

CREDIT AGREEMENT

BETWEEN

**RIOCAN-HBC LIMITED PARTNERSHIP
as Borrower**

AND

**HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI
as Nominee**

AND

**THE FINANCIAL INSTITUTIONS
from time to time parties hereto
as Lenders**

AND

**HSBC BANK CANADA
as Administrative Agent**

AND

**HSBC BANK CANADA
as Sole Lead Arranger**

MADE AS OF

May 24, 2022

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CREDIT AGREEMENT

THIS AGREEMENT is made as of May 24, 2022.

BETWEEN:

RIOCAN-HBC LIMITED PARTNERSHIP
(the “**Borrower**”),

- and -

**HUDSON’S BAY COMPANY ULC COMPAGNIE DE LA BAIE
D’HUDSON SRI**
(as “**Nominee**”),

- and -

THE FINANCIAL INSTITUTIONS from time to time parties to this Agreement and designated as Lenders on the signature pages hereto (each, a “**Lender**” and collectively, the “**Lenders**”)

- and -

HSBC BANK CANADA
(the “**Administrative Agent**”)

- and -

HSBC BANK CANADA
(as “**Sole Lead Arranger**”)

WHEREAS the Borrower has requested the Credit Facility and the Lenders have agreed to provide the Credit Facility to the Borrower upon and subject to the terms and conditions set out in this Agreement;

AND WHEREAS HSBC Bank Canada shall be the Administrative Agent as contemplated by Section 18.01 hereof.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements herein contained the parties hereto agree as follows:

ARTICLE 1 – INTERPRETATION

1.01 Definitions

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

“**Additional Compensation**” has the meaning specified in Section 12.01(3).

“Administrative Agent” means HSBC Bank Canada in its capacity as administrative agent, or any replacement or successor administrative agent appointed pursuant to the terms of this Agreement.

“Administrative Agent’s Account” means the office of the Administrative Agent at 16 York Street, Suite 500, Box 64, Toronto, Ontario, M5J 0E6 or such other office of the Administrative Agent in Canada as the Administrative Agent may from time to time designate in writing to the Borrower and the Lenders.

“Administrative Questionnaire” means an administrative questionnaire in a form provided by the Administrative Agent.

“Advance” means the advance of funds made hereunder to the Borrower by the Lenders by way of a Loan.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” means this credit agreement, including its recitals and schedules, as amended, modified, supplemented or restated from time to time.

“AMLA” means the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and its associated regulations in effect as of the date hereof.

“Applicable Law” means (a) any domestic or foreign statute, law (including common and civil law), treaty, code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise), (b) any judgement, order, writ, injunction, decision, ruling, decree or award, (c) any regulatory policy, practice, guideline or directive, or (d) any franchise, licence, qualification, authorization, consent, exemption, waiver, right, permit or other approval of any Governmental Authority, in each case having the force of law or otherwise being binding on or affecting the Person referred to in the context in which the term is used or binding on or affecting the property of such Person, provided that, notwithstanding the foregoing, **“Applicable Law”** shall include, without limitation, published Canada Revenue Agency administrative positions and any rules, conventions or agreements with, or published by, Governmental Authorities or regulatory agencies to which a Lender is bound by, or subject to, as applicable.

“Appraisal” means, with respect to the Property, a “market value” appraisal of the Property prepared in accordance with the requirements for a Complete, Self-Contained Appraisal Report as defined by the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Institute and conducted in accordance with the standards of the Appraisal Institute by an Appraiser.

“Appraisal Institute” means the Appraisal Institute of Canada.

“Appraiser” means a professional real estate appraiser who is a member in good standing of the Appraisal Institute and who has a minimum of five (5) years’ experience in the subject property type and market.

“Assignment of HBC Lease” means the assignment of the HBC Lease given by the Borrower in favour of the Administrative Agent for and on behalf of the Lenders, in a form acceptable to

the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“Assignment of Material Property Agreements” means the assignment of Material Property Agreements given by the Borrower in favour of the Administrative Agent for and on behalf of the Lenders, in a form acceptable to the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“BA Advance” has the meaning set out in Section 2.11(2).

“BA Discount Proceeds” means, for any Bankers’ Acceptance (or, as applicable, Notional Bankers’ Acceptance) an amount (rounded to the nearest whole cent, and with one-half cent being rounded up) calculated on the applicable Drawdown Date, Conversion Date or Rollover Date by multiplying:

- (i) the face amount of the Bankers’ Acceptance (or, as applicable, the undiscounted amount of the Notional Bankers’ Acceptance) by;
- (ii) the quotient of one divided by the sum of one plus the product of:
 - (A) the BA Discount Rate (expressed as a decimal) applicable to such Bankers’ Acceptance (or, as applicable, Notional Bankers’ Acceptance), multiplied by
 - (B) a fraction, the numerator of which is the Interest Period of the Bankers’ Acceptance (or, as applicable, Notional Bankers’ Acceptance) and the denominator of which is 365,

with such quotient being rounded up or down to the nearest fifth decimal place, and with 000005 being rounded up.

“BA Discount Rate” means, for any Rollover Date or Conversion Date in respect of Bankers’ Acceptances purchased by a Lender on such day, or a BA Equivalent Advance being made by a Non-Acceptance Lender on such day, (i) for any Lender that is a Schedule I Lender, the CDOR Rate on such day for such Interest Period, and (ii) for any Non-Schedule I Lender, the rate quoted by HSBC Bank Canada.

“BA Equivalent Advance” means, in relation to the Drawdown, a Conversion or a Rollover of Bankers’ Acceptances, a Loan in Canadian Dollars made by a Non-Acceptance Lender as part of the Drawdown, such Conversion or such Rollover.

“BA Lender” means any Lender that is capable of accepting Bankers’ Acceptances that has not notified the Administrative Agent in writing that it is unwilling or unable to accept Bankers’ Acceptances and, in the singular, any one of them and any transferee, assignee or grantee of a Rateable Portion of the Loan in accordance with terms of this Agreement that is capable of issuing Bankers’ Acceptances.

“BA Stamping Fee” means, in relation to each Bankers’ Acceptance issued, or Notional Bankers’ Acceptance notionally issued, the amount calculated by multiplying the face amount of a Bankers’ Acceptance or Notional Bankers’ Acceptance by the BA Stamping Fee Rate and then multiplying the result by a fraction, the numerator of which is the number of days to elapse

from and including the date of acceptance of such Bankers' Acceptance or Notional Bankers' Acceptance by a Lender up to but excluding the maturity date of such Bankers' Acceptance or Notional Bankers' Acceptance, and the denominator of which is the number of days in the calendar year in question.

"BA Stamping Fee Rate" means, with respect to a Bankers' Acceptance or Notional Bankers' Acceptance, the amount determined by applying the rate of 2.10% *per annum* (based on a 365 or 366 day year, as the case may be), to the face amount of each Bankers' Acceptance or Notional Bankers' Acceptance, as applicable, for the Interest Period applicable thereto.

"Bankers' Acceptance" means those drafts or bills of exchange in Canadian Dollars drawn by the Borrower and accepted by a BA Lender pursuant to this Agreement and includes a depository bill under the *Depository Bills and Notes Act* (Canada) and a bill of exchange under the *Bills of Exchange Act* (Canada).

"Borrower" means RioCan-HBC Limited Partnership, and its successors and permitted assigns.

"Borrower Adjusted Partners' Equity" means, on any date, in respect of the Borrower, the aggregate of the amount of partners' equity and the amount of accumulated amortization of income properties, including accumulated amortization of deferred costs and the accumulated amortization of the fair value of tangible and intangible assets and liabilities recorded on the acquisition of income properties, as shown on the Borrower's most recent consolidated financial statements at such time, calculated in accordance with GAAP.

"Borrower Aggregate Gross Book Value" means, at any time, the total book value of the assets of the Borrower and its Subsidiaries, excluding goodwill, determined on a consolidated basis, plus accumulated amortization of income properties, including accumulated amortization of the fair value of tangible and intangible assets and liabilities recorded on the acquisition of income properties, recorded in the books and records at such time, determined in accordance with GAAP.

"Borrower Consolidated EBITDA" means, with respect to the Borrower and its Subsidiaries, for any period, the Borrower Consolidated Net Income for such period (A) increased by the sum of (to the extent deducted in calculating Borrower Consolidated Net Income), without duplication, (i) Borrower Consolidated Interest Expense, excluding interest that has been capitalized on projects that are under development or held for future development, for such period, (ii) income tax expense for such period (other than income taxes, either positive or negative, attributable to extraordinary or nonrecurring gains or losses) determined on a consolidated basis in accordance with GAAP, (iii) amortization of income properties (including provisions for diminution in value of income properties) for such period, determined on a consolidated basis in accordance with GAAP, (iv) amortization of the fair value of tangible and intangible assets and liabilities recorded on the acquisition of income properties, determined on a consolidated basis in accordance with GAAP, (v) amortization of financing costs, leasing costs or any other assets for such period, determined on a consolidated basis in accordance with GAAP, and (vi) other non-cash items reducing Borrower Consolidated Net Income resulting from a change in accounting principles in determining Borrower Consolidated Net Income for such period and (B) decreased, by the sum of other non-cash items increasing Borrower Consolidated Net Income resulting from a change in accounting principles in determining Borrower Consolidated Net Income for such period and (C) increased or decreased by any unrecognized gains or losses on the assets or liabilities included in the calculation of Borrower

Consolidated Net Income (such as, for greater certainty, foreign exchange adjustments, derivatives adjustments and other non-cash adjustments).

“Borrower Consolidated Indebtedness” means, with respect to the Borrower and its Subsidiaries, and subject to Section 9.05 as at any date the consolidated Indebtedness of the Borrower and its Subsidiaries as at such date determined in accordance with GAAP.

“Borrower Consolidated Interest Expense” means, with respect to the Borrower and its Subsidiaries for any period and subject to Section 9.05, the aggregate amount of interest expense in respect of Borrower Consolidated Indebtedness, the interest component of any Capital Lease Obligations, the original issue discount of any Borrower Consolidated Indebtedness issued at a price less than the face amount thereof paid, accrued or scheduled to be paid or accrued during such period and, to the extent interest has been capitalized on projects that are under development or held for future development during the period, the amount of interest so capitalized (except where such interest forms part of the principal Indebtedness of the Borrower under a financing in connection with such development), all as determined on a consolidated basis in accordance with GAAP (provided that, notwithstanding its presentation under GAAP, all interest expense in respect of convertible debenture Indebtedness of the Borrower shall be included at the face rate of interest paid in cash (without duplication), and excluded if paid in units of the Borrower and its Subsidiaries in determining Borrower Consolidated Interest Expense).

“Borrower Consolidated Net Income” means, with respect to the Borrower and its Subsidiaries for any period and subject to Section 9.05, the net income (loss) for such period determined on a consolidated basis in accordance with GAAP, excluding (i) any gain or loss attributable to the sale or other disposition of any asset or liability of the Borrower or its Subsidiaries, (ii) any extraordinary gains and losses other than non-cash gains or losses of the Borrower or its Subsidiaries, (iii) other non-recurring items, and (iv) any non-controlling interest, in each case, determined on a consolidated basis in accordance with GAAP; and including or excluding, as applicable, the tax impact of the items (i) to (iv).

“Borrower Debt Service” means, with respect to the Borrower and its Subsidiaries, for any period and on a consolidated basis and subject to Section 9.05, the sum of (without duplication) (i) Borrower Consolidated Interest Expense; (ii) all regularly scheduled debt payments made with respect to Borrower Consolidated Indebtedness during such period, other than any balloon, bullet or similar principal payment which repays such Indebtedness of the Borrower in full; (iii) all payments on Capital Lease Obligations paid by such Person during such period; and (iv) all other payments made in respect of any preferred securities that are treated as debt in accordance with GAAP by such person during such period, excluding any interest expense of such Person in respect of such preferred securities that is paid in common shares or units of such Person.

“Borrower Debt Service Coverage Ratio” means, with respect to the Borrower and its Subsidiaries, and subject to Section 9.05, the ratio of (i) Borrower Consolidated EBITDA for the most recently completed four Fiscal Quarters, to (ii) Borrower Debt Service for the same period.

“Borrower Debt to Aggregate GBV Ratio” means, with respect to the Borrower and its Subsidiaries, the ratio calculated at the end of a Fiscal Quarter of (i) the Borrower Consolidated Indebtedness of the Borrower and its Subsidiaries as at such time, to (ii) the Borrower Aggregate Gross Book Value as at such time.

“Borrower Security Agreement” means the general security agreement given by the Borrower in favour of the Administrative Agent for and on behalf of the Lenders, granting a first priority security interest over all present and future personal property of the Borrower located in, or at, acquired or used in connection with, arising from or otherwise relating exclusively to the Property and securing the Obligations of the Borrower, in a form acceptable to the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“Business Day” means a day of the year, other than a Saturday, Sunday or statutory holiday, on which the Administrative Agent is open for business at its executive offices in Toronto, Ontario and Vancouver, British Columbia.

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

“Capital Lease Obligation” of any Person means the obligation of such Person, as lessee, to pay rent or other payment amounts under a lease of real (or immovable) or personal (or moveable) property which is required to be classified and accounted for as a capital lease on a consolidated balance sheet of such Person in accordance with GAAP.

“Cash Flow” means Net Operating Income, calculated on an annualized basis utilizing Net Operating Income for the immediately preceding twelve (12) months taking into account rents from all in-place, signed Leases adjusted by: (a) adding contractual rent step-ups occurring within the immediately preceding twelve (12) months; and (b) excluding any rents with respect to Leases: (1) where the tenant has given a notice of termination pursuant to termination rights in the Lease; (2) which are in default for the failure to pay base rent after any applicable notice and grace period has expired; (3) which are otherwise in default beyond applicable notice and grace periods and for which a notice of event of default thereunder has been sent; (4) where a tenant is currently subject to proceedings under Debtor Relief Law; and/or (5) which are expiring within six (6) months and the tenant has not renewed or re-let space covered by such Lease, or the space has “gone dark”.

“Cash Flow to Debt Service Ratio” means with respect to the Property, and subject to Section 9.05, the ratio of (i) Cash Flow for the most recently completed Fiscal Quarter, to (ii) Debt Service for the same period.

“CDOR Rate” means, on any day and for any period, the greater of (i) 0% *per annum* and (ii) an annual rate of interest equal to the average rate applicable to Canadian Dealer Offered Rate for Canadian Dollar bankers’ acceptances for the applicable period appearing on the **“Refinitiv Screen CDOR Page”** or any page substituted thereof (as defined in the International Swaps and Derivatives Association, Inc. definitions, as modified and amended from time to time) at approximately 10:00 a.m. (Toronto time) on such day, or if such day is not a Business Day then on the immediately preceding Business Day, provided that, if such rate does not appear on the Refinitiv Screen CDOR Page on such day contemplated, then the CDOR Rate on such day shall be calculated as the rate for such period applicable to Canadian Dollar bankers’ acceptances quoted by the Administrative Agent as of 10:00 a.m. (Toronto time) on such day or, if such day is not a Business Day, then on the immediately preceding Business Day. For greater certainty if the CDOR Rate is less than 0% *per annum*, the CDOR Rate shall be deemed to be 0% *per annum*.

“CDOR Screen Rate” has the meaning set out in Section 2.11(1)(a).

“CDOR Successor Rate” has the meaning set out in Section 2.11(1).

“CDOR Successor Rate Conforming Changes” has the meaning set out in Section 2.11(4).

“Change in Applicable Laws” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Applicable Law, (b) any change in any Applicable Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any Applicable Law by any Governmental Authority; provided that notwithstanding anything to the contrary, all requests, rules, guidelines, or directives promulgated by the Bank of 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 be a **“Change in Applicable Law”**, regardless of the date enacted, adopted or issued.

“Change of Control” means any course of action undertaken by any Person which is intended to result in, or would result (in the reasonable opinion of the Majority of the Lenders) in, a Change in Control, or the transfer of all or substantially all of the undertaking and assets of either Obligor. For the purposes hereof, **“Change in Control”** shall mean:

- (i) a change of Control of the Nominee; or
- (ii) a change of Control of the Borrower or the General Partner.

“Charge” means the demand mortgage and assignment of rents and leases in the principal amount of \$220,000,000 to be granted by the Nominee in favour of the Administrative Agent for and on behalf of the Lenders, in a form acceptable to the Administrative Agent and the Lenders, constituting a first charge on the Property, as amended, modified, supplemented or restated from time to time.

“City” means City of Vancouver, British Columbia.

“Claims” means, in respect of any event, circumstance, matter or thing, all actions, proceedings, losses, damages, liabilities, taxes, claims, demands, judgments, rights (including set-off), remedies, costs and expenses of any nature or kind, including legal fees and disbursements on a full indemnity basis, and **“Claim”** means any one of them.

“Closing Date” means June 6, 2022 or such other date as agreed to between the Borrower, the Administrative Agent and all of the Lenders.

“Collateral” means, collectively, the Property, all real and personal property (and the revenues, insurance proceeds (save as herein expressly excluded), issues, profits, proceeds and products therefrom) which are subject, or are intended or required to become subject, to the Security or Encumbrance granted under any of the Loan Documents.

“Commitment” means, in respect of any Lender, the commitment by each Lender to provide the amount of Canadian Dollars set opposite its name in Schedule A annexed hereto (as such Schedule A may be amended from time to time pursuant to a provision hereof by which Commitments are modified, and a copy of which is delivered to the Borrower by the Administrative Agent), being the sum of the maximum aggregate amount of the Loan that such Lender is obliged to make, as such amount may be reduced from time to time by such Lender's

Rateable Portion of the amount of any permanent repayments, reductions or prepayments required or made hereunder.

“Compliance Certificates” means the certificates required pursuant to Section 9.02(3), substantially in the forms attached as Schedule 1.01(A) and Schedule 1.01(B) signed by any senior officer of the General Partner, for and on behalf of the Borrower.

“Contingent Obligation” means, with respect to any Person, any obligation, whether secured or unsecured, of such Person guaranteeing or indemnifying, or has the practical effect of guaranteeing or indemnifying, any indebtedness, leases, dividends, letters of credit or other monetary obligations (the **“primary obligations”**) of any other Person (the **“primary obligor”**) in any manner, whether directly or indirectly, including any obligation of such Person as an account party in respect of a letter of credit or letter of guarantee issued to assure payment by the primary obligor of any such primary obligation and any obligations of such Person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds for the purchase or payment of any such primary obligation or to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the obligee under any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (iv) otherwise to assure or hold harmless the obligee under such primary obligation against loss in respect of such primary obligation; provided, however, that the term **“Contingent Obligation”** does not include endorsements of instruments for deposit or collection in the ordinary course of business.

“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. **“Controlling”** and **“Controlled”** have corresponding meanings.

“Conversion” means a conversion of one type of Loan into another type of Loan pursuant to Section 2.04.

“Conversion Date” means the Business Day specified by the Borrower in a Conversion Notice as being the date on which the Borrower has elected to make a Conversion as permitted by the terms of this Agreement.

“Conversion Notice” means a notice, substantially in the form set out in Schedule 1.01(G), to be given to the Administrative Agent by the Borrower pursuant to Section 2.04.

“Credit Facility” means the non-revolving secured term senior facility in the maximum principal amount equal to the Credit Facility Commitment as reduced or terminated in accordance with the terms hereof.

“Credit Facility Commitment” means the aggregate amount of all Commitments of the Lenders under the Credit Facility as set forth in Schedule A, as reduced or terminated in accordance with the provisions of this Agreement.

“Debt Service” means the aggregate of all interest payments that would be due under this Agreement during the ensuing twelve (12) months based on the then current interest rate(s) for the Credit Facility.

“Debt Service Agreement” means the full debt service guarantee given by the Borrower, in favour of the Administrative Agent for and on behalf of the Lenders, in a form acceptable to the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“Debt Yield” means with respect to the Property, and subject to Section 9.05, the ratio of (i) Cash Flow for the most recently completed Fiscal Quarter to (ii) the greater of (x) the principal balance of the Loan and (y) the outstanding Credit Facility Commitment for the same period.

“Debtor Relief Law” means any of the *Companies’ Creditors Arrangement Act* (Canada), the *Bankruptcy and Insolvency Act* (Canada), the *Winding-up and Restructuring Act* (Canada), the *United States Bankruptcy Code* and any similar federal, provincial, state or foreign law for or in respect of the relief of debtors, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, arrangement, receivership, insolvency, reorganization or similar laws of Canada or other applicable jurisdictions from time to time in effect and any similar federal, provincial, state or foreign law for the relief of debtors affecting the rights of creditors generally.

“Default” means any event or condition, the occurrence of which would, with the lapse of time or giving of notice, or both, becomes an Event of Default.

“Defaulting Lender” means, subject to Section 12.04(1)(d) any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it shall comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within Canada, the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be

conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 12.04(1)(d)) upon delivery of written notice of such determination to the Borrower and each Lender.

“Direction and Acknowledgement” means the direction by the Borrower, as beneficial owner, to the Nominee, as nominee, to execute this Agreement, the Security and any other Loan Documents to which it is a party and an agreement that such Loan Documents shall bind the Borrower’s beneficial interest in the Property to the same extent as if the Borrower had executed them in the place of the Nominee, as nominee, which direction shall be in a form acceptable to the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“discretion” means in the sole, absolute, subjective and unreviewable discretion of the relevant Person.

“Disposition” means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, licence or other disposition of any nature or kind whatsoever of any property or of any right, title or interest in or to any property, and the verb **“Dispose”** has a corresponding meaning.

“Distribution” means, in connection with the Property, either Obligor or the General Partner:

- (i) any payment, declaration of dividend or other distribution, whether in cash or property (but expressly excluding any distribution by way of the payment of dividends by the issuance of equity securities of an issuer), to any holder of Equity Interests of any class of any of the Obligors; or
- (ii) any repurchase, redemption, retraction or other retirement or purchase for cancellation of Equity Interests of any Obligor or of any options, warrants or other rights to acquire any of such Equity Interests; or
- (iii) the payment by either Obligor of any royalty, consulting fee, management fee, bonus or other fee to any Affiliate or to any director, officer or other management personnel of such Affiliate or of either Obligor; or
- (iv) making of any payment on account of any fees, principal, interest or otherwise on any subordinated debt,

and the verb **“Distribute”** has a corresponding meaning.

“Draft” has the meaning specified in Section 5.08(1).

“Drawdown” means the single advance of the Credit Facility by way of either a Prime Rate Loan or issuance of Bankers’ Acceptances.

“Drawdown Date” means the date on which the Drawdown is made by the Borrower pursuant to the provisions hereof which shall be a Business Day.

“Drawdown Notice” means a notice, substantially in the form set out in Schedule 1.01(C), to be given to the Administrative Agent by the Borrower pursuant to Section 2.04.

“Eligible Assignee” means any proposed assignee (other than a natural person, either Obligor or any Affiliate of an Obligor) of an assignment pursuant to Article 19 that is:

- (i) following an Event of Default that has occurred and is continuing, any Person (other than a natural person, either Obligor or any Affiliate of an Obligor);
- (ii) an Affiliate of a Lender and is a resident of Canada for the purposes of the *Income Tax Act* (Canada);
- (iii) a bank whose senior, unsecured, non-credit enhanced, long-term debt is rated at least A3, A- or A low by two (2) of Moody’s Investors Services Inc., Standard & Poor’s Ratings Group, a division of the McGraw Hill Companies, DBRS Limited (and each of their respective successors), respectively; or
- (iv) not a Defaulting Lender or a Subsidiary of a Defaulting Lender.

“Encumbrance” means, with respect to any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of any of such Person’s property, or any consignment by way of security or capital lease of property by such Person as consignee or lessee, as the case may be, or any other security agreement, trust or arrangement having the effect of security for the payment of any debt, liability or other obligation, and **“Encumbrances”**, **“Encumbrancer”**, **“Encumber”** and **“Encumbered”** have corresponding meanings.

“Environmental Costs” means any and all Claims (including, without limitation, personal injury, wrongful death, property damage, natural resource damage, strict liability and punitive damages), obligations, damages, losses, expenses, fines, penalties, fees, judgments, awards, amounts paid in settlement, costs of remedial or restoration work whether or not performed voluntarily (including, without limitation, any financial assurances required to be posted for completion of remediation and costs associated with administrative oversight), consultant, expert and legal fees (including, without limitation, the expenses of counsel for the Administrative Agent), investigations costs (including, without limitation, sampling, testing, analysis and monitoring of soil, water, air, building or other materials) incurred by the Administrative Agent or any Lender for any Claim or cause of action as against the Administrative Agent or any Lender of any kind by any person arising directly or indirectly out of or in any way relating to any one or more of the following:

- (i) the presence, suspected presence, release or suspected release of any Hazardous Substance on, in or into the air, soil, groundwater, surface water or improvements at, on or about, under or within the Property, or any portion thereof, or elsewhere in connection with the use, disposal, treatment, storage, generation, production, manufacturing, processing, refining, control, management, abatement, removal, handling, transfer or transportation to or from the Property of any Hazardous Substances not in compliance with Environmental Law, whether or not the presence or release of such Hazardous Substance is known or unknown by the parties hereto at the time this Agreement is executed;

- (ii) any breach of any representation, warranty or covenant relating to Hazardous Substances and the Property made or given by either Obligor to the Administrative Agent and the Lenders or to any prospective or actual buyer or lessee of all or any portion of the Property;
- (iii) any act or omission of either Obligor or any other Person or entity including damages or injuries to the person or property of any third party, in connection with Hazardous Substances;
- (iv) the failure of either Obligor to comply with any Environmental Law relating to any Hazardous Substance in, on, or around the Property;
- (v) the failure of either Obligor to protect public health and safety that is or may be threatened by any Hazardous Substance being present or released in, on, or around the Property; or
- (vi) the enforcement of the terms of this Agreement relating to Hazardous Substances or Environmental Laws.

“Environmental Indemnity Agreement” means the environmental indemnity agreement to be given by the Borrower in favour of the Administrative Agent for and on behalf of the Lenders, in a form acceptable to the Administrative Agent and the Lenders, as amended, modified, supplemented or restated from time to time.

“Environmental Law” means any Applicable Law relating to the environment, including those pertaining to:

- (i) reporting, licensing, permitting, investigating, remediating and cleaning up in connection with any presence or Release, or the threat of the same, of Hazardous Substances; and
- (ii) the manufacture, processing, distribution, use, treatment, storage, disposal, transport, handling and the like of Hazardous Substances, including those pertaining to occupational health and safety.

“Equity Interests” means, with respect to any Person, shares of capital stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, 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 other acquisition from such Person of such shares (or such other interests), and other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are authorized on any date of determination.

“Erroneous Payment” has the meaning specified in Section 22.01(1).

“Erroneous Payment Deficiency Assignment” has the meaning specified in Section 22.01(4)(a).

“Erroneous Payment Impacted Credit Facility” has the meaning specified in Section 22.01(4)(a).

“Erroneous Payment Return Deficiency” has the meaning specified in Section 22.01(4).

“Erroneous Payment Subrogation Rights” has the meaning specified in Section 22.01(5).

“Event of Default” has the meaning specified in Section 11.01.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder or under any other Loan Document, (a) taxes imposed on or measured by its net income, capital gains, or capital, and franchise taxes imposed on it by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch tax, branch profits tax or any similar tax imposed by any jurisdiction or (c) any taxes imposed under FATCA.

“FATCA” means Sections 1471 through 1474 of the Internal Revenue Code of 1986 of the United States of America (the **“IRC”**), as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof.

“Fiscal Quarter” means a period of three (3) consecutive months in each Fiscal Year ending on March 31, June 30, September 30, and December 31, as the case may be, of such year.

“Fiscal Year” means in relation to any Person, its fiscal year commencing on January 1 of each calendar year and ending on December 31 of the same calendar year.

“Force Majeure” means any of the following events which prevents or materially impairs the operation of the Property and is not caused by and is beyond the reasonable control of the Obligors (or either of them): acts of God, floods, earthquakes, hurricanes, windstorms, severe weather conditions, lightning, fire, wars (whether declared or not), endemics, pandemics, riots, insurrections, rebellions, civil commotions, sabotage, partial or entire failure of utilities, strikes, walkouts or other labour disruptions, delays in transportation, accidents, shortages of and inability to procure labour, materials and supplies (after all commercially reasonable efforts have been made by the Obligors to obtain replacement for such labour, materials and supplies) or orders, legislation, regulations and directives of any Governmental Authorities. For greater certainty, lack of funds, the state of the market or any wilful or negligent act or omission on the part of the Obligors (or either of them) does not constitute Force Majeure.

“GAAP” means generally accepted accounting principles in Canada as applicable to public entities that are from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, and for greater certainty includes IFRS.

“General Partner” means RioCan-HBC General Partner Inc., and its successors and permitted assigns.

“Governmental Authority” means any person, board commission, branch or office of any federal, provincial, regional, municipal or other governmental department or any governmental body or any agency, parliament, legislature, or any regulatory authority, board of any

government, parliament or legislature, authority, bureau, commission, department, or instrumentality thereof, or any court, tribunal or arbitrator, including, without limitation, any securities commission or stock exchange or any court or (without limitation to the foregoing) any other law, regulation or rule making entity (including, without limitation, any central bank, fiscal or monetary authority or authority regulating banks), having or purporting to have jurisdiction in the relevant circumstances over an Obligor, the whole or any part of the Property, the Administrative Agent or the Lenders or the transaction as the case may be and shall include a board or association of insurance underwriters, as well as any public utility supplying utility services to the Property. Notwithstanding anything herein to the contrary, (a) all requests, rules, guidelines, requirements and directives promulgated by the Administrative Agent or the Lenders for International Settlements, and Basel Committee on Banking Supervision (or any successor or similar authority) or by United States, Canadian or foreign regulatory authorities, in each case pursuant to Basel III, and (b) the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (United States) and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof, shall in each case be deemed to be enactments of an Governmental Authority regardless of the date enacted, adopted, issued or implemented.

“Hazardous Substance” means any substance or material that is prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Law, including pollutants, contaminants, dangerous goods or substances, toxic or hazardous substances or materials, wastes (including solid non-hazardous wastes and subject wastes), petroleum and its derivatives and by-products and other hydrocarbons, all as defined in or pursuant to any Environmental Law.

“HBC Lease” means the lease made as of July 9, 2015 between the Borrower, as landlord, and Hudson’s Bay Company (now Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI), as tenant, pursuant to which Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI, as tenant, leases the entirety of the Property, as amended, modified, supplemented or restated from time to time.

“IFRS” mean the International Financial Reporting Standards for public entities as adopted by the Canadian Accounting Standards Board from time to time.

“Indebtedness” means (i) any obligation for borrowed money (including for greater certainty, the full principal amount of convertible debt), (ii) any obligation incurred in connection with the acquisition of property, assets or businesses, (iii) any obligation issued or assumed as the deferred purchase price of property, (iv) any Capital Lease Obligation of such Person, (v) obligations under letters of credit, guarantees and indemnities issued in respect of borrowed money and any reimbursement obligation or other obligation in connection with a bankers’ acceptance or any similar instrument (excluding, for greater certainty, “performance” letters of credit issued in connection with construction or development relating to a property), (vi) all other indebtedness upon which interest charges are customarily paid by such Person and characterized as indebtedness under GAAP, (vii) the aggregate amount at which any securities of such Person that are not qualified by a prospectus and are redeemable or retractable at the option of the holder of such shares (except where the holder is such Person) may be redeemed or retracted prior to the Maturity Date for cash or obligations constituting Indebtedness or any combination thereof, and (viii) all Contingent Obligations incurred for the purpose of or having the effect of providing financial assistance to another entity.

“Indemnified Taxes” means Taxes other than the Excluded Taxes.

"Indemnitee" has the meaning specified in Section 15.01(2).

"Interest Payment Date" means, with respect to each Prime Rate Loan, the first Business Day of each calendar month, or if such day is not a Business Day, the first Business Day thereafter.

"Interest Period" means:

- (i) with respect to each Prime Rate Loan, the period commencing on the applicable Drawdown Date or Conversion Date, as the case may be, and ending on the date selected by the Borrower for the Conversion of such Loan into another type of Loan or for the repayment of such Loan; and
- (ii) with respect to each Bankers' Acceptance, each Bankers' Acceptance being of one (1) month in duration (subject to availability), commencing on the Drawdown Date, Rollover Date or Conversion Date of such Loan, as the case may be;

provided that in any case the last day of each Interest Period shall be also the first day of the next Interest Period (provided that for the purposes of calculation of interest payable by the Borrower, the last day of each Interest Period shall not be included in such Interest Period but shall be included in the calculation of interest payable for the subsequent Interest Period) and further provided that the last day of each Interest Period shall be a Business Day. If the last day of an Interest Period selected by the Borrower is not a Business Day the Borrower shall be deemed to have selected an Interest Period the last day of which is the Business Day next following the last day of the Interest Period otherwise selected unless such next following Business Day falls in the next calendar month in which event the Borrower shall be deemed to have selected an Interest Period the last day of which is the Business Day next preceding the last day of the Interest Period otherwise selected and further provided that the last Interest Period hereunder must expire on or prior to the Maturity Date.

"Lands" means the lands and premises municipally known as 674 Granville Street, Vancouver, British Columbia, identified in Schedule B attached hereto.

"Lease" means any lease, sublease, agreement to lease, offer to lease, licence or right of occupation granted from time to time by or on behalf of the Borrower and/or the Nominee entitling the lessee, sublessee or grantee thereunder to use or occupy all or any part of the Property.

"Lender Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee pursuant to Article 19 and accepted by the Administrative Agent in a form approved by the Administrative Agent.

"Lenders" means the Persons from time to time party to this Agreement and designated in Schedule A (which shall be amended and distributed to all parties by the Administrative Agent from time to time as other Persons become Lenders) and **"Lender"** means any one of the Lenders and includes each of their successors and permitted assigns.

"Lenders' Counsel" means the firm of McCarthy Tétrault LLP, or such other firm of legal counsel as the Lenders may from time to time designate.

“Loan” means the advance of up to \$202,000,000 made hereunder to the Borrower by the Lenders by way of Prime Rate Loans or Bankers’ Acceptances.

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Security, (iii) the Swap Agreements, and (iv) all present and future agreements, documents, certificates and instruments delivered by either Obligor to the Administrative Agent, any Lender or any Swap Lender pursuant to or in respect of this Agreement or the Security, in each case as amended, modified, supplemented or restated from time to time, and **“Loan Document”** means any one of the Loan Documents.

“Major Lease” means any Lease (or where space is leased to the same tenant or an Affiliate thereof all such Leases) entered into after the date of this Agreement under which the aggregate leasable area is 65,000 square feet or more.

“Majority of the Lenders” means, at any time at which there are two Lenders hereunder, both Lenders; and at any time at which there are more than two Lenders hereunder, it is to be Lenders whose Commitments represent at least 66⅔% of the dollar amount of the total Commitments and shall include at least two Lenders.

“Material Adverse Change” means any event or occurrence which, when considered individually or together with other events or occurrences, has a material adverse effect on (i) the business, assets, liabilities, operations, results of operations, condition (financial or other) or prospects of the Obligors, taken as a whole, (ii) the operation of the Property in its entirety, or (iii) the ability of either Obligor to perform its Obligations in all material respects. For greater certainty, **“Material Adverse Change”** does not include a change in general economic conditions unless same in turn causes any of the foregoing events.

“Material Licences” means, collectively, all licences, permits or approvals issued by any Governmental Authority, or any applicable stock exchange or securities commission, to the Borrower (or on the Borrower’s behalf), and which are at any time on or after the date of this Agreement:

- (i) necessary or material to the business and operations of the Property, the breach or default of which would result in a Material Adverse Change; or
- (ii) designated by a Lender as a Material Licence with respect to the Property, and provided that the Administrative Agent has notified the Borrower of such designation in writing,

including, without limitation, those Material Licences existing as of the date of this Agreement listed in Schedule 1.01(D).

“Material Property Agreements” means, collectively:

- (i) each operating contract with respect to the Property having a term more than one (1) year and which contemplates payments thereunder in excess of \$1,000,000 *per annum*;
- (ii) any shared facilities and/or reciprocal easement agreements;

- (iii) at any time all agreements, documents and instruments (other than Leases) now existing or from time to time entered into in the future or assigned to or obtained by the applicable Obligor with rights in the Property affecting or relating to the Property and which are material to the operation, use or ownership thereof; and
- (iv) all planning approvals, Permits, licences, development agreements and other material contracts with respect to the Property designated as Material Property Agreements by the Administrative Agent from time to time, provided that the Administrative Agent has notified the Borrower of such designation,

and includes, without limitation, those listed in Schedule 1.01(D).

“Maturity Date” means the earlier of (i) April 30, 2025 and (ii) thirty-six (36) months after the Drawdown.

“Net Operating Income” means the aggregate, without duplication, of all gross rents and revenues of any kind projected to be generated from Leases under which rent payments are due and payable (whether designated as base rent, additional rent, percentage rent, license fees, privilege fees or otherwise or paid in commutation or in lieu of rent), all rents and revenues of any kind projected to be received in respect of the Property from the rental or operation of the parking spaces comprised within the Property, together with all recoveries of Operating Expenses from tenants and deducting from such aggregate amount the aggregate of all Operating Expenses.

“Nominee” means Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI, and its successors and permitted assigns.

“Nominee Agreement” means the nominee agreement between the Borrower, as beneficial owner, and the Hudson’s Bay Company (now Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI), as nominee, made as July 9, 2015, as amended.

“Non-Acceptance Lender” means any Lender that is not a BA Lender or a Lender who elects to make BA Equivalent Advances in lieu of accepting Bankers’ Acceptances.

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Schedule I Lenders” means those Lenders that are not banks or that are banks chartered under the *Bank Act* (Canada) and named in Schedule II or III thereto, and **“Non-Schedule I Lender”** means each such Lender.

“Notional Bankers’ Acceptances” has the meaning specified in Section 5.02(1).

“Obligations” means all obligations of the Obligors to the Administrative Agent, the Lenders or the Swap Lenders under or in connection with this Agreement, the other Loan Documents (including, for greater clarity, the Swap Agreements), including all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Obligors (or either of them) to the Administrative Agent, the Lenders, the Swap Lenders or any of them, in any currency or remaining unpaid by the Obligors (or either of them) to the

Administrative Agent, the Lenders, the Swap Lenders or any of them, under or in connection with this Agreement or the other Loan Documents whether arising from dealings between the Administrative Agent, the Lenders, the Swap Lenders or any of them, and the Obligors (or either of them) or from any other dealings or proceedings by which the Administrative Agent, the Lenders, the Swap Lenders or any of them, may be or become in any manner whatever a creditor or obligee of the Obligors (or either of them) pursuant to this Agreement and the other Loan Documents, and wherever incurred, and whether incurred by either Obligor alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses relating thereto.

“Obligors” means, collectively the Borrower and the Nominee, and such other Persons as may from time to time become a borrower or a guarantor under the Loan Documents pursuant to the provisions of this Agreement, and **“Obligor”** means any one of the foregoing Persons as the context requires.

“Obligors’ Counsel” means Fogler Rubinoff LLP or such other firm of legal counsel as one or more of the Obligors may from time to time designate and that is acceptable to the Lenders.

“Operating Expenses” means the aggregate, without duplication, of all costs and expenses incurred in connection with the management, operation, maintenance, leasing and repair of the Property, as determined in accordance with GAAP including the following:

- (i) security services;
- (ii) snow, ice and trash removal;
- (iii) cleaning, maintenance, landscaping, repairs, replacement and supplies and all other costs relating to the operation of the Property;
- (iv) realty taxes with respect to the Property;
- (v) insurance premiums for all insurance coverage pertaining to the Property;
- (vi) direct payroll and payroll related costs, not otherwise included, with respect to full-time on-site employees (but excluding head office employees of the Obligors and their Affiliates) performing services in connection with the operation and management of the Property, including salaries, fringe benefits and payroll taxes, unemployment insurance, group insurance, workers’ compensation assessments, pension plans, cost of hiring and severance payments incurred and medical and dental insurance premiums;
- (vii) property management fees of no more than 3.00% of gross income, if any;
- (viii) the cost of utilities, including costs incurred for fuel or other energy for operating the Property, including for operating the heating, ventilation and air cooling systems thereof, and for electricity, steam, water, oil, gas or other utilities required in connection with the lighting, use and operation of the Property, all telephone, satellite, antennae and other telecommunication costs and expenses, and the cost of maintenance of

all electrical and mechanical equipment, including elevator and escalator equipment;

- (ix) all costs and expenses incurred for the purposes of generating revenue from sign rental, antennae rental, telephone and telecommunications revenue and revenue derived from services performed for tenants;
- (x) other costs and expenses in connection with the rental or operation of the parking spaces comprised within or adjacent to the Property, including parking management fees,
- (xi) but excluding:
 - (A) any of the foregoing costs or expenses recoverable from other Persons (other than tenants), including without limitation insurance proceeds;
 - (B) all payments made or required to be made by Borrower under this Agreement;
 - (C) all expenses of a non-recurring or capital nature;
 - (D) depreciation and amortization;
 - (E) brokerage fees, commissions and other leasing costs incurred in connection with the leasing of the Property and tenant inducements;
 - (F) debt service charges or other fees paid or payable in connection with the financing or refinancing of the Property, including without limitation, interest and fees;
 - (G) reserves for future capital costs; and
 - (H) goods and services tax.

“Organizational Documents” means, with respect to any Person, such Person’s articles, memorandum or other charter documents, partnership agreement, joint venture agreement, declaration of trust, trust agreement, by-laws, unanimous shareholder agreement, or any and all other similar agreements, documents and instruments pursuant to which such Person is constituted, organized or governed.

“Other Taxes” means all present or future stamp or documentary taxes or any other similar excise or property taxes, charges or levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of this Agreement or any other Loan Document, but does not include Excluded Taxes.

“Payment Recipient” has the meaning specified in Section 22.01(1).

“Permits” means, collectively, all permits, consents, orders, waivers, applications, authorizations, licences, certificates, approvals, registrations, franchises, rights, privileges and

exemptions or the like issued or granted by any Governmental Authority or by any third party with respect to the Property (including, without limitation, any Permits relating to Environmental Laws).

“Permitted Encumbrances” means, with respect to the Property, the following:

- (i) liens for Taxes, rates, assessments or other governmental charges or levies not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person, provided that if the aggregate amount being contested is in excess of \$100,000, the Borrower shall have adequate reserves on its balance sheet as determined by the Administrative Agent or deposited with the Administrative Agent collateral satisfactory to the Administrative Agent, to secure the payment of such Taxes and assessments;
- (ii) undetermined or inchoate liens, rights of distress and charges incidental to construction, maintenance or current operations that have not at such time been filed or exercised and of which the Administrative Agent has not been given notice, or that relate to obligations not due or payable, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person;
- (iii) reservations, limitations, provisos and conditions expressed in any original grant from the Crown or other grants of real or immovable property, or interests therein, that do not materially affect the use of the affected land for the purpose for which it is used by that Person;
- (iv) permits, reservations, covenants, servitudes, right of access or user licenses, easements, rights-of-way and rights in the nature of easements (including, without limitation, licenses, easements, rights-of-way and rights in the nature of easements for railways, sidewalks, public ways, sewers, drains, gas and oil pipelines, steam and water mains or electric light and power, or telephone, telecommunication, television and telegraph conduits, poles, wires and cables) that do not materially impair the use of the affected land for the purpose for which it is used by that Person, or in respect of which satisfactory arrangements have been made for relocation so that such use shall not, in the aggregate, be materially and adversely impaired, or which that Person is bound to enter into pursuant to any agreement with a Governmental Authority or with respect to any Material Property Agreements;
- (v) title defects, irregularities or other matters relating to title that are of a minor nature and that in the aggregate do not materially impair the use of the affected property for the purpose for which it is used by that Person;
- (vi) the right reserved to or vested in any Governmental Authority by the terms of any lease, licence, franchise, grant or permit acquired by that Person or by any statutory provision to terminate any such lease, licence,

franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;

- (vii) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by law, liens and Claims incidental to current construction, mechanics', warehousemen's, carriers' and other similar liens, and public, statutory and other like obligations incurred in the ordinary course of business;
- (viii) security given to a public utility or any Governmental Authority when required by such utility or authority in connection with the operations of that Person in the ordinary course of its business;
- (ix) the Encumbrance created by a judgment of a court of competent jurisdiction, or a Claim (including Claims pursuant to the *Builders Lien Act* (British Columbia)) filed, against that Person as long as the judgment or Claim is being contested diligently and in good faith by appropriate proceedings by that Person and does not result in an Event of Default, provided that if such judgment or Claim is a construction lien or is in the aggregate greater than \$500,000, the Borrower shall have either (A) in the case of any such judgment or Claim that is not a construction lien, if acceptable to the Lenders, the Borrower shall have adequate reserves on its balance sheet as determined by the Lenders, or deposited with the Administrative Agent collateral satisfactory to the Lenders, to secure the payment of such judgment or Claim, or (B) posted a payment bond, or made payment into court, of such amount as is necessary to remove such Encumbrance;
- (x) the Security;
- (xi) encroachments by the Property or structures thereon over neighbouring lands (including public streets) and minor encroachments by neighbouring lands or structures thereon over the Property, so long as, in the former case, there are written agreements permitting such encroachments;
- (xii) subdivision, development, servicing and site plan agreements, undertakings and agreements made pursuant to applicable planning and development legislation, entered into with or made in favour of any Governmental Authority, or public or private utility, relating to the Property;
- (xiii) Leases relating to the Property that have been approved by the Administrative Agent or entered into in accordance with this Agreement and notices of them;
- (xiv) all municipal by-laws and regulations and other municipal land use instruments, including, without limitation, official plans, zoning and building by-laws, restrictive covenants and other land use limitations, public or private, and other restrictions as to the use of the Property;

- (xv) any Encumbrance described in Schedule 1.01(E);
- (xvi) such other Encumbrances as are agreed to in writing by the Administrative Agent; and
- (xvii) reciprocal agreements, shared facilities agreements, party wall agreements and rights of way.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Prime Rate” means, on any day, the greater of:

- (i) the annual rate of interest expressed as a percentage per annum on the basis of a 365 day year, announced by the Administrative Agent on that day as its reference rate for commercial loans made by it in Canada in Canadian Dollars, provided that, for greater certainty, if such rate is less than 0% per annum, such rate shall be deemed to be 0% per annum; and
- (ii) the CDOR Rate for one (1) month Canadian Dollar bankers’ acceptances on that day plus 1.00% per annum.

“Prime Rate Loan” means a Loan in or a Conversion into Canadian Dollars made by the Lenders to the Borrower with respect to which the Borrower has specified that interest is to be calculated by reference to the Prime Rate.

“Property” means the Lands and the building consisting of approximately 636,828 leasable square feet and known as “Hudson’s Bay Company – Downtown Vancouver” and all landscaping, all plants, machinery, improvements and equipment and all other property whether free-standing or otherwise, auxiliary or ancillary thereto or connected therewith or added thereto, on, above or under the surface of the Lands.

“Rateable Portion” means, for any Lender, with respect to the Credit Facility, at any given time, with regard to any amount of money, the product obtained by multiplying that amount of money by the quotient obtained by dividing (i) that Lender’s Commitment with respect to the Credit Facility or portion thereof by (ii) the aggregate of all of the Lenders’ Commitments with respect to the Credit Facility or portion thereof at such time, as adjusted in accordance with the terms hereof.

“Related Persons” means, with respect to any Person, such Person’s Affiliates and the directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates, and **“Related Person”** means any one of them.

“Release” means any release or discharge of any Hazardous Substance including any discharge, spray, injection, inoculation, abandonment, deposit, spillage, leakage, seepage, pouring, emission, emptying, throwing, dumping, placing, exhausting, escape, leach, migration, dispersal, dispensing or disposal and **“Released”** has a corresponding meaning.

“Relevant Jurisdiction” means, from time to time, with respect to a Person that is granting Security hereunder, any province or territory of Canada, any state of the United States or any

other country or political subdivision thereof in which such Person has its chief executive office or chief place of business or has property that is subject to the Security.

“Repayment Notice” means the notice substantially in the form set out in Schedule 1.01(F).

“Requirements of Environmental Law” means all requirements of the common law or of statutes, regulations, by-laws, ordinances, treaties, judgments and decrees, and (to the extent that they have the force of law) rules, policies, guidelines, orders, approvals, notices, permits, directives and the like, of any Governmental Authority in British Columbia relating to environmental or occupational health and safety matters (as they relate to exposure to a Hazardous Substance) and the assets and undertaking of such Person and the intended uses thereof in connection with such matters, including all such requirements relating to (i) the protection, preservation or remediation of the natural environment (namely, the air, land, surface water or groundwater), (ii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation, (iii) consumer, occupational or public safety and health (as they relate to exposure to a Hazardous Substance), and (iv) Hazardous Substances or conditions (namely, matters that are prohibited, controlled or otherwise regulated, such as contaminants, pollutants, toxic substances, dangerous goods, wastes, hazardous wastes, liquid industrial wastes, hazardous materials, petroleum and other materials such as urea formaldehyde and polyurethane foam insulation, asbestos or asbestos-containing materials, polychlorinated biphenyls (PCBs) or PCB contaminated fluids or equipment, lead based paint, explosives, radioactive substances, petroleum and associated products, above ground and underground storage tanks or surface impoundments).

“Requirements of Law” means, with respect to any Person, the Organizational Documents of such Person and any Applicable Law or any determination of a Governmental Authority, in each case applicable to or binding upon such Person or any of its business or property or to which such Person or any of its business or property is subject.

“Rollover” means the acceptance of a Bankers’ Acceptance in like face amount upon the maturity of a Bankers’ Acceptance or the extension of a Notional Bankers’ Acceptance for an additional Interest Period.

“Rollover Date” means the date of commencement of a new Interest Period applicable to a Bankers’ Acceptance or BA Equivalent Advance that is being rolled over.

“Rollover Notice” means the notice, substantially in the form set out in Schedule 1.01(H), to be given to the Administrative Agent by the Borrower in connection with the Rollover of a Bankers’ Acceptance or BA Equivalent Advance.

“Schedule I Lenders” means those banks that are chartered under the *Bank Act* (Canada) and named in Schedule I thereto, and **“Schedule I Lender”** means each such bank.

“Security” means the documents creating an Encumbrance in favour of, or any collateral held from time to time by, the Administrative Agent for and on behalf of the Lenders, in each case securing or intended to secure repayment of the Obligations, in each case as amended, modified, supplemented or restated from time to time, including all security described in Article 10.

“Segregated Property Account” means the account maintained by the Borrower with the Administrative Agent in respect of which all revenues and expenses relating to the Property (and only the Property) shall be paid into and from, as applicable.

“Sole Lead Arranger” means HSBC Bank Canada in its capacity as sole lead arranger of the Credit Facility.

“Subsidiary” means, at any time, with respect to any Person, any other Person, if at such time the first mentioned Person (i) owns, directly or indirectly, securities or other ownership interests in such other Person, having ordinary voting power to elect a majority of the board of directors or persons performing similar functions for such other Person, and (ii) directly or indirectly, through the operation of any agreement or otherwise, the ability to elect or cause the election of a majority of the board of directors or other persons performing similar functions for such other Person or otherwise exercise control over the management and policies of such other Person, and in either case shall include any other Person in like relationship to a Subsidiary of such first mentioned Person.

“Swap Agreements” means the ISDA master agreement(s), including the schedules thereto, and any trade confirmations to be made between the applicable Swap Lender and the Borrower in respect of any Swap Transactions entered into pursuant to the terms of this Agreement, such agreements to be in the forms required by the applicable Swap Lender, as such agreements may be amended, supplemented or restated from time to time.

“Swap Exposure Amount” has the meaning set out in Section 2.12(2).

“Swap Lenders” means those Lenders that have entered into Swap Agreements with the Borrower in respect a Swap Transaction, and **“Swap Lender”** means any one of such Swap Lenders and includes each of their successors and permitted assigns

“Swap Transaction” means, at any time and from time to time, any interest rate swap transaction entered into by the Borrower and a Swap Lender.

“Tax” and **“Taxes”** means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto, and including any realty taxes, duties, rates, imposts, levies, assessments and other similar charges, whether general or special, ordinary or extraordinary, or foreseen or unforeseen, including municipal taxes, school taxes and local improvement charges and all related interest, penalties and fines which at any time may be levied, assessed, imposed or form an Encumbrances upon real property.

1.02 Extended Meanings

In this Agreement words importing the singular number include the plural and *vice versa*, words importing any gender include all genders and words importing persons include individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities. The term **“including”** means **“including without limiting the generality of the foregoing”** and the term **“third party”** means any Person other than a Person who is a party to this Agreement. References to any document, instrument or agreement (i) shall include all exhibits, schedules and other attachments thereto, (ii) shall include all documents, instruments or agreements issued or executed in replacement thereof, and (iii) shall

mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified and supplemented from time to time in accordance with its terms and the terms of this Agreement and in effect at any given time. Reference in this Agreement or any Loan Document to any enactment, including any statute, law, by law or regulation, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time (save where expressly stated to the contrary), and references to any Loan Document (including schedules and exhibits thereto), Permitted Encumbrances “**as amended**” shall mean and be a reference to such documents, instruments or agreements as amended, modified and supplemented from time to time in accordance with its terms and the terms of this Agreement and in effect at any given time. Any reference to any Person shall include its successors and permitted assigns in the capacity indicated, and in the case of any Governmental Authority, any Person succeeding to its functions and capacities. Any reference to Requirements of Law and Applicable Laws shall include all references to such Requirements of Law and Applicable Laws as amended, supplemented or replaced. The Loan Documents are the result of negotiations between, and have been reviewed by each Obligor, each Lender and their respective counsel. Accordingly, the Loan Documents shall be deemed to be the product of all parties thereto, and no ambiguity shall be construed in favour of or against either Obligor or any Lender except as expressly provided under the Loan Documents. Upon an acceleration of the Loans following the occurrence of an Event of Default pursuant to Section 11.02, any reference in this Agreement or any Loan Document to an Event of Default that has occurred and is “continuing” shall be deemed to be an Event of Default that has occurred and is continuing for all times thereafter unless otherwise agreed in writing by the Lenders in their sole discretion; and the terms “**continued**”, “**continuation**” and “**discontinuation**” shall have corresponding meanings.

1.03 Accounting Principles

(1) Where the character or amount of any asset or liability or item of revenue or expense is required to be determined, or any consolidation or other accounting computation is required to be made, for the purpose of this Agreement or any Loan Document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with GAAP applied on a consistent basis.

(2) Each of the parties hereto acknowledges that the financial covenants and financial ratios contained in this Agreement have been established and agreed upon on the basis of the current accounting policies, practises and calculation methods or components thereof adopted by the Obligors on a consolidated basis and made on a basis consistent with GAAP. If at any time any change in GAAP applicable to the Obligors would affect the computation of any financial ratio or requirement set forth in this Agreement, and the Obligors or the Administrative Agent (on the instructions of the Majority Lenders) shall so require, the Administrative Agent, the Obligors shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; provided that, until so amended, (i) such ratio or replacement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the applicable Obligor shall provide to the Administrative Agent financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

1.04 Interest Calculations and Payments

(1) All interest payments to be made under this Agreement shall be paid without allowance or deduction for deemed re-investment or otherwise, both before and after maturity and before and after default and/or judgment, if any, until payment of the amount on which such interest is accruing, and interest shall accrue on overdue interest, if any.

(2) Unless otherwise stated, wherever in this Agreement reference is made to a rate of interest or rate of fees "*per annum*" or a similar expression is used, such interest or fees shall be calculated on the basis of a calendar year of 365 days and using the nominal rate method of calculation, and shall not be calculated using the effective rate method of calculation or on any other basis that gives effect to the principle of deemed re-investment of interest.

(3) For the purposes of the *Interest Act* (Canada) and disclosure under such act, whenever interest to be paid under this Agreement is to be calculated on the basis of a year of 365 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 365 or such other period of time, as the case may be.

(4) Notwithstanding anything herein to the contrary, the Administrative Agent shall calculate all fees and interest according to the terms of this Agreement and any other agreement entered into between the Borrower and the Administrative Agent and the Lenders in connection with the Credit Facility. For greater certainty all such calculations shall be without duplication of any day such that neither interest nor fees shall be calculated in respect of the same day twice.

1.05 Permitted Encumbrances

The inclusion of reference to Permitted Encumbrances in any Loan Document is not intended to subordinate and shall not subordinate any Encumbrance created by any of the Security to any Permitted Encumbrance.

1.06 Currency

Unless otherwise specified in this Agreement, all references to currency (without further description) are to lawful money of Canada.

1.07 Conflicts

In the event of a conflict between the provisions of this Agreement and the provisions of any other Loan Document (other than the Swap Agreements), then, unless such Loan Document or an acknowledgement from the Obligors and the Administrative Agent relative to such Loan Document expressly states that this Section 1.07 is not applicable to such Loan Document, notwithstanding anything else contained in such other Loan Document, the provisions of this Agreement shall prevail and the provisions of such other Loan Document shall be deemed to be amended to the extent necessary to eliminate such conflict.

1.08 Nature of Lenders' and Administrative Agent's Liability

(1) The obligations of each Lender and the Administrative Agent under this Agreement are several. The failure of any Lender to carry out its obligations hereunder shall not relieve the other Lenders, the Administrative Agent or the Obligors of any of their respective obligations hereunder.

(2) Neither the Administrative Agent nor any Lender shall be responsible for the obligations of any other Lender hereunder.

1.09 Nature of Obligors' Liability

(1) Except as expressly provided in this Agreement and under the other Loan Documents, the obligations of the Obligors herein and under the other Loan Documents are joint and several and nothing in any of the Loan Documents shall mean, nor be construed to mean, that the recourse of the Lenders and the Administrative Agent against the Obligors is anything other than full recourse with regard to their obligations hereunder, the manner and order of realization or the exercise of remedies hereunder or under the Loan Documents and the Administrative Agent and the Lenders may pursue their remedies against one or more of the Obligors at their sole and unfettered discretion.

(2) Notwithstanding anything to the contrary contained herein, in respect of recourse against the Nominee only, the obligations of and rights and remedies against the Nominee hereunder and the other Loan Documents to which the Nominee is a party shall be performed, satisfied and paid out of and recourse shall be limited to, and enforcement taken against, only the Collateral and no other recourse shall be had, judgment issued or execution or other process levied against the Nominee or against any assets of the Nominee other than the Collateral (for greater certainty, nothing herein shall limit or restrict the right of the Administrative Agent or the Lenders to name the Nominee as a party in any action, proceeding or other remedial or enforcement proceeding so long as no monetary judgment or claim is sought or enforced against its assets, other than the Collateral).

1.10 Authorization and Direction

The Obligors represent and warrant that the Nominee, as nominee, is the bare trustee and nominee for holding legal title to the Property solely for the Borrower pursuant to the Nominee Agreement. The Borrower irrevocably and unconditionally authorizes and directs the Nominee, as nominee, to execute and deliver to the Administrative Agent and the Lenders, and to perform all of its obligations under, the Documents to be executed by the Nominee, as nominee, and such other agreements, instruments and documents as may be necessary or desirable from time to time to give effect to this Agreement and the other Loan Documents.

1.11 Schedules

The following are the Schedules attached hereto and incorporated by reference and deemed to be part hereof:

- Schedule A - Lenders and Commitments
- Schedule B - Legal Description of Lands
- Schedule C - Certificate re: Identity

Schedule 1.01(A)	-	Borrower Compliance Certificate (Section 9.02(3)(a))
Schedule 1.01(B)	-	Borrower Compliance Certificate (Section 9.02(3)(b))
Schedule 1.01(C)	-	Drawdown Notice
Schedule 1.01(D)	-	Material Licences and Material Property Agreements
Schedule 1.01(E)	-	Additional Permitted Encumbrances
Schedule 1.01(F)	-	Repayment Notice
Schedule 1.01(G)	-	Conversion Notice
Schedule 1.01(H)	-	Rollover Notice
Schedule 8.01(14)	-	Ownership Structure
Schedule D	-	Estoppel Certificate Form

ARTICLE 2 – THE CREDIT FACILITY

2.01 Credit Facility

Subject to the terms and conditions of this Agreement, the Lenders establish the Credit Facility in favour of the Borrower, which facility is non-revolving and available by way of a single Drawdown.

2.02 Purpose of Credit Facility

The Credit Facility is being made available to the Borrower to provide funds for the purpose of refinancing the Property in the amount of \$200,000,000 and the remaining \$2,000,000 to be distributed to the Borrower for associated closing costs.

2.03 Manner of Borrowing

Subject to the terms and conditions hereof, the Borrower may make a single Drawdown under the Credit Facility by way of Prime Rate Loans or Bankers' Acceptances. For greater clarity, the Borrower may only make such single Drawdown under the Credit Facility by way of a Prime Rate Loan, which Loan may subsequently be converted into Bankers' Acceptances and BA Equivalent Advances in accordance with the terms hereof. Any amounts not drawn down under the Credit Facility shall be cancelled. The Borrower may, prior to the Maturity Date, in Canadian Dollars, make Conversions of a Prime Rate Loan, and Conversions and Rollovers of Bankers' Acceptances and BA Equivalent Advances, under the Credit Facility.

2.04 Drawdown, Conversions and Rollovers

(1) The Borrower must give the Administrative Agent the Drawdown Notice on or prior to 10:00 a.m. (Toronto time) on the day which is three (3) Business Days prior to the proposed Drawdown Date. The Drawdown Date must be a Business Day and must be the Closing Date. If the Drawdown does not occur on or before July 29, 2022, each of the Lenders may, in its sole and absolute discretion, cancel its Commitment with respect to the Credit Facility and, if it elects to do so, shall thereafter have no obligation to fund the Drawdown

hereunder.

(2) The maximum amount outstanding under the Credit Facility at any time shall not exceed the Credit Facility Commitment.

(3) Subject to the provisions of this Agreement, the Borrower may (i) convert the whole or any part of any type of Loan into any other type of Loan, or (ii) roll over any Bankers' Acceptance or BA Equivalent Advance on the last day of the applicable Interest Period therefor, by giving the Administrative Agent a Conversion Notice or Rollover Notice, as the case may be.

(4) The Borrower must give the Administrative Agent a Conversion Notice or Rollover Notice, as the case may be, at least three (3) Business Days prior to the proposed Conversion Date or Rollover Date, as the case may be. Each Conversion Date and Rollover Date must be a Business Day. Each Conversion Notice or Rollover Notice, as the case may be, must be delivered to the Administrative Agent by the Borrower on or prior to 10:00 a.m. (Toronto time) on a Business Day.

(5) The Drawdown, each Conversion and each Rollover must:

(a) in the case of Prime Rate Loans, be in a minimum principal amount of Cdn. \$1,000,000; and

(b) in the case of Bankers' Acceptances, be in a minimum face amount of Cdn. \$1,000,000 and increments of Cdn. \$100,000.

2.05 Administrative Agent's Obligations

Upon receipt of the Drawdown Notice, a Conversion Notice or a Rollover Notice, as the case may be, the Administrative Agent shall forthwith notify the Lenders of the proposed Drawdown Date, Conversion Date or Rollover Date, as the case may be, of each Lender's Rateable Portion of the Loan and, if applicable, the account of the Administrative Agent to which each Lender's Rateable Portion is to be credited.

2.06 Lenders' Obligations

(1) Each Lender shall, on or before 12:00 p.m. (Toronto time) on the Drawdown Date specified by the Borrower in the Drawdown Notice, credit the Administrative Agent's Account with the amount of such Lender's Rateable Portion of the Loan. By 2:00 p.m. (Toronto time) on the same date, subject to Sections 7.03 and 17.01, the Administrative Agent shall pay to the Borrower in accordance with the irrevocable direction set out in the Drawdown Notice, the full amount of the amounts so credited.

(2) Each Lender shall, prior to 12:00 p.m. (Toronto time) on the Conversion Date or Rollover Date, as the case may be, specified by the Borrower in a Conversion Notice or Rollover Notice, as the case may be, credit the Administrative Agent's Account with the amount of such Lender's Rateable Portion of any Loan to be advanced thereunder and by 2:00 p.m. (Toronto time) on the same date the Administrative Agent shall advance to the Borrower the full amount of the amounts so credited by depositing same to the Segregated Property Account.

2.07 Irrevocability

Each Drawdown Notice, Conversion Notice and Rollover Notice given by the Borrower hereunder is irrevocable and shall oblige the Borrower to take the action contemplated on the date specified therein.

2.08 Account of Record

The Administrative Agent shall open and maintain books of account evidencing all Loans and all other amounts owing by the Borrower to the Lenders hereunder. The Administrative Agent shall enter in the foregoing accounts details of all amounts from time to time owing, paid or repaid by the Borrower hereunder. The information entered in the foregoing accounts shall constitute *prima facie* evidence, absent manifest error, of the Obligations of the Borrower to the Lenders hereunder with respect to all Loans and all other amounts owing by the Borrower to the Lenders hereunder. After a request by the Borrower, the Administrative Agent shall promptly advise the Borrower of such entries made in its books of account.

2.09 Interest on Excess Loans, Unpaid Costs and Expenses

Unless the payment of interest is otherwise specifically provided for herein, where the Borrower fails to pay any amount required to be paid by it hereunder when due having received notice that such amount is due (including, without limitation, the portion of the Loan made under the Credit Facility hereunder that exceeds the Commitment), the Borrower shall pay interest on such unpaid amount from the time such amount is due until paid at an annual rate equal to the Prime Rate plus 2.00% *per annum* (for greater clarity, such higher rate shall not apply to overdue interest on Loans).

2.10 Maturity Date

The Borrower shall repay the outstanding principal amount of all Loans and all other related Obligations under the Credit Facility on the Maturity Date provided that where such date is not a Business Day, the Maturity Date shall be the first Business Day preceding such date. Subject to the provisions of Section 11.02, the Borrower shall repay and there shall become due and payable on the Maturity Date, the Loans under the Credit Facility, and all accrued and unpaid interest thereon and pay such other amounts as are then owing to the Administrative Agent and the Lenders hereunder or under the other Loan Documents.

2.11 CDOR Replacement

(1) Notwithstanding anything to the contrary in this Agreement, if the Administrative Agent determines (which determination shall be final, conclusive and binding upon the Borrower absent manifest error), or the Borrower or the Majority of the Lenders notify the Administrative Agent (with, in the case of the Majority of the Lenders, a copy to the Borrower) that the Borrower or the Majority of the Lenders (as applicable) have determined, that:

- (a) adequate and reasonable means do not exist for ascertaining the CDOR Rate, including because the Refinitiv Screen CDOR Page (or any display substitutes therefor) (collectively, the “**CDOR Screen Rate**”) is not available or published on a current basis and such circumstances are unlikely to be temporary; or

- (b) the CDOR Rate is no longer the market standard benchmark rate for Canadian Dollar denominated borrowings,

then, reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Borrower may amend this Agreement to replace the CDOR Rate with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to but without being bound by any evolving or then existing convention for similar syndicated credit facilities for such alternative benchmarks (any such proposed rate, a "**CDOR Successor Rate**"), together with any proposed CDOR Successor Rate Conforming Changes (as defined below), and any such amendment shall become effective at 5:00 p.m., Toronto time, on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, the Lenders comprising the Majority of the Lenders have delivered to the Administrative Agent written notice that the Majority of the Lenders do not accept such amendment.

(2) If no CDOR Successor Rate has been determined and the circumstances under Section 2.11(1) exist, the Administrative Agent shall promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain any Loans by way of Bankers' Acceptances (each such Loan being a "**BA Advance**") shall be suspended. Upon receipt of such notice, (A) the Borrower may revoke any pending Rollover Notice (to the extent of the affected BA Advance) or, failing that, shall be deemed to have converted such Rollover Notice to a request for a Prime Rate Loan in the amount specified therein, and (B) the Borrower hereby instructs the Administrative Agent to repay each affected BA Advance with the proceeds of a Prime Rate Loan in the amount of such affected BA Advance, to be drawn down on the maturity thereof.

(3) Notwithstanding anything else herein, any definition of "CDOR Successor Rate" shall provide that in no event shall such CDOR Successor Rate be less than zero for the purposes of this Agreement. In addition, upon the occurrence of any of the circumstances set forth in Section 2.10(1), the CDOR Rate component shall no longer be utilized in determining the Prime Rate until a CDOR Successor Rate has been determined and applicable CDOR Successor Rate Conforming Changes have been made to this Agreement.

(4) For purposes of this Agreement, "**CDOR Successor Rate Conforming Changes**" means, with respect to any proposed CDOR Successor Rate, any conforming changes to the definitions of CDOR Rate and Prime Rate, timing and frequency of determining rates and other administrative matters as may be appropriate, in the discretion of the Administrative Agent, acting reasonably, to reflect the adoption of such CDOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such CDOR Successor Rate exists, in such other manner of administration as the Administrative Agent determines in consultation with Borrower.

2.12 Swap Transactions

(1) As set forth in and governed by the Swap Agreements, the Borrower may agree with one or more Swap Lenders, from time to time, to enter into one or more Swap Transactions with such Swap Lenders and the Security shall be deemed to be "Credit Support Documents"

(as such term is defined in the Swap Agreements) that secure the Borrower's obligations in connection with such Swap Transactions.

(2) As used in this Agreement, the term "**Swap Exposure Amount**" means the amount determined by the Swap Lenders from time to time as their exposure in respect of the Borrower under the Swap Agreements, calculated, on any day, as the aggregate amount, if any, for all then existing Swap Transactions with the Swap Lenders, that would be payable to the Swap Lenders under the applicable Swap Agreements if that day were an "Early Termination Date" for which the Borrower is the "Defaulting Party", except that the "Market Quotation" used for determining the amount so payable shall be based not on quotations from "Reference Market-makers" but on the Swap Lenders' own quotations then being given in good faith by the Swap Lenders for similar swap transactions with third-party swap dealers (with the foregoing quoted terms having the respective meanings given them in the Swap Agreements).

(3) Notwithstanding any contrary provision of any Swap Agreement, the Borrower shall only be entitled to enter into Swap Transactions with the Swap Lenders if: (i) the term of the proposed Swap Transactions will not extend beyond the Maturity Date, and (ii) the notional amount relating to all outstanding Swap Transactions does not exceed the amount of the Credit Facility Commitment and each Lender is provided with an opportunity to enter into a Swap Transaction in a notional amount which is *pro rata* in proportion to the Commitments under the Credit Facility. Regardless of the foregoing conditions, however, the entire amount of the obligations of Borrower under all Swap Transactions shall be secured by the Security and any other security documents specified in the Swap Agreements as "Credit Support Documents", even if the foregoing conditions are not observed.

(4) From time to time upon the request of the Administrative Agent, the Swap Lenders shall advise the Administrative Agent of the then-applicable Swap Exposure Amount.

(5) If any Swap Transaction remains in effect on the Maturity Date, when the Borrower wishes to repay the Credit Facility in full and terminate this Agreement, or when this Agreement is otherwise terminated, then the Swap Lenders may (but shall not be obligated to) exercise an early termination of all Swap Transactions then outstanding under the Swap Agreements unless the Borrower provides to the Swap Lenders substitute collateral for the Borrower's obligations under the Swap Agreements or provides to the Swap Lenders other security or assurances acceptable to the Swap Lenders, in their sole and absolute discretion.

ARTICLE 3 – DISBURSEMENT CONDITIONS

3.01 Conditions Precedent to Drawdown

The obligation of the Lenders to make the Drawdown is subject to and conditional upon the prior satisfaction of the following conditions precedent:

- (a) the Administrative Agent shall have received the Drawdown Notice by the time required under Section 2.04(1);
- (b) the representations and warranties deemed to be repeated pursuant to Section 8.02 shall continue to be true and correct in all material respects as if made on and as of the Drawdown Date;

- (c) no Default or Event of Default shall have occurred and be continuing on the Drawdown Date, or would result from making the requested advance;
- (d) a Material Adverse Change shall not have occurred and be continuing;
- (e) the Administrative Agent shall have received certified copies of the Organizational Documents of each Obligor, the resolutions authorizing the execution and delivery of, and performance of each Obligor's respective obligations under, the Loan Documents and the transactions contemplated herein and therein, as applicable, and a certificate as to the incumbency of the officers of the relevant Obligors executing the Loan Documents and any other documents to be provided pursuant to the provisions hereof;
- (f) except as otherwise agreed by the Lenders, certificates of status or comparable certificates for all Relevant Jurisdictions of each of the Borrower and the other Obligors shall have been delivered to the Administrative Agent;
- (g) the Lenders shall have completed their due diligence with respect to the Obligors and the Property, and shall have received all financial, corporate and other information requested by the Lenders, including receipt, review and approval of:
 - (i) (A) up to date (i) operating statements for the Property for the three (3) months ending March 31, 2022, (ii) operating statements for the Property for the year ended December 31, 2021, and (iii) rent roll for the Property; (B) the most recent financial statements of the Borrower (including (i) statements for the three (3) months ending December 31, 2021 and (ii) the annual financial statements required pursuant to Section 9.02(1) for the Fiscal Year most recently ended); (C) 2022 operating budget in respect of the Property together with a two year projection budget and timeline of capital expenditures for the Property; and (D) up to date leasing status reports and rent rolls/occupancy summaries for the Property;
 - (ii) the HBC Lease, Material Property Agreements and Permitted Encumbrances;
 - (iii) a certificate from the City or a copy of the relevant tax bill issued by the City and evidence of payment thereof satisfactory to the Administrative Agent, evidencing that realty Taxes levied against the Lands are current;
 - (iv) a Phase I and, if applicable, a Phase II environmental report or other environmental report, evidencing at a minimum that the Property is in material compliance with all Environmental Law, which must be addressed to the Administrative Agent or accompanied by a letter from the environmental consultant (acceptable to the Lenders) addressed to the Administrative Agent that permits the Administrative Agent to rely on such report;
 - (v) a copy of a building condition report for the Property prepared by consultants acceptable to the Lenders, the contents of which shall be satisfactory to the Administrative Agent in its sole discretion together with

a reliance letter issued by the author thereof permitting the Administrative Agent to rely upon such report (such letter to be in a form acceptable to the Administrative Agent);

- (vi) the Lenders shall have completed such site visits and investigations in respect of the Property as they deem appropriate and shall be satisfied with the results of same;
- (vii) the Administrative Agent shall have received the estoppel certificate in form and substance satisfactory to the Lenders substantially in the form annexed hereto as Schedule D in respect of the HBC Lease;
- (viii) a current survey (building location certificate) and reference plan of the Lands prepared by an accredited surveyor, approved by the Lenders, showing the boundaries of the Lands, the location of the buildings and structures situate thereon and the location of encroachments, easements or rights-of-way;
- (ix) evidence satisfactory to the Lenders that the Obligors' insurance is satisfactory and complies with this Agreement (and in respect of which the independent insurance consultant (Intech Risk Management Inc.) retained by the Administrative Agent shall have provided a written report to the Administrative Agent confirming same, together with all insurance certificates);
- (x) an Appraisal for the Property dated within ninety (90) days of January 25, 2022, confirming a minimum market value of \$429,000,000, the contents of which shall be satisfactory to the Administrative Agent in its sole discretion, together with a reliance letter issued by the author thereof permitting the Administrative Agent to rely upon such Appraisal (such letter to be in a form acceptable to the Administrative Agent);
- (xi) a certified organizational chart confirming the ownership structure of the Obligors, the General Partner and the Property as set out in Schedule 8.01(14);
- (xii) any other documents related to the Property that the Lenders deem necessary; and
- (xiii) such financial and other information or documents relating to the Obligors as the Lenders may reasonably require,

and the results of such due diligence shall be satisfactory to the Lenders in their sole discretion;

- (h) except as otherwise agreed by the Lenders, the Administrative Agent shall have received certified copies of all shareholder approvals and true copies of all regulatory, governmental and other approvals, if any, required in order for the Obligors to enter into this Agreement and the other Loan Documents and to perform their obligations hereunder;

- (i) all releases, discharges and postponements that are required in the discretion of the Lenders (in registrable form where necessary) with respect to all Encumbrances affecting the Collateral that are not Permitted Encumbrances, if any, shall have been delivered to the Administrative Agent or the Borrower shall have provided the Obligors' Counsel's undertaking to discharge same;
- (j) the Administrative Agent shall have received payment of all fees and expenses (including the fees and disbursements of the Lender's Counsel) payable to the Lenders that are due and payable at such time (provided that invoices/notices have been submitted to the Borrower);
- (k) duly executed copies of the Security and all other Loan Documents and deliveries in connection therewith shall have been delivered to the Administrative Agent and all such Loan Documents shall have been duly registered, filed and recorded in all Relevant Jurisdictions where required by Applicable Law or where the Lenders considers it necessary, in its sole discretion, to do so;
- (l) the Administrative Agent shall have received one or more currently dated opinions of Obligors' Counsel as to such matters and in such form acceptable to the Administrative Agent and Lender's Counsel addressed to the Administrative Agent and Lender's Counsel, with respect to each Obligor including, without limitation, enforceability, creation and perfection of security interest and non-contravention of the Organizational Documents and Applicable Laws;
- (m) the Administrative Agent shall have received a title opinion from Lender's Counsel dated the Drawdown Date and confirming, among other things, that (i) the Nominee is the registered owner of title to the Property, subject only to Permitted Encumbrances, and (ii) the Charge constitutes a good and valid first charge on the Property, subject only to Permitted Encumbrances and encumbrances to be discharged;
- (n) all registrations and filings shall have been made which the Administrative Agent determines to be necessary or advisable to preserve and protect the Security;
- (o) the Administrative Agent shall have received an identity certificate with respect each Obligor substantially in the form attached as Schedule C and any applicable documentation required by the Administrative Agent and the Lenders in respect of anti-money laundering requirements in a form acceptable to each Lender;
- (p) the Lenders shall have received from each Obligor all required identification and other due diligence materials required to allow the Lenders to comply with their obligations under all applicable anti-money laundering and anti-terrorism laws and regulations to which each Lender may be subject (including, without limitation, the AMLA);
- (q) the Administrative Agent shall have received the Compliance Certificates from the Borrower acceptable to the Lenders;
- (r) the Borrower shall have established the Segregated Property Account;

- (s) the Administrative Agent shall have received a title search from Lenders' Counsel dated as of the date of the Drawdown, confirming that no Encumbrances have been registered on title to the Property other than Permitted Encumbrances;
- (t) the Administrative Agent shall have received all other reports and deliveries required hereunder for the period prior to the Drawdown Date;
- (u) the Drawdown must have occurred no later than July 29, 2022; and
- (v) all other terms and conditions of this Agreement upon which the Borrower may obtain the Loan that have not been waived shall have been fulfilled in all material respects,

provided that all documents delivered pursuant to this Section 3.01 must be in full force and effect, and in form and substance satisfactory to the Lenders.

3.02 Waiver

The conditions set forth in Section 3.01 are inserted for the sole benefit of the Lenders and may be waived by the Lenders, in whole or in part (with or without terms or conditions), in respect of the Drawdown.

ARTICLE 4 – PAYMENTS OF INTEREST AND COMMITMENT FEES

4.01 Interest on Prime Rate Loans

The Borrower shall pay interest on each Prime Rate Loan during each Interest Period applicable thereto in Canadian Dollars at a rate *per annum* equal to the sum of (a) the Prime Rate in effect from time to time during such Interest Period plus (b) 0.30%. Each determination by the Administrative Agent of the Prime Rate applicable from time to time during an Interest Period shall, in the absence of manifest error, be binding upon the Borrower. Such interest shall be payable in arrears on each Interest Payment Date for such Loan for the period from and including the Drawdown Date, Conversion Date or preceding Interest Payment Date, as the case may be, for such Loan to but excluding such Interest Payment Date (or, if such Interest Payment Date follows the repayment of such Loan or the Conversion of such Loan, to but excluding the date of such repayment or Conversion) and shall be calculated on the principal amount of the Prime Rate Loan outstanding during such period and on the basis of the actual number of days elapsed in a calendar year of 365 days. Changes in the Prime Rate shall cause an immediate adjustment of the interest rate applicable to such Loan without the necessity of any notice to the Borrower.

4.02 Maximum Rate of Interest

Notwithstanding anything contained herein to the contrary, the Borrower shall not be obliged to make any payment of interest or other amounts payable to the Lenders hereunder in excess of the amount or rate that would be permitted by Applicable Law or would result in the receipt by the Lenders of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)). If the making of any payment by the Borrower would result in a payment being made that is in excess of such amount or rate, the Lenders shall determine the payment or payments that are to be reduced or refunded, as the case may be, so that such result does not occur.

4.03 Structuring and Other Fees

In consideration of the Lenders providing the Credit Facility pursuant to the terms of this Agreement, the Borrower shall pay, on the date of the Drawdown, to the Administrative Agent for the account of the Lenders, a structuring fee in the amount of \$404,000, which shall be shared proportionately amongst the Lenders (each as to their Rateable Portion). The Borrower shall pay such other fees in amounts, and on the terms and conditions, agreed to in writing with the Administrative Agent and the Borrower. All such written arrangements shall constitute a Loan Document hereunder.

4.04 Arrangement Fee

In consideration of the Sole Lead Arranger acting as the Sole Lead Arranger, upon the syndication of the Credit Facility, the Borrower shall pay to the Sole Lead Arranger an arrangement fee in the amount, and on the terms and conditions, to be agreed to in writing by the Sole Lead Arranger and the Borrower at the time of such syndication. All such written arrangements shall constitute a Loan Document hereunder.

4.05 DebtDomain Site

In consideration of the Administrative Agent maintaining the "DebtDomain Site", the Borrower shall pay to the Administrative Agent an annual maintenance fee in the amount of US\$1,000.

ARTICLE 5 – BANKERS' ACCEPTANCES

5.01 Bankers' Acceptances

All Bankers' Acceptances and BA Equivalent Advances hereunder shall be issued in accordance with the provisions of this Article 5.

5.02 General Mechanics

(1) Upon receipt by the Administrative Agent of the Drawdown Notice, a Rollover Notice or a Conversion Notice with respect to a Bankers' Acceptance from the Borrower, the Administrative Agent shall forthwith notify each Lender of (i) the proposed Drawdown Date, Rollover Date or Conversion Date, as applicable, and (ii) the aggregate face amount of the Bankers' Acceptances to be accepted by it on such Drawdown Date, Rollover Date or Conversion Date. The aggregate face amount of Bankers' Acceptances to be accepted by a Lender shall be determined by the Administrative Agent based on the Lender's Rateable Portion of the Credit Facility, except that if the aggregate face amount of a Bankers' Acceptance would not be Cdn. \$100,000 or a whole multiple thereof based upon such calculation, the aggregate face amount shall be increased or reduced by the Administrative Agent in its sole and absolute discretion to the nearest whole multiple of Cdn. \$100,000. Each Non-Acceptance Lender shall, in lieu of accepting its Rateable Portion of such Bankers' Acceptances, make available to the Administrative Agent on the Drawdown Date, Rollover Date or Conversion Date, as applicable, a BA Equivalent Advance in an amount equal to the BA Discount Proceeds of the Bankers' Acceptances (which BA Equivalent Advances are referred to herein collectively as the "**Notional Bankers' Acceptances**") that the Non-Acceptance Lender would have been required to accept and purchase on the Drawdown Date, Rollover Date or Conversion Date, as applicable, if it were a BA Lender.

(2) At no time shall there be more than one (1) different maturity date for Bankers' Acceptances.

(3) The term of each Bankers' Acceptance shall be thirty (30) days or shorter in duration (subject to availability), provided that the term of a Bankers' Acceptance or BA Equivalent Advance shall not exceed the Maturity Date.

5.03 Purchase of Bankers' Acceptances

Subject to availability, each BA Lender shall purchase each Bankers' Acceptance accepted by it for a price equal to the face amount thereof less the discount to the face amount thereof required to yield an interest rate *per annum* equal to the BA Discount Rate in effect on the applicable Drawdown Date, Rollover Date or Conversion Date. A BA Lender may at any time and from time to time hold, rediscount or Dispose of any Bankers' Acceptance purchased by it.

5.04 Rollovers

In the case of a Rollover of a Bankers' Acceptance or a BA Equivalent Advance, (a) in order to satisfy the continuing liability of the Borrower to the relevant BA Lender for the face amount of the maturing Bankers' Acceptance, the Administrative Agent shall, on behalf of the relevant BA Lender, determine and retain the BA Discount Proceeds of the new Bankers' Acceptance and the Borrower shall, on the maturity date of the maturing Bankers' Acceptance, pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant BA Lender (i) the difference between the principal amount of the maturing Bankers' Acceptance and the BA Discount Proceeds from the new Bankers' Acceptance and (ii) the BA Stamping Fee in respect of the new Bankers' Acceptance and (b) the Administrative Agent shall, on behalf of each Non-Acceptance Lender, determine and retain the BA Discount Proceeds of the new Notional Bankers' Acceptance and the Borrower shall, on the maturity date of the maturing BA Equivalent Advance, pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant Non-Acceptance Lender (i) the difference between the principal amount of the maturing BA Equivalent Advance and the new Notional Bankers' Acceptance and (ii) the BA Stamping Fee in respect of the new Notional Bankers' Acceptance.

5.05 Conversions

(1) In the case of a Conversion into a Bankers' Acceptance or a BA Equivalent Advance, in order to satisfy the continuing liability of the Borrower to the Lenders for the amount of the converted Loan, the Administrative Agent shall, on behalf of the Lenders, determine and retain for their own account the BA Discount Proceeds of the Bankers' Acceptance (or the Notional Bankers' Acceptance) and the Borrower shall on the Conversion Date pay to the account of the Administrative Agent at the Administrative Agent's Office for the account of the relevant Lender (i) the difference between the principal amount of the converted Loan and the BA Discount Proceeds from the Bankers' Acceptance (or the Notional Bankers' Acceptance), and (ii) the BA Stamping Fee in respect of the Bankers' Acceptance (or the Notional Bankers' Acceptance).

(2) In the case of a Conversion of a Bankers' Acceptance or a BA Equivalent Advance into another type of Loan, in order to satisfy the continuing liability of the Borrower to the Lenders for an amount equal to the face amount of the Bankers' Acceptance (or the amount

of the BA Equivalent Advance), the Administrative Agent shall record the obligation of the Borrower to the Lenders as a Loan of the type into which the obligation has been converted.

5.06 Maturity

Prior to the maturity date of a Bankers' Acceptance or BA Equivalent Advance the Borrower shall deliver to the Administrative Agent one of the following:

- (a) by the deadline set forth in Section 2.04, a Rollover Notice stating that the Borrower intends to draw and present for acceptance on the maturity date a new Bankers' Acceptance in the same face amount as the maturing Bankers' Acceptance or request a new BA Equivalent Advance in the same amount as the maturing BA Equivalent Advance;
- (b) by 11:00 a.m. (Toronto time) two (2) Business Days prior to the maturity date of such Bankers' Acceptance or BA Equivalent Advance, a Repayment Notice in respect of such Bankers' Acceptance or BA Equivalent Advance and on the maturity date of the maturing Bankers' Acceptance or BA Equivalent Advance, pay to the Administrative Agent, for the account of the Lenders, an amount equal to the face amount of the maturing Bankers' Acceptance or BA Equivalent Advance; or
- (c) by the deadline set forth in Section 2.04, a Conversion Notice in respect of such Bankers' Acceptance or BA Equivalent Advance and on the maturity date of the maturing Bankers' Acceptance or BA Equivalent Advance, the Administrative Agent shall record the obligation of the Borrower to the Lenders as a Prime Rate Loan in an amount equal to the face amount of the maturing Bankers' Acceptance or BA Equivalent Advance.

If the Borrower fails to so notify the Administrative Agent, the Lenders shall effect a Conversion into a Prime Rate Loan as if a Conversion Notice pursuant to paragraph (c) above had been given by the Borrower to the Administrative Agent electing to convert such maturing Bankers' Acceptance or BA Equivalent Advance into a Prime Rate Loan.

5.07 Bankers' Acceptances Stamping Fees

Upon the acceptance by a BA Lender of any Draft of the Borrower pursuant to this Agreement, the Borrower shall be obliged to pay (which payment shall be satisfied if payment is deducted by the BA Lender under Section 5.02(1)) to the Administrative Agent's Account, for the account of the applicable BA Lender, a fee in Canadian Dollars equal to the BA Stamping Fee on the face amount at maturity of the Bankers' Acceptance for its Interest Period. Each Non-Acceptance Lender shall also be entitled to deduct from its BA Equivalent Advance an amount equal to the BA Stamping Fee that would have been applicable to the Notional Bankers' Acceptance had it been a Bankers' Acceptance.

5.08 General

(1) In order to facilitate the issuance of Bankers' Acceptances pursuant to this Article 5, upon the delivery of the Drawdown Notice, a Conversion Notice or a Rollover Notice with respect to a Bankers' Acceptance, the Borrower authorizes each BA Lender and appoints each BA Lender its attorney to complete drafts in the form prescribed by such BA Lender (each

such draft that has not yet been accepted by a BA Lender being referred to as a “**Draft**”), sign and endorse same on its behalf in handwritten form or by facsimile or mechanical signature or otherwise and, once so completed, signed and endorsed to accept them as a Bankers’ Acceptance under this Article 5 and then purchase, discount or negotiate such a Bankers’ Acceptance in accordance with the provisions of this Article 5. Drafts so completed, signed, endorsed and negotiated on behalf of the Borrower by any BA Lender shall bind the Borrower as fully and effectively as if so performed by an authorized officer of the Borrower. Each Draft of a Bankers’ Acceptance completed, signed or endorsed by a BA Lender shall mature on the last day of the Interest Period with respect thereto.

(2) Any executed Drafts to be used for Bankers’ Acceptances which are held by any BA Lender shall be held in safekeeping with the same degree of care as if they were that BA Lender’s own property and that BA Lender was keeping them at the place at which they are to be held. The Borrower shall, by written notice to the Administrative Agent, designate the Persons authorized to give the Administrative Agent and each BA Lender instructions regarding the manner in which the Drafts are to be completed and the times at which they are to be issued. Neither the Administrative Agent nor any Lender nor any of their respective directors, officers, employees or representatives shall be liable for any action taken or omitted to be taken by any of them under this Article 5 except for its own gross negligence or wilful misconduct.

(3) Each BA Lender shall maintain a record with respect to Bankers’ Acceptances (i) accepted by it hereunder, (ii) cancelled at their respective maturities or (iii) voided by it for any reason and each Non-Acceptance Lender shall keep a record of each BA Equivalent Advance made by it hereunder. Each Lender further agrees to retain such records in the manner and for the statutory periods provided in the various provincial or federal statutes and regulations which apply to such Lender.

(4) The Borrower shall not claim any days of grace for the payment at maturity of any Bankers’ Acceptance or BA Equivalent Advance. The obligations of the Borrower to make payments in respect of Bankers’ Acceptances shall not be prejudiced by the fact that the holder of such Bankers’ Acceptance is the Lender that accepted such Bankers’ Acceptance. The obligations of the Borrower with respect to Bankers’ Acceptances and BA Equivalent Advances under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of any bill of exchange accepted by a BA Lender as a Bankers’ Acceptance; or
- (b) the existence of any Claim, set off, defence or other right which the Borrower may have at any time against the holder of a Bankers’ Acceptance, or any other Person, whether in connection with this Agreement or otherwise.

(5) If the Administrative Agent determines in good faith, which determination shall be final, conclusive and binding upon the Borrower, and so notifies the Borrower, that there does not exist, at the applicable time, a normal market in Canada for the purchase and sale of bankers’ acceptances, any right of the Borrower to require the Lenders to purchase Bankers’ Acceptances under this Agreement shall be suspended until the Administrative Agent determines that such market does exist and gives notice thereof to the Borrower, and any Drawdown Notice, Conversion Notice or Rollover Notice requesting Bankers’ Acceptances shall

be deemed to be a Drawdown Notice, Conversion Notice or Rollover Notice requesting Prime Rate Loans in a similar aggregate principal amount.

ARTICLE 6 – REPAYMENT

6.01 Mandatory Repayment

(1) The Borrower shall repay in full all of the Loans, accrued and unpaid interest and all other Obligations in full under the Credit Facility on the earlier of (i) the Maturity Date, and (ii) subject to the provisions of Sections 6.01(2) and 9.03 below, the Disposition of the Property (or any material portion thereof), or the financing or refinancing of the Property (or any portion thereof) (including mortgages, mortgage bonds or other secured credit facility).

(2) The Borrower shall repay Loans outstanding under the Credit Facility from the following amounts (on the express understanding and agreement that any such repayment(s) shall result in a corresponding permanent reduction in the Commitment):

- (a) 100% of net proceeds of property insurance in respect of the Property, if not required to be applied towards replacement, restoration or rebuilding of same, subject to and on the terms and conditions set out in Section 9.01(7); and
- (b) 100% of the net proceeds of any financing or Disposition of the Property (or any portion thereof) which amount, together with any additional amount paid by the Borrower, shall be not less than the outstanding amount of the Credit Facility (which shall be cancelled in conjunction therewith).

6.02 Voluntary Prepayments

The Borrower may at any time, from time to time, repay without penalty, the whole or any part of the Credit Facility provided that:

- (a) each repayment shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$1,000,000 (unless repaying the Credit Facility in full);
- (b) no Event of Default has occurred and is continuing;
- (c) the Borrower shall give a Repayment Notice to the Lender at least five (5) days prior to the repayment date; and
- (d) subject to Section 6.03, a Bankers' Acceptance may only be repaid on the last day of its Interest Period.

6.03 Repayment Compensation

If the Borrower, by reason of any repayment hereunder, whether mandatory or voluntary, wishes to or is required to pay any Bankers' Acceptances prior to their respective maturity dates, the Borrower shall deposit cash with the Administrative Agent equal to the full face amount at maturity of such Bankers' Acceptance and the Borrower shall have entered into such documentation as the Administrative Agent may reasonably require in respect thereof (which documentation shall constitute Loan Documents).

ARTICLE 7 – PLACE AND APPLICATION OF PAYMENTS

7.01 Place of Payment of Principal, Interest and Fees

All payments of principal, interest, fees and other amounts to be made by the Borrower to the Administrative Agent for the account of the Lenders pursuant to this Agreement shall be made for value on the day such amount is due and, if such day is not a Business Day, on the Business Day next following, by deposit or transfer thereof to the Administrative Agent's Account or at such other place as the Administrative Agent and the Borrower may from time to time agree. The Borrower authorizes the Administrative Agent to debit the Segregated Property Account from time to time for payments of all principal, interest, fees and other amounts to be made by the Borrower to the Administrative Agent and the Lenders pursuant to this Agreement.

7.02 Direct Payment to a Lender

Except as otherwise provided herein, if a Lender receives, otherwise than through the Administrative Agent, a payment on account of the Credit Facility (including any payment received through the exercise of any right of compensation or set-off), such Lender shall remit the payment to the Administrative Agent, for distribution among all Lenders under the Credit Facility in accordance with the provisions hereof.

7.03 Funds

Without limiting the obligation of the Administrative Agent to pay the proceeds of the Advance pursuant to the Drawdown Notice within the times specified in Section 2.04, each amount advanced, disbursed or paid hereunder shall be advanced, disbursed or paid, as the case may be, in such form of funds as may from time to time be customarily used for Canadian Dollars in Toronto, Ontario, in the settlement of banking transactions similar to the banking transactions required to give effect to the provisions of this Agreement on the day such advance, disbursement or payment is to be made, and, in any event, subject to the provisions of Section 2.04.

ARTICLE 8 – REPRESENTATIONS AND WARRANTIES

8.01 Representations and Warranties

Each Obligor represents and warrants (as to itself only and not in respect of any other Person, provided that in the case of the Borrower, such representation and warranty is made for itself and for the General Partner) to the Administrative Agent and each of the Lenders as follows, and acknowledges and confirms that the Administrative Agent and each of the Lenders are relying upon such representations and warranties:

(1) Existence and Qualification. Each Obligor and the General Partner (i) that is a corporation or company has been duly incorporated, amalgamated or continued, as the case may be, and is validly subsisting as a corporation or company under the laws of its jurisdiction of incorporation, amalgamation, or continuance, as the case may be, (ii) that is not a corporation or company has been duly created or established as a partnership or other entity and validly exists under the laws of the jurisdiction in which it has been created or established, and (iii) is duly qualified to carry on business in all jurisdictions in which it carries on its business and has all Material Licences required to conduct such business.

(2) Power and Authority. Each Obligor and the General Partner has the power, authority and right (i) to enter into and deliver, and to exercise its rights and perform its obligations under, the Loan Documents to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Loan Documents, and (ii) to own its property and carry on its business as currently conducted and as currently proposed to be conducted by it. Without limiting the foregoing, each of the Obligors has all necessary power and authority to own its respective interest in the Property.

(3) Execution, Delivery, Performance and Enforceability of Documents. The execution, delivery and performance of each of the Loan Documents to which either Obligor or the General Partner is a party, and every other instrument or agreement delivered by it pursuant to any Loan Document, has been duly authorized by all actions, if any, required on its part and by its directors (or where applicable partners, members or managers), and each of such documents has been duly executed and delivered and, to the best of the knowledge of each Obligor, as applicable, constitutes a valid and legally binding obligation of the particular Obligor and the General Partner, as applicable, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.

(4) Loan Documents Comply with Applicable Laws, Organizational Documents and Contractual Obligations. Neither the entering into nor the delivery of, and neither the consummation of the transactions contemplated in nor compliance with the terms, conditions and provisions of, the Loan Documents by either Obligor or the General Partner conflicts with or shall conflict with, or results or shall result in any breach of, or constitutes a default under or contravention of, any Requirements of Law applicable to it or any of its, or if applicable, its general partner's or partners', Organizational Documents, or results or shall result in the creation or imposition of any Encumbrance other than Permitted Encumbrances except in favour of the Administrative Agent upon any of its property, including the Property.

(5) Consents. Respecting the Loan Documents, each Obligor and the General Partner has obtained, made or taken all consents, approvals, authorizations, declarations, registrations, filings, notices and other actions whatsoever required as to the date hereof in connection with the execution and delivery by it of each of the Loan Documents to which it is a party and the consummation of the transactions contemplated in the Loan Documents and has delivered copies all such consents, approvals, authorizations, declarations, registrations, filings and notices to the Administrative Agent.

(6) Taxes. Each of the Obligors and the General Partner has paid or made adequate provision for the payment of all Taxes levied on it or on its property (including the Property) or income that are due and payable, including interest and penalties, or has accrued such amounts in its financial statements for the payment of such Taxes, except Taxes that are not material in amount or that are not delinquent (or if delinquent are being contested in good faith, and in respect of which non-payment would not individually or in the aggregate constitute, or be reasonably likely to cause, a Material Adverse Change, and, if the aggregate amount of same is in excess of \$100,000, in respect of which the Obligors shall have adequate reserves on their balance sheets as determined by the Administrative Agent, or have deposited with the Administrative Agent or the appropriate Governmental Authority collateral satisfactory to the Administrative Agent or such Governmental Authority, as the case may be, to secure the payment of such Taxes and so long as the Administrative Agent is satisfied that its Security is not in jeopardy), and there is no material action, suit, proceeding, investigation, audit or Claim

now pending, or to its knowledge threatened, by any Governmental Authority regarding any Taxes that is reasonably likely to cause a Material Adverse Change nor has it agreed to waive or extend any statute of limitations with respect to the payment or collection of Taxes.

(7) Judgments, Etc. No Obligor nor the General Partner is subject to any judgment, order, writ, injunction, decree or award, or to any restriction, rule or regulation (other than customary or ordinary course restrictions, rules and regulations consistent or similar with those imposed on other Persons engaged in similar businesses) that has not been stayed or of which enforcement has not been suspended or that individually or in the aggregate constitutes, or is reasonably likely to cause, a Material Adverse Change.

(8) Absence of Litigation. There are no actions, suits or proceedings pending or, to the best of the Obligors' knowledge and belief, after due inquiry and all reasonable investigation, threatened against or affecting either Obligor or the General Partner that are reasonably likely to cause, either separately or in the aggregate, a Material Adverse Change. Neither of the Obligors nor the General Partner is in default with respect to any Applicable Law in a manner or to an extent that could reasonably be expected to cause a Material Adverse Change.

(9) Title to Property. The Nominee, as nominee, is the registered owner and the Borrower is the sole beneficial owner of the Property, with good and marketable freehold title, free and clear of all Encumbrances except Permitted Encumbrances, and no Person has any agreement or right to acquire an interest in the Property, save and except pursuant to Permitted Encumbrances. The Borrower is, and shall remain, the sole registered and beneficial owner of all other Collateral, free and clear of all Encumbrances except Permitted Encumbrances, and no Person has any agreement or right to acquire an interest in the Collateral, save and except pursuant to Permitted Encumbrances. For greater certainty, the Nominee: (i) does not hold and shall not hold any right, title or interest in any personal property related directly or indirectly to the Property for and on behalf of the Borrower; and (ii) is not a party to, and shall not be a party to, any Material Property Agreement for and on behalf of the Borrower.

(10) Labour Relations. Neither of the Obligors nor the General Partner is engaged in any unfair labour practice that could reasonably be expected to cause a Material Adverse Change, and there is no unfair labour practice complaint pending against or, to the best of their knowledge, threatened against either of them or the General Partner, before any Governmental Authority that if adversely determined could reasonably be expected to cause a Material Adverse Change. No grievance or arbitration arising out of or under any collective bargaining agreement is pending against either Obligor or the General Partner or, to the best of their knowledge, threatened against either of them or the General Partner that are reasonably likely to cause a Material Adverse Change. To the best of the Obligors' knowledge, no strike, labour dispute, slowdown or stoppage is pending against either Obligor or the General Partner or, to the best of their knowledge, threatened against either of them or the General Partner and no union representation proceeding is pending with respect to any employees of the Obligors or the General Partner, except (with respect to any matter specified in this sentence, either individually or in the aggregate) such as could not reasonably be expected to cause a Material Adverse Change.

(11) Compliance with Laws. To the best of the knowledge of the Obligors, neither of the Obligors nor the General Partner is in default under any Applicable Law where such default could reasonably be expected to cause a Material Adverse Change. To the best of the knowledge of the Obligors, the Property is in compliance in all material respects with all Applicable Law, including, without limitation, all Environmental Law where non-compliance could

reasonably be expected to cause a Material Adverse Change. Further, to the best of the knowledge of the Obligors, there are no facts known or which ought reasonably to be known which could give rise to a notice of non-compliance with any Applicable Law where such non-compliance could reasonably be expected to cause a Material Adverse Change.

(12) Changes to Applicable Law. To the best of the knowledge of the Obligors, there are no pending or proposed changes to Applicable Law which would render illegal or materially restrict the operation of the Property.

(13) No Default. No Default or Event of Default has occurred and is continuing. No Obligor is in violation of, or in default under, any agreement, mortgage, franchise, licence, judgment, decree, order, statute, rule or regulation which is material to its or their interests in the Property which violation or default is reasonably likely to constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change nor shall execution, delivery and performance of this Agreement, the Loan Documents to which they are a party or any of the agreements provided for or contemplated hereby result in any such violation.

(14) Ownership Structure. The ownership structure of the Obligors, the General Partner and the Property, including all beneficial ownership interest in each of the Obligors, the General Partner and the Property, is as set out in Schedule 8.01(14).

(15) Relevant Jurisdictions. The Relevant Jurisdictions for the Obligors and the General Partner are British Columbia and Ontario.

(16) Security. To the best of the knowledge of the Borrower, the Security is effective to create in favour of the Administrative Agent, for and on behalf of the Lenders, as security for the Obligations described therein, a legal, valid, binding and enforceable security interest in the Collateral and the proceeds thereof, subject however to any applicable bankruptcy, insolvency, re-organization, arrangement, winding-up, moratorium and other similar laws of general application limiting the enforcement of creditors' rights generally and to general equitable principles.

(17) Material Property Agreements, Material Licences and Permitted Encumbrances

- (a) True copies of each of the Material Property Agreements and Material Licences existing as of the date of this Agreement have been delivered to the Administrative Agent.
- (b) With respect to each of the Material Property Agreements: (A) it is in full force and effect and has not, except as has been disclosed to (and consented to, where required hereunder) the Administrative Agent, been amended; (B) to the extent an Obligor or the General Partner is a party thereto, it has been duly executed and delivered and constitutes a valid and binding obligation of such Obligor or the General Partner, as applicable,; and (C) no Obligor nor the General Partner has received any notice or Claim of a default or breach which is reasonably likely to constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change.
- (c) With respect to each of the Material Property Agreements and each of the Permitted Encumbrances: (A) all obligations and covenants, the non-compliance with which is reasonably likely to constitute, or could reasonably be expected to

constitute, or cause, a Material Adverse Change, required to be met or complied with on the part of either Obligor or the General Partner have been complied with and with respect to any other party thereto have been met or complied with to the best of its knowledge; and (B) no default or event, which with the giving of notice or a lapse of time or both would constitute a default on the part of either Obligor or the General Partner exists which is reasonably likely to constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change.

- (d) No event has occurred and is continuing that would constitute a material breach of or a material default under any Material Property Agreement or Material Licence, and each Material Property Agreement to which either Obligor or the General Partner is a party is binding upon it and, to the best of the Obligors' knowledge, is a binding agreement of each other Person who is a party thereto.

(18) Work Orders. To the best of the knowledge of the Borrower, there are no outstanding judgments, writs of execution, seizures, injunctions or directives against either Obligor or the General Partner, nor any work orders or directives or notices of deficiency capable of resulting in work orders or directives, with respect to the Property which constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change or that are reasonably likely to constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change on the ability of either Obligor or the General Partner to perform its obligations under this Agreement or any Loan Document.

(19) Condition of Property. To the best of the knowledge of the Borrower, all buildings and improvements comprising part of the Property are in good physical condition, and there are no material defects or extraordinary repairs required in connection therewith except as disclosed in writing to, and approved by, the Administrative Agent.

(20) Financial Statements. All of the financial statements that have been furnished to the Administrative Agent and the Lenders in connection with this Agreement are complete in all material respects and such financial statements fairly present the financial position of Borrower as of the dates referred to therein and have been prepared in accordance with GAAP. The Borrower does not have any liabilities (contingent or other) or other obligations of the type required to be disclosed in accordance with GAAP, that are not fully disclosed in its financial statements provided to the Administrative Agent.

(21) No Material Adverse Change

- (a) Since the date of the Borrower's most recent annual financial statements and the Property's most recent annual operating statements provided to the Administrative Agent in connection with this Agreement, there has been no condition (financial or otherwise), event or change in the Borrower's or the General Partner's business, liabilities, operations, results of operations, assets or prospects which constitutes, or could reasonably be expected to constitute, or cause, a Material Adverse Change.
- (b) Since the date of the most recent financial statements of the Property provided to the Administrative Agent, there has been no condition (financial or otherwise), event or change, in the Borrower's or the General Partner's business, liabilities, operations, results of operations, assets or prospects which constitutes, or could reasonably be expected to constitute, or cause, a Material Adverse Change.

(22) Environmental Matters

- (a) To the best of the knowledge of the Borrower, the Property is in full compliance in all material respects with all Environmental Law; the Borrower is not aware of, nor has it received notice of, any past, present or future condition, event, activity, practice or incident that may interfere with or prevent the material compliance or continued material compliance of the Property or the Borrower in all respects with all Environmental Law; and the Borrower has obtained all Material Licences, Permits and approvals in connection with the Property that are currently required under all Environmental Law and are in material compliance with the provisions of such licences, Permits and approvals.
- (b) Other than as disclosed in the environmental report(s) delivered by the Borrower to the Administrative Agent pursuant to Section 3.01(g)(iv), the Borrower is not aware that any Hazardous Substances exist on, about or within, or have been used, generated, stored, transported, disposed of on, or Released from the Lands other than in material accordance and compliance with all Environmental Law.
- (c) The use that the Borrower has made of the Lands shall not result in the use, generation, storage, transportation, accumulation, disposal, or Release of any Hazardous Substances on, in or from the Lands except in material accordance and compliance with all Environmental Law.
- (d) There is no action, suit or proceeding, or, to its knowledge, any investigation or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against the Borrower with respect to the Property relating in any way to any Environmental Law that would or could reasonably be expected to cause a Material Adverse Change.
- (e) Other than as disclosed in the environmental report(s) delivered by the Borrower to the Administrative Agent pursuant to Section 3.01(g)(iv), the Borrower has not (i) with respect to the Lands, incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law with respect to current or past operations, events, activities, practices or incidents relating thereto, (ii) received any material outstanding written request for information (other than information to be provided in the normal course in connection with applications for licences, Permits or approvals) by any Person under any Environmental Law with respect to the condition, use or operation of the Property, (iii) received any outstanding written notice or Claim under any Environmental Law with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Substance on or originating from the Lands, that, in any such case, would or could reasonably be expected to cause a Material Adverse Change, or (iv) ever been convicted of an offence or subjected to any judgment, injunction or other proceeding for non-compliance with any Environmental Law with respect to the Lands or been fined or otherwise sentenced or settled such prosecution or other proceeding short of conviction for non-compliance with any Environmental Law with respect to the Lands.
- (f) Copies of all material analysis and monitoring data for soil, ground water, surface water and the like and reports pertaining to any environmental

assessments/audits, including without limitation any inspections, investigations and tests, relating to the Lands that were obtained, are in the possession or control of, or were carried out on behalf of, the Borrower have been delivered to the Administrative Agent.

- (g) Since acquiring its interests in the Lands, the Borrower has maintained all environmental and operating documents and records relating to the Lands substantially in the manner and for the time periods required in all material aspects by Environmental Law and Material Licences.
- (h) The Borrower has not defaulted in reporting in any material respect to any applicable Governmental Authority in relation to the Lands on the happening of an occurrence which it is or was required by any Environmental Law to report.

(23) Material Licences. All Material Licences from third parties and Governmental Authorities, being as of the date hereof those listed in Schedule 1.01(D), have been obtained.

(24) Zoning, Uses and Expropriation

- (a) Except as disclosed in writing to and approved by the Administrative Agent, the Property is zoned to permit the current operation of the Property.
- (b) The existing uses of the Property comply in all material respects with all Applicable Law.
- (c) It has not received notice of any proposed rezoning of all or any part of the Property that would be reasonably likely to cause a Material Adverse Change in respect of the operation of the Property or otherwise.
- (d) It has not received notice of any expropriation of all or any part of the Lands.

(25) Undisclosed Liabilities. There are no liabilities (including contingent liabilities) that, in the aggregate, are material in respect of the Property, which have not been previously disclosed in writing to and approved by the Administrative Agent. There are no liabilities (including contingent liabilities) that, in the aggregate, are material in respect of the Borrower or the General Partner, or their respective businesses, which under GAAP should have been disclosed as of the date of its last financial statements and have not been disclosed in such financial statements.

(26) Liens. The Borrower has not received notice of any Encumbrances (including, without limitation, of any Claims for construction liens with respect to work or services performed or materials supplied) related to the Property, other than Permitted Encumbrances.

(27) Insolvency. Neither of the Obligors nor the General Partner (i) has committed any act of bankruptcy, (ii) is insolvent, or has proposed, or given notice of its intention to propose, a compromise or arrangement to its creditors generally, (iii) has made any petition for a receiving order in bankruptcy filed against it, made a voluntary assignment in bankruptcy, taken any proceeding with respect to any compromise or arrangement, taken any proceeding to have itself declared bankrupt or wound-up, taken any proceeding to have a receiver appointed of any part of its assets, has had any Encumbrancer take possession of its property, or (iv) has had an execution or distress become enforceable or become levied on its assets and property.

(28) No Infringement. To the best of the knowledge of the Borrower after due enquiry, the operation of the Property does not infringe and shall not infringe upon any patents, trademarks, trade names, service marks or copyrights, domestic or foreign, or any other industrial property or intellectual property of any other Person, which infringement would constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change.

(29) Setbacks. To the best of the knowledge of the Borrower, the location of any buildings on the Property are within the boundary lines of the Property as a whole and are in compliance with all applicable setback requirements.

(30) Full Disclosure. All information provided or to be provided to the Administrative Agent and the Lenders in connection with the Credit Facility is, to the Obligors' knowledge, true and correct in all material respects and none of the documentation furnished to the Administrative Agent and the Lenders by or on behalf of it, to its knowledge, omits or shall omit as of such time, a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by it (and any other Person who furnished such material on behalf of it).

(31) Residency. Each Obligor and the General Partner is not a non-resident for the purposes of Section 116 of the *Income Tax Act* (Canada).

(32) Leases

- (a) The HBC Lease is the only Lease as at the date of this Agreement and shall be the only Lease as at the date of the Drawdown, which HBC Lease is in full force and effect.
- (b) The landlord under each of the Leases is not in material default or in material breach of any of its obligations thereunder, the landlord thereunder has not received from any tenant a notice of a material default or material breach by the landlord of any of its obligations thereunder and there is no event or condition existing, with or without the giving of notice or lapse of time or both, which would entitle any tenant thereunder to terminate any of its obligations in respect thereof.
- (c) There are no Leases with the federal government or agents thereof.

8.02 Survival and Repetition of Representations and Warranties

The representations and warranties set out in this Article shall survive the execution and delivery of this Agreement and the making of the Drawdown, each Conversion and each Rollover.

ARTICLE 9 – COVENANTS

9.01 Borrower Positive Covenants

So long as any amount payable hereunder is outstanding or the Credit Facility is available hereunder, the Borrower covenants and agrees with the Administrative Agent and each of the Lenders that:

(1) Timely Payment. Make due and timely payment of the Obligations required to be paid by it and punctually perform its other Obligations hereunder and under the other Loan Documents to which it is a party at the time and place and in the manner provided hereunder and under the other Loan Documents.

(2) Conduct of Business, Maintenance of Existence, Compliance with Laws. Engage in business of the same general type as now conducted by it; carry on and conduct its business and operations in a proper, efficient and businesslike manner, in accordance with good business practice; subject to Section 9.03(2), preserve, renew and keep in full force and effect its existence; and take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business and to comply in all material respects with all Material Property Agreements, Material Licences and Requirements of Law, including Requirements of Environmental Law.

(3) Further Assurances. Use reasonable commercial efforts to provide the Administrative Agent with such other documents, opinions, consents, acknowledgments and agreements as are reasonably necessary to implement this Agreement and the other Loan Documents from time to time.

(4) Access to Information. Promptly provide the Administrative Agent with all information reasonably requested by it from time to time at reasonable intervals in connection with this Agreement concerning its financial condition and the Property (including, without limitation, the Leases, Material Property Agreements and Material Licences), and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of the Administrative Agent to inspect the Property and to examine its financial records regarding (and only regarding) the Property, and to discuss its financial condition with its senior officers and its auditors, the reasonable expense of all of which shall be paid by the Borrower.

(5) Obligations and Taxes. Pay or discharge, or cause to be paid or discharged, before the same shall become delinquent (i) all Taxes imposed upon it or upon its income or profits or in respect of its business or property (including the Property) and file all tax returns in respect thereof, (ii) all lawful Claims for labour, materials and supplies, and (iii) all required payments under any of its Indebtedness; provided, however that it shall not be required to pay or discharge or to cause to be paid or discharged any such amount so long as the validity or amount thereof is being contested in good faith by appropriate proceedings and an appropriate financial reserve in accordance with GAAP and satisfactory to the Administrative Agent has been established.

(6) Use of Credit Facility. Use the proceeds of the Credit Facility only for the purposes specified in Section 2.02.

(7) Insurance.

For so long as any amounts are due hereunder:

- (a) It shall maintain or cause to be maintained:
- (A) all risks property insurance (including the perils of flood, sewer backup, water damage, windstorm and earth movement) and terrorism insurance (if maintained) on property of the Borrower or any other Obligor (or property for which they are obliged to insure pursuant to Leases or other agreements relating to the Property) of every description located in or on the Property on a replacement cost basis;
 - (B) boiler and machinery insurance on a comprehensive basis on all machinery and equipment of the Borrower or any other Obligor or for which they may be liable located at the Property, on a replacement cost basis;
 - (C) business interruption insurance under the property, boiler and machinery (and terrorism if maintained) insurance policies referred to in Section 9.01(7)(a)(A) and (B), adequate to reimburse all lost revenues relating to the Property for a term of not less than twelve (12) months;
 - (D) commercial general and umbrella liability insurance, including insurance against Claims for personal injury, death, property damage or other loss arising out of the business of the Borrower or any other Obligor or the operation of the Property and extended to include coverage for contractual liability, contingent employer's liability, and liability in respect of collapse and explosion with a minimum limit of liability for any one occurrence of \$50,000,000;
 - (E) such other insurance as may be required to meet the obligations of the Borrower or any other Obligor under any of the Material Property Agreements; and
 - (F) such other insurance as the Administrative Agent upon consultation with the independent insurance consultant may reasonably require from time to time,

all with Canadian licensed insurance companies having an AM Best's rating not less than A-VII or Standard and Poor's rating not less than A, or such insurance companies having comparable Claims paying ability as approved by the Administrative Agent acting reasonably. Such insurance is to be in such form and amounts and with such deductibles as are customary in the case of owners of properties similar to the Property and in any event as are acceptable to the Administrative Agent.

- (b) The all-risk, boiler and machinery, terrorism (if maintained) and business interruption insurance policies referred to in Section 9.01(7)(a) shall:
- (A) name the Borrower, General Partner and Nominee as named insureds thereunder and as additional insureds or additional named insured all those required to be so named under any of the Material Property Agreements;
 - (B) name the Administrative Agent as first mortgagee and loss payee and be subject to a standard mortgage clause;
 - (C) provide that no cancellation shall take effect unless the insurer concerned has given the Administrative Agent not less than thirty (30) days' prior written notice of such proposed action (with statutory notice applicable for cancellation for the non-payment of premium);
 - (D) contain a waiver by the insurer or insurers of all rights of subrogation or indemnity or any other Claim to which such insurer or insurers might otherwise be entitled against the Administrative Agent and the Lenders; and
 - (E) otherwise be in such form as the Administrative Agent shall reasonably require;

and such insurance policies may contain reasonable deductibles per occurrence as approved by the Administrative Agent;

- (c) The third party liability insurance policies referred to in Section 9.01(7)(a) shall:
- (A) name the Borrower, General Partner and Nominee as named insureds thereunder and as additional insureds or additional named insured all those required to be so named under any of the Material Property Agreements;
 - (B) name the Administrative Agent as an additional insured to the extent that such policies relate to the Property or the operation thereof;
 - (C) provide that no cancellation shall take effect unless the insurer concerned has given the Administrative Agent not less than thirty (30) days' prior written notice of such proposed action (with statutory notice applicable for cancellation for the non-payment of premium);
 - (D) contain a waiver by the insurer of all rights of subrogation or indemnity or any other Claim to which the insurer might otherwise be entitled against the Administrative Agent and the Lenders;
 - (E) include contractual liability and be subject to a cross-liability severability of interests clause; and

- (F) otherwise be in such form as the Administrative Agent shall reasonably require.

The Borrower shall provide detailed certificates of insurance for all policies required hereunder to be purchased and maintained by the Borrower in form acceptable to the Lenders, provided that the Lenders shall, pursuant and subject to the provisions of Section 9.01(4), be entitled to review the underlying policies of insurance relating to such certificates of insurance.

(8) Proceeds of Insurance. With regard to the insurance described in Section 9.01(7), the Permitted Encumbrances and Material Property Agreements having priority over the Security, the following shall apply:

- (a) So long as no Default or Event of Default has occurred and is continuing, the proceeds of all such insurance (other than workers' compensation insurance, errors and omissions insurance and third party liability insurance which may be remitted to the Borrower without condition or further action by the Administrative Agent or the Lenders) shall be dealt with as follows:
 - (i) If the total amount of such proceeds equals or exceeds \$10,000,000, they shall be payable directly into an escrow account of the Borrower (which account shall be held with the Administrative Agent and subject to the security interest created by the Security) to be disbursed by the Administrative Agent against receipts payable in not more than thirty (30) days for expenses incurred in repairing the damage or destruction or replacing property in respect of which the insurance is payable, for release by the Administrative Agent to the Borrower to be applied by the Borrower in repairing the damage or destruction or replacing property in respect of which the insurance is payable upon receipt of:
 - (A) an officer's certificate of the Borrower stating that the proceeds of such insurance together with other funds held or arranged by the Borrower are sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
 - (B) a letter of undertaking of the Borrower to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and
 - (C) evidence satisfactory to the Administrative Agent and the Lenders that the proceeds of insurance together with the other funds held or arranged by the Borrower shall be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
 - (ii) The proceeds of any business interruption insurance shall be payable to the Borrower, as its interest may appear, to be applied on account of ongoing obligations of the Borrower hereunder or in respect of the Property as the same fall due from time to time.

- (iii) The proceeds of all insurance held by the Administrative Agent shall, unless and until the same are applied or released to the Borrower as aforesaid, constitute continuing collateral security for the Borrower's obligations and liabilities in respect of amounts outstanding hereunder. The Administrative Agent shall place such funds in interest-bearing term deposits with the interest thereon to accrue to the benefit of the Borrower.
 - (iv) If the total amount of such proceeds is less than \$10,000,000 they shall be released to the Borrower subject to delivery of the documents set out in Section 9.01(8)(a)(i)(A), (B) and (C).
- (b) If an Event of Default has occurred and is continuing:
- (i) The proceeds of all insurance other than workers' compensation insurance, errors and omissions insurance and third party liability insurance shall be payable to the Administrative Agent and subject to the Security, to be applied by it, at its option, in reduction of the amounts outstanding hereunder or released by the Administrative Agent to the Borrower upon receipt of:
 - (A) an officer's Certificate of the Borrower stating that the proceeds of such insurance together with other funds held or arranged by the Borrower are sufficient to fully repair, rebuild or replace the damage or destruction in respect of which the insurance proceeds are payable;
 - (B) a letter of undertaking of the Borrower to fully repair, rebuild and replace the damage or destruction in respect of which the insurance proceeds are payable; and
 - (C) evidence satisfactory to the Administrative Agent and the Lenders that the proceeds of insurance together with the other funds held or arranged by the Borrower shall be sufficient to repair, replace or rebuild the damage or destruction in respect of which the insurance proceeds are payable.
 - (ii) The proceeds of any business interruption insurance shall be payable to the Administrative Agent to be held by the Administrative Agent as additional security for the payment of all amounts payable hereunder, to be applied on account of ongoing obligations of the Borrower hereunder or in respect of the Property as the same fall due from time to time and, to the extent of any surplus, firstly to arrears of such payments and thereafter, if the Administrative Agent has opted to release proceeds of insurance to the Borrower pursuant to and in accordance with Section 9.01(8)(b)(i), then the balance of the proceeds of business interruption insurance shall be payable to the Borrower, failing which the balance, if any, remaining after application of such proceeds as aforesaid shall be paid to the Administrative Agent as partial prepayment of the Loans.

- (iii) The proceeds of all insurance held by the Administrative Agent shall, unless and until the same are applied or released to the Borrower as aforesaid, constitute continuing collateral security for the Borrower's obligations and liabilities in respect of amounts outstanding hereunder. The Administrative Agent shall place such funds in interest-bearing term deposits with the interest thereon to accrue to the benefit of the Borrower (but subject to the security interest created under the Security).

(9) Insurance Information. It shall provide or cause to be provided to the Administrative Agent and the independent insurance consultant such information relating to the Property or the Loan Documents, as may be reasonably requested and which is within its possession or control. The reasonable fees and costs of the independent insurance consultant shall be paid for by the Borrower.

(10) Notice of Default. Promptly notify the Administrative Agent of any Default or Event of Default that would apply to it of which it becomes aware, using reasonable diligence, and detailing the steps it is taking, if any, to cure same.

(11) Notice of Material Adverse Change. Promptly notify the Administrative Agent of any Material Adverse Change or any matter which constitutes, or could reasonably be expected to constitute, or cause, a Material Adverse Change that would apply to it of which it becomes aware, using reasonable diligence.

(12) Notice of Litigation. Promptly notify the Administrative Agent on becoming aware of the occurrence of any litigation, dispute, arbitration or other proceeding the result of which if determined adversely would be a judgement or award against it would reasonably be expected to be in an amount in excess of the amount set out in Section 11.01(m) or otherwise result in a Material Adverse Change to it, and from time to time provide the Administrative Agent with all reasonable information requested by the Administrative Agent concerning the status of any such proceeding.

(13) Other Notices. Promptly notify the Administrative Agent on becoming aware:

- (a) of any Change of Control;
- (b) of any labour controversy which would likely constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change;
- (c) of the occurrence of an event of Force Majeure, describing in reasonable detail the effects of such event on the operation of the Property, the action which the Borrower intends to take to remedy such event and the estimated date when the event of Force Majeure shall be remedied and shall cease to impair operation of the Property;
- (d) of the cessation of any event of Force Majeure;
- (e) of any circumstance of which it has notice or is aware which could result in a material breach of or default or non-performance by any party under the Material Property Agreements or of any condition entitling any party to terminate its obligations thereunder;

- (f) of any damage to or destruction of any Property that forms part of the Property which might give rise to an insurance Claim if the cost of any repairs to or replacement of assets of the Borrower exceeds \$1,000,000;
- (g) of any material instrument related to the Property of which the Borrower has notice or is registered against title to the Property and provide to the Administrative Agent a true copy of such instrument;
- (h) of any threatened expropriation or notice of expropriation with respect to the Lands, such notice to be delivered forthwith upon the Borrower becoming aware of such threatened expropriation or its receipt of notice of such proceedings, and the Borrower hereby covenants and agrees that no such Claim shall be compromised or settled without the prior written consent of the Administrative Agent; and
- (i) of any non-compliance with Environmental Law relating to the Property, and of any notice, investigation, non-routine inspection or material inquiry by any Governmental Authority in connection with any Environmental Law relating to the Property, in each case which would likely constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change.

(14) Environmental Compliance

- (a) Operate the Property in a manner such that no material obligation, including a clean-up or remedial obligation, shall arise under any Environmental Law; provided, however, that if any such Claim is made or any such obligation arises, it shall immediately satisfy or contest such Claim or obligation at its own cost and expense, and promptly notify the Administrative Agent upon learning of (i) the existence of Hazardous Substances located on, above or below the surface of the Lands or contained in the soil or water constituting such land (except those being stored, used, contained or otherwise handled in substantial compliance with Environmental Law), or (ii) the occurrence of any reportable Release of Hazardous Substances into the air, land surface water or ground water that has occurred on or from the Property, or (iii) any other event or occurrence relating to the Property which, in the opinion of the Borrower, is likely to give rise to a notice of non-compliance in any material respect with any Environmental Law.
- (b) Comply, and cause any other party that is acting under its authority to comply, in all material respects with all Environmental Law (including, but not limited to, obtaining any Material Licences or similar authorizations) relating to the Property.
- (c) Use its reasonable commercial efforts not to cause or permit a Release of any Hazardous Substance at, on or under the Property except in compliance with Environmental Law.
- (d) Provide the Administrative Agent with an environmental site assessment/audit report of the Property, or an update of such assessment/audit report (i) upon the written request of the Administrative Agent if in its reasonable opinion there is a concern about the Borrower's compliance (as it relates to the Property) or the Property's compliance in all material aspects with Environmental Law, all in scope, form and content satisfactory to the Administrative Agent, (ii) if such

assessment/audit report has been prepared at the request of or on behalf of any Governmental Authority, or (iii) if an Event of Default relating to an environmental matter has occurred, and the Administrative Agent has made a written request to the Borrower for such an assessment/audit report or update, within thirty (30) Business Days after such request, and all such assessments/audits reports or updates thereof shall be at the Borrower' expense and risk; an environmental site assessment/audit may include, for purposes of this Section, without limitation, any inspection, investigation, test, sampling, analysis, monitoring pertaining to air, land and water relating to the Property reasonably required under the circumstances giving rise to the request for the assessment/audit report.

- (e) Not use the Property, or permit it to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, produce or process Hazardous Substances except in compliance with all Environmental Law.
- (f) Maintain in all material respects all environmental and operating documents and records, including, without limitation, Material Licences and orders, relating to the Property in the manner and for the time periods required by Environmental Law.

(15) Security. Provide the Administrative Agent with the Security required from time to time pursuant to Article 10 in accordance with the provisions of such Article, accompanied by supporting resolutions, certificates and opinions in form and substance satisfactory to the Administrative Agent and Borrower, both acting reasonably, and do all such further acts and execute and deliver all such documents and instruments as may from time to time be reasonably requested by the Administrative Agent, to ensure that the Security constitutes at all times valid, enforceable, and perfected first priority Encumbrances against the Property (subject only to Permitted Encumbrances).

(16) Maintenance of Property. Keep all of its property necessary for the Property in good working order and condition, normal wear and tear excepted, except to the extent that the failure to do so would not individually or in the aggregate be reasonably likely to cause a Material Adverse Change.

(17) Adequate Books. In the case of the Property and financial statements in relation thereto, maintain adequate books, accounts and records in accordance with GAAP.

(18) Material Property Agreements and Major Leases

- (a) At all times be and remain in full compliance in all material respects with all of its covenants, agreements and obligations in and diligently enforce all its material rights under all Material Property Agreements, the HBC Lease and all Major Leases. The Borrower shall not alter, amend or waive, in any material respect, any of its rights under or permit any termination or surrender of any Material Property Agreement unless such alterations, amendments, waivers, terminations or surrenders, as applicable, reflect, in all material respects, good business practice, are in the ordinary course of business, and such material terms as a prudent owner of a similar property would accept having regard to all relevant factors at the time.

- (b) Advise the Administrative Agent in writing of all new Material Property Agreements or Major Leases (or any material amendments of existing Material Property Agreements, the HBC Lease or Major Leases) entered into forthwith following the entering into thereof and shall deliver forthwith a copy thereof to the Administrative Agent. The Borrower shall provide written notice to the Administrative Agent of any assignment made by a contracting party to a Material Property Agreement, the HBC Lease or a Major Lease.

(19) Access. Permit the Administrative Agent (through their agents, officers or employees), for the purposes of monitoring compliance with the covenants and obligations of the Borrower hereunder, at their risk, to visit and inspect the Property, to conduct tests, measurements and surveys in relation to the Property, provided that such tests, measurements and surveys are conducted in accordance with prudent industry practice and Applicable Law and/or are required as a result of the reasonable concerns of the Administrative Agent as to non-compliance with such covenant and obligation, and to be advised as to the same by the officers, engineers and advisers of the Borrower (or such other Persons as may be appropriate), all at such reasonable times and intervals as the Administrative Agent may desire upon reasonable prior notice and in the presence of the Borrower if it so desires. Such visits, inspections, measurements, reviews and tests shall be at the cost of the Borrower, provided such expenses are reasonably incurred. Any such visit, inspection, examination, discussion or tests shall not be deemed to be supervision, charge, management, control or occupation by the Administrative Agent for purposes of any environmental or other liabilities.

(20) Peaceable Entry. From and after the occurrence of an Event of Default and for so long as it is subsisting, the Administrative Agent shall, subject to Permitted Encumbrances, be lawfully entitled to peaceably and quietly enter into, have, hold, use, occupy, possess and enjoy the Property with its appurtenances without suit, hindrance, interruption or denial by it, any other Obligor or any other person whomsoever.

(21) Remedy of Force Majeure. Use its reasonable commercial efforts to remedy or cause to be remedied any event of Force Majeure or causes thereof; provided that notwithstanding the foregoing, no party shall be required to settle strikes of its employees or of employees of its contractors, sub-contractors and others on terms which it reasonably regards as unreasonable.

(22) Management and Control of Property. It shall ensure that the Property is diligently managed, leased, used and operated: (i) in compliance in all materials respects with Applicable Law, (ii) at the standard of that of a prudent owner of comparable property, and (iii) in a proper and efficient manner with a view to preserving and protecting: (A) the Property at the same or higher standard as when it became subject to the Security hereunder, and (B) the earnings, incomes, rents, and profits thereof. The Property shall be managed by the Borrower or by another Person reasonably acceptable to Administrative Agent, provided that if the Property is managed by any Person other than the Borrower, or the Nominee pursuant to the HBC Lease, (i) such Person will be entitled to receive an aggregate annual property management fee of no more than 3.00% of gross income, (ii) such person will subordinate all of its rights under its applicable management agreement (including, without limitation, its right to receive payment of such property management fee) to the Administrative Agent's Security with respect to the Collateral and all of Administrative Agent's rights with respect to the Property, and (iii) such applicable property management agreement and the Loan Documents will provide that the Administrative Agent may terminate and replace such Person with an independent third-party property manager if an Event of Default occurs and is continuing. The Administrative

Agent hereby confirms that the Nominee is an acceptable property manager. For greater certainty, if the Property is managed by the Nominee pursuant to any supplemental or other agreement in addition to or replacement of the provisions of the HBC Lease, the requirements set out in (i) to (iii) above will apply to such management of the Property.

(23) Encumbrances. Unless the same shall constitute a Permitted Encumbrance, it shall, and shall cause the other Obligors to discharge, in a timely manner, all encumbrances against the Property from time to time.

(24) Title. Defend the Borrower's and the Nominee's title to the Property and every part thereof against the Claims of all Persons whomsoever and do, observe and perform all obligations and all things necessary or expedient to be done, observed or performed by virtue of any Applicable Law for the purpose of creating, maintaining and keeping maintained the Security constituted by the Loan Documents as valid and effective security with the priority required hereunder.

(25) Non-Disturbance Agreements. Simultaneously with the execution of any future Major Lease (or any other Lease in respect of which the Administrative Agent makes a specific request) and following the Closing Date, the Borrower shall use its commercially reasonable efforts to obtain from the tenant thereunder an attornment and non-disturbance agreement in the Administrative Agent's standard form (or such other form as the Administrative Agent and such tenant may agree upon provided that in the event that the Administrative Agent and such tenant cannot agree upon a form of non-disturbance agreement, the Administrative Agent agrees that it shall enter into a priority agreement with the tenant granting priority to such tenant's Lease over the Security so long as the tenant agrees to attorn to the Administrative Agent). Where any other tenant under a Lease requests the Borrower to obtain a non-disturbance agreement from the Administrative Agent in respect of such Lease, the foregoing sentence shall apply, *mutatis mutandis*.

(26) Annual Desktop Valuation / Up-to-date Appraisals. The Borrower shall at the Borrower's sole cost, provide to the Administrative Agent annually, a desktop valuation of the Property, and otherwise upon the request of the Administrative Agent (provided that such request can be made no more than once every twelve (12) months commencing from and after the first anniversary of the Closing Date), deliver to the Administrative Agent an up-to-date Appraisal of the Property, such Appraisal to be delivered no later than sixty (60) days after the Administrative Agent's request therefor and to be in form and content acceptable to the Administrative Agent and the Majority of the Lenders.

(27) Segregated Property Account. Maintain the Segregated Property Account with the Administrative Agent during the term of this Agreement and cause all funds received from the Property to be deposited to, and all disbursements for accounts payable or otherwise to be paid from, such account.

(28) Leasing Reserve. If the tenant under the HBC Lease does not formally indicate in writing its intention to renew the HBC Lease on or before the earlier of any applicable lease renewal notification date or twelve (12) months prior to the HBC Lease maturity date, the Borrower shall promptly establish a separate leasing reserve account with the Administrative Agent for the HBC Lease, and on a monthly basis deposit to such account an amount equivalent to the monthly basic rent then payable under the HBC Lease, provided that the maximum amount in the leasing reserve account shall not exceed twelve (12) months basic rent under the HBC Lease. All cash in this leasing reserve account shall be held by the

Administrative Agent as additional collateral for the Obligations and the Borrower shall execute and deliver such cash collateral agreement or other Security as the Administrative Agent requires in connection with this leasing reserve account, which cash collateral agreement or other Security shall be in form and substance satisfactory to the Administrative Agent. If no Default or Event of Default has occurred, and if the Borrower has complied with its obligations in this Section, the Administrative Agent may, in its discretion, make all or some of the cash in this leasing reserve available to the Borrower to fund future tenant improvements and leasing commissions. In addition, upon renewal of the HBC Lease, or execution of one or more replacement Leases, in each case on terms and conditions approved by the Lenders, and provided no Default or Event of Default has occurred, the Administrative Agent will release all of the cash remaining in such leasing reserve to the Borrower.

9.02 Reporting Requirements

So long as this Agreement is in force, the Borrower shall deliver to the Administrative Agent:

(1) Annual Reports. Within one hundred twenty (120) days from the last day of the Fiscal Year of the Borrower, the annual audited financial statements of the Borrower and the annual management prepared unaudited financial statements of the Property, including, in each case, where applicable, balance sheet, statement of income and retained earnings, statement of changes in financial position and statement of cash flow for such Fiscal Year, which shall be prepared in accordance with GAAP.

(2) Quarterly Reports. Within forty-five (45) days of the end of each applicable Fiscal Quarter with respect to the Property: (i) a management prepared quarterly operating statement for the Property (including without limitation aging schedules, tenant receivables and tenant defaults), which shall be prepared in accordance with GAAP; and (ii) an up to date rent roll, showing tenant name, unit number, square feet leased, annual net rent and lease term.

(3) Compliance Certificates.

(a) A Compliance Certificate from the Borrower concurrently with the delivery of the financial statements referred to in Section 9.02(1) (including statements confirming compliance with the provisions of Sections 9.05(a), (b) and (c).

(b) A Compliance Certificate from the Borrower concurrently with the delivery of the quarterly reports referred to in Section 9.02(2) (including statements confirming compliance with the provisions of Sections 9.05(d) and (e).

(4) Insurance Reporting. Concurrently with the renewal or placement of any insurance required to be maintained by Section 9.01(7) or 9.01(8), delivery to the Administrative Agent of certificates of insurance relating to such insurance.

(5) Realty Taxes. Delivery of evidence (satisfactory to the Administrative Agent) of the payment of all realty taxes relating to the Property, such evidence to be delivered within sixty (60) days of each calendar year-end.

(6) Property Budget. For informational purposes only, delivery of the annual budget of the Property for each Fiscal Year, to be delivered by no later than the last date of the immediately preceding applicable Fiscal Year.

(7) Other Information. Such other information as the Administrative Agent may reasonably request respecting the Obligors or the Property.

(8) KYC Documentation and Anti-Money Laundering. The Obligors acknowledge that the Lenders have certain anti-money laundering and anti-terrorism responsibilities under various laws and regulations and that from time to time a Lender (including any prospective assignee or participant) may request information in order to comply with Applicable Laws and internal requirements (including any applicable “know your customer” or “know your client” requirements). The Obligors covenant and agree, upon request, to promptly provide the Lenders such additional information as may be reasonably requested, including concerning the General Partner. The Borrower shall also provide the Administrative Agent with prompt written notice of any change in beneficial owners, key officers or directors after the date of this Agreement. The Borrower covenants and agrees that the proceeds of the Drawdown under the Credit Facility shall not be required or invested in order to support domestic or international terrorism and shall not be directly or indirectly derived from activities that may contravene Applicable Laws, including anti-money laundering laws and regulations.

9.03 Negative Covenants – Obligors

So long as this Agreement is in force, each Obligor covenants and agrees (as to itself only and not in respect of any other Person, provided that in the case of the Borrower, such representation and warranty is made for itself and for the General Partner) with the Administrative Agent and each of the Lenders that they and the General Partner shall not:

(1) No Sale of Property. Other than (a) the Disposition of premises under Leases as permitted hereunder, (b) Dispositions otherwise contemplated in Sections 10.04 or 10.05, or (c) Dispositions of machinery or equipment that is being replaced or is obsolete, Dispose of the Collateral or any part thereof or interest therein except as contemplated herein, unless approved unanimously by the Lenders acting in their sole discretion.

(2) No Change of Control. No Change of Control of the Borrower or the General Partner is to occur, unless approved unanimously by the Lenders acting in their sole discretion.

(3) No Consolidation, Amalgamation, etc. (i) in respect of the Borrower and the General Partner only, consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing corporate structure, or (ii) liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution.

(4) No Change of Name. In respect of the Borrower and the General Partner only, change its name without providing the Administrative Agent with thirty (30) days' prior written notice thereof.

(5) No Distributions/Restricted Payments. In respect of the Borrower and the General Partner only, make any Distribution during the presence and existence of a Default or an Event of Default.

(6) No Encumbrances. Create, incur, assume or permit to exist any Encumbrance upon the Collateral or any part thereof or interest therein except Permitted Encumbrances.

(7) No Change to Year End. In respect of the Borrower and the General Partner only, make any change to its Fiscal Year end.

(8) No Continuance. Continue into any other jurisdiction without the consent of the Majority of the Lenders, which consent shall not be unreasonably withheld.

(9) Amendments to Organizational Documents. In respect of the Borrower and the General Partner only, amend any of its Organizational Documents in a manner that would be materially prejudicial to the interests of any of the Lenders or the Administrative Agent under the Loan Documents.

(10) Amendments to Material Property Agreements. Except as otherwise contemplated in Section 9.01(18)(a), amend, vary or alter in any material way (it being acknowledged that any increase in the amounts of any payments due under any property management agreement shall be deemed to be material), consent to any assignment or transfer of, or waive or surrender any of its material rights or material entitlements under, any Material Property Agreements.

(11) Leasing.

(a) renew, amend, terminate, forfeit or cancel the HBC Lease, without the consent of the Administrative Agent, which consent may not be unreasonably withheld, delayed or conditioned; or

(b) enter into any Leases after the date of this Agreement or renew, amend, terminate, forfeit or cancel any such Leases in respect of the Property, without the consent of the Administrative Agent, which consent may not be unreasonably withheld, delayed or conditioned.

(12) Concerning Leases Generally. Accept or require payment of rent or other moneys payable by a tenant under any Lease in respect of the Property that would result in more than one month of such rent or other moneys being prepaid under such Lease other than:

(a) prepaid rent or deposits on account of rent which represents the portion of the cost of construction of the relevant demised premises which exceeds the portion of such cost which was used as the basis for determining the basic rental otherwise payable under such Lease; or

(b) amounts representing a bona fide pre-calculation of any amount that is required to be paid under such Lease in addition to basic rental, including amounts payable with respect to taxes and maintenance of the Property and any applicable percentage rentals; or

(c) lease surrender payments and security deposits made by the tenant under such Lease.

(13) Residency. Become a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act* (Canada).

(14) No Guarantees. In respect of the Borrower and the General Partner only, become a guarantor or endorser or otherwise liable for any obligation other than in the normal course of its business.

(15) Not To Remove, Destroy. It shall not, and shall cause the other Obligor not to, destroy, remove, permit to be destroyed or removed any of the buildings, plant, machinery or equipment comprising part of the Property; provided that, subject to Section 9.03(16):

- (a) nothing herein shall prevent the removal of any such property from one part of the Property to another or the temporary removal of any such property for the purposes of repair; and
- (b) it and/or the relevant Obligor may remove, dismantle, sell, exchange or otherwise dispose of any plant, machinery or equipment which has become obsolete, worn out, replaced or unserviceable if such plant, machinery or equipment is replaced by plant, machinery or equipment of at least equal performance or if such plant, machinery or equipment so dealt with is unnecessary for use in the conduct of its business at the Property; provided that such removal or other disposal does not impair the successful operation of the Property.

(16) No Development of Property. Notwithstanding any other provision in this Agreement, it shall not, and shall cause the other Obligor not to, undertake any development or re-development of the Property, unless approved unanimously by the Lenders acting in their sole discretion.

9.04 Nominee Covenants

So long as this Agreement is in force, the Nominee shall:

(1) Conduct of Business, Maintenance of Existence, Compliance with Laws. Engage in business of the same general type as now conducted by it; carry on and conduct its business and operations in a proper, efficient and businesslike manner, in accordance with good business practice; preserve, renew and keep in full force and effect its existence; and take all reasonable action to maintain all rights, privileges and franchises necessary in the normal conduct of its business and to comply in all material respects with all Material Property Agreements, if any, to which it is a party, Material Licences and Requirements of Law, including Requirements of Environmental Law.

(2) Further Assurances. Use reasonable efforts to provide the Administrative Agent with such other documents, opinions, consents, acknowledgments and agreements as are reasonably necessary to implement this Agreement and the other Loan Documents from time to time.

(3) Access to Information. Promptly provide the Administrative Agent with all information reasonably requested by it from time to time at reasonable intervals in connection with this Agreement concerning its ability to honour its obligations hereunder and the Property, and during normal business hours and from time to time at reasonable intervals upon reasonable notice, permit representatives of each Lender to inspect the Property and to examine and take extracts from its financial records regarding the Property only, including records stored in computer data banks and computer software systems (where such information is not made available in "hard" form), and to discuss its financial condition with its senior

officers, the reasonable expense of all of which shall be paid by the Borrower. All such examinations, visits and inspections shall be coordinated by the Administrative Agent for logistics purposes in order to minimize the number of such examinations, visits and inspections.

(4) Obligations and Taxes. Pay or discharge, or cause to be paid or discharged, before the same shall become delinquent (i) all Taxes imposed upon it or upon its income or profits or in respect of its business or property and file all tax returns in respect thereof, (ii) all lawful Claims for labour, materials and supplies, and (iii) all other obligations; provided, however, that it shall not be required to pay or discharge or to cause to be paid or discharged any such amount so long as the validity or amount thereof is being contested in good faith by appropriate proceedings and an appropriate financial reserve in accordance with GAAP and satisfactory to the Administrative Agent, has been established.

(5) Notice of Default. Promptly notify the Administrative Agent of any Default or Event of Default that would apply to it of which it becomes aware, using reasonable diligence.

(6) Notice of Material Adverse Change. Promptly notify the Administrative Agent of any Material Adverse Change or any matter that is likely to constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change that would apply to it of which it becomes aware, using reasonable diligence.

(7) Other Notices. Promptly notify the Administrative Agent on becoming aware:

(a) of any labour controversy which would likely constitute, or could reasonably be expected to constitute, or cause, a Material Adverse Change; and

(b) of any circumstance of which it has notice or is aware which could result in a material breach of or default or non-performance by any party under the Material Property Agreements or of any condition entitling any party to terminate its obligations thereunder.

(8) No Personal Property. Not hold any right, title or interest in any personal property related directly or indirectly to the Property for and on behalf of the Borrower.

(9) Material Property Agreements. Not be a party to any Material Property Agreement for and on behalf of the Borrower.

9.05 Borrower Financial Covenants

So long as this Agreement is in force, the Borrower covenants with the Administrative Agent and the Lenders to:

(a) Borrower Debt to Aggregate GBV Ratio. Maintain at all times a Borrower Debt to Aggregate GBV Ratio of not more than 0.50:1.00.

(b) Borrower Debt Service Coverage Ratio. Maintain at all times a Borrower Debt Service Coverage Ratio of not less than 1.50:1.00.

(c) Minimum Borrower Adjusted Partners' Equity. Maintain at all times a Borrower Adjusted Partners' Equity of not less than \$750,000,000.

- (d) Minimum Property Cash Flow to Debt Service Ratio. Maintain at all times a Cash Flow to Debt Service Ratio of not less than 1.40:1.00
- (e) Minimum Property Debt Yield. Maintain at all times a Debt Yield of not less than 8%.
- (f) Loan to Value Ratio. Maintain at all times a “loan to value” ratio of not greater than 65%, as determined by up-to-date Appraisals delivered pursuant to Section 9.01(26).

To the extent the Property cannot support the minimum Cash Flow to Debt Service Ratio and/or the minimum Debt Yield requirements, the Borrower shall within sixty (60) days of a request by the Administrative Agent either: (i) post a letter of credit or cash collateral with the Administrative Agent in an amount necessary to reduce the Loan amount in order to effect compliance with these requirements; or (ii) prepay a portion of the principal amount of the Loan (without penalty), until such time as the Borrower demonstrates, to the satisfaction of the Administrative Agent, in its sole discretion, that the Borrower has complied with the minimum Cash Flow to Debt Service Ratio and/or the minimum Debt Yield requirements for two (2) consecutive Fiscal Quarters. Any cash collateral provided pursuant to this Section shall be deposited into a separate account with the Administrative Agent and shall be held by the Administrative Agent as additional collateral for the Obligations and the Borrower shall execute and deliver such cash collateral agreement or other Security as the Administrative Agent requires in connection with such account, which cash collateral agreement or other Security shall be in form and substance satisfactory to the Administrative Agent. Upon: (i) the Administrative Agent being satisfied, in its sole discretion, that the Borrower is in compliance with the minimum Cash Flow to Debt Service Ratio and/or the minimum Debt Yield requirements; and (ii) receipt by the Administrative Agent of a current title search from Lenders’ Counsel confirming that no Encumbrances have been registered on title to the Property other than Permitted Encumbrances, such letter of credit or cash collateral shall be released by the Administrative Agent to the Borrower, or in the case of a prepayment of the Loan the Loan may be redrawn up to the original Loan amount.

If any up-to-date Appraisal delivered pursuant to Section 9.01(26) confirms a Property value of less than \$311,000,000, resulting in a “loan to value” ratio of greater than 65%, the Borrower shall within thirty (30) days of the delivery of such Appraisal to the Administrative Agent: (i) repay the outstanding principal of the Credit Facility to achieve a “loan to value” ratio of less than 65%; or (ii) execute and deliver additional Security to the Administrative Agent for and on behalf of the Lenders, which additional Security shall be in form satisfactory to the Lenders in their sole discretion.

ARTICLE 10– SECURITY

10.01 Security

As general and continuing security for the payment and performance of the Obligations, the security described below shall be granted to the Administrative Agent for and on behalf of the Lenders and shall be in form satisfactory to the Lenders:

- (a) the Charge;

- (b) an acknowledgement from the Obligors that the face value of the Charge is not an indication of the amount of credit available hereunder;
- (c) the Direction and Acknowledgement;
- (d) the Borrower Security Agreement;
- (e) the Debt Service Agreement;
- (f) the Environmental Indemnity Agreement;
- (g) the Assignment of HBC Lease (together with a non-disturbance and attornment agreement unless notice of the HBC Lease has been registered against title to the Property);
- (h) if requested by the Administrative Agent, a specific assignment of any future Major Lease (together with a non-disturbance and attornment agreement unless notice of the relevant Major Lease has been registered against title to the Property);
- (i) the Assignment of Material Property Agreements, together with such counterparty acknowledgements as may be required by the Administrative Agent;
- (j) assignment of insurance executed by the Borrower;
- (k) Bankers' Acceptance agreements (with powers of attorney) with respect to each Lender in the form required by such Lender; and
- (l) such other security as the Lenders require, which is contemplated by this Agreement or which security more fully gives effect to the security contemplated by this Agreement.

Any liability incurred by the Borrower to the Swap Lenders in connection with the Swap Agreements will also be secured by the Security. The Lenders and the Borrower acknowledge and agree that principal amounts owing under the Credit Facility and amounts owing under the Swap Agreements will rank *pari passu* in all respects, and the proceeds derived from any realization on any collateral over which the Lenders have been granted a lien pursuant to the Security will be distributed *pro rata* to such parties in proportion to their respective claims against the Borrower for repayment of principal in connection with this Agreement and claims under the Swap Agreements. Notwithstanding the foregoing, the Swap Lenders may not enforce their rights under any Security in connection with obligations owing under Swap Agreements unless and until an Event of Default has occurred and the Administrative Agent, for and on behalf of the Lenders, has commenced enforcement proceedings under the Security.

10.02 Registration

The Borrower shall, at its expense, register, file or record, or cause the registration, filing or recordation of, the Security in all offices where such registration, filing or recording is necessary or of advantage to the creation, perfection and preserving of the security applicable to it including, without limitation, any land registry offices as required hereunder. The

Borrower shall renew, or shall cause to be renewed, such registrations, filings and recordings from time to time as and when required to keep them in full force and effect. The forms of Charge and other Loan Documents have been prepared based upon Applicable Law in effect at the date hereof and recognize that such laws may change. The Administrative Agent shall have the right to require that any such forms be amended to reflect any changes in such laws, whether arising as a result of statutory amendments, court decisions or otherwise, in order to confer upon the Administrative Agent the security interests intended to be created thereby, except that in no event shall the Administrative Agent require that any such amendment be effected if the result thereof would be to grant the Administrative Agent greater rights than is otherwise contemplated herein. The Borrower authorizes, and shall cause each other Obligor to authorize, the Obligor's Counsel or the Lenders' Counsel to register, if required, by any land registrar, this Agreement or notice thereof on title.

10.03 After Acquired Property and Further Assurances

The Obligors shall from time to time execute and deliver all such further deeds or other instruments of conveyance, assignment, transfer, mortgage, pledge or charge in connection with all property related to the Property acquired by the Obligors after the date hereof, or as may be required to properly perfect the security interest of the Administrative Agent in any property related to the Property.

10.04 Non-Material Dealings with Property Generally

Unless there is an Event of Default that is continuing, the Borrower may in the ordinary course of business at any time and from time to time:

- (a) without receiving any consideration therefor, Dispose of, exchange, surrender or grant any part or parts of any of the then-existing Property (not constituting a material portion thereof) or any licenses, easements, rights-of-way or rights in the nature of easements in respect of any part or parts of any of the then-existing Property or to a municipality or other Governmental Authority or transit commission or utility, or to an owner, lessee or licensee of any lands adjacent to then-existing Property or separated therefrom by a public street or to such other Person as shall be designated by a Governmental Authority or such aforementioned owner, lessee or licensee (which may or may not include the grant or Disposition to the Borrower of any land or any license or licenses, or easements, rights-of-way or rights in the nature of easements in, over, under or in respect of other lands), and the Administrative Agent shall release same from the Security or postpone the Security, as applicable, upon receipt of a written request of the Borrower or the Obligors' Counsel to the Administrative Agent stating that such grant, exchange, surrender or Disposition is necessary or desirable without regard to any consideration received by the Borrower therefor for the servicing or operation of the Property and would not cause a Material Adverse Change;
- (b) accept any ancillary lands, licenses, easements, rights-of-way or rights in the nature of easements which shall thereafter form part of the Property on such terms as the Borrower may determine (provided such additional lands or rights shall be made subject to the Security on terms and conditions satisfactory to the Lenders); and

- (c) create or permit to be created any Encumbrance of the type referred to in the definition of Permitted Encumbrances provided any applicable provisions of this Agreement are complied with.

10.05 Lot Line Adjustments/Easements, etc. Relating to the Property

Unless there is an Event of Default that is continuing, the Borrower may in the ordinary course of business at any time and from time to time, without receiving any consideration therefor, Dispose of, exchange, surrender or grant any part or parts of any of the then-existing Property or any licenses, easements, rights-of-way or rights in the nature of easements in respect of any part or parts of any of the then-existing Property in order to adjust lot lines or boundaries, or grant easements or other rights-of-way, relating to the Property or any component thereof as may be necessary to the good and proper operation of each portion of the Property, and the Administrative Agent shall, if necessary, amend or postpone or partially discharge the Security, as applicable, upon receipt of a written request of the Borrower or the Obligors' Counsel to the Lenders setting forth the required action and the details of same (including an explanation as to the necessity thereof) and confirmation that same shall not result in a Material Adverse Change and the Administrative Agent is authorized to take such actions as may be necessary to effect same (provided that the Administrative Agent may require such opinions of Obligors' Counsel to be delivered in conjunction therewith as the Lenders may require).

10.06 Independent Investigation by Administrative Agent and Lenders

Notwithstanding any other provision of this Article 10, before taking any action provided for in this Article 10, the Administrative Agent shall advise the Lenders as to the details of the matter and shall seek the instruction of the Lenders in relation thereto and the Administrative Agent shall not make or take (and the Borrower agrees that the Administrative Agent shall not be obliged to make or take) respectively, any action which the Lender (and a Majority of the Lenders, in cases where there is more than one Lender) instructs the Administrative Agent not to make or take, as the case may be, without causing to be made such independent investigations and/or seeking such advice from the Lenders' Counsel as the Lender or a Majority of the Lenders, as applicable, acting reasonably, may see fit, prior to any such release being made or action being taken so as to satisfy themselves that the conditions relating to the making of such release or the taking of such action as set forth in this Article 10 have been met and the reasonable expense thereof shall be paid by the Borrower, or if paid by the Administrative Agent or the Lenders shall be repaid by the Borrower upon reasonable notice given by the Administrative Agent or the Lenders to the Borrower with interest at the Prime Rate plus 2.00% *per annum* from the date of such demand.

ARTICLE 11- DEFAULT

11.01 Events of Default

The occurrence of any one or more of the following events (each such event being referred to as an "**Event of Default**") shall constitute a default under this Agreement:

- (a) if the Borrower defaults in payment of any principal of the Loan when the same is due and payable, whether acceleration or otherwise;

- (b) if the Borrower fails to pay any interest, fees or other Obligations (other than any principal amount) when due and such default continues for three (3) Business Days after notice of such default has been given by the Administrative Agent to the Borrower;
- (c) if either Obligor breaches any covenant in Sections 9.03 or 9.05;
- (d) if either Obligor or the General Partner neglects to observe or perform, in any material respect, any covenant or obligation contained in this Agreement or any other Loan Document on its part to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this Section 11.01 or such Loan Document) and such Obligor or the General Partner, as applicable, fails to remedy such default within thirty (30) days from the earlier of (i) the date such Obligor or the General Partner, as applicable, becomes aware of such default, and (ii) the date the Administrative Agent delivers written notice of the default to such Obligor or the General Partner, as applicable, or where the Majority of the Lenders (having regard to the subject matter of the default) have agreed, that such default cannot be cured within such thirty (30) days, such longer period as is required so long as such Obligor or the General Partner, as applicable, is diligently proceeding at all times to cure such default and provided that, in any event, such cure period shall not extend longer than four (4) months without the consent of the Majority of the Lenders, acting in their sole discretion;
- (e) if any information, representation or warranty given or made by either Obligor or the General Partner in this Agreement, any Loan Document or in any certificate or other document at any time delivered hereunder to the Administrative Agent or any Lender proves to have been incorrect or misleading in any material respect on and as of the date that it was made or was deemed to have been made and such Obligor or the General Partner, as applicable, fails to remedy such default within ten (10) Business Days of the occurrence of such event (or such longer period as the Majority of the Lenders may agree to having regard to the nature of such default and provided the affected Obligor or the General Partner, as applicable, is proceeding diligently to cure such default);
- (f) if either Obligor or the General Partner ceases or threatens to cease to carry on business generally or admits its inability or fails to pay its debts generally;
- (g) if either Obligor or the General Partner denies, to any material extent, its obligations under any Loan Document or claims any of the Loan Documents to be invalid or withdrawn in whole or in part;
- (h) any of the Loan Documents or any material provision of any of them becomes unlawful or is changed by virtue of legislation or by a Governmental Authority, if either Obligor or the General Partner, as applicable, does not, within fifteen (15) Business Days of receipt of notice of such Loan Document or material provision becoming unlawful or being changed, replace such Loan Document with a new agreement that is in form and substance satisfactory to the Lenders, or amend such Loan Document to the satisfaction of the Lenders;

- (i) if a decree or order of a court of competent jurisdiction is entered adjudging an Obligor or the General Partner a bankrupt or insolvent or approving as properly filed a petition seeking the winding-up of an Obligor under any Debtor Relief Law or any other bankruptcy, insolvency or analogous laws or issuing sequestration or process of execution against any substantial part of the assets of an Obligor or the General Partner or ordering the winding-up or liquidation of its affairs, and any such decree or order continues unstayed and in effect for a period of thirty (30) days;
- (j) if either Obligor or the General Partner becomes insolvent, makes any assignment in bankruptcy or makes any other assignment for the benefit of creditors, makes any proposal under any Debtor Relief Law or any other bankruptcy, insolvency or analogous law, is adjudged bankrupt, files a petition or proposal to take advantage of any act of insolvency, consents to or acquiesces in the appointment of a trustee, receiver, receiver and manager, interim receiver, custodian, sequestrator or other Person with similar powers of itself or of all or any substantial portion of its assets, or files a petition or otherwise commences any proceeding seeking any reorganization, arrangement, composition or readjustment under any applicable bankruptcy, insolvency, moratorium, reorganization or other similar law affecting creditors' rights or consents to, or acquiesces in, the filing of such a petition;
- (k) if an Encumbrancer takes possession, by appointment of a receiver, receiver and manager or otherwise, of: (i) all or any material part of the Lands, or (ii) all or any material part of the remainder of the Property;
- (l) if proceedings are commenced for the dissolution, liquidation or voluntary winding-up of either Obligor or the General Partner, or for the suspension of the operations of either Obligor or the General Partner unless such proceedings are being actively and diligently contested in good faith;
- (m) if a final judgment or decree for the payment of money due has been obtained or entered against either Obligor or the General Partner in an amount, when combined with any other such judgment or decrees, is in an amount in excess of \$35,000,000, and such judgment or decree has not been and remained vacated, discharged or stayed pending appeal within the applicable appeal period or the applicable Obligor or the General Partner, as applicable, has not demonstrated to the satisfaction of the Lenders that it has the financial ability to satisfy such judgement or decree without adversely affecting in any material way, such Obligor's or the General Partner's ability to perform its obligations under the Loan Documents;
- (n) if (i) the Borrower fails to make any payment when such payment is due and payable to the Lenders and the Administrative Agent or defaults in the observance or performance of any other agreement or condition in relation to any Indebtedness (other than the Loan and other Obligations) to the Lenders and the Administrative Agent that is not cured within the applicable grace periods provided in connection with such Indebtedness; or (ii) either Obligor or the General Partner fails to make any payment when such payment is due and payable to any Person or defaults in the observance or performance of any other agreement or condition in relation to any Indebtedness (other than the Loan and

other Obligations) to any Person or Persons that in the aggregate principal amount then outstanding is, in either or both cases, in excess of \$35,000,000 or contained in any instrument or agreement evidencing, securing or relating thereto and such default or other condition has not been remedied within any applicable grace period and such Person to whom such payment is due and payable is entitled to accelerate the payments owing;

- (o) if any Security ceases to constitute a valid and perfected first priority security interest (subject only to Permitted Encumbrances) and, provided the Lenders are satisfied that their position shall not be prejudiced, the applicable Obligor or the General Partner, as applicable, has failed to remedy such default within ten (10) Business Days of becoming aware of such fact;
- (p) if an event of default occurs under any Material Property Agreement resulting in, or is likely to result in, a Material Adverse Change and which default is not cured or remedied within five (5) Business Days from the date the Borrower becomes aware or ought to have become aware of such default;
- (q) if there is any reorganization of the Borrower or the General Partner or any consolidation, merger or amalgamation of the Borrower or the General Partner with any other company or companies, or if a Change of Control of the Borrower or the General Partner occurs;
- (r) if the Borrower fails to make, within three (3) Business Days after the due date, payment of any amounts owing by it under a Swap Agreement arising out of a default by the Borrower thereunder; or
- (s) if in the opinion of any Lender, a Material Adverse Change has occurred.

11.02 Acceleration and Enforcement

- (1) If any Event of Default occurs:
 - (a) the outstanding principal amount or face amount, as the case may be, of all Loans and all other Obligations shall, upon notice in writing from the Administrative Agent (acting in accordance with the direction of the Majority of the Lenders), become immediately due and payable with interest thereon, at the rate or rates determined as herein provided, to the date of actual payment thereof, all without notice, presentment, protest, demand, notice of dishonour or any other demand or notice whatsoever, all of which are hereby expressly waived by the Borrower; provided, if any Event of Default described in Section 11.01(i) or (j) with respect to either Obligor occurs, the Commitments (if not theretofore terminated) shall automatically terminate and the outstanding principal amount or face amount, as the case may be, of all Loans and all other Obligations shall automatically be and become immediately due and payable; and
 - (b) the Administrative Agent (acting in accordance with the direction of the Majority of the Lenders) may exercise any right or recourse and proceed by any action, suit, remedy or proceeding against either Obligor authorized or permitted by law for the recovery of all the Obligations to the Lenders and, whether or not the

Administrative Agent (acting in accordance with the direction of the Majority of the Lenders) has exercised any of their respective rights under the foregoing clause (a), proceed to exercise any and all rights hereunder and under the Security.

(2) The Administrative Agent (acting in accordance with the direction of the Majority of the Lenders) is not under any obligation to the Obligors or any other Person to realize upon any Collateral or enforce the Security or any part thereof or to allow any of the Collateral to be dealt with or Disposed of. The Administrative Agent (acting in accordance with the direction of the Majority of the Lenders) is not responsible or liable to the Obligors or any other Person for any loss or damage arising from such realization or enforcement or the failure to do so or for any act or omission on their respective parts or on the part of any director, officer, employee, agent or adviser of either of them in connection with any of the foregoing, save as a result of the gross negligence or wilful misconduct of any such party.

11.03 Payment of Bankers' Acceptances

If the Borrower does not pay to the Administrative Agent the face amount of any unmatured Bankers' Acceptance required to be paid in accordance with this Agreement, the Lenders may at their option at any time, without notice to the Borrower, make a Prime Rate Loan to the Borrower equal to the face amount of all unmatured Bankers' Acceptances, such Prime Rate Loan not to bear interest until the maturity date of the particular Bankers' Acceptance and bearing interest from and after such maturity date at an annual rate of interest equal to the Prime Rate plus 2.00% *per annum*. The proceeds of such Loan shall be held by the Administrative Agent in a non-interest-bearing cash collateral account for the benefit of the Borrower and shall be applied in payment of such Bankers' Acceptances as they mature if payment is required thereunder or otherwise as the Administrative Agent may require. The Borrower shall execute and deliver as security for such Loan all such security as the Administrative Agent may deem necessary or advisable including an assignment of the credit balance in respect of such cash collateral account.

11.04 Remedies Cumulative

For greater certainty, it is expressly understood and agreed that the respective rights and remedies of the Administrative Agent and/or the Lenders hereunder or under any other Loan Document or instrument executed pursuant to this Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Administrative Agent and/or the Lenders in accordance with the provisions hereof of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement or other Loan Document or instrument executed pursuant to this Agreement shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Administrative Agent and/or the Lenders may be lawfully entitled for such default or breach. Any waiver by the Administrative Agent and/or the Lenders of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein and any indulgence granted, either expressly or by course of conduct, by the Administrative Agent and/or the Lenders shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Administrative Agent and/or the Lenders under this Agreement or any other Loan Document or instrument.

11.05 **Perform Obligations**

If an Event of Default has occurred and is continuing and if either Obligor has failed to perform any of its covenants or agreements in the Loan Documents, the Administrative Agent and/or the Lenders may, but shall be under no obligation to, perform any such covenants or agreements in any manner deemed fit by the Lenders without thereby waiving any rights to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Lenders and the Administrative Agent in respect of the foregoing shall be an Obligation and shall be secured by the Security.

11.06 **Third Parties**

It is not necessary for any Person dealing with the Lenders, the Administrative Agent or any other agent of the Lenders to inquire whether the Security has become enforceable, or whether the powers that the Lenders or the Administrative Agent are purporting to exercise may be exercised, or whether any Obligations remain outstanding upon the security thereof, or as to the necessity or expediency of the stipulations and conditions subject to which any sale is to be made, or otherwise as to the propriety or regularity of any sale or other disposition or any other dealing with the Collateral or any part thereof.

11.07 **Application of Payments**

If any Event of Default shall occur and be continuing, all payments made by the Borrower or either Obligor hereunder shall be applied in the following order:

- (a) to amounts due hereunder as costs and expenses in respect of Loans;
- (b) to amounts due hereunder as overdue interest in respect of Loans;
- (c) to amounts due hereunder as fees on Loans;
- (d) to amounts due hereunder as interest on Loans; and
- (e) to (i) amounts due hereunder as principal of Loans, and (ii) amounts due under Swap Agreements.

For greater clarity, Obligations owing under any Swap Transactions shall rank *pari passu* with Obligations owing under the Credit Facility.

ARTICLE 12 – COMPENSATION AND SET-OFF

12.01 **Increased Costs**

- (1) **Increased Costs Generally.** If any Change in Applicable Laws shall:
 - (a) 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;
 - (b) subject any Lender to any Tax of any kind whatsoever with respect to this Agreement or any Loans made by it, or change the basis of taxation of payments to such Lender in respect thereof, except for (x) Indemnified Taxes or Other

Taxes covered by Section 12.02 and (y) the imposition, or any change in the rate, of any Excluded Tax payable by such Lender; or

- (c) impose on any Lender or any applicable interbank market any other condition, cost or expense affecting this Agreement or Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loans (or of maintaining its obligation to make any such Loans), or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount), then upon request of such Lender and subject to the Lender providing the certificate referred to in Subsection 12.01(3), the Borrower shall pay to such Lender such additional amount or amounts as shall compensate such Lender for such additional costs incurred or reduction suffered.

(2) Capital Requirements. If any Lender determines that any Change in Applicable Laws affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender, to a level below that which such Lender or its holding company could have achieved but for such Change in Applicable Laws (taking into consideration such Lender's policies and the policies of its holding company with respect to capital adequacy), then from time to time and subject to the Lender providing the certificate referred to in Subsection 12.01(3), the Borrower shall pay to such Lender such additional amount or amounts as shall compensate such Lender or its holding company for any such reduction suffered.

(3) Certificates for Reimbursement. A certificate of a Lender delivered to the Borrower setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in Subsections 12.01(1) or 12.01(2) ("**Additional Compensation**"), including a description of the event by reason of which it believes it is entitled to such compensation, and supplying reasonable supporting evidence (including, in the event of a Change in Applicable Laws, a photocopy of the Applicable Laws evidencing such change) and reasonable detail of the basis of calculation of the amount or amounts, shall be conclusive evidence of the Lender's entitlement to such compensation and the amount thereof absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof. In the event the Lender subsequently recovers all or part of the Additional Compensation paid by the Borrower, it shall promptly repay an equal amount to the Borrower. The obligation to pay such Additional Compensation for subsequent periods shall continue until the earlier of termination of the Loans or the Commitment affected by the Change in Applicable Laws, change in capital requirement or the lapse or cessation of the Change in Applicable Laws giving rise to the initial Additional Compensation. A Lender shall make reasonable efforts to limit the incidence of any such Additional Compensation and seek recovery for the account of the Borrower upon the Borrower's request at the Borrower's expense, provided such Lender in its reasonable determination suffers no appreciable economic, legal, regulatory or other disadvantage. Notwithstanding the foregoing provisions, a Lender shall only be entitled to rely upon the provisions of this Section 12.01 if and for so long as it is not treating the Borrower in any materially different or in any less favourable manner than is applicable to any other customers of any relevant Lender, where such other customers are bound by similar provisions to the foregoing provisions of this Section 12.01.

(4) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation, except that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender notifies the Borrower of the Change in Applicable Laws giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor, unless the Change in Applicable Laws giving rise to such increased costs or reductions is retroactive, in which case the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof. For greater clarity, no amount shall be payable under this Section 12.01 as a result of a lender assignment but only to the extent such assignment occurs prior to an Event of Default that is continuing.

12.02 Taxes

(1) Payments Subject to Taxes. If either Obligor, the Administrative Agent or any Lender is required by Applicable Laws to deduct or pay any Indemnified Taxes (including any Other Taxes) in respect of any payment by or on account of any Obligations, then (i) the sum payable shall be increased by that Obligor when payable as necessary so that after making or allowing for all required deductions and payments (including deductions and payments applicable to additional sums payable under this Section) the Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or payments been required, (ii) the Obligor shall make any such deductions required to be made by it under Applicable Laws and (iii) the Obligor shall timely pay the full amount required to be deducted to the relevant Governmental Authority in accordance with Applicable Laws.

(2) Payment of Other Taxes by the Borrower. Without limiting the provisions of Subsection 12.02(1) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with Applicable Law.

(3) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent and each Lender, within fifteen (15) days after written 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 by the Administrative Agent or such Lender 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 (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. In the event the Lender subsequently recovers all or part of the payment made under this Section paid by the Borrower, it shall promptly repay an equal amount to the Borrower so long as no Event of Default has occurred which is then continuing. A Lender shall make reasonable efforts to limit the incidence of any payments under this Section and seek recovery for the account of the Borrower upon the Borrower's request at the Borrower's expense, provided such Lender in its reasonable determination suffers no appreciable economic, legal, regulatory or other disadvantage.

(4) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such

Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(5) FATCA. If a payment made to any Lender under this Agreement would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to the Borrower at the time or times prescribed by law and at such time or times reasonably requested by the Borrower such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by the Borrower as may be necessary for the Borrower to comply with its obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

12.03 Mitigation Obligations: Replacement of Lenders

(1) Designation of a Different Lending Office. If any Lender requests compensation under Section 12.01, or requires the Borrower to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 12.02, then such Lender 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, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 12.01 or Section 12.02, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to the Lender. The Borrower hereby agrees to pay all reasonable out-of-pocket costs and expenses incurred by a Lender in connection with any such designation or assignment.

(2) Replacement of Lenders. If any Lender requests compensation under Section 12.01, 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 12.02, if any Lender's obligations are suspended pursuant to Section 12.05 or if any Lender is a Defaulting Lender, then the Borrower may either, at its sole expense and effort, upon ten (10) days' notice to such Lender and the Administrative Agent: (i) repay all outstanding amounts and Obligations due to such affected Lenders (or such portion which has not been acquired pursuant to clause (ii) below) and thereupon the Commitments of the affected Lenders shall be permanently cancelled and the aggregate Commitments shall be permanently reduced by the same amount and the Commitment of each of the other Lenders shall remain the same; or (ii) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Article 18), all of its interests, rights and obligations under this Agreement and the other Loan Documents to an assignee (if available) that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Borrower pays the Administrative Agent for all the reasonable costs and expenses in connection with the aforementioned assignment;
- (b) the assigning Lender receives payment of an amount equal to the outstanding principal of its outstanding Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any breakage costs and amounts required to be paid under this

Agreement as a result of prepayment to a Lender) 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 12.01 or payments required to be made pursuant to Section 12.02, such assignment shall 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. No such cancellation or assignment and delegation shall relieve the Borrower from its obligations to pay any compensation or other amounts under Sections 12.01 and 12.02 accruing prior to the date of such cancellation or assignment and delegation.

12.04 Defaulting Lenders

(1) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

- (a) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Majority of Lenders.
- (b) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11.01 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 13.01 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released *pro rata* in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of

the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in Section 3.01 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders *pro rata* in accordance with the Commitments under the Credit Facility. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

- (c) Fees. No Defaulting Lender shall be entitled to receive any structuring fee payable pursuant to Section 4.03 for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).
- (d) Defaulting Lender Cure. If the Borrower, the Administrative Agent and each Non-Defaulting Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent shall so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein, that Lender shall, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held *pro rata* by the Lenders in accordance with the Commitments under the Credit Facility, whereupon such Lender shall cease to be a Defaulting Lender; provided that no adjustments shall be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender shall constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

12.05 Illegality

If any Lender determines that any Applicable Laws 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 or maintain any Loans, or to determine or charge interest rates based upon any particular rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender with respect to the activity that is unlawful shall be suspended until such Lender notifies the Administrative 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 the Administrative Agent), prepay or, if conversion would avoid the activity that is unlawful, convert any Loans in order to avoid the activity that is unlawful. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a different lending office if such designation shall avoid the need for such notice and shall not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

ARTICLE 13 – RIGHT OF SETOFF

13.01 Right of Setoff

If an Event of Default has occurred and is continuing, each of the Lenders and each of their respective Affiliates is hereby authorized at any time and from time to time in its sole discretion 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 or any such Affiliate to or for the credit or the account of either Obligor against any and all of the Obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not such Lender has made any demand under this Agreement or any other Loan Document and although such Obligations of the Obligors may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each the Lenders and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff, consolidation of accounts and bankers' lien) that the Lenders or their respective Affiliates may have. Each Lender agrees to promptly notify the Borrower and the Administrative Agent after any such setoff and application, but the failure to give such notice shall not affect the validity of such setoff and application. If any Affiliate of a Lender exercises any rights under this Section 13.01, it shall share the benefit received in accordance with Section 15.01 as if the benefit had been received by the Lender of which it is an Affiliate. Notwithstanding the foregoing, and for greater clarity, no Lender may make such set off in respect of any amounts forming Collateral, which Collateral may only be applied in respect of the Obligations of the Borrower.

ARTICLE 14 – SPECIFIC ENVIRONMENTAL INDEMNITY

14.01 Specific Environmental Indemnity

The Borrower shall indemnify the Administrative Agent and each Lender and hold the Administrative Agent and each Lender harmless at all times from and against any and all losses, damages and costs (including reasonable counsel fees and out-of-pocket expenses) resulting from any legal action commenced or Claim made by a third party against the Administrative Agent or any Lender related to or as a result of actions or omissions on the part of either Obligor or the General Partner related to or as a consequence of environmental matters or any requirements of Environmental Laws concerning the Property. The Borrower shall have the sole right, at their expense, to control any such legal action or Claim and to settle on terms and conditions approved by the Borrower and approved by the party named in such legal action or Claim, provided that if, in the opinion of the Majority of the Lenders, the interests of the Lenders are different from those of the Borrower in connection with such legal action or Claim, the Administrative Agent and each Lender shall have the sole right, at the Borrower's expense, to defend its own interests provided that any settlement of such legal action or Claim shall be on terms and conditions approved by the Borrower. If the Lenders elect to defend such legal action or Claim, the Administrative Agent shall promptly notify the Borrower of same and shall make reasonable efforts to consult with the Borrower on an ongoing basis in connection with such matter. If the Borrower does not defend the legal action or Claim, the Lenders shall have the right to do so on its own behalf and on behalf of the Borrower at the expense of the Borrower.

ARTICLE 15 – EXPENSES; INDEMNITY; DAMAGE WAIVER

15.01 Expenses; Indemnity; Damage Waiver

(1) Costs and Expenses. Upon receipt of an invoice/notice, the Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent and site inspections by the Lenders, in connection with satisfaction of the conditions precedent in Section 3.01 (including diligence), syndication of the Credit Facility provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all reasonable out-of-pocket expenses incurred by the Administrative Agent or any Lender including the reasonable fees, charges and disbursements of counsel, in connection with the enforcement of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section, or in connection with all Loans hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.

(2) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Related Person of any of the foregoing Persons (each such Person being called an “**Indemnatee**”) against, and hold each Indemnatee harmless from, any and all Claims (including, for the purposes of this Section 15.01(2), Environmental Costs) suffered or incurred by any Indemnatee or asserted against any Indemnatee by any third party or by either Obligor arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance or non-performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation or non-consummation of the transactions contemplated hereby or thereby, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any environmental matters arising during or prior to either Obligor’s ownership, possession, operation or control of the Property, or (iv) any actual or prospective Claim relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by either Obligor and regardless of whether any Indemnatee is a party thereto, provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such Claims (x) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence, criminal acts or omissions or wilful misconduct of such Indemnatee or (y) result from a Claim brought by either Obligor against an Indemnatee for breach of such Indemnatee’s obligations hereunder or under any other Loan Document, if such Obligor has obtained a final and non-appealable judgment in its favour on such Claim as determined by a court of competent jurisdiction.

(3) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Subsections 15.01(1) or 15.01(2) to be paid by it to the Administrative Agent (or any sub-agent thereof) or any Related Person of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Person, as the case may be, such Lender’s Rateable Portion 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 the Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Person of any of the foregoing acting for the Administrative Agent (or any such sub-agent) in

connection with such capacity. The obligations of the Lenders under this Subsection 15.01(3) are subject to the other provisions of this Agreement concerning several liability of the Lenders.

(4) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Laws, each Obligor shall not assert, and hereby waives, any Claim against any Indemnitee, on any theory of liability, for indirect, consequential, punitive, aggravated or exemplary damages (as opposed to direct damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby (or any breach thereof), the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, provided such information or materials are distributed by such Indemnitee in accordance with the provisions of this Agreement or any other Loan Document. Notwithstanding any provision of this Agreement or other Loan Documents to the contrary, the rights of the Indemnitees under this Section 15.01 shall survive discharge or repayment in full of the Credit Facility. Notwithstanding the aforementioned, any indemnity in connection with environmental matters shall not survive discharge or repayment in full of the Credit Facility, unless the Administrative Agent, or any receiver or manager appointed pursuant to the terms of the Security, became a mortgagee in possession.

(5) Payments. Upon provision of an invoice/notice, all amounts due under this Section shall be payable promptly after demand therefor. A certificate of the Administrative Agent setting forth the amount or amounts owing to the Administrative Agent or the Lenders or a sub-agent or Related Person, as the case may be, as specified in this Section, including reasonable detail of the basis of calculation of the amount or amounts, and delivered to the Borrower shall be conclusive absent manifest error.

(6) Defence of Claims. Upon demand by any Indemnitee, the Borrower shall defend any investigation, action or proceeding involving any Claims and Environmental Costs which is brought or commenced against such Indemnitee, all at the Borrower's own cost and by counsel to be approved by such Indemnitee in the exercise of its reasonable judgment. Obligors' Counsel shall control defence of the Claim or proceeding, except that no settlement or compromise shall be accepted or entered into which binds an Indemnitee unless such Indemnitee has given its prior written consent thereto, which consent shall not be unreasonably withheld or delayed. In the alternative, any Indemnitee may elect to conduct its own defence at the expense of the Borrower.

ARTICLE 16 – SHARING OF PAYMENTS BY LENDERS

16.01 Sharing of Payments by Lenders

(1) If any Lender, by exercising any right of setoff or counterclaim or otherwise, obtains any payment or other reduction that might result in such Lender receiving payment or other reduction of a proportion of the aggregate amount of its Loans and other outstanding Obligations hereunder and the other Loan Documents greater than its Rateable Portion (which, for the purposes of this Section 16.01, shall be calculated with reference to the Commitments) thereof as provided herein, then the Lender receiving such payment or other reduction shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the outstanding Loans and such other obligations of the other Lenders, or make

such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders rateably in accordance with the aggregate amount of principal of and accrued interest on their respective outstanding Loans, other outstanding Obligations and other amounts owing to them, provided that:

- (a) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest;
- (b) the provisions of this Section shall not be construed to apply to (x) any payment made by either Obligor 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 Loans to any assignee or participant, other than to an Obligor or any Affiliate of an Obligor (as to which the provisions of this Section shall apply);
- (c) the provisions of this Section shall not be construed to apply to (w) any payment made while no Event of Default has occurred and is continuing in respect of obligations of the Borrower to such Lender that do not arise under or in connection with the Loan Documents, or (x) any payment made in respect of an obligation that is secured by a Permitted Encumbrance or that is otherwise entitled to priority over the Borrower's Obligations under or in connection with the Loan Documents.

(2) Each Obligor consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Laws, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim and similar rights of Lenders with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

ARTICLE 17 – FUNDING/ADMINISTRATIVE AGENT'S CLAWBACK

17.01 Failure of a Lender to Fund

(1) The Administrative Agent shall only be obliged to make available to the Borrower the Advance if the Administrative Agent has received the applicable amount required from each Lender pursuant to Section 2.06 or Section 5.02(1), as applicable. Without limiting the generality of the foregoing, unless the Administrative Agent has actual knowledge that a Lender has not made or shall not make available to the Administrative Agent for value on the Drawdown Date the applicable amount required from such Lender pursuant to Section 2.06 or Section 5.02(1), as applicable, the Administrative Agent shall be entitled to assume that such amount has been or shall be received from such Lender when so due and the Administrative Agent may in its sole discretion (but shall not be obliged to), in reliance upon such assumption, make available to the Borrower a corresponding amount (except that no such amount shall be made available to the Borrower in the case of a deemed Advance). If such amount is not in fact received by the Administrative Agent from such Lender on the Drawdown Date and the Administrative Agent has made available a corresponding amount to the Borrower on the Drawdown Date as aforesaid (or is deemed to have made an Advance to the Borrower in such amount), such Lender shall pay to the Administrative Agent on demand an amount equal to the aggregate of the applicable amount required from such Lender pursuant to Section 2.06 or Section 5.02(1), as applicable, plus an amount equal to the product of (i) the rate *per annum* applicable to

overnight deposits made with the Administrative Agent for amounts approximately equal to the amount required from such Lender multiplied by (ii) the amount that should have been paid to the Administrative Agent by such Lender on the Drawdown Date and was not, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the Drawdown Date to but excluding the date on which the amount is received by the Administrative Agent from such Lender and the denominator of which is 365 in the case of all Advances. A certificate of the Administrative Agent containing details of the amount owing by a Lender under this Section shall be binding and conclusive in the absence of manifest error. If any such amount is not in fact received by the Administrative Agent from such Lender on the Drawdown Date, the Administrative Agent shall be entitled to recover from the Borrower, on demand, the related amount made available by the Administrative Agent to the Borrower as aforesaid together with interest thereon at the applicable rate *per annum* payable by the Borrower hereunder.

(2) In the event that a Lender fails to make available to the Administrative Agent its Rateable Portion of any Advance (which, for greater certainty, shall include a deemed Advance) by the time prescribed in Section 2.06 or Section 5.02(1), as applicable, and the Administrative Agent has elected not to make available such Lender's Rateable Portion of such Advance on behalf of such Lender pursuant to the provisions of Section 17.01(1) (it being acknowledged that the Administrative Agent has no obligation to make such Advance), then the Administrative Agent shall make available to the Borrower (except in the case of a deemed Advance) the amount made available by those Lenders which have made available their Rateable Portions in accordance with the terms hereof. For greater certainty, the failure of any Lender to make available to the Administrative Agent its Rateable Portion of any Advance as required herein shall not relieve any other Lender of its obligations to make available to the Administrative Agent its Rateable Portion of any Advance as required herein.

17.02 Payments by Obligors

All payments made by or on behalf of the Borrower pursuant to this Agreement or the other Loan Documents shall be made to and received by the Administrative Agent on behalf of the Lenders and shall be distributed by the Administrative Agent to the Lenders as soon as possible upon receipt by the Administrative Agent. Subject to the provisions of Section 17.03 hereof, the Administrative Agent shall distribute in the following order:

- (1) unpaid fees, costs and expenses of the Administrative Agent;
- (2) payments of interest and fees in accordance with each Lender's Rateable Portion of the Credit Facility;
- (3) repayments of principal in accordance with each Lender's Rateable Portion of the Credit Facility;
- (4) amounts received by the Administrative Agent as a result of the exercise of any right of set-off, combination or consolidation of accounts, or by counterclaim or cross-action, in accordance with each Lender's Rateable Portion of the then outstanding Obligations owing to all of the Lenders at the time of such set-off, combination or consolidation of accounts or if applicable, at the time of the receipt of such amounts from any counterclaim or cross-action;
- (5) payments of amounts due in respect of the Swap Transactions in accordance with each Swap Lender's *pro rata* share; and

(6) all other payments received by the Administrative Agent under this Agreement, in accordance with what would otherwise be each Lender's Rateable Portion of the Credit Facility.

Notwithstanding the foregoing, any such distribution that would otherwise be made pursuant to Section 17.02(3) on account of any outstanding Bankers' Acceptances or Notional Bankers' Acceptances shall be set aside in a separate collateral account for the primary benefit of the Lenders who have issued such Bankers' Acceptances or Notional Bankers' Acceptances (and for the secondary benefit of the Lenders in respect of other Obligations) until and to the extent that such Obligations become matured and not contingent, at which time such distributions shall be made to the Lenders for whose primary benefit such amounts are held at which time such application shall be made in accordance with Section 17.02(3). Subject to Section 17.03, if the Administrative Agent does not distribute a Rateable Portion of a payment made by the Borrower or any other Obligor to or for the benefit of that Lender for value on the day that payment is made or deemed to have been made to the Administrative Agent, the Administrative Agent shall pay to the Lender on demand an amount equal to the product of (i) the Administrative Agent's rate *per annum* applicable to overnight deposits for amounts approximately equal to the amount of the payment multiplied by (ii) the Lender's Rateable Portion of the amount received by the Administrative Agent and not so distributed, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the date of receipt of the payment by the Administrative Agent to but excluding the date on which the payment is made by the Administrative Agent to such Lender and the denominator of which is 365.

17.03 Payments by Administrative Agent

(1) For greater certainty, the following provisions shall apply to any and all payments made by the Administrative Agent to the Lenders hereunder:

- (a) the Administrative Agent shall be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender until an amount in respect of such payment has been received by the Administrative Agent from the Borrower;
- (b) if the Administrative Agent receives less than the full amount of any payment of principal, interest, fees or other amount owing by the Borrower under the Loan Documents, the Administrative Agent shall have no obligation to remit to each Lender any amount other than such Lender's Rateable Portion (based on the then outstanding Obligations) of that amount which is the amount actually received by the Administrative Agent;
- (c) if any Lender advances more or less than its Rateable Portion of the Credit Facility, such Lender's entitlement to such payment shall be increased or reduced, as the case may be, in proportion to the amount actually advanced by such Lender;
- (d) if a Lender's Rateable Portion of an Advance has been advanced for less than the full period to which any payment by the Borrower relates, such Lender's entitlement to such payment shall be reduced in proportion to the length of time such Lender's Rateable Portion of the applicable Advance has actually been outstanding;

- (e) the Administrative Agent acting reasonably and in good faith shall, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender is entitled and such determination shall, in the absence of manifest error, be binding and conclusive;
- (f) upon request, the Administrative Agent shall deliver a statement detailing any of the payments to the Lenders referred to herein; and
- (g) all payments by the Administrative Agent to a Lender hereunder shall be made to such Lender at the address provided by such Lender to the Administrative Agent pursuant to the Administrative Questionnaire.

(2) The Administrative Agent shall only be obliged to pay Lenders their corresponding amount of a payment from the Borrower (or any portion thereof) if the Administrative Agent has received the payment from the Borrower. Without limiting the generality of the foregoing, unless the Administrative Agent has actual knowledge that the Borrower has not made or shall not make a payment to the Administrative Agent for value on the date in respect of which the Borrower has notified the Administrative Agent that the payment shall be made, the Administrative Agent shall be entitled to assume that such payment has been or shall be received from the Borrower when due and the Administrative Agent may in its sole discretion (but shall not be obliged to), in reliance upon such assumption, pay the Lenders' corresponding amounts. If the payment by the Borrower is in fact not received by the Administrative Agent on the required date and the Administrative Agent has made available corresponding amounts to the Lenders, the Borrower shall, without limiting its other obligations under this Agreement, indemnify the Administrative Agent against any and all liabilities, obligations, losses (other than loss of profit), damages, penalties, and all reasonable costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on or incurred by the Administrative Agent as a result of such non-payment. A certificate of the Administrative Agent with respect to any amount owing under this Section shall be *prima facie* evidence of the amount owing in the absence of manifest error. If a payment is not in fact received by the Administrative Agent from the Borrower and the Administrative Agent has paid to a Lender a corresponding amount, such Lender shall pay to the Administrative Agent on demand an amount equal to the aggregate of the amount of such payment made to the Lender plus the product of (i) the Lender's rate *per annum* applicable to overnight deposits for amounts approximately equal to the amount paid by the Administrative Agent to such Lender and not so received from the Borrower multiplied by (ii) the amount paid by the Administrative Agent to such Lender and not so received from the Borrower, multiplied by (iii) a fraction, the numerator of which is the number of days that have elapsed from and including the date of payment by the Administrative Agent to the Lender to but excluding the date on which payment is made by such Lender to the Administrative Agent and the denominator of which is 365.

ARTICLE 18 – AGENCY

18.01 Appointment and Authority

Each of the Lenders hereby irrevocably appoints HSBC Bank Canada as the Administrative Agent to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Without limiting the foregoing, the Administrative Agent shall act as collateral agent for the

Lenders pursuant to the Loan Documents. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and no Obligor shall have rights as a third party beneficiary of any of such provisions.

18.02 Rights as a Lender

The Person serving as the Administrative 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 the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative 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 either Obligor or any Affiliate thereof as if such Person were not the Administrative Agent and without any duty to account to the Lenders. Except as may be otherwise provided in this Agreement, all communications between either Obligor and any Lender in connection with this Agreement and the other Loan Documents shall be directed through the Administrative Agent. All notices by a Lender to the Administrative Agent shall be through the Administrative Agent's office as set out herein (or as may be amended in accordance with the terms hereof) and all other notices by the Administrative Agent to the Lenders shall be through the Lender's office as set out herein (or as may be amended in accordance with the terms hereof).

18.03 Exculpatory Provisions

(1) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Documents. Without limiting the generality of the foregoing, the Administrative Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of 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 the Administrative Agent is required to exercise as directed in writing by the Majority of the Lenders (or such other number or percentage of the Lenders as shall be expressly provided for in the Loan Documents), but the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Applicable Laws; 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 Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(2) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Majority of the Lenders (or such other number or percentage of the Lenders as is necessary, or as the Administrative Agent believes in good faith is necessary, under the provisions of this Agreement or any other Loan Document) or (ii) in the

absence of its own gross negligence or wilful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the Administrative Agent by the Borrower or a Lender.

(3) Except as otherwise expressly specified in this Agreement, the Administrative 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 (v) the satisfaction of any condition specified in this Agreement, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

18.04 Reliance by Administrative Agent

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative 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 the Drawdown that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of the Drawdown. The Administrative Agent may consult with legal counsel, 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.

18.05 Indemnification of Administrative Agent

Each Lender agrees to indemnify the Administrative Agent and hold it harmless (to the extent not reimbursed by the Borrower), severally (and not jointly nor jointly and severally) in accordance with its Rateable Portion from and against any and all losses, Claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any counsel, which may be incurred by or asserted against the Administrative Agent in any way relating to or arising out of the Loan Documents or the transactions therein contemplated. However, no Lender shall be liable for any portion of such losses, Claims, damages, liabilities and related expenses resulting from the Administrative Agent's gross negligence or wilful misconduct.

18.06 Delegation of Duties

The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent from among the Lenders (including the Person serving as Administrative Agent) and their respective Affiliates. The Administrative

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 Persons. The provisions of this Article and other provisions of this Agreement for the benefit of the Administrative Agent shall apply to any such sub-agent and to the Related Persons of the Administrative Agent and any such sub-agent, and shall apply to their activities herein as Administrative Agent.

18.07 Replacement of Administrative Agent

(1) The Administrative Agent may at any time give thirty (30) days' prior notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Majority of the Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a Lender having a Commitment and having an office in Toronto, Ontario or an Affiliate of any such Lender with an office in Toronto, Ontario. The Administrative Agent may also be removed at any time by the Majority of the Lenders upon 30 days' prior notice to the Administrative Agent and the Borrower as long as the Majority of the Lenders in consultation with the Borrower, appoint and obtain the acceptance of a successor within such thirty (30) days, which shall be a Lender having an office in Toronto, or an Affiliate of any such Lender with an office in Toronto.

(2) If no such successor shall have been so appointed by the Majority of the Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications specified in Section 18.07, provided that if the Administrative 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 (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Documents (except that in the case of the Security held by the Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such Security until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time as the Majority of the Lenders appoint a successor Administrative Agent as provided for above in the preceding paragraph.

(3) Upon a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Administrative Agent, and the former Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided in the preceding paragraph). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the termination of the service of the former Administrative Agent, the provisions of this Article 18 and of Article 15 one shall continue in effect for the benefit of such former Administrative Agent, its sub-agents and their respective Related Persons in respect of any actions taken or omitted to be taken by any of them while the former Administrative Agent was acting as Administrative Agent.

18.08 Non-Reliance on Administrative Agent and Other Lenders

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent, any other Lender or any other Person 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 also acknowledges that it shall, independently and without reliance upon the Administrative Agent, any other Lender or any other Person 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.

18.09 Collective Action of the Lenders

Each of the Lenders hereby acknowledges that to the extent permitted by Applicable Laws, the Security and all rights and remedies provided under the Loan Documents to the Lenders are for the benefit of the Lenders collectively and acting together and not severally and further acknowledges that its rights hereunder and under any Security are to be exercised not severally, but by the Administrative Agent upon the decision of the Majority of the Lenders (or other such number or percentage of the Lenders as shall be expressly provided for in the Loan Documents). Accordingly, notwithstanding any of the provisions contained herein or in any Security, each of the Lenders hereby covenants and agrees that it shall not be entitled to take any action hereunder or thereunder including any declaration of default or Event of Default hereunder or thereunder but that any such action shall be taken only by the Administrative Agent with the prior written agreement of the Majority of Lenders (or other such number or percentage of the Lenders as shall be expressly provided for in the Loan Documents). Each of the Lenders hereby further covenants and agrees that upon any such written agreement being given, it shall co-operate fully with the Administrative Agent to the extent requested by the Administrative Agent. Notwithstanding the foregoing, in the absence of instructions from the Majority of the Lenders and where in the sole opinion of the Administrative Agent, acting reasonably and in good faith, the exigencies of the situation warrant such action, the Administrative Agent may without notice to or consent of the Lenders take such action on behalf of the Lenders as it deems appropriate or desirable in the interest of the Lenders. Subject to the foregoing, if the Borrower fails to perform any covenants on its part herein or under any Loan Document, the Administrative Agent may, in its discretion but need not, perform any covenant capable of being performed by the Administrative Agent and if the covenant requires the payment or expenditure of money, the Administrative Agent on behalf of the Lenders may make such payment or expenditure and all sums so expended shall be forthwith payable by the Borrower to the Administrative Agent on behalf of the Lenders, shall be Obligations secured on the Security and shall bear interest at the Prime Rate plus 2.00% *per annum*.

18.10 No Other Duties, etc.

Anything herein to the contrary notwithstanding, none of the arrangers or holders of similar titles, if any, specified in this Agreement shall have any powers, duties or responsibilities under this Agreement or any of the Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

ARTICLE 19 – SUCCESSORS AND ASSIGNS

19.01 Successors and Assigns

(1) 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 Obligor may assign or otherwise transfer any of its rights or obligations hereunder (other than as permitted in this Agreement) without the prior written consent of the Administrative Agent and all Lenders and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except in accordance with this Article 19 (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 Subsection 19.01(4) and, to the extent expressly contemplated hereby, the Related Persons of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or Claim under or by reason of this Agreement.

(2) Assignments by Lenders. Upon notice to the Borrower, 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 and all outstanding Loans at the time owing to it), provided that:

- (a) except if an Event of Default has occurred and is continuing or in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the outstanding Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender, the aggregate amount of the Commitment being assigned (which for this purpose includes all outstanding Loans owing to it thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of all outstanding Loans of the assigning Lender subject to each such assignment (determined as of the date the Lender Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Lender Assignment and Assumption, as of the Trade Date) shall not be less than \$5,000,000 and in increments of \$1,000,000 thereof, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consent to a lower amount (each such consent not to be unreasonably withheld or delayed);
- (b) 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 outstanding Loans or the Commitment assigned, except that this clause (b) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate credits on a non-*pro rata* basis;
- (c) any assignment must be approved by the Administrative Agent (such approval to be in the Administrative Agent's sole discretion);
- (d) any assignment must be to an Eligible Assignee;
- (e) the parties to each assignment shall execute and deliver to the Administrative Agent a Lender Assignment and Assumption, together with a processing fee in

the following sentence and the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. Each assignment shall be made upon payment by the assignor to the Administrative Agent of a processing fee of \$5,000 (provided, in each case, that no such fee shall be payable in respect of any assignment (i) to any Affiliate of such Lender; or (ii) by the Administrative Agent or any of its Affiliates), provided that, in the case of contemporaneous assignments by a Lender to more than one fund managed by the same investment advisor or an Affiliate of such investment advisor (which funds are not then Lenders hereunder), only a single such fee shall be payable for all such contemporaneous assignments.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 19.01(3), from and after the effective date specified in each Lender Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Lender Assignment and Assumption, have the rights and obligations of a Lender under this Agreement and the other Loan Documents, including any collateral security, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of a Lender 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 Article 12 and Article 15, and shall continue to be liable for any breach of this Agreement by such Lender, with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph 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 19.01(4). Any payment by an assignee to an assigning Lender in connection with an assignment or transfer shall not be or be deemed to be a repayment by the Borrower or a new Loan to the Borrower.

(3) Register. The Administrative Agent shall maintain at one of its offices in Toronto, Ontario a copy of each Lender 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 outstanding Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative 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.

(4) Participations. Any Lender may at any time sell participations to any Person (other than a natural person, an Obligor or any Affiliate of an Obligor) (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 outstanding Loans 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 Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any payment by a Participant to a Lender in connection with a sale of a

participation shall not be or be deemed to be a repayment by the Borrower or a new Loan to the Borrower.

Subject to Subsection 19.01(5), the Borrower agrees that each Participant shall be entitled to the benefits of Article 12 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (2) of this Section, provided such Participants agree to be subject to Article 16 as though they were Lenders. To the extent permitted by Applicable Laws, each Participant also shall be entitled to the benefits of Section 13.01 as though it were a Lender, provided such Participant agrees to be subject to Article 16 as though it were a Lender.

(5) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 12.01 and Section 12.02 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.

(6) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, but 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.

ARTICLE 20 – AMENDMENTS AND WAIVERS

20.01 Amendments and Waivers

(1) Subject to Subsections 20.01(1), 20.01(2) and 20.01(3), (a) no amendment shall be effective unless in writing between the Administrative Agent and the Borrower and approved by the Majority of the Lenders and (b) no waiver of any provision of any of the Loan Documents nor consent to any departure by the Borrower or any other Person from such provisions shall be effective unless in writing and approved by the Majority of the Lenders. Any amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

(2) Only written amendments, waivers or consents signed by all the Lenders shall (i) increase a Lender's Commitment or subject any Lender to any additional obligation; (ii) reduce the principal or amount of, or interest on, directly or indirectly, any outstanding Loans or any fees; (iii) postpone any date fixed for any payment of principal of, or interest on, any outstanding Loans or any fees; (iv) change the percentage of the Commitments or the number or percentage of Lenders required for the Lenders, or any of them, or the Administrative Agent to take any action; (v) permit any termination or release of any of the Obligations or Obligors hereunder or under the Security or the Collateral not otherwise permitted to be released hereunder, or any amendments to the Security; (vi) change the definition of Majority of the Lenders; (vii) amend or waive any other provision of this Agreement which specifically requires the consent of all of the Lenders; (viii) amend this Section 20.01(2); (ix) amend or waive the insurance requirements hereunder; and (x) amend or waive the conditions precedent set out in Section 3.01.

(3) Only written amendments, waivers or consents signed by the Administrative Agent and approved in writing by the Majority of the Lenders, shall affect the rights or duties of the Administrative Agent under the Loan Documents.

20.02 Judgment Currency

(1) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due to a Lender in any currency (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures, such Lender could purchase the Original Currency with the Other Currency on the Business Day preceding the day on which final judgment is given or, if permitted by Applicable Laws, on the day on which the judgment is paid or satisfied.

(2) The obligations of the Borrower in respect of any sum due in the Original Currency from it to any Lender under any of the Loan Documents shall, notwithstanding any judgment in any Other Currency, be discharged only to the extent that on the Business Day following receipt by the Lender of any sum adjudged to be so due in the Other Currency, the Lender may, in accordance with normal banking procedures, purchase the Original Currency with such Other Currency. If the amount of the Original Currency so purchased is less than the sum originally due to the Lender in the Original Currency, the Borrower agrees, as a separate obligation and notwithstanding the judgment, to indemnify the Lender, against any loss, and, if the amount of the Original Currency so purchased exceeds the sum originally due to the Lender in the Original Currency, the Lender shall remit such excess to the Borrower.

ARTICLE 21 – GOVERNING LAW; JURISDICTION; ETC.

21.01 Governing Law and Submission to Jurisdiction

(1) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable in that Province.

(2) Submission to Jurisdiction. Each Obligor irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the Province of British Columbia, and any appellate court from any 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 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 parties hereto agrees that a final, non-appealable 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 the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against each Obligor or its properties in the courts of any jurisdiction.

(3) Waiver of Venue. Each Obligor irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Laws, 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 of the Province of British Columbia. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

ARTICLE 22 – ERRONEOUS PAYMENTS

22.01 Erroneous Payments

(1) Each Lender hereby agrees that if the Administrative Agent notifies a Lender or any other Person who has received funds on behalf of a Lender (any such Lender or Person being a “**Payment Recipient**”) that the Administrative Agent has determined, in its sole discretion, (whether or not after receipt of any notice under Section 22.01(2)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient, whether or not known to such Lender or on its behalf (any such funds, whether received as a payment, prepayment, or repayment of principal, interest, fees, distribution or otherwise being, individually and collectively, an “**Erroneous Payment**”), and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender shall (or, with respect to any other Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of (i) the overnight rate for interbank compensation in Canada, and (ii) a rate determined by the Administrative Agent in accordance with Canadian banking industry rules on interbank compensation from time to time in effect. To the extent permitted by Applicable Law, no Lender shall assert any right or Claim to an Erroneous Payment, and each Lender hereby waives, any Claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, Claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received by such Lender (or any other Payment Recipient who received such funds on its behalf) including, without limitation, waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Lender or other Payment Recipient under this Section 22.01(1) shall be conclusive, absent manifest error.

(2) Without limiting Section 22.01(1), each Lender hereby further agrees that if it or any other Payment Recipient acting on its behalf receives a payment, prepayment, or repayment (whether received as a payment, prepayment, or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates):

- (a) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment, or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment, or repayment;
- (b) that was not preceded or accompanied by a notice of payment, prepayment, or repayment sent by the Administrative Agent (or any of its Affiliates); or
- (c) that such Lender otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case:
 - (i) in the case of Sections 22.01(2)(a) or 22.01(2)(b), an error shall be presumed to have been made (absent written confirmation from the

Administrative Agent to the contrary) or, in the case of Section 22.01(2)(c), an error has been made, with respect to such payment, prepayment, or repayment; and

- (ii) such Lender shall (and shall cause any other Payment Recipient that receives funds on its behalf to) promptly (and, in any event, within one (1) Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment, or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 22.01(2).

(3) Each Lender hereby authorizes the Administrative Agent to set off, net, and apply any and all amounts at any time owing to such Lender under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender from any source, against any amount due to the Administrative Agent under Section 22.01(1) or under the indemnification provisions of this Agreement.

(4) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason after demand therefor pursuant to Section 22.01(1) from any Lender that has received such Erroneous Payment (or portion thereof) (or from any other Payment Recipient who received such Erroneous Payment (or portion thereof) on such Lender's behalf) (such unrecovered amount being an "**Erroneous Payment Return Deficiency**"), upon the Administrative Agent's notice of same to such Lender:

- (a) such Lender shall be deemed to have assigned its Loans (but not its Commitments) of the Credit Facility in respect of which such Erroneous Payment was made (being the "**Erroneous Payment Impacted Credit Facility**") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Credit Facility, being the "**Erroneous Payment Deficiency Assignment**") at par plus any accrued and unpaid interest (with any applicable assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver a Lender Assignment and Assumption with respect to such Erroneous Payment Deficiency Assignment;
- (b) the Administrative Agent, as the assignee Lender, shall be deemed to acquire the Erroneous Payment Deficiency Assignment; and
- (c) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender.

(5) The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent

shall retain all other rights, remedies and Claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment shall reduce the Commitments of any Lender and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the “**Erroneous Payment Subrogation Rights**”).

(6) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Obligor, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Obligor.

(7) Each party’s obligations, agreements and waivers under this Section 22.01 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments, and the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE 23 – NOTICES: EFFECTIVENESS; ELECTRONIC COMMUNICATION

23.01 Notices, etc.

(1) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone or email (and except as provided in Sections 23.01(3) or (4)), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier to the addresses or telecopier numbers specified elsewhere in this Agreement or, if to a Lender, to it at its address or telecopier number specified in this Agreement.

(2) Delivery. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given on a Business Day between 9:00 a.m. and 5:00 p.m. local time where the recipient is located, shall be deemed to have been given at 9:00 a.m. on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in Sections 23.01(3) or (4) below, shall be effective as provided therein.

(3) Electronic Communications. Notices and other communications to the Administrative Agent hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Lenders. The Lenders 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.

(4) Delivery by Electronic Communication. Unless the Administrative 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.

(5) Notice. The mailing addresses and address for electronic communications for the purposes of notices and other communications to the Obligor, the Administrative Agent and the Lenders are set out on the signature pages of this Agreement.

(6) Change of Address, Etc.. Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto in accordance with the terms of this Agreement.

ARTICLE 24 – WAIVER OF JURY TRIAL

24.01 Waiver of Jury Trial

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, 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 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.

ARTICLE 25 - COUNTERPARTS; INTEGRATION; EFFECTIVENESS; ELECTRONIC EXECUTION

25.01 Counterparts; Integration; Effectiveness; Electronic Execution

(1) 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 shall become effective when it has been executed by the Administrative Agent and when the Administrative Agent has 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 telecopy or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(2) Electronic Execution of Assignments. The words “execution”, “signed”, “signature”, and words of like import in any Loan Document shall be deemed to include electronic signature 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 Parts 2 and 3 of the *Personal Information Protection and Electronic Documents Act* (Canada), the *Electronic Transactions Act* (British Columbia) and other similar federal or provincial laws based on the *Uniform Electronic Commerce Act* of the Uniform Law Conference of Canada or its *Uniform Electronic Evidence Act*, as the case may be.

ARTICLE 26 – TREATMENT OF CERTAIN INFORMATION: CONFIDENTIALITY

26.01 Treatment of Certain Information: Confidentiality

(1) Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and its Affiliates’ respective partners, directors, officers, employees, agents, advisors and representatives (to the extent necessary to administer or enforce this Agreement and the other Loan Documents) (it being understood that the Persons to whom such disclosure is made shall be informed of the confidential nature of such Information and shall be bound and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority having jurisdiction over it (including any self-regulatory authority), (c) to the extent required by Applicable Laws or other legal process, (d) to any other party hereto, (e) to the extent reasonable, 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, derivative, credit-linked note or similar transaction relating to the Borrower and its obligations, (g) with the 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 the Administrative Agent or any Lender on a non-confidential basis from a source other than an Obligor.

(2) For purposes of this Section, “**Information**” means all information relating to the Borrower or any of its Affiliates or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a non-confidential basis prior to such receipt. 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. In addition, the Administrative Agent may disclose to any agency or organization that assigns standard identification numbers to loan facilities such basic information describing the facilities provided hereunder as is necessary to assign unique identifiers (and, if requested, supply a copy of this Agreement), it being understood that the Person to whom such disclosure is made shall be informed of the confidential nature of such Information and instructed to make available to the public only such Information as such person normally makes available in the course of its business of assigning identification numbers.

(3) In addition, and notwithstanding anything herein to the contrary, the Administrative Agent may provide information concerning the Borrower and the Credit Facility established herein to recognized trade publishers of information for general circulation in the loan market.

ARTICLE 27 – GENERAL

27.01 Addresses, Etc. for Notices

The mailing addresses and addresses for electronic communications for the purposes of notices and other communications to the Obligors, the Administrative Agent and the Lenders are set out on the signature pages of this Agreement.

27.02 Effect of Assignment

For greater certainty, an assignment by any Lender, in accordance with the terms hereof, of its rights hereunder shall not constitute a repayment, discharge, rescission, extinguishment or novation of any extension of credit by such Lender under this Agreement or interest therein, and the obligations so assigned shall continue to be the same obligations and not new obligations.

27.03 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the Borrower, each other Obligor, the Administrative Agent and each Lender and their respective successors and assigns.

27.04 No Other Duties, Etc.

Anything herein to the contrary notwithstanding, none of the arrangers or holders of similar titles, if any, specified in this Agreement shall have any powers, duties or responsibilities under any of the Loan Documents, except in its capacity, as applicable, as a Lender hereunder.

27.05 Survival

The provisions of Article 14 and Article 15 shall survive the repayment of all Loans, whether on account of principal, interest or fees, and the termination of this Agreement, unless a specific release of such provisions by the Lenders is delivered to Borrower. Notwithstanding the foregoing, the Borrower shall be released from the environmental indemnity in Article 14 following the termination of the Loan Documents and payments of the Obligations hereunder unless the Administrative Agent was a mortgagee in possession of the Property or has commenced to enforce its rights under the Loan Documents following an Event of Default.

27.06 Severability and Conflict

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any of the parties. In the event of any conflict or inconsistency between

this Agreement and any other Loan Document, the provisions of this Agreement shall prevail, to the extent of any such conflict or inconsistency (provided, for greater certainty, that the existence of additional rights or remedies in favour of the Administrative Agent or a Lender in such other Loan Documents shall not constitute a conflict or inconsistency).

27.07 Further Assurances

Each Obligor and the Administrative Agent shall promptly cure any default by it in the execution and delivery of this Agreement, the Loan Documents or of any of the agreements provided for hereunder to which it is a party. Each Obligor, at its expense, shall promptly execute and deliver to the Administrative Agent or a Lender, upon request by the Administrative Agent or a Lender, all such other and further documents, agreements, opinions, certificates and instruments in compliance with, or for the accomplishment of the covenants and agreements of such Obligor hereunder or more fully to state the obligations of such Obligor as set forth herein or to make any recording, file any notice or obtain any consent, all as may be reasonably necessary or appropriate in connection therewith.

27.08 Time of the Essence

Time shall be of the essence of the Loan Documents.

[Signature pages follow]

IN WITNESS WHEREOF the parties have executed this Agreement.

BORROWER:

RIOCAN-HBC LIMITED PARTNERSHIP, by
its general partner, **RIOCAN-HBC GENERAL
PARTNER INC.**,
as Borrower

Suite 500, 401 Bay Street
Toronto, ON M5H 2Y4

Attention: Jennifer Bewley
Email: hbctreasuryservices@hbc.com

By: 
Name: Ian Putnam
Title: Executive Vice President

By: 
Name: Jennifer Bewley
Title: Treasurer

We have the authority to bind the above.

NOMINEE:

**HUDSON'S BAY COMPANY ULC
COMPAGNIE DE LA BAIE D'HUDSON SRI**,
as Nominee

Suite 500, 401 Bay Street
Toronto, ON M5H 2Y4

Attention: Jennifer Bewley
Email: hbctreasuryservices@hbc.com

By: 
Name: Ian Putnam
Title: President & CEO,
HBC Properties and
Investments

By: 
Name: Jennifer Bewley
Title: Senior Vice President,
Treasurer

I / We have the authority to bind the above.

ADMINISTRATIVE AGENT:

HSBC Bank Canada
600 – 885 West Georgia Street
Vancouver, BC
V6C 3G1

Attention: Alfred Li
Facsimile No.: (604) 641-1169

HSBC BANK CANADA,
as Administrative Agent and Sole Lead
Arranger

By: 
Chris Golding (May 30, 2022 16:34 EDT)

Name: Chris Golding
Title: Senior Director,
Commercial Real Estate

By: 
Alfred Li (May 30, 2022 13:40 PDT)

Name: Alfred Li
Title: Head of Portfolio
Management

I / We have the authority to bind the above.

LENDER:

HSBC Bank Canada
16 York Street, Suite 500, Box 64
Toronto ON
M5J 0E6

Attention: Chris Golding
Email: chris.golding@hsbc.ca

HSBC BANK CANADA,
as a Lender

By: 
Chris Golding (May 30, 2022 16:34 EDT)

Name: Chris Golding
Title: Senior Director,
Commercial Real Estate

By: 
Jeff Parkes (May 30, 2022 16:46 EDT)

Name: Jeff Parkes
Title: Regional Vice President,
Commercial Real Estate

I / We have the authority to bind the above.

LENDER:

Canadian Western Bank
Suite 2200, 666 Burrard Street
Vancouver, B.C.
V6C 2X8

Attention: Daniel Jay
Assistant Vice President
Vancouver Real Estate
Lending

Chris Tong
Senior Assistant Vice
President & Deputy Manager
Vancouver Real Estate
Lending

Facsimile No.: (604) 683-0051

**CANADIAN WESTERN BANK,
as a Lender**

By: 
Name: Daniel Jay
Title: Assistant Vice President
Vancouver Real Estate
Lending

By: 
Name: Chris Tong
Title: Senior Assistant Vice
President & Deputy Manager
Vancouver Real Estate
Lending

LENDER:

United Overseas Bank Limited,
Vancouver Branch
2400 - 650 West Georgia Street
Vancouver, BC V6B 4N9

Attention: Rob Armstrong
FVP Corporate Banking

Emily Cheng
Manager, Loan Operations

Facsimile No.: 604-662-3356

**UNITED OVERSEAS BANK LIMITED,
as a Lender**

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have the authority to bind the above.

LENDER:

Canadian Western Bank
Suite 2200, 666 Burrard Street
Vancouver, B.C.
V6C 2X8

Attention: Daniel Jay
Assistant Vice President
Vancouver Real Estate
Lending

Chris Tong
Senior Assistant Vice
President & Deputy Manager
Vancouver Real Estate
Lending

Facsimile No.: (604) 683-0051

**CANADIAN WESTERN BANK,
as a Lender**

By: _____
Name: Daniel Jay
Title: Assistant Vice President
Vancouver Real Estate
Lending

By: _____
Name: Chris Tong
Title: Senior Assistant Vice
President & Deputy Manager
Vancouver Real Estate
Lending

LENDER:

United Overseas Bank Limited,
Vancouver Branch
2400 - 650 West Georgia Street
Vancouver, BC V6B 4N9

Attention: Rob Armstrong
FVP Corporate Banking

Emily Cheng
Manager, Loan Operations

Facsimile No.: 604-662-3356

**UNITED OVERSEAS BANK LIMITED,
as a Lender**

By: 

Name: Rob Armstrong
Title: First Vice President |
Corporate Banking

By: 

Name: Robert Dyck
Title: Executive Director &
Country Manager

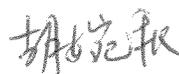
I/We have the authority to bind the above.

LENDER:

Industrial & Commercial Bank of China
(Canada)
Unit 102, 350 Highway 7 East
Richmond Hill, ON
L4B 3N2

Attention: Celia Cheung
Email: celia.cheung@icbk.ca

**INDUSTRIAL & COMMERCIAL BANK OF
CHINA (CANADA),**
as a Lender

By: 
Name: Ms. Hu, Wanqiu
Title: SEVP

By: 
Name: Mr. Lee, Dick
Title: Senior Business Manager

I/We have the authority to bind the above.

**SCHEDULE A
LENDERS AND COMMITMENTS**

Lender and Lending Office	Commitment
<p>HSBC Bank Canada 16 York Street, Suite 500, Box 64 Toronto ON M5J 0E6</p> <p>Attention: Chris Golding Email: chris.golding@hsbc.ca</p>	\$70,000,000
<p>Canadian Western Bank Suite 2200, 666 Burrard Street Vancouver, B.C. V6C 2X8</p> <p>Attention: Daniel Jay Assistant Vice President Vancouver Real Estate Lending Chris Tong Senior Assistant Vice President & Deputy Manager Vancouver Real Estate Lending</p> <p>Facsimile No.: (604) 683-0051</p>	\$60,000,000
<p>United Overseas Bank Limited, Vancouver Branch 2400 - 650 West Georgia Street Vancouver, BC V6B 4N9</p> <p>Attention: Rob Armstrong FVP Corporate Banking Emily Cheng Manager, Loan Operations</p> <p>Facsimile No.: (604) 662-3356</p>	\$45,000,000
<p>Industrial & Commercial Bank of China (Canada) Unit 102, 350 Highway 7 East Richmond Hill, ON L4B 3N2</p> <p>Attention: Celia Cheung Email: celia.cheung@icbk.ca</p>	\$27,000,000
Total:	\$202,000,000

**SCHEDULE B
LEGAL DESCRIPTION OF LANDS**

Parcel Identifier: 011-168-803 Parcel "B", Except Parts on Reference Plan 2608, Block 43
District Lot 541 Group 1 New Westminster District Plan 5428

**SCHEDULE C
CERTIFICATE RE: IDENTITY**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership (the “Borrower”), as borrower, Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI, as nominee, HSBC Bank Canada (the “Administrative Agent”) as administrative agent for the lenders party thereto from time to time (the “Lenders”), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the “Credit Agreement”)

All terms not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement.

In the matter of the Credit Facility established by the Credit Agreement and Loan Documents and other documentation attendant thereto, I, ●, a lawyer and partner of ●, have agreed to act on behalf of the Administrative Agent in order that the Administrative Agent and the Lenders may comply with their identification obligations under federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

Therefore, I, ●, do hereby certify and attest that I personally referred to the original driver’s license of ●, an officer of ●. The reference number of the above identity document is _____. The place of issuance of the above identity document is _____. ●’s date of birth is _____. A true copy of this identity document, both front and back, is affixed hereto at Exhibit A.

Further, I, ●, do hereby certify and attest that I personally referred to the original passport of ●, an officer of ●. The reference number of the above identity document is _____. The place of issuance of the above identity document is Canada. A true copy of the identification pages of this identity document is affixed hereto at Exhibit A.

CERTIFIED AND DATED as of _____, 2022.

Name:

EXHIBIT A
TRUE COPY OF IDENTITY DOCUMENTS

See attached.

**SCHEDULE 1.01(A)
BORROWER COMPLIANCE CERTIFICATE
(SECTION 9.02(3)(a))**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI, as nominee, HSBC Bank Canada (the “Administrative Agent”) as administrative agent for the lenders party thereto from time to time (the “Lenders”), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the “Credit Agreement”)

FROM: RioCan-HBC Limited Partnership (the “Borrower”)

DATE: ●

This Compliance Certificate is delivered to you pursuant to Section 9.02(3)(a) of the Credit Agreement. All terms used in this Compliance Certificate that are defined in the Credit Agreement have the same meanings herein.

I, **[name]**, the **[title]** of RioCan-HBC General Partner Inc., the general partner of the Borrower, certify for and on behalf of the Borrower, and not in my personal capacity and without personal liability, that:

1. Examinations. I have made or caused to be made such examinations or investigations as are, in my opinion, necessary to furnish this Compliance Certificate and I have furnished this Compliance Certificate with the intent that it may be relied upon by the Administrative Agent and the Lenders as a basis for determining compliance by the Obligors with their respective covenants and obligations under the Credit Agreement. I have read and am familiar with the Credit Agreement including, in particular, the definitions of the various financial terms used in the Credit Agreement, the representations and warranties and covenants contained in Article 8 and Article 9 and the Events of Default described in Article 11 of the Credit Agreement.
2. Representations and Warranties. All of the representations and warranties of the Obligors contained in the Credit Agreement are true and correct on and as of the date hereof as though made on and as of the date hereof, subject to changes thereto:
 - (a) given to the Administrative Agent by the Obligors and accepted in writing by the Administrative Agent, and
 - (b) expressly contemplated by the terms of the Credit Agreement and disclosed to the Administrative Agent in writing.
3. Terms, Covenants and Conditions. All of the terms, covenants and conditions of the Credit Agreement and each of the other Loan Documents to be performed or complied with by the Obligors at or prior to the date hereof have been performed or complied with.

4. Default. No Default or Event of Default has occurred and is continuing on the date hereof.
5. Financial Statements. Attached hereto are the financial statements of the most recent date referred to in Section 9.02(1) of the Credit Agreement (such date being the last day of each Fiscal Quarter or the last day of each Fiscal Year, as applicable, being the "**Reference Date**"). Such financial statements when read with the notes thereto and the reconciliation accompanying such financial statements, represents fairly the consolidated financial position of the Borrower as of the date of such statements and for the reporting period included in such statements, and such financial statements, and all calculations of financial covenants and financial ratios and presentation of financial information in this Compliance Certificate and the Appendices hereto have been prepared in accordance with GAAP.
6. Financial Covenant Compliance

(a) Borrower Debt to Aggregate GBV Ratio

The Borrower is in compliance with the maximum Borrower Debt to Aggregate GBV Ratio requirements of Section 9.05(a) of the Credit Agreement as demonstrated in the calculations set forth in Appendix B to this Compliance Certificate. Debt as of the Reference Date is set forth in Appendix B. The Aggregate GBV as of the Reference Date is set forth in Appendix A. The ratio of Borrower Debt to Aggregate GBV as of the Reference Date did not exceed 50 percent.

(b) Borrower Debt Service Coverage Ratio

The Borrower is in compliance with the Borrower Debt Service Coverage Ratio requirements of Section 9.05(b) of the Credit Agreement as demonstrated in the calculations set forth in Appendix C. The Borrower Consolidated EBITDA for the four Fiscal Quarters ending on the Reference Date is set forth in Appendix D to this Compliance Certificate. The Borrower Debt Service for the four Fiscal Quarters ending on the Reference Date are set forth in Appendix B of this Compliance Certificate. The Borrower Debt Service Coverage Ratio as of the Reference Date is not less than 1.50:1.00.

(c) Minimum Adjusted Partners' Equity

The Borrower is in compliance with the minimum Borrower Adjusted Partners' Equity requirements of Section 9.05(c) of the Credit Agreement as demonstrated in the calculations set forth in Appendix C to this Compliance Certificate. The minimum Borrower Adjusted Partners' Equity as of the Reference Date is not less than \$750,000,000.

DATED this ____ day of _____, 20[•].

•

By: _____
Name:
Title:

APPENDIX A

See attached.

APPENDIX B

See attached.

APPENDIX C

See attached.

APPENDIX D

See attached.

SCHEDULE 1.01(B)
BORROWER COMPLIANCE CERTIFICATE
(SECTION 9.02(3)(b))

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson's Bay Company ULC Compagnie de la Baie d'Hudson SRI, as nominee, HSBC Bank Canada (the "Administrative Agent") as administrative agent for the lenders party thereto from time to time (the "Lenders"), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the "Credit Agreement")

FROM: RioCan-HBC Limited Partnership (the "Borrower")

DATE: ●

This Compliance Certificate is delivered to you pursuant to Section 9.02(3)(b) of the Credit Agreement. All terms used in this Compliance Certificate that are defined in the Credit Agreement have the same meanings herein.

I, **[name]**, the **[title]** of RioCan-HBC General Partner Inc., the general partner of the Borrower, certify for and on behalf of the Borrower, and not in my personal capacity and without personal liability, that:

1. Examinations. I have made or caused to be made such examinations or investigations as are, in my opinion, necessary to furnish this Compliance Certificate and I have furnished this Compliance Certificate with the intent that it may be relied upon by the Administrative Agent and the Lenders as a basis for determining compliance by the Obligors with their respective covenants and obligations under the Credit Agreement. I have read and am familiar with the Credit Agreement including, in particular, the definitions of the various financial terms used in the Credit Agreement, the representations and warranties and covenants contained in Article 8 and Article 9 and the Events of Default described in Article 11 of the Credit Agreement.
2. Representations and Warranties. All of the representations and warranties of the Obligors contained in the Credit Agreement are true and correct on and as of the date hereof as though made on and as of the date hereof, subject to changes thereto:
 - (a) given to the Administrative Agent by the Obligors and accepted in writing by the Administrative Agent, and
 - (b) expressly contemplated by the terms of the Credit Agreement and disclosed to the Administrative Agent in writing.
3. Terms, Covenants and Conditions. All of the terms, covenants and conditions of the Credit Agreement and each of the other Loan Documents to be performed or complied with by the Obligors at or prior to the date hereof have been performed or complied with.
4. Default. No Default or Event of Default has occurred and is continuing on the date hereof.

5. Operating Statements. Attached hereto are the operating statements for the Property (including aging schedules, tenant receivables and tenant defaults) of the most recent date referred to in Section 9.02(2) of the Credit Agreement (such date being the "Reference Date"). Such operating statements and all calculations of financial covenants and financial ratios and presentation of financial information in this Compliance Certificate and the Appendices hereto have been prepared in accordance with GAAP.

6. Financial Covenant Compliance

(a) Cash Flow to Debt Service Ratio

The Borrower is in compliance with the minimum Cash Flow to Debt Service Ratio requirements of Section 9.05(d) of the Credit Agreement as demonstrated in the calculations set forth in Appendix A to this Compliance Certificate. Cash Flow as of the Reference Date is set forth in Appendix A. The Debt Service as of the Reference Date is set forth in Appendix A. The Cash Flow to Debt Service Ratio as of the Reference Date is not less than 1.40:1.00.

(b) Property Debt Yield

The Borrower is in compliance with the minimum Debt Yield requirements of Section 9.05(e) of the Credit Agreement as demonstrated in the calculations set forth in Appendix B. The Debt Yield for the Fiscal Quarter ending on the Reference Date is set forth in Appendix B to this Compliance Certificate. The Debt Yield as of the Reference Date is not less than 8%.

DATED this ____ day of _____, 20[●].

•

By: _____
Name:
Title:

APPENDIX A

See attached.

APPENDIX B

See attached.

**SCHEDULE 1.01(C)
DRAWDOWN NOTICE**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson's Bay Company ULC Compagnie de la Baie d'Hudson SRI, as nominee, HSBC Bank Canada (the "Administrative Agent") as administrative agent for the lenders party thereto from time to time (the "Lenders"), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the "Credit Agreement")

FROM: RioCan-HBC Limited Partnership (the "Borrower")

DATE: •

1. This Drawdown Notice is delivered to you pursuant to Section 2.04 of the Credit Agreement. All terms used in this Drawdown Notice that are defined in the Credit Agreement have the same meanings herein.
2. The Borrower hereby requests the following Loan:
 - (a) Drawdown Date: _____
 - (b) Amount of Loan: _____
 - (c) Type of Loan: _____
 - (d) Interest Period: _____
 - (e) Payment Instructions: In accordance with Direction re Funds dated as of the date hereof and delivered to the Administrative Agent.
3. Representations and Warranties. All of the representations and warranties of the Obligors contained in Section 8.01 of the Credit Agreement are true and correct in all material respects on and as of the date hereof as though made on and as of the date hereof, subject to changes thereto:
 - (a) given to the Administrative Agent by the Borrower and accepted in writing by the Administrative Agent; and
 - (b) expressly contemplated by the terms of the Credit Agreement and disclosed to the Administrative Agent in writing.
4. All of the conditions precedent to the Advance requested hereby that have not been properly waived in writing by or on behalf of the Administrative Agent have been satisfied.

5. No Default or Event of Default has occurred and is continuing or shall have occurred and be continuing on the Drawdown Date, or shall result from the Loan requested hereby.
6. There has been no condition (financial or otherwise), event or change in any of the Obligors' respective business, liabilities, operations, results of operations, assets or prospects which constitutes, or could reasonably be expected to constitute, or cause, a Material Adverse Change as at the date of this Drawdown Notice or as at the Drawdown Date.

RIOCAN-HBC LIMITED PARTNERSHIP, by its
general partner, **RIOCAN-HBC GENERAL
PARTNER INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I / We have the authority to bind the above.

SCHEDULE 1.01(D)
MATERIAL LICENCES AND MATERIAL PROPERTY AGREEMENTS

Material Property Agreements

Nominee Agreement

Material Licences

None

SCHEDULE 1.01(E)
ADDITIONAL PERMITTED ENCUMBRANCES

Legal Notations

1. HERETO IS ANNEXED EASEMENT 5675M OVER LOT 10 (REFERENCE PLAN 2608) BLOCK 43 PLAN 5428 MODIFIED BY BV282068
2. HERETO IS ANNEXED EASEMENT P6131 OVER LOTS 7, 8, 10 TO 17 INCLUSIVE AND LOTS 24 TO 34 INCLUSIVE ALL OF BLOCK 44
3. HERETO IS ANNEXED EASEMENT P6133 OVER PART OF LOT 13 BLOCK 44 ON EXPLANATORY PLAN 17927
4. HERETO IS ANNEXED EASEMENT P6134 OVER PORTIONS OF LOTS 14, 15, 16, 17, 24, 25 AND 26, BLOCKS 44 SHOWN IN HEAVY OUTLINE ON EXPLANATORY PLAN 17928

Charges, Liens and Interests

1. EASEMENT 5676M
2. COVENANT 573636M
3. EASEMENT 573635M
4. EASEMENT AND INDEMNITY AGREEMENT E26246
5. EASEMENT F33451
6. EASEMENT F33452
7. STATUTORY RIGHT-OF-WAY M46518
8. EASEMENT P6132
9. EASEMENT BV138297
10. STATUTORY RIGHT-OF-WAY BV282066
11. STATUTORY RIGHT-OF-WAY BV282067
12. EASEMENT BV282069

**SCHEDULE 1.01(F)
REPAYMENT NOTICE**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson's Bay Company ULC Compagnie de la Baie d'Hudson SRI, as nominee, HSBC Bank Canada (the "Administrative Agent") as administrative agent for the lenders party thereto from time to time (the "Lenders"), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the "Credit Agreement")

FROM: RioCan-HBC Limited Partnership (the "Borrower")

DATE: ●

-
1. This Repayment Notice is delivered to you pursuant to Section 6.02 of the Credit Agreement. All terms used in this Repayment Notice that are defined in the Credit Agreement have the same meanings herein.
 2. The Borrower hereby gives you notice that it intends to repay Cdn. \$● under the Credit Facility on ● **[date which must be at least five (5) days after the delivery of this Notice]**.
 3. The amount of such repayment shall, subject to the provisions of the Credit Agreement, be used to repay Loans of the following type:

<u>Loan Type</u>	<u>Principal Amount</u>
●	●

RIOCAN-HBC LIMITED PARTNERSHIP, by its general partner, **RIOCAN-HBC GENERAL PARTNER INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I / We have the authority to bind the above.

**SCHEDULE 1.01(G)
CONVERSION NOTICE**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson's Bay Company ULC Compagnie de la Baie d'Hudson SRI, as nominee, HSBC Bank Canada (the "Administrative Agent") as administrative agent for the lenders party thereto from time to time (the "Lenders"), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the "Credit Agreement")

FROM: RioCan-HBC Limited Partnership (the "Borrower")

DATE: ●

1. This Conversion Notice is delivered to you, as Administrative Agent, pursuant to Section 2.04, of the credit agreement made as of May 24, 2022 among the Borrower, you, as Administrative Agent, the financial institutions from time to time parties thereto as lenders, and the Nominee, as amended to the date hereof (the "**Credit Agreement**"). All terms used in this Conversion Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby requests a Conversion as of _____ (the "**Conversion Date**") as follows:

(a) Type and amount of each Loan to be converted on the Conversion Date:

- Amount
- (i) Prime Rate Loan: Cdn. \$ _____
- (ii) Bankers' Acceptances (BA Equivalent Advances):

<u>Amount</u>	<u>Maturity Date</u>	<u>Conversion Amount</u>
Cdn. \$ _____	_____	Cdn. \$ _____
_____	_____	_____
_____	_____	_____

(b) Type and amount of each Loan resulting from Conversion on the Conversion Date:

Amount

(i) Prime Rate Loan: Cdn. \$ _____

(ii) Bankers' Acceptances (BA Equivalent Advances):

<u>Amount</u>	<u>Term in Months</u>
Cdn. \$ _____	_____
_____	_____
_____	_____

3. No Default has occurred and is continuing or shall have occurred and be continuing on the date of the above Conversion(s), or shall result from the above Conversion(s).

RIOCAN-HBC LIMITED PARTNERSHIP, by its
general partner, **RIOCAN-HBC GENERAL
PARTNER INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I / We have the authority to bind the above.

**SCHEDULE 1.01(H)
ROLLOVER NOTICE**

TO: HSBC Bank Canada, as Administrative Agent and the Lenders, together with their successors and assigns

RE: Credit agreement made as of May 24, 2022 among RioCan-HBC Limited Partnership, as borrower, Hudson's Bay Company ULC Compagnie de la Baie d'Hudson SRI, as nominee, HSBC Bank Canada (the "Administrative Agent") as administrative agent for the lenders party thereto from time to time (the "Lenders"), and HSBC Bank Canada, as sole lead arranger, as amended from time to time (the "Credit Agreement")

FROM: RioCan-HBC Limited Partnership (the "Borrower")

DATE: ●

1. This Rollover Notice is delivered to you, as Administrative Agent, pursuant to the credit agreement made as of May 24, 2022 among the Borrower, you, as Administrative Agent, the financial institutions from time to time parties thereto as lenders, and the Nominee, as amended to the date hereof (the "**Credit Agreement**"). All capitalized terms used in this Rollover Notice that are defined in the Credit Agreement have the same meanings herein.

2. The Borrower hereby requests the Rollover of the following Bankers' Acceptances (BA Equivalent Advances):

(a) Rollover Date: _____

(b) Amount of each Loan

	<u>Amount</u>	<u>Term in Months</u>	<u>Maturity Date</u>
Cdn. \$	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

[Signature Page Follows]

RIOCAN-HBC LIMITED PARTNERSHIP, by its
general partner, **RIOCAN-HBC GENERAL
PARTNER INC.**

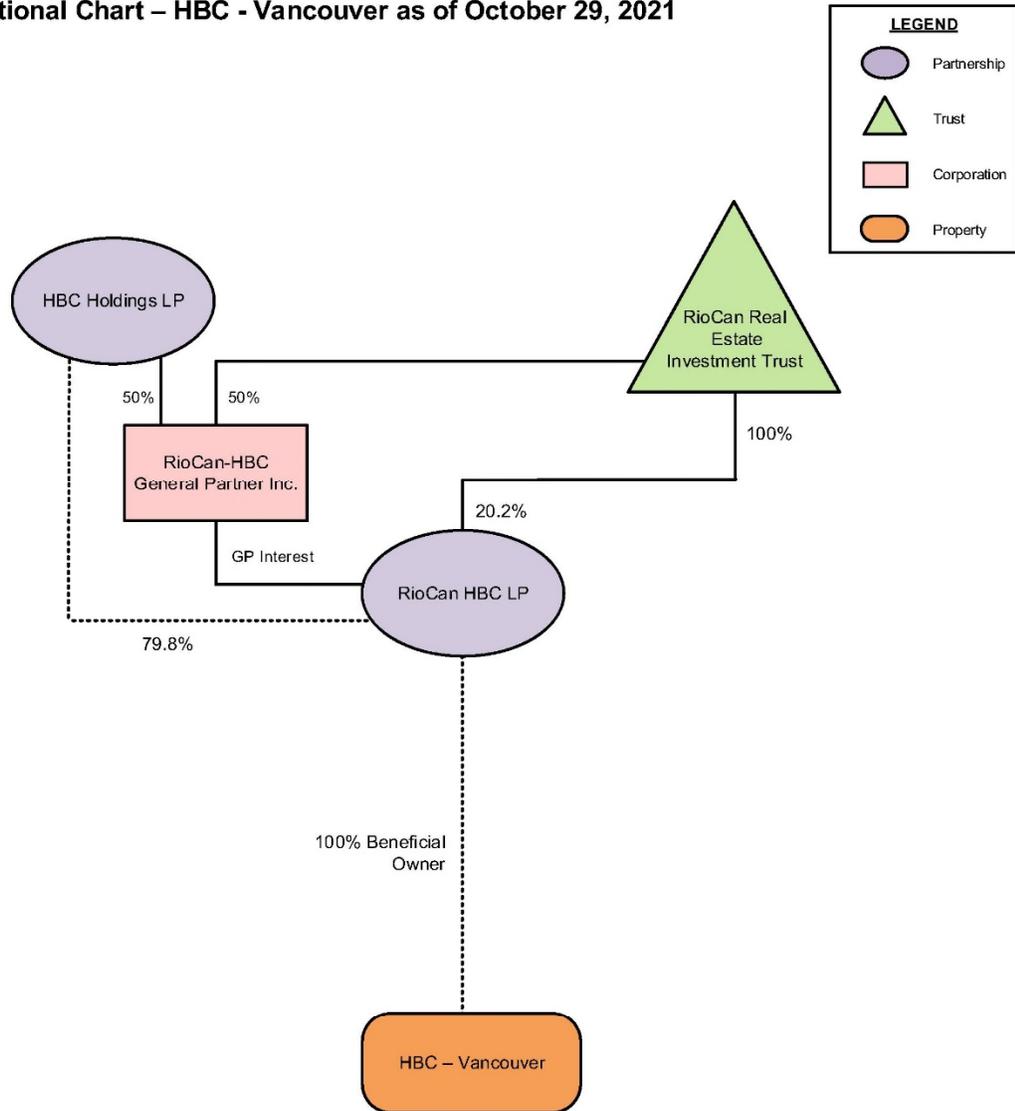
By: _____
Name:
Title:

By: _____
Name:
Title:

I / We have the authority to bind the above.

SCHEDULE 8.01(14) OWNERSHIP STRUCTURE

Organizational Chart – HBC - Vancouver as of October 29, 2021



**SCHEDULE D
ESTOPPEL CERTIFICATE**

TO: **HSBC BANK CANADA**, as administrative agent for certain lenders, and its successors and assigns from time to time (the “**Administrative Agent**”)

RE: Lease (the “**Lease**”) made as of July 9, 2015 between RioCan-HBC Limited Partnership (the “**Landlord**”), as landlord, and Hudson’s Bay Company (now Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI), as tenant, pursuant to which Hudson’s Bay Company ULC Compagnie de la Baie d’Hudson SRI (the “**Tenant**”), as tenant, leases the entirety of the lands and building known as 674 Granville Street, Vancouver, British Columbia and legally described as PID: 011-168-803 Parcel “B”, Except Parts on Reference Plan 2608, Block 43 District Lot 541 Group 1 NWD Plan 5428 (the “**Premises**”)

The Tenant hereby certifies to the Administrative Agent that:

1. The Tenant is currently in possession and occupation of the Premises.
2. The Premises have a rentable area of 636,828 square feet.
3. The Tenant is paying base rent at the rate of \$_____ *per annum*.
4. The term of the Lease commenced on July 9, 2015 and will expire on July 8, 2035 subject to the exercise of rights of extension contained in the Lease.
5. The Lease is in full force and effect, unamended except as set out above.
6. All rent and other amounts payable by the Tenant under the Lease have been paid to today’s date in accordance with the terms of the Lease. There has been no prepayment of rent under the Lease other than payment of the current month’s rent.
7. There has been no material default or breach under the terms of the Lease by either the Landlord or the Tenant.

This Certificate may be executed and delivered by telecopier, PDF or otherwise.

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

DATED this _____ day of _____, 20__.

HUDSON'S BAY COMPANY ULC COMPAGNIE DE LA BAIE D'HUDSON SRI,
by its authorized signatory:

Any director or officer