enforcement of the security hereby constituted by any remedy provided by law, whether by legal proceedings or otherwise but it shall not be bound to do or to take any act or action in virtue of the powers conferred on it by these presents unless and until it shall have been required to do so by way of an instrument signed by the Credit Parties; the Hypothecary Representative shall not be responsible or liable, otherwise than as the hypothecary representative ("*fondé de pouvoir*"), for any debts contracted by it, for damages to persons or property

or for salaries or non-fulfilment of contracts during any period for which the Hypothecary Representative shall take possession of the Collateral pursuant to law, nor shall the Hypothecary Representative be liable to account for anything except actual revenues or be liable for any loss on realization or for any default or omission for which a hypothecary creditor might be liable, other than those resulting from its gross or intentional fault, subject to the provisions of Section 9.05 of the Credit Agreement; the obligation of the Hypothecary Representative to commence or continue any act, action or proceeding under this Deed shall, at the option of the Hypothecary Representative, be conditional upon the Credit Parties furnishing, when required, sufficient funds to commence or continue such action or proceeding and indemnity reasonably satisfactory to the Hypothecary Representative.

Section 8.8 Obligation to Act on Instructions of Credit Parties

The Hypothecary Representative shall be obliged to act and shall act and be fully protected in acting pursuant to the written instructions of the Credit Parties in connection with any proceedings, act, power, right, matter or thing relating to or conferred by or to be done under this Deed.

ARTICLE 9 MISCELLANEOUS

Section 9.1 Separate Security

This Deed and the hypothecs created herein, are and shall be in addition to and not in substitution for, any other security held by the Hypothecary Representative, the Credit Parties or any one thereof for the fulfilment of the Obligations and shall thus not operate as a novation of any Obligation of the Grantor towards the Hypothecary Representative, the Credit Parties or any one thereof.

Section 9.2 Release of Collateral

Upon request by the Grantor, the Hypothecary Representative shall promptly deliver to the Grantor (at the Grantor's expense) appropriate release documentation to the extent the release of Collateral is permitted under, and on the terms and conditions set forth in, the Credit Agreement and the other Loan Documents in each case, subject to the Hypothecary Representative's receipt of a certification by the Borrower stating that the release transaction giving rise to such release is permitted under the Credit Agreement and as to such other matters as the Hypothecary Representative may reasonably request; provided that any such partial release, or the substitution of any of the Collateral for other Collateral, will not alter, vary or diminish in any way the hypothec created in this Deed as to any and all Collateral not expressly released or substituted, and this Deed shall continue as a first ranking hypothec (subject to Permitted Liens) on any and all Collateral not expressly released or substituted.

Section 9.3 Costs and Expenses

At all times hereafter, whether or not upon the occurrence of an Event of Default, the Grantor agrees to promptly pay upon demand any and all reasonable documented costs and out-of-pocket expenses (including reasonable legal fees and actual disbursements) of the Hypothecary Representative to the extent required under Section 10.04 of the Credit Agreement.

Section 9.4 Notice

Any notice or other communication, including a demand or a direction, required or permitted to be given hereunder shall be in writing and shall be made in accordance with the terms of the Credit Agreement.

Notwithstanding the foregoing, if the *Civil Code of Québec* requires that a notice or other communication be given in a specified manner and such requirement is a rule of public order or is necessary in order to comply with the rules relating to the enforcement of the hypothec hereunder, then any such notice or communication shall be given in such manner.

Section 9.5 Amendments and Waivers

No amendment or waiver of any provision hereof shall be effective unless in writing and signed by the party against whom enforcement is sought.

Section 9.6 Waivers

No course of dealing on the part of the Hypothecary Representative, its officers, employees, consultants or agents, nor any failure or delay by the Hypothecary Representative with respect to exercising any right, power or privilege of the Hypothecary Representative under any of the Loan Documents, shall operate as a waiver thereof.

Section 9.7 Indivisibility

Every divisible obligation in favour of the Hypothecary Representative arising out of this Deed must be performed in its entirety by each heir or legal representative of any Person who is liable to the same extent as if it were indivisible.

Section 9.8 Paramountcy

This Deed is subject to the provisions of the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and this Deed, the terms of the Intercreditor Agreement shall govern, save and except in respect of the provisions of this Deed which relate to the creation and enforcement of the hypothec hereby constituted, which provisions shall govern and prevail over the provisions

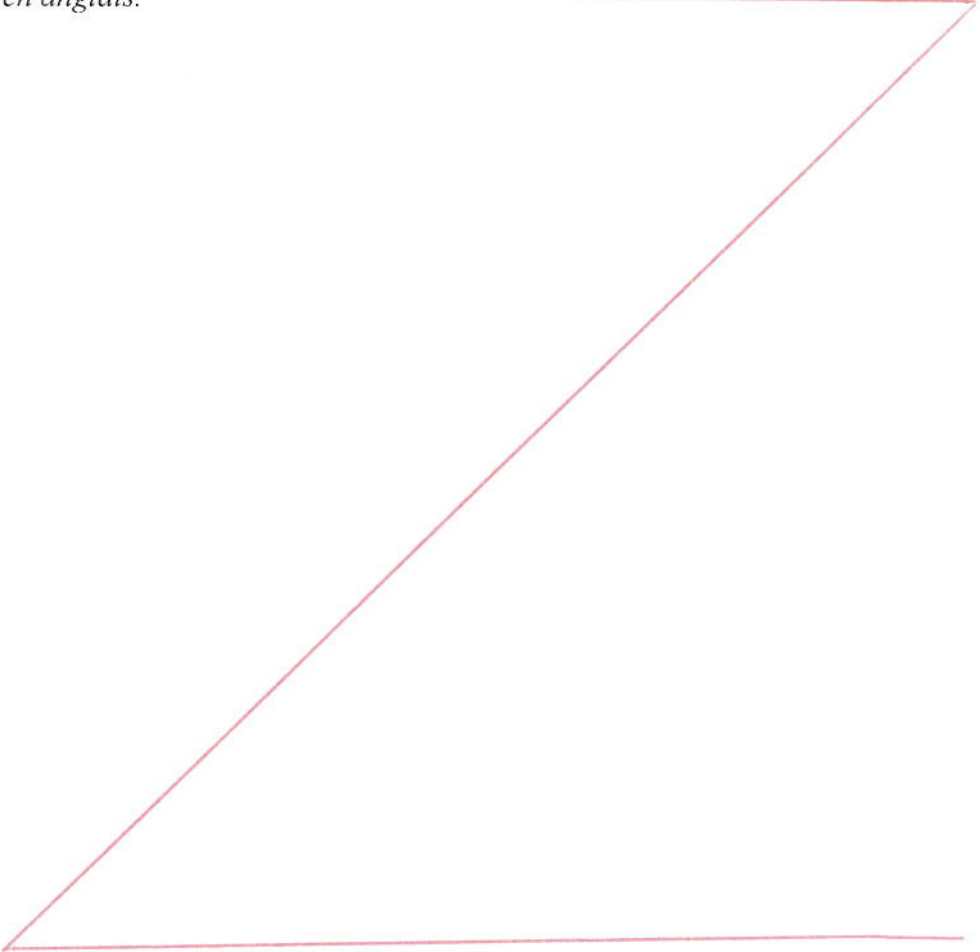
of the Intercreditor Agreement. Any reference to “priority” or words of similar effect in describing any of the hypothec created hereunder shall be understood to refer to such priority as set forth in the Intercreditor Agreement. In the event of a conflict between this Deed and the terms of the Credit Agreement or the Security Agreement, the terms of the Credit Agreement or the Security Agreement, as the case may be, shall govern save and except in respect of the provisions of this Deed which relate to the creation and enforcement of the hypothec hereby constituted, which provisions shall govern and prevail over the provisions of the Credit Agreement or the Security Agreement, as the case may be.

Section 9.9 Governing Law

This Deed shall be governed by and construed in accordance with the laws of the Province of Québec and the applicable laws of Canada and the Grantor and the Hypothecary Representative hereby irrevocably submit to the non-exclusive jurisdiction of the courts of Québec.

Section 9.10 Language

The parties hereto confirm that they have requested that this Deed and all related documents be drafted in English. *Les parties aux présentes ont exigé que le présent acte et tous les documents connexes soient rédigés en anglais.*



WHEREOF ACTE:

DONE AND PASSED in the City of Montreal, Province of Québec, on the date hereinabove set forth, and of record in the office of the undersigned Notary under minute number *four hundred seventy-nine (479)*

AND after the parties had declared to the said notary to have taken cognizance of these presents and to have exempted the said Notary from reading them or causing them to be read, the said duly authorized representatives of the Grantor and the Hypothecary Representative respectively have signed these presents, all in the presence of the said Notary who has also signed.

BANK OF AMERICA, N.A.

By: 

Name: Arnold Cohen

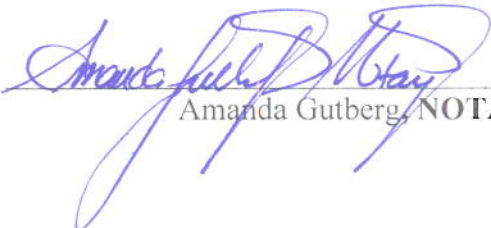
Title: Representative

**HUDSON'S BAY COMPANY /
COMPAGNIE DE LA BAIE
D'HUDSON**

By: 

Name: Elizabeth Labrie

Title: Representative



Amanda Gutberg, NOTARY

