

Court File No. \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**MARNLEN MANAGEMENT LTD. AND LABELAD LTD.**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101  
OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C. C-43, AS AMENDED**

**AFFIDAVIT OF FELIX MEDNIKOV  
(sworn July 17, 2012)**

I, Felix Mednikov, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND  
SAY AS FOLLOWS:**

1. I am an Associate at RBC Capital Markets, an affiliate of Royal Bank of Canada ("**RBC**") and have held this position since June of 2009. As such, I have personal knowledge of the matters to which I hereinafter depose in this Affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.
2. This affidavit is sworn in support of RBC's application for an order appointing PricewaterhouseCoopers Inc. ("**PWC**") as receiver and manager (in such capacity, the "**Receiver**"), without security, of all of the assets, properties and undertakings of Marnlen Management Ltd. ("**Marnlen**") and Labelad Ltd. ("**Labelad**") and, together with

Marnlen, the “**Debtors**”) acquired for or used in relation to the business carried on by the Debtors, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended, (the “**CJA**”).

3. As described further below:
  - (a) RBC is the primary secured creditor of the Debtors through a loan facility provided by RBC to Labelad, which is guaranteed by Marnlen;
  - (b) RBC holds a general security interest over all of the personal property of the Debtors, and has entered into certain blocked account arrangements with the Debtors;
  - (c) RBC has become aware that Labelad has committed certain defaults under the loan facilities provided by RBC;
  - (d) The Debtors consent to the appointment of the Receiver; and
  - (e) I believe that the appointment of the Receiver is just and convenient in the circumstances.

#### Background

4. Labelad is based in Markham, Ontario and designs and manufactures stickers, labels, radio frequency identification labels and tags. Labelad’s customers include manufacturers and distributors of beverages, foods, healthcare products, data storage products and promotional items.
5. Labelad is the sole operating subsidiary of Marnlen. Marnlen is a wholly-owned subsidiary of Nanlark Holdings Limited (“**Nanlark**”).
6. Labelad and Marnlen operate out of a 191,000 sq. ft. leased facility in Markham, Ontario.
7. To my knowledge, all of the Debtors’ assets are located in the Province of Ontario.
8. Labelad and Marnlen collectively have approximately 65 employees. To my knowledge, the Debtors have no unionized employees. To my knowledge, the Debtors do not contribute to or administer any pension plans.

9. I have been informed by Owen Duckman, President of Labelad, that the Debtors are current on all payments to, or in respect of, the Debtors' employees, save for certain limited amounts that have accrued since the last scheduled payment dates.

#### RBC Financing

10. Labelad and Marnlen are indebted to RBC pursuant to an Amended and Restated Loan Agreement dated as of July 14, 2011 between RBC as lender, Labelad as borrower, and Marnlen as guarantor (the "**A&R Loan Agreement**"). The A&R Loan Agreement matures on July 14, 2013. A copy of the A&R Loan Agreement, together with the amendments thereto, is attached hereto as Exhibit A. A copy of the Guarantee from Marnlen is attached hereto as Exhibit B.
11. The A&R Loan Agreement replaces a pre-existing loan agreement dated as of July 16, 2009 (the "**Original Loan Agreement**"), as subsequently amended from time to time, pursuant to which Marnlen was the borrower and RBC was the lender. The rights and obligations of Marnlen under the Original Loan Agreement were assigned to Labelad and the A&R Loan Agreement subsequently replaced the Original Loan Agreement.
12. The following facilities are provided under the A&R Loan Agreement:
  - (a) An asset based loan facility with maximum availability of \$4,000,000 (the "**ABL Facility**");
  - (b) Letters of credit issuable to a maximum value of \$1,200,000 (together with the "**ABL Facility**", the "**Facilities**"). Two letters of credit have been issued for \$1,000,000 and \$100,000. The \$1,000,000 letter of credit (the "**Letter of Credit**") is discussed in greater detail below.
13. Over \$2.7 million is outstanding collectively on the Facilities (including the issuance of the \$1,000,000 Letter of Credit).
14. Security for any indebtedness, obligations or liabilities owing by the Debtors to RBC (collectively, the "**RBC Security**") is provided pursuant to, *inter alia*:
  - (a) A General Security Agreement granted by Labelad to RBC on July 14, 2011, a copy of which is attached hereto as Exhibit C (the "**Labelad GSA**");
  - (b) A General Security Agreement granted by Marnlen to RBC on July 14, 2011, a

copy of which is attached hereto as Exhibit D (the "**Marnlen GSA**" and, together with the Labelad GSA, the "**GSAs**");

- (c) A Trademark Security Agreement dated as of July 16, 2009 between Marnlen and RBC, which provides RBC with a security interest in all trademarks and related intellectual property of Marnlen, which includes substantially all of the trademarks and related intellectual property used in connection with the business of the Debtors. This Trademark Security Agreement was entered into in connection with the Original Loan Agreement and continues to secure obligations under the A&R Loan Agreement. A copy of the Trademark Security Agreement is attached hereto as Exhibit E; and
  - (d) Certain Blocked Account Agreements with each of Marnlen and Labelad, copies of which are attached hereto as Exhibits F and G.
15. Each of the GSAs provides RBC with security over all of the grantor's property, assets and undertakings, whether owned or thereafter acquired, subject to customary exclusions as set forth in the GSAs.
  16. RBC has registered its security interest in the property, assets and undertaking of the Debtors in the Personal Property Security Registry for the Province of Ontario.
  17. An additional limited guarantee of obligations owing by the Debtors to RBC is also provided by Nanlark. A Cash Collateral Agreement was entered into between Nanlark and RBC to secure the Nanlark guarantee in connection with the Original Loan Agreement. That Cash Collateral Agreement was confirmed in connection with the A&R Loan Agreement. Currently the accounts covered by the Cash Collateral Agreement hold a GIC with a value of \$1,000,000 plus accrued interest. Copies of the Nanlark Guarantee, the Cash Collateral Agreement and the confirmation of the Cash Collateral Agreement are attached hereto as Exhibit H, Exhibit I, and Exhibit J, respectively.

#### Defaults

18. The Borrower has committed certain events of default under the A&R Loan Agreement (the "**Defaults**"). Among other things, the Borrower and its subsidiaries breached the tangible net worth covenants contained in section 5.1(b) of the A&R Loan Agreement in May of this year. This breach occurred despite past cooperation from RBC to reduce the tangible net worth threshold to reflect the reduced size of the Debtors' business.

19. As a result of the Defaults, the security granted under the GSAs and the other ancillary security documents has become immediately enforceable.
20. On July 13, 2012, RBC delivered demand letters and notices of intention to enforce security pursuant to section 244 of the BIA in connection with the Defaults to each of the Debtors. Attached hereto as Exhibit K and Exhibit L, respectively, are the demand letters and notices of intention to enforce security.
21. A demand letter was also sent to Nanlark. A copy of that demand letter is attached hereto as Exhibit M.
22. The Debtors have agreed that RBC may abridge the ten day notice period established by Section 244 of the BIA. A copy of each Debtor's consent to enforcement is attached hereto as Exhibit N.

#### Other Creditors

23. As will be seen below, all other creditors of the Debtors are subordinated to RBC, save for certain very limited rights in respect of isolated equipment. Further, once one considers the magnitude of the secured debt owing to shareholders of the Debtors, it would be impossible to conclude that any party other than RBC, Export Development Canada (by way of subrogation to RBC's claim) and those shareholders could have any material interest in the Debtors' property (again, with the exception of certain isolated pieces of equipment).
24. Attached hereto as Exhibit O are searches of the Ontario Personal Property Security Registry showing the existing registrations against Marnlen and Labelad current to July 12, 2012. Those searches show that the following parties have made such registrations against either or both of the Debtors:
  - (a) RBC;
  - (b) CIT Financial Ltd.;
  - (c) MCAP Leasing Inc.;
  - (d) VW Credit Canada Inc.;
  - (e) National Leasing Group Inc.;

- (f) Nanlark;
- (g) Marnlen; and
- (h) Wells Fargo Financial Corporation Canada.

#### *Shareholder Loans*

25. Based upon reports received from Morris Slemko, a representative of the Debtors, the Debtors' capital structure included approximately \$22.3 million non-cash pay shareholder loans (the "**Shareholder Loans**") as at May 31, 2012 from shareholders and related parties which are secured on the assets of Labelad, but are subordinated to the claims of RBC. A copy of the Subordination Agreement postponing the Shareholder Loans is attached hereto as Exhibit P.

#### *Landlord*

26. 400 CD Property Ltd. (the "**Landlord**") is the landlord of the premises from which the Debtors operate. Pursuant to a lease (the "**Lease**") entered into between the Landlord and Marnlen on June 26, 2008, Marnlen has leased 191,507 sq. ft. of commercial space at 400 Cochrane Drive, Markham, Ontario. The lease term is 10 years. The minimum rent is \$99,743.25 per month until July 1, 2013, at which point the rent is subject to incremental increase. In addition to the minimum rent amount, certain management fees, utilities and ancillary charges are also payable.
27. RBC understands from discussions with Mr. Duckman that the Debtors have committed certain defaults under the Lease, including a failure to pay rent for several months. RBC understands from those same discussions that at least five months of rental payments are overdue. Subject to the terms of the landlord waiver discussed below, the Landlord would be in a position to exercise certain rights and remedies as a result of these defaults including, without limitation, the re-entry and repossession of the leased premises.
28. RBC has the benefit of a landlord waiver (the "**Landlord Waiver**") delivered by the Landlord as of July 14, 2009. Pursuant to that landlord waiver, the Landlord has disclaimed and waived any interest in the collateral that is the subject of the RBC Security. Further, the Landlord Waiver also allows RBC to transfer, assign or sublet the Lease to a third party approved by the Landlord acting reasonably. The Landlord Waiver

also provides RBC with the right to keep any collateral granted under the RBC Security on the leased premises for the purposes of disposing of it from those premises for a period of 90 days. A copy of the Landlord Waiver, enclosing a copy of the Lease, is attached hereto as Exhibit Q.

29. The Letter of Credit (referenced above) has been issued by RBC to the Landlord in the amount of \$1,000,000 to secure certain obligations of the Debtors under the Lease.

*Export Development Canada*

30. Export Development Canada has provided RBC with a certain Performance Security Guarantee (the "**EDC Guarantee**"). The EDC Guarantee is available to RBC until November 30, 2012, subject to certain exceptions. The EDC Guarantee provides for the irrevocable and unconditional guarantee to RBC of amounts paid by RBC pursuant to the Letter of Credit. In the event that a payment is made by Export Development Canada under the EDC Guarantee, Export Development Canada is subrogated to all of the rights of RBC to claim the amount of the guarantee payment from the Debtors, including any security held by RBC in respect of that claim; provided, however, that EDC cannot exercise any such subrogation rights against the Debtors or the security held by RBC unless and until all amounts owing to RBC by the Debtors have been paid to RBC in full. Copies of the EDC Guarantee and certificates associated therewith are attached hereto as Exhibit R.

*CIT Financial Ltd.*

31. CIT Financial Ltd. ("**CIT**") provided certain financing to the Debtors evidenced by a promissory note dated December 1, 2005. The balance of the CIT loan as at May 31, 2012 was \$252,010.60 according to information received from Mr. Duckman. The CIT promissory note is secured by certain assets of the Debtors. Pursuant to an Inter-creditor Agreement dated as of the 14<sup>th</sup> day of July, 2011 (the "**CIT Inter-creditor Agreement**"), CIT and RBC agreed that the security interest that CIT may have in two specified pieces of equipment, and the proceeds thereof, (the "**CIT Priority Collateral**") would have priority over the RBC Security, but in all other cases the RBC Security would have priority over any security interest that CIT may have in the Debtors' property. The Inter-creditor Agreement also provides RBC with certain rights to compel CIT to defer any enforcement rights that it may have in respect of the CIT Priority Collateral. A copy of the CIT Inter-creditor Agreement is attached hereto as Exhibit S.

### The Debtors' Business

32. The financial performance of the Debtors, as shown on reports received by RBC, continues to deteriorate. In 2011, reported revenue declined 31.6% by comparison to the prior year due to reduced sales to two key customers. EBITDA was negative in both 2010 and 2011. The Debtors' business has operated on a consistently negative cash flow basis in the recent past.
33. As a result of reduced accounts receivable and inventory levels, availability under the A&R Loan Agreement has decreased and the Debtors have been increasingly reliant upon shareholder injections for short term liquidity and to fund losses.
34. I was informed in discussions with Mr. Duckman that over the past two years, direct and indirect shareholders of Labelad have contributed approximately \$2 million to Labelad to fund operating losses.
35. Unless the shareholders continue to fund the Debtors' losses, the Debtors will very quickly run out of liquidity and RBC's collateral will continue to erode. There is limited availability under the Facilities to fund the Debtors' losses.
36. At this time it appears that the Debtors do not have sufficient liquidity to make even the most important basic monthly fixed payments, such as rent at their facilities.
37. I have been advised by Kevin Morley of Norton Rose Canada LLP, counsel to RBC, that he has received correspondence from counsel to the Debtors stating that Labelad does not have sufficient supplies to continue production of its products at this time, nor does it have the financial ability to acquire such supplies.
38. It appears that the Debtors' business is facing a liquidity crisis.
39. Based upon the recent performance of the Debtors' business, it appears that there is a significant risk that RBC's collateral will be prejudiced if the Debtors' business continues to operate. I am informed by Gregory Prince of PWC that PWC has produced a liquidation analysis for the Debtors' assets which shows a significant risk that any further decrease in the asset value of the Debtors would result in the obligations to RBC being under-secured. I am further informed by Mr. Prince that the expected net cash outflows of the Debtors, if the Debtors continue operations for the next 30 days, is in excess of \$800,000. Based upon the current liquidation values of the Debtors' assets and the



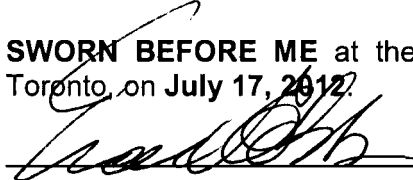
anticipated cash outflows if operations continue, RBC believes that the appointment of a receiver is needed to facilitate an orderly wind down and sale of the business assets to avoid material risks to its collateral.

#### Need For A Receiver

40. In the circumstances, it appears that the only option to preserve the value of the Debtors' assets is an expedited sale. RBC has worked for some time with the Debtors to try to find a going concern solution. I am informed by Mr. Prince that a final potential purchaser, who had previously indicated to PWC that it was interested in purchasing the business as a whole, has now ceased discussions on a potential purchase transaction.
41. RBC believes that it requires the assistance of a court-appointed receiver to undertake a sale of the Debtors' assets. An out-of-court enforcement and realization process is not commercially feasible in the current circumstances for a number of reasons:
  - (a) It would be infeasible for a private receiver, without the protections of a court order, to efficiently deal with the assets of the Debtors' business in the current circumstances, particularly in view of the expected resignations of key personnel as a result of the current liquidity crisis, leaving nobody to carry out the remaining operations of the Debtors' business, such as it is;
  - (b) A stay of proceedings is necessary to ensure that other creditors, including landlords, do not take steps that may prejudice the rights of RBC; and
  - (c) Substantially all of the property of the Debtors is located on the leased premises. It is not clear that the Landlord would cooperate with a privately appointed receiver.
42. Under the GSAs, RBC has the right bring a motion seeking the appointment of a receiver.
43. The appointment of a receiver appears to be the most efficient manner of facilitating a sale of the assets of the Debtors.
44. RBC is unaware of any party that could assert that it would be legitimately prejudiced by the appointment of a receiver.

45. It is anticipated that the proposed receivership will be in place for a very short period of time.
46. I am informed by Gregory Prince of PWC that PWC will consent to act as receiver and manager of the Debtors, should the Court grant that appointment.
47. Following the completion of any sale of the assets of the Debtors, it may be beneficial to assign the Debtors into bankruptcy under the BIA. RBC will request that the Court provide the Receiver with the power to assign the Debtors into bankruptcy under the BIA. This option is necessary as I have been informed by the current directors of the Debtors that upon appointment of PWC as Receiver, those directors will resign. In absence of the Court's direction that would allow for the assignment of the Debtors into bankruptcy, the Receiver would have to return to Court to seek this power.

**SWORN BEFORE ME** at the City of  
Toronto, on **July 17, 2012**.

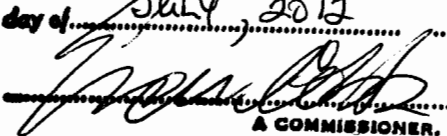
  
Commissioner for Taking Affidavits



FELIX MEDNIKOV

## Exhibit "A"

**AMENDED AND RESTATED LOAN AGREEMENT**  
**DATED AS OF JULY 14, 2011**  
**BETWEEN ROYAL BANK OF CANADA AS LENDER,**  
**LABELAD LTD. AS BORROWER, AND**  
**MARNLEN MANAGEMENT LTD. AS GUARANTOR**

This is Exhibit A referred to in the  
affidavit of FELIX MEDNIKOV  
sworn before me, this 17<sup>th</sup>  
day of JULY, 2012  
  
A COMMISSIONER, ETC.

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Exhibit C:	Form of Borrowing Base Certificate
Exhibit D:	Form of Compliance Certificate
Exhibit E:	Form of Landlord Waiver

## TRANSACTION SUMMARY AS OF THE DATE OF THIS AGREEMENT

### **REVOLVING CREDIT LOAN**

<u>Maximum Amount:</u>	\$3,500,000 or the Equivalent Amount in U.S.\$ if available
<u>Letter of Credit Sublimit:</u>	\$1,200,000
<u>Term:</u>	Two (2) years
<u>Interest Rate:</u>	RBP plus 2.50% per annum RBUSBR plus 2.50% per annum
<u>Unused Line Fee:</u>	0.50% per annum
<u>Letter of Credit Fee:</u>	To be quoted at time of Issuance
<u>Borrowing Base:</u>	(i) ninety percent (90%) of Eligible Insured Accounts, plus; (ii) lesser of \$1,000,000 and amount of guaranteed interest certificate granted by Nanlark Holdings Limited; plus; (iii) eighty-five percent (85%) of Eligible Accounts other than Eligible Insured Accounts, plus; (iv) the lesser of: (A) eighty-five percent (85%) of the NOLV of Eligible Inventory, other than WIP; and (B) sixty-five percent (65%) of the book value of Eligible Inventory, other than WIP, recorded at the lower of cost and net realizable value, plus; (v) the lesser of: \$500,000; and (B) the lesser of: (I) eighty-five percent (85%) of the NOLV of Eligible Inventory which constitutes WIP; and (II) sixty-five percent (65%) of the book value of Eligible Inventory which constitutes WIP recorded at the lower of cost and net realizable value, less; reserves.

### **OTHER FEES**

<u>Closing Fee:</u>	\$25,000
<u>Collateral Monitoring Fee:</u>	\$18,000 (payable monthly) per annum
<u>Prepayment Fee:</u>	1%

The loans described generally here are established and governed by the terms and conditions set forth below in this Agreement and the other Loan Documents, and if there is any conflict between this general description and the express terms and conditions below or elsewhere in the Loan Documents, such other express terms and conditions shall control.

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This AMENDED AND RESTATED LOAN AGREEMENT is dated as of July 14, 2011 and agreed to by and between LABELAD LTD. ("Borrower"), and MARNLEN MANAGEMENT LTD. each other Credit Party executing this Agreement, and Royal Bank of Canada ("Lender").

#### RECITALS:

A. Marnlen (as borrower thereunder), the Borrower (as guarantor thereunder), the Lender and certain others entered into a Loan Agreement dated as of July 16, 2009, as amended pursuant to the First Amendment and Waiver to Loan Agreement dated as of December 29, 2009, the Second Amendment and Waiver to Loan Agreement dated as of April 1, 2010, the Third Amendment and Waiver to Loan Agreement dated as of June 4, 2010, the Fourth Amendment and Consent to Loan Agreement dated as of August 12, 2010, the Fifth Amendment to Loan Agreement dated as of November 26, 2010, the Sixth Amendment to Loan Agreement dated as of January 26, 2011, and the Seventh Amendment to Loan Agreement dated as of March 16, 2011, and the Eighth Amendment to Credit Agreement dated as of June 30, 2011 (the "Original Loan Agreement").

B. Numerous corporate changes have occurred with respect Marnlen, the Borrower and their Affiliates and the parties hereto now desire to assign the Original Loan Agreement to the Borrower, and the Borrower desires to assume all of the obligations of Marnlen pursuant to the Original Loan Agreement.

C. All parties hereto desire to amend and restate the terms of the Original Loan Agreement as set out herein.

D. Borrower now desires to obtain the Loans and other financial accommodations from Lender and Lender is willing to provide the Loans and accommodations all in accordance with the terms of this Agreement.

E. Capitalized terms used herein shall have the meanings assigned to them in Schedule A and, for purposes of this Agreement and the other Loan Documents, the rules of construction set forth in Schedule A shall govern. All schedules, attachments, addenda and exhibits hereto, or expressly identified in this Agreement, are incorporated herein by reference, and taken together with this Agreement, constitute but a single agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

#### SECTION 1 – AMOUNT AND TERMS OF CREDIT

##### 1.1 Loans

- (a) Subject to the terms and conditions of this Agreement, from the Closing Date and until the Commitment Termination Date (i) Lender agrees to make available advances (each, a "Revolving Credit Advance") in \$ based upon RBP, U.S.\$ based upon RBUSBR and to incur Letter of Credit Obligations, subject to the Letter of Credit Sublimit, in an aggregate outstanding amount not to exceed the Borrowing Availability, and (ii) Borrower may at its request from time to time borrow, repay and reborrow, and may cause Lender to incur Letter of Credit Obligations, under this Section 1.1.
- (b) Borrower shall request each Revolving Credit Advance by written notice to Lender substantially in the form of Exhibit A (each a "Notice of Revolving Credit Advance") given no later than 3:00 p.m. (Toronto time) one Business Day prior to the Business Day of the proposed advance and within one Business Day of the delivery of the documents and information provided for in Section 4.1(a). Lender shall be fully protected under this Agreement in relying upon, and shall be entitled to rely upon, (i) any Notice of Revolving

Credit Advance believed by Lender to be genuine, and (ii) the assumption that the Persons making electronic requests or executing and delivering a Notice of Revolving Credit Advance were duly authorized, unless the responsible individual acting thereon for Lender shall have actual knowledge to the contrary. As an accommodation to Borrower, Lender may permit telephonic (which shall, promptly upon request be confirmed in writing by Borrower), electronic, or facsimile requests for a Revolving Credit, Advance and electronic or facsimile transmittal of instructions, authorizations, agreements or reports to Lender by Borrower. Unless Borrower specifically directs Lender in writing not to accept or act upon telephonic, facsimile or electronic communications from Borrower, Lender shall have no liability to Borrower for any loss or damage suffered by Borrower as a result of Lender's honouring of any requests, execution of any instructions, authorizations or agreements or reliance on any reports communicated to it telephonically, by facsimile or electronically and purporting to have been sent to Lender by Borrower and Lender shall have no duty to verify the origin of any such communication or the identity or authority of the Person sending it.

- (c) In making any Loan hereunder Lender shall be entitled to rely upon the most recent Borrowing Base Certificate delivered to Lender by Borrower and other information available to Lender. Lender shall be under no obligation to make any further Revolving Credit Advance or incur any other Obligation if Borrower shall have failed to deliver a Borrowing Base Certificate to Lender by the time specified in Section 4.1(a) or if an Event of Default shall be continuing.
- (d) Letters of Credit. Subject to the terms and conditions of this Agreement, Borrower shall have the right to request, and Lender agrees to incur, the Letter of Credit Obligations for the account of Borrower in accordance with Schedule C.
- (e) Bank Products. Subject to the terms and conditions of this Agreement, Lender may provide Bank Products to Borrower in accordance with Schedule H.
- (f) Overdrafts. The existence of any overdraft in any of the bank accounts maintained with Lender in consequence of Lender charging or debiting any amount as provided in Section 1.9 or any cheque or other item presented for payment in an amount greater than the available balance in such account, whether or not pursuant to any limit established by Lender in its sole, unfettered discretion (an "Overdraft") shall be deemed to be a request for an advance hereunder and shall constitute a Loan in the amount of such Overdraft. Lender shall not, however, have any obligation to honour any Overdraft.

## 1.2 Term and Prepayment

- (a) Upon the Commitment Termination Date, the obligation of Lender to make Revolving Credit Advances and extend other credit hereunder shall immediately terminate and Borrower shall pay to Lender in full, in cash: (i) all outstanding Revolving Credit Advances and all accrued but unpaid interest thereon; (ii) an amount sufficient to enable Lender to hold cash collateral as specified in Schedule C; (iii) all other non-contingent Obligations due to or incurred by Lender.
- (b) If the Revolving Credit Loan shall at any time exceed the Borrowing Availability, then Borrower shall immediately repay the Revolving Credit Loan in the amount of such excess.
- (c) Borrower shall have the right, at any time upon ninety (90) days prior written notice to Lender to (i) terminate voluntarily Borrower's right to receive or benefit from, and Lender's obligation to make, Revolving Credit Advances and Letter of Credit Obligations, and (ii) prepay all of the Obligations. Following receipt of such notice by Lender, the effective date of termination of the Revolving Credit Loan specified in such notice shall be deemed

to be the Commitment Termination Date. If Borrower exercises its right of termination and prepayment, or if Lender's obligation to make Loans is terminated for any reason prior to the Stated Expiry Date then in effect (including as a result of the occurrence of a Default), Borrower shall pay to Lender the applicable Prepayment Fee.

### **1.3 Use of Proceeds**

Borrower shall use the proceeds of the Loans (i) to refinance on the Closing Date the indebtedness and obligations pursuant to the Original Loan Agreement (ii) for working capital, and (iii) for other permitted general corporate purposes, including without limitation, the occurrence of Capital Expenditures that are otherwise permitted pursuant to the terms of this Agreement.

### **1.4 Single Loan**

The Loans and all of the other Obligations of Borrower to Lender shall constitute one general obligation of Borrower secured by all of the Collateral.

### **1.5 Interest**

Borrower shall pay interest to Lender on the aggregate outstanding Revolving Credit Advances at a floating rate equal to the RBP or RBUSBR, as applicable, plus the Applicable Margin per annum (the "Revolving Credit Rate"). All computations of interest, and all calculations of the Letter of Credit Fee, shall be made by Lender on the basis of a three hundred and sixty-five (365) or three hundred and sixty-six (366), as applicable, day year, in each case for the actual number of days occurring in the period for which such interest or fee is payable and shall be calculated daily and compounded (if unpaid) monthly. Any change in the RBP or RBUSBR shall be effective as of the opening of business on the day such change takes place.

- (a) Each determination by Lender of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error. In no event will Lender charge interest at a rate that exceeds the highest rate of interest permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable.
- (b) Interest shall be payable on the outstanding Revolving Credit Advances (i) in arrears for the preceding calendar month on the first day of each calendar month, (ii) on the Commitment Termination Date, and (iii) if any interest accrues or remains payable after the Commitment Termination Date, upon demand by Lender.
- (c) Effective upon the occurrence of any Event of Default and for so long as any Event of Default shall be continuing, the Revolving Credit Rate, and the Letter of Credit Fee shall automatically be increased by three percentage points (3%) per annum (such increased rate, the "Default Rate"), and all outstanding Obligations, including unpaid interest and Letter of Credit Fees, shall continue to accrue interest from the date of such Event of Default at the Default Rate applicable to such Obligations.
- (d) If any interest or any other payment (including Unused Line Fees and Collateral Monitoring Fees) to Lender under this Agreement becomes due and payable on a day other than a Business Day, such payment date shall be extended to the next succeeding Business Day and interest thereon shall be payable at the then applicable rate during such extension.

### **1.6 Cash Management System**

On or prior to the Closing Date and until the Termination Date Borrower will establish and maintain the cash management system described in Schedule D. All payments in respect of the Collateral shall be

made to or deposited in the Blocked Accounts described in Schedule D in accordance with the terms thereof.

#### **1.7 Fees**

Borrower agrees to pay to Lender the Fees set forth in Schedule E.

#### **1.8 Receipt of Payments**

Borrower shall make each payment under this Agreement (not otherwise made pursuant to Section 1.9) without set-off, counterclaim or deduction and free and clear of all Taxes on the day when due in lawful money of Canada in immediately available funds to the Blocked Accounts. If Borrower shall be required by law to deduct or withhold any Taxes from any payment to Lender under any Loan Document, then the amount payable to Lender shall be increased so that, after making all required deductions and withholdings, Lender receives an amount equal to that which it would have received had no such deductions and withholdings been made. For purposes of computing interest, Fees and determining Net Borrowing Availability, all payments shall be deemed received by Lender one (1) Business Day following receipt of immediately available funds in the Blocked Accounts.

#### **1.9 Application and Allocation of Payments**

Borrower irrevocably agrees that Lender shall have the continuing and exclusive right to apply any and all payments against the then due and payable Obligations in such order as Lender may deem advisable. Lender is authorized to, and at its option may (without prior notice or precondition and at any time or times), but shall not be obligated to, make or cause to be made Revolving Credit Advances on behalf of Borrower, for: (a) payment of all Fees, expenses, indemnities, charges, costs, principal, interest, or other Obligations owing by Borrower under this Agreement or any of the other Loan Documents, (b) the payment, performance or satisfaction of any of Borrower's obligations with respect to preservation of the Collateral, or (c) any premium in whole or in part required in respect of any of the policies of insurance required by this Agreement, even if the making of any such Revolving Credit Advance causes the outstanding balance of the Revolving Credit Loan to exceed the Borrowing Availability, and Borrower agrees to repay immediately, in cash, any amount by which the Revolving Credit Loan exceeds the Borrowing Availability.

#### **1.10 Accounting**

Lender is authorized to record on its books and records the date and amount of each Loan and each payment of principal thereof and such recordation shall constitute prima facie evidence of the accuracy of the information so recorded. Lender shall provide Borrower on a monthly basis a statement and accounting of such recordations but any failure on the part of Lender to keep any such recordation (or any errors therein) or to send a statement thereof to Borrower shall not in any manner affect the obligation of Borrower to repay any of the Obligations. Except to the extent that Borrower shall, within thirty (30) days after such statement and accounting is sent, notify Lender in writing of any objection Borrower may have thereto (stating with particularity the basis for such objection), such statement and accounting shall be deemed final, binding and conclusive upon Borrower, absent manifest error.

#### **1.11 Indemnity**

Borrower and each other Credit Party executing this Agreement jointly and severally agree to indemnify and hold Lender and its Affiliates, and their respective employees, officers, directors, professional advisors and agents (each, an "Indemnified Person"), harmless from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses of any kind or nature whatsoever (including legal fees and disbursements and other costs of investigation or defence, including those incurred upon any appeal) which may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this

Agreement and the other Loan Documents or with respect to the execution, delivery, enforcement, performance or administration of, or in any other way arising out of or relating to, this Agreement and the other Loan Documents or any other documents or transactions contemplated by or referred to herein or therein and any actions or failures to act with respect to any of the foregoing, including any and all product liabilities, Environmental Liabilities, Taxes and legal costs and expenses arising out of or incurred in connection with any dispute between or among any parties to any of the Loan Documents (collectively, "Indemnified Liabilities"), except to the extent that any such Indemnified Liability is finally determined by a court of competent jurisdiction to have resulted from such Indemnified Person's gross negligence or wilful misconduct (in which case the Indemnified Person shall not be indemnified for their gross negligence and wilful misconduct in the amount that they have been found by such court to be contributorily negligent). NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY CREDIT PARTY, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR ANY ACT OR FAILURE TO ACT UNDER ANY POWER OF ATTORNEY OR FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

### **1.12 Borrowing Base; Reserves**

The Borrowing Base shall be determined by Lender (including the eligibility of Accounts and Inventory) based on the most recent Borrowing Base Certificate delivered to Lender in accordance with Section 4.1(a) and such other information available to Lender. The Revolving Credit Loan shall be subject to Lender's continuing right to withhold from Borrowing Availability reserves, and to increase and decrease such reserves from time to time, if and to the extent that in Lender's good faith credit judgment such reserves are necessary, including to protect Lender's interest in the Collateral or to protect Lender against possible non-payment of Accounts for any reason by Account Debtors or possible diminution of the value of any Collateral or possible non-payment of any of the Obligations or for any Taxes or in respect of any state of facts which could constitute a Default. Lender may, at its option, implement reserves by designating as ineligible a sufficient amount of Accounts or Inventory which would otherwise be Eligible Accounts or Eligible Inventory, as the case may be, so as to reduce the Borrowing Base by the amount of the intended reserves.

## **SECTION 2 – CONDITIONS PRECEDENT**

### **2.1 Conditions to the Initial Loans**

Lender shall not be obligated to make any of the Loans or to perform any other action hereunder, until the following conditions have been satisfied in a manner satisfactory to Lender in its sole discretion, or waived in writing by Lender:

- (a) the Loan Documents to be delivered on or before the Closing Date shall have been duly executed and delivered by the appropriate parties, all as set forth in the Schedule of Documents (Schedule F);
- (b) [reserved];
- (c) Lender shall have received and shall be satisfied with such estoppel letters, landlord (in the form of Exhibit E or otherwise as acceptable to Lender in its sole discretion), mortgagee, processor and bailee waivers and such other consents (including consents from Governmental Authorities) as Lender may require in its discretion;
- (d) Lender shall have received and shall be satisfied with such subordination and intercreditor agreements as Lender may require in its discretion;

- (e) the insurance policies provided for in Section 3.16 are in full force and effect, together with appropriate evidence showing loss payable or additional insured clauses or endorsements in favour of Lender as required under such Section;
- (f) [reserved];
- (g) Lender shall have received an opinion of counsel to each Credit Party and each of the Credit Parties (including a standard enforceability opinion) with respect to each Loan Document to which such Credit Party is a party in form and substance satisfactory to Lender;
- (h) Lender (and where applicable, Lender's counsel) shall have completed and be satisfied with the results of all business, environmental and legal due diligence (including review with results satisfactory to Lender of Borrower's union contracts, if applicable);
- (i) Lender shall have received, and be satisfied with, the results of Borrower's inventory appraisal(s) conducted by an appraisal firm acceptable to Lender, and with regard to the Collateral, the inventory control systems, the books and records and the reporting capability of the Credit Parties;
- (j) Lender shall have been provided with, and be satisfied with, its review of Borrower's documents regarding its corporate and capital structure, material contracts, debt instruments and governing documents;
- (k) Lender shall have reviewed and be satisfied with Borrower's customers' contracts, and, if requested by Lender, the purchase orders relating thereto;
- (l) Lender shall have completed and be satisfied with the results of the background and reference checks on Borrower, management of Borrower and the other Credit Parties;
- (m) Lender has received, and same shall continue to be valid and current, certified copies of all the constating documents, by-laws and resolutions of the directors (or partners, members or shareholders as required by Lender) authorizing the Loan Documents, and certificates of incumbency, for Borrower and each other Corporate Credit Party; and
- (n) Compliance Certificate in the form of Exhibit D shall have been submitted prior to the Closing Date confirming all required covenants have been met.

## 2.2 Further Conditions to the Loans

Lender shall not be obligated to fund any Loan (including the initial Loan), if, as of the date thereof:

- (a) any representation or warranty by any Credit Party contained herein or in any of the other Loan Documents shall be untrue or incorrect as of such date, except to the extent that any such representation or warranty is expressly stated to relate to a specific earlier date, in which case, such representation and warranty shall be true and correct as of such earlier date; or
- (b) any event or circumstance which has had or reasonably could be expected to have a Material Adverse Effect shall have occurred since the Closing Date; or
- (c) any Default shall have occurred and be continuing or would result after giving effect to such Loan; or

- (d) after giving effect to such Loan, the Revolving Credit Loan would exceed the Borrowing Availability; or
- (e) Lender has not received certified copies of all the constating documents, by-laws and resolutions of the directors (or partners, members or shareholders as required by Lender) authorizing the Loan Documents, and certificates of incumbency, for Borrower and each other Corporate Credit Party.

The request and acceptance by Borrower of the proceeds of any Loan shall be deemed to constitute, as of the date of such request and the date of such acceptance, (i) a representation and warranty by Borrower that the conditions in this Section 2.2 have been satisfied and (ii) a restatement by Borrower of each of the representations and warranties made by it in each Loan Document and a reaffirmation by Borrower of the granting and continuance of Lender's Liens pursuant to the Loan Documents.

### **SECTION 3 – REPRESENTATIONS, WARRANTIES AND AFFIRMATIVE COVENANTS**

To induce Lender to enter into this Agreement and to make the Loans, Borrower and each other Credit Party executing this Agreement represent and warrant to Lender (each of which representations and warranties shall survive the execution and delivery of this Agreement), and promise to and agree with Lender at all times until the Termination Date as follows:

#### **3.1 Corporate Existence; Compliance with Law**

Each Corporate Credit Party:

- (a) is, as of the Closing Date, and will continue to be (i) a corporation or partnership, as applicable, duly organized, validly existing, registered and in good standing under the laws of the jurisdiction of its incorporation or formation, (ii) duly qualified to do business and in good standing in each other jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect, and (iii) in compliance with all Requirements of Law, including without limitation, laws relating to the prevention of money laundering and terrorist financing and Contractual Obligations, except to the extent failure to comply therewith could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;
- (b) has and will continue to have (i) the requisite power and authority and the legal right to execute, deliver and perform its obligations under the Loan Documents, and to own, pledge, mortgage or otherwise encumber and operate its properties, to lease the property it operates under lease, and to conduct its business as now, heretofore or proposed to be conducted, and (ii) all licenses, permits, franchises, rights, powers, consents or approvals from or by all Persons or Governmental Authorities having jurisdiction over such Corporate Credit Party which are necessary or appropriate for the conduct of its business;
- (c) is not an insolvent person as such term is defined in the BIA; and
- (d) is in compliance with all Requirements of Law.

#### **3.2 Executive Offices; Corporate or Other Names**

The location of each Corporate Credit Party's chief executive office, corporate offices, warehouses, other locations of Collateral and locations where records with respect to Collateral are kept (including in each case the county of such locations) are as set forth in Disclosure Schedule (3.2) and, except as set forth in such Disclosure Schedule, such locations have not changed during the preceding twelve (12) months. As



of the Closing Date, during the prior five years, except as set forth in Disclosure Schedule (3.2), no Corporate Credit Party has been known as or conducted business in any other name (including trade or business names).

### **3.3 Corporate Power; Authorization; Enforceable Obligations**

The execution, delivery and performance by each Credit Party of the Loan Documents to which it is a party, and the creation of all Liens provided for herein and therein: (a) are and will continue to be within such Credit Party's power and authority; (b) have been and will continue to be duly authorized by all necessary or proper action; (c) are not and will not be in violation of any Requirement of Law or Contractual Obligation of such Credit Party (d) do not and will not result in the creation or imposition of any Lien (other than Permitted Encumbrances) upon any of the Collateral; and (e) do not and will not require the consent or approval of any Governmental Authority or any other Person. As of the Closing Date, each Loan Document shall have been duly executed and delivered on behalf of each Credit Party thereto, and each such Loan Document upon such execution and delivery shall be and will continue to be a legal, valid and binding obligation of such Credit Party, enforceable against it in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency and other similar laws affecting creditors' rights generally.

### **3.4 Financial Statements and Projections; Books and Records**

- (a) the Financial Statements of the Borrower delivered by Borrower to Lender for its recently ended Fiscal Year and Fiscal Month, are true, correct and complete and reflect fairly and accurately the financial condition of Borrower as of the date of each such Financial Statement in accordance with GAAP. The Projections most recently delivered by Borrower to Lender have been prepared in good faith, with care and diligence and use assumptions that are reasonable under the circumstances at the time such Projections were prepared and as of the date delivered to Lender and all such assumptions are disclosed in the Projections; and
- (b) the Borrower and the other Corporate Credit Parties shall keep adequate Books and Records with respect to the Collateral and its business activities in which proper entries, reflecting all consolidated and consolidating financial transactions, and payments and credits received on, and all other dealings with, the Collateral, shall be made in accordance with GAAP and all Requirements of Law and on a basis consistent with the Financial Statements.

### **3.5 Material Adverse Change**

Between the date of Borrower's most recently audited Financial Statements delivered to Lender and the Closing Date: (a) no Corporate Credit Party has incurred any obligations, contingent or non-contingent liabilities, or liabilities for Charges, long-term leases or unusual forward or long-term commitments which are not reflected in the Projections delivered prior to the Closing Date and which could, alone or in the aggregate, reasonably be expected to have a Material Adverse Effect; (b) there has been no material deviation from such Projections; and (c) no events have occurred which alone or in the aggregate has had or could reasonably be expected to have a Material Adverse Effect. No Requirement of Law or Contractual Obligation of any Credit Party has or have had or could reasonably be expected to have a Material Adverse Effect. No Credit Party is in default, and to such Credit Party's knowledge, no third party is in default, under or with respect to any of its Contractual Obligations, which alone or in the aggregate has had or could reasonably be expected to have a Material Adverse Effect.

### **3.6 Real Estate; Property**

The real estate listed in Disclosure Schedule (3.6) constitutes, as of the Closing Date, all of the real property owned, leased, or used by each Corporate Credit Party in its business, and such Corporate



Credit Party will not execute any material agreement or contract in respect of such real estate after the date of this Agreement without giving Lender prompt prior written notice thereof. Each Corporate Credit Party holds and will continue to hold good and marketable fee simple title to all of its owned real estate, and good and marketable title to all of its other properties and assets, and valid and insurable leasehold interests in all of its leases (both as lessor and lessee, sublessee or assignee), and none of the properties and assets of any Corporate Credit Party are or will be subject to any Liens, except Permitted Encumbrances. With respect to each of the premises identified in Disclosure Schedule (3.6) on or prior to the Closing Date a bailee, landlord or mortgagee waiver acceptable to Lender has been obtained except as expressly noted in Disclosure Schedule (3.6).

### **3.7 Ventures, Subsidiaries and Affiliates; Outstanding Shares and Indebtedness**

Except as set forth in Disclosure Schedule (3.7), as of the Closing Date no Corporate Credit Party has any Subsidiaries, is engaged in any joint venture or partnership with any other Person, or is an Affiliate of any other Person. All of the issued and outstanding Shares of each Corporate Credit Party (including all rights to purchase, options, warrants or similar rights or agreements pursuant to which any Corporate Credit Party may be required to issue, sell, repurchase or redeem any of its Shares) as of the Closing Date are registered in the name of the Shareholders (and in the amounts) set forth on Disclosure Schedule (3.7). All outstanding Indebtedness of each Corporate Credit Party as of the Closing Date is described in Disclosure Schedule (5(b)).

### **3.8 Government Regulations**

To the extent any Corporate Credit Party is subject to or regulated under any federal, provincial or state statute, rule or regulation that restricts or limits such Person's ability to incur Indebtedness, pledge its assets, or to perform its obligations under the Loan Documents such laws have been complied with. The making of the Loans, the application of the proceeds and repayment thereof, and the consummation of the transactions contemplated by the Loan Documents do not and will not violate any Requirement of Law.

### **3.9 Taxes; Charges**

Except as disclosed on Disclosure Schedule (3.9) all tax returns, reports and statements required by any Governmental Authority to be filed by Borrower or any other Credit Party have, as of the Closing Date, been filed and will, until the Termination Date, be filed with the appropriate Governmental Authority and no tax Lien has been filed against any Credit Party or any Credit Party's property. Proper and accurate amounts have been and will be withheld by Borrower and each other Corporate Credit Party from their respective past or present employees for all periods in complete compliance with all Requirements of Law and such withholdings have been and will be timely paid to the appropriate Governmental Authorities. Disclosure Schedule (3.9) sets forth as of the Closing Date those taxable years for which any Credit Party's tax returns are currently being audited by the Canada Revenue Agency or any other applicable Governmental Authority and any assessments or threatened assessments in connection with such audit, or otherwise currently outstanding. Except as described on Disclosure Schedule (3.9), none of the Credit Parties nor their respective predecessors are liable for any Charges: (a) under any agreement (including any tax sharing agreements or agreement extending the period of assessment of any Charges) or (b) to each Credit Party's knowledge, as a transferee.

### **3.10 Payment of Obligations**

Each Corporate Credit Party will pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all of its Charges and other obligations of whatever nature, except where the amount or validity thereof is at such time being contested in good faith by appropriate proceedings and reserves in conformity with GAAP with respect thereto have been provided on the books of such Corporate Credit Party and none of the Collateral is or could reasonably be expected to become subject to any Lien or forfeiture or loss as a result of such contest.

### **3.11 Pension**

No Pension Event has occurred or is reasonably expected to occur. The aggregate amount of all normal contributions (as such term is defined for the purpose of the BIA) accruing due but not paid or remitted, all amounts withheld from employees and not paid or remitted and other amounts which might give rise to a Lien giving any priority under the BIA never exceed the Minimum Actionable Amount.

### **3.12 Litigation**

No Litigation is pending or, to the knowledge of any Credit Party, threatened against any Credit Party or against any Credit Party's properties or revenues (a) with respect to any of the Loan Documents or any of the transactions contemplated hereby or thereby, (b) which could reasonably be expected to have a Material Adverse Effect or (c) which is otherwise in an amount in excess of the Minimum Actionable Amount. Except as set forth on Disclosure Schedule (3.12), as of the Closing Date there is no Litigation pending or threatened against any Credit Party which seeks damages in excess of the Minimum Actionable Amount or injunctive relief or alleges criminal misconduct of any Credit Party. Following the Closing Date, each Credit Party shall notify Lender promptly in writing upon learning of the existence, threat or commencement of any Litigation against any Credit Party or any Plan, in each case, if applicable, or any allegation of criminal misconduct against any Credit Party.

### **3.13 Intellectual Property**

As of the Closing Date, all material Intellectual Property owned or used by any Corporate Credit Party is listed, together with application or registration numbers, where applicable, in Disclosure Schedule (3.13). Each Corporate Credit Party owns, or is licensed to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license could not reasonably be expected to have a Material Adverse Effect. Each Corporate Credit Party will maintain the patenting and registration of all Intellectual Property owned by it with the appropriate Governmental Authority and each Corporate Credit Party will promptly apply to patent or register, as the case may be, all new Intellectual Property developed by it and notify Lender in writing five (5) Business Days prior to filing any such new patent or registration.

### **3.14 Full Disclosure/Know Your Customer**

No information contained in any Loan Document, the Financial Statements of the Borrower or any written statement furnished by or on behalf of any Credit Party under any Loan Document or to induce Lender to execute the Loan Documents, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. There are no material facts relating to any of the Credit Parties which have not been disclosed to Lender. Without limitation to any other term hereof, each Credit Party shall provide Lender with such documentation and other evidence as is determined necessary by Lender in or for it to be satisfied that it has complied and all times will comply with all "know your customer" requirements under all applicable Requirements of Law (including in connection with any change of laws or requirement or any proposed or actual assignment by Lender).

### **3.15 Environmental Matters**

Except as set forth on Disclosure Schedule (3.15), as of the Closing Date: (a) each real property location owned, leased or occupied by or otherwise in the charge, management or control of each Corporate Credit Party (the "Real Property") is maintained free of contamination from any Hazardous Material, (b) no Corporate Credit Party is subject to any Environmental Liabilities or, to any Corporate Credit Party's knowledge, potential Environmental Liabilities, in excess of the Minimum Actionable Amount in the aggregate, (c) no notice has been received by any Corporate Credit Party identifying it as a "potentially responsible party" or otherwise identifying it as a potentially liable party or requesting information under the EPA or analogous federal or provincial laws, in each case, to the extent applicable, and to the

knowledge of any Corporate Credit Party, there are no facts, circumstances or conditions that may result in any Corporate Credit Party being identified as a "potentially responsible party" under the EPA or analogous federal or provincial laws, in each case, to the extent applicable; and (d) each Corporate Credit Party has provided to Lender copies of all existing environmental reports, reviews and audits and all written information pertaining to actual or potential Environmental Liabilities, in each case relating to each Real Property location. Each Corporate Credit Party: (i) shall comply in all material respects with all applicable Environmental Laws and environmental permits; (ii) shall notify Lender in writing within seven (7) Business Days if and when it becomes aware of any Release, on, at, in, under, above, to, from or about any of its Real Property; and (iii) shall promptly forward to Lender a copy of any order, notice, permit, application, or any communication or report received by it or any other Corporate Credit Party in connection with any such Release.

### **3.16 Insurance**

As of the Closing Date, Disclosure Schedule (3.16) lists all Insurance of any nature maintained for current occurrences by Borrower and each other Corporate Credit Party, as well as a summary of the terms of such insurance. Each Corporate Credit Party shall deliver to Lender originals or copies and endorsements to all of its and those of its Subsidiaries (a) "All Risk" policies naming Lender as loss payee, (b) general liability and other liability policies naming Lender as an additional insured and (c) receivables insurance issued by EDC. All policies of insurance on real and personal property (including EDC receivables insurance) will be adequate in form, substance, scope and amount and will contain an endorsement, all in form and substance acceptable to Lender, showing loss payable to Lender (I.B.C. Form 3000 or equivalent) and extra expense and business interruption endorsements. Such endorsement, or an independent instrument furnished to Lender, will provide that the insurance companies will give Lender at least thirty (30) days prior written notice before any such policy or policies of insurance and EDC receivables insurance shall be altered or cancelled and that no act or default of Borrower or any other Person shall affect the right of Lender to recover under such policy or policies of insurance in case of loss or damage. Each Corporate Credit Party shall direct all present and future insurers under its "All Risk" policies of insurance to pay all proceeds payable thereunder directly to Lender. If any insurance proceeds are paid by cheque, draft or other instrument payable to any Credit Party and Lender jointly, Lender may endorse such Credit Party's name thereon and do such other things as Lender may deem advisable to reduce the same to cash. Lender reserves the right at any time, upon review of each Credit Party's risk profile, to require additional forms and limits of insurance. Each Corporate Credit Party shall, on each anniversary of the Closing Date and from time to time at Lender's request, deliver to Lender a report by a reputable insurance broker, satisfactory to Lender, with respect to such Corporate Credit Party's insurance policies. Borrower will maintain all such insurance in effect during the term of this Agreement.

### **3.17 Bank Accounts**

Borrower and the other Corporate Credit Parties shall maintain deposit and/or other accounts, including the Blocked Accounts and Disbursement Accounts, with Lender and will not have any other bank accounts without the prior consent of Lender.

### **3.18 Accounts and Inventory**

As of the date of each Borrowing Base Certificate delivered to Lender, each Account listed thereon as an Eligible Account shall be an Eligible Account and all Inventory listed thereon as Eligible Inventory shall be Eligible Inventory. Borrower has not made, and will not make, any agreement with any Account Debtor for any extension of time for the payment of any Account, any compromise or settlement for less than the full amount thereof, any release of any Account Debtor from liability therefor, or any deduction therefrom except a discount or allowance for prompt or early payment allowed by Borrower in the ordinary course of its business consistent with historical practice and as previously disclosed to Lender in writing. Disclosure Schedule (3.18) sets forth each Contract of Borrower with each Account Debtor which gives such Account Debtor the right (under such Contract, under common law or otherwise) to offset any Accounts for Borrower's failure to perform under such Contract and Borrower has obtained an offset waiver for

each such contract in form and substance satisfactory to Lender. With respect to the Accounts pledged as collateral pursuant to any Loan Document (a) the amounts shown on all invoices, statements and reports which may be delivered to Lender with respect thereto are actually and absolutely owing to the relevant Corporate Credit Party as indicated thereon and are not in any way contingent; (b) no payments have been or shall be made thereon except payments immediately delivered to the applicable accounts described in paragraph 1 to Schedule D or Lender as required hereunder; and (c) to Borrower's knowledge, all Account Debtors have the capacity to contract. Borrower shall notify Lender promptly of any event or circumstance which, to Borrower's knowledge would cause Lender to consider any then existing Account or Inventory as no longer constituting an Eligible Account or Eligible Inventory, as the case may be.

### **3.19 Conduct of Business**

Each Corporate Credit Party (a) shall conduct its business substantially as now conducted or as otherwise permitted hereunder, and (b) shall at all times maintain, preserve and protect all of the Collateral and such Corporate Credit Party's other property, used or useful in the conduct of its business and keep the same in good repair, working order and condition and make, or cause to be made, all necessary or appropriate repairs, replacements and improvements thereto consistent with industry practices.

### **3.20 Material Contracts**

All of the Material Contracts of the Credit Parties are described in Schedule G.

### **3.21 Further Assurances**

At any time and from time to time, upon the written request of Lender and at the sole expense of Borrower, Borrower and each other Credit Party shall promptly and duly execute and deliver any and all such further Instruments and documents and take such further action as Lender may reasonably deem desirable (a) to obtain the full benefits of this Agreement and the other Loan Documents, (b) to protect, preserve and maintain Lender's rights in any Collateral, or (c) to enable Lender to exercise all or any of the rights and powers herein granted.

### **3.22 Default**

No Default or Event of Default has occurred and is continuing.

## **SECTION 4 – FINANCIAL REPORTS, INFORMATION AND NOTICES**

### **4.1 Reports and Information**

From the Closing Date until the Termination Date, Borrower shall deliver to Lender:

- (a) as frequently as Lender may request and in any event no less than weekly on a day agreed upon between Lender and Borrower and by 12.00 p.m. (Toronto time) on that day, a Borrowing Base Certificate in the form of Exhibit C as of the close of business of the previous Business Day, detailing the calculation of the Borrowing Base, certified as true and correct by an Authorized Officer, together with an accounts receivable roll forward analysis in the form of Attachment 1 to Exhibit C, and all accounts receivable, accounts payable and inventory ledgers, subledgers and other backup as Lender may require;
- (b) within 30 days following the end of each Fiscal Month:

- (i) its aged accounts payable listing by creditor, its aged accounts receivable listing by Account Debtor, its Inventory perpetual or physical listing (as requested by Lender) and reconciliations of the aged accounts receivable listing by Account Debtor and the Inventory perpetual or physical listing (as the case may be) to Borrower's trial balance and from the trial balance to the Financial Statements for such Fiscal Month, accompanied by supporting detail and documentation as Lender may request;
  - (ii) its trial balance for such Fiscal Month;
  - (iii) its consolidated and consolidating Financial Statements for such Fiscal Month, which shall provide comparisons to budget and actual results for the corresponding period during the prior Fiscal Year, both on a monthly and year-to-date basis, which shall, for greater certainty, include balance sheet, income statements and cash flow statements; and
  - (iv) a Compliance Certificate in the form of Exhibit D, together with a statement in the form of Attachment 1 to Exhibit D, showing the calculations used in determining compliance with the financial covenants hereunder;
- (c) within 120 days following the end of each Fiscal Year:
- (i) the Financial Statements of the Borrower for such Fiscal Year audited without qualification by an independent qualified accounting firm acceptable to Lender, which shall provide comparisons to the prior Fiscal Year, together with any management letter that may be issued; and
  - (ii) Financial Statements of Marnlen for such Fiscal Year, provided on a review engagement basis, which shall (A) provide comparisons to the prior Fiscal Year, (B) be satisfactory to the Lender in its sole and absolute discretion;
- (d) not less than 30 days after the end of each Fiscal Year, consolidated Projections, by month for the next Fiscal Year prepared by Borrower in a manner consistent with GAAP and accompanied by senior management's discussion and analysis of such plan and prepared by Borrower in good faith, with care and diligence, and using assumptions which are reasonable under the circumstances at the time such Projections are delivered to Lender and disclosed therein when delivered; and
- (e) all the other reports and information set forth in Exhibit B in the time frames set forth therein.

#### 4.2 Notices

Borrower shall advise Lender promptly, in reasonable detail, of:

- (a) any Lien, other than Permitted Encumbrances, attaching to or asserted against any of the Collateral or any occurrence causing a material loss or decline in value of any Collateral and the estimated (or actual, if available) amount of such loss or decline;
- (b) any material change in the composition of the Collateral; and
- (c) the occurrence of any Default or other event which has had or could reasonably be expected to have a Material Adverse Effect. Borrower shall, upon request of Lender, furnish to Lender such other reports and information in connection with the affairs,

business, financial condition, operations, prospects or management of Borrower or any other Credit Party or the Collateral as Lender may request, all in reasonable detail.

## **SECTION 5 – FINANCIAL AND NEGATIVE COVENANTS**

### **5.1 Financial Covenants**

- (a) From and after December 2011, Borrower and its Subsidiaries shall maintain a consolidated Fixed Charge Coverage Ratio of not less than 1:1, calculated on a rolling twelve (12) month basis and tested as of the end of each Fiscal Month;
- (b) Borrower and its Subsidiaries shall maintain, as at the end of each Fiscal Month, consolidated Tangible Net Worth of not less than:
  - (i) Negative Four Million Dollars (-\$4,000,000) for each Fiscal Month from and including the Fiscal Month of the Closing Date through to and including May 2012; and
  - (ii) Negative Four Million Five Hundred Thousand Dollars (-\$4,500,000) for the Fiscal Months from and including June 2012 through to the Termination Date.
- (c) Borrower and its Subsidiaries shall not make consolidated Capital Expenditures, other than Capital Expenditures financed through the incurrence of Indebtedness (excluding the Revolving Credit Loan), in any Fiscal Year in excess of Seven Hundred Fifty Thousand (\$750,000).

### **5.2 Negative Covenants**

Borrower and each Credit Party executing this Agreement covenants and agrees (for itself and each other Credit Party) that, without Lender's prior written consent, from the Closing Date until the Termination Date, neither Borrower nor any other Corporate Credit Party shall, directly or indirectly, by operation of law or otherwise:

- (a) form any Subsidiary or merge with, amalgamate with, consolidate with, acquire all or substantially all of the assets or capital stock of, or otherwise combine with or make any investment in or, except as provided in Section 5.2(c) below, make a loan or advance to, any Person;
- (b) cancel any debt owing to it or create, incur, assume or permit to exist any Indebtedness, except: (i) the Obligations, (ii) Indebtedness existing as of the Closing Date set forth on Disclosure Schedule 5.2(b), (iii) deferred taxes, (iv) by endorsement of Instruments or items of payment for deposit to the general account of such Credit Party, (v) Guaranteed Indebtedness Incurred for the benefit of Borrower if the primary obligation is permitted by this Agreement; and (vi) additional Indebtedness (including Purchase Money Indebtedness) incurred after the Closing Date in an aggregate outstanding amount for all such Corporate Credit Parties combined not exceeding the Minimum Actionable Amount;
- (c) enter into any lending, borrowing or other commercial transaction with any of its employees, directors, Affiliates or any other Credit Party (including upstreaming and downstreaming of cash and intercompany advances and payments by a Credit Party on behalf of another Credit Party which are not otherwise permitted hereunder) other than (i) loans or advances to employees in the ordinary course of business in an aggregate outstanding amount not exceeding Minimum Actionable Amount, and (ii) real property lease arrangements and equipment lease or rental agreements with an Affiliate or with an entity that is owned by any of its employees, directors, Affiliates or any other Credit Party

provided that such lease or rental arrangements are on commercially reasonable and market terms and (iii) loans from the Borrower to Marlen, provided that Marlen uses the proceeds of such loans solely for the purpose of paying amounts due pursuant to the lease with 400CD Property Ltd.

- (d) make any changes in any of its business objectives, purposes, or operations which could reasonably be expected to adversely affect repayment of the Obligations or could reasonably be expected to have a Material Adverse Effect, or engage in any business other than that presently engaged in or proposed to be engaged in the Projections delivered to Lender as of the Closing Date, or amend its charter or by-laws or other organizational documents;
- (e) create or permit any Lien on any of its properties or assets, except for Permitted Encumbrances;
- (f) sell, transfer, issue, convey, assign or otherwise dispose of any of its assets or properties, including its Accounts or engage in any sale-leaseback, synthetic lease or similar transaction (provided, that the foregoing shall not prohibit the sale of Inventory or obsolete or unnecessary Equipment in the ordinary course of its business);
- (g) change its name, chief executive office, corporate offices, warehouses or other Collateral locations, or location of its records concerning the Collateral, or acquire, lease or use any real estate after the Closing Date without such Person, in each instance, giving thirty (30) days prior written notice thereof to Lender and taking all actions deemed necessary or appropriate by Lender to continuously protect and perfect Lender's Liens upon the Collateral;
- (h) unless the Lender has provided its prior written consent (A) establish any depository or other bank account of any kind with any financial institution (other than the accounts set forth on Attachment 1 to Schedule D); or
- (i) make or permit any Restricted Payment.

## **SECTION 6 – SECURITY INTEREST**

### **6.1 Grant of Security Interest**

- (a) As collateral security for the prompt and complete payment and performance of the Obligations, each of Borrower and each other Corporate Credit Party executing this Agreement hereby grants to Lender a security interest in, hypothec of and Lien upon all of its personal property and assets, tangible or intangible, and whether now owned or hereafter acquired, or in which it now has or at any time in the future may acquire any right, title, or interest, including all of the following property in which it now has or at any time in the future may acquire any right, title or interest: all Accounts; all bank and deposit accounts and all funds on deposit therein; all cash and cash equivalents; all commodity contracts; all investments, Shares and Investment Property; all Inventory and Equipment; all Goods; all Chattel Paper, Documents and Instruments; all Books and Records; all Intangibles; and to the extent not otherwise included, all Proceeds and products of all and any of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing, but excluding in all events Hazardous Waste (all of the foregoing, together with any other collateral pledged to Lender or in respect of which Lender may acquire any Lien pursuant to each other Loan Document, collectively, the "Collateral").



- (b) Borrower, Lender and each other Credit Party executing this Agreement agree that this Agreement creates, and is intended to create, valid and continuing Liens upon the Collateral in favour of Lender. Borrower and each other Credit Party executing this Agreement represents, warrants and promises to Lender that: (i) Borrower and each other Credit Party granting a Lien in Collateral is the sole owner of each item of the Collateral upon which it purports to grant a Lien pursuant to the Loan Documents, and has good and marketable title thereto free and clear of any and all Liens or claims of others, other than Permitted Encumbrances; (ii) the security interests and Liens granted pursuant to this Agreement, upon completion of the filings and other actions listed on Disclosure Schedule (6.1) (which, in the case of all filings and other documents referred to in said Schedule, have been delivered to Lender in duly executed form, where applicable) will constitute valid perfected security interests and Liens in all of the Collateral in favour of Lender as security for the prompt and complete payment and performance of the Obligations, enforceable in accordance with the terms hereof against any and all creditors of and purchasers from any Credit Party (other than purchasers of Inventory in the ordinary course of business) and such security interests and Liens are prior to all other Liens on the Collateral in existence on the date hereof except for Permitted Encumbrances which have priority by operation of law; and (iii) no effective security agreement, financing statement, equivalent security or Lien instrument or continuation statement covering all or any part of the Collateral is or will be on file or of record in any public office, except those relating to Permitted Encumbrances. Borrower and each other Credit Party executing this Agreement promise to defend the right, title and interest of Lender in and to the Collateral against the claims and demands of all Persons whomsoever, and each shall take such actions, including (x) the prompt delivery of all original Instruments, Chattel Paper and certificated Shares owned by Borrower and each other Credit Party granting a Lien on Collateral to Lender, (y) notification of Lender's interest in Collateral at Lender's request, and (z) the institution of litigation against third parties as shall be prudent in order to protect and preserve each Credit Party's and Lender's respective and several interests in the Collateral. Borrower (and any other Credit Party granting a Lien in Collateral) shall mark its Books and Records pertaining to the Collateral to evidence the Loan Documents and the Liens granted under the Loan Documents. All Chattel Paper shall be marked with the following legend: "This writing and the obligations evidenced or secured hereby are subject to the security interest of Royal Bank of Canada".

## 6.2 Lender's Rights

- (a) Lender may, (i) at any time in Lender's own name or in the name of Borrower, communicate with Account Debtors, parties to Contracts, and obligors in respect of Instruments, Chattel Paper or other Collateral to verify to Lender's satisfaction, the existence, amount and terms of any such Accounts, Contracts, Instruments or Chattel Paper or other Collateral, and (ii) at any time and without prior notice to Borrower or any other Credit Party, notify Account Debtors, parties to Contracts, and obligors in respect of Chattel Paper, Instruments, or other Collateral that the Collateral has been assigned to or is subject to Liens in favour of Lender and that payments shall be made directly to Lender. Upon the request of Lender, Borrower shall so notify such Account Debtors, parties to Contracts, and obligors in respect of Instruments, Chattel Paper or other Collateral. Upon an Event of Default, Borrower hereby constitutes Lender or Lender's designee as Borrower's legal counsel, agent and mandatary with power to endorse Borrower's name upon any notes, acceptance drafts, money orders or other evidences of payment or Collateral.
- (b) Borrower shall remain liable under each Contract, Instrument and License to observe and perform all the conditions and obligations to be observed and performed by it thereunder, and Lender shall have no obligation or liability whatsoever to any Person under any Contract, Instrument or License (between Borrower or any other Credit Party and any



Person other than Lender) by reason of or arising out of the execution, delivery or performance of this Agreement or other Loan Documents, and Lender shall not be required or obligated in any manner (i) to perform or fulfill any of the obligations of Borrower or the other Credit Parties, (ii) to make any payment or inquiry, or (iii) to take any action of any kind to collect, compromise or enforce any performance or the payment of any amounts which may have been assigned to it and/or is the object of any Liens in favour or to which it may be entitled at any time or times under or pursuant to any Contract, Instrument or License.

- (c) Borrower and each other Credit Party shall, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless a Default shall have occurred and be continuing, in which event no notice shall be required and Lender shall have access at any and all times): (i) provide access to such property to Lender and any of its officers, employees and agents, as frequently as Lender determines to be appropriate; (ii) permit Lender and any of its officers, employees and agents to inspect, audit and make extracts and copies (or take originals if reasonably necessary) from all of Borrower's and such Corporate Credit Party's Books and Records; and (iii) permit Lender to inspect, review, verify, evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that Lender considers advisable (a "Field Examination"), and Borrower and such Credit Party agree to render to Lender, at Borrower's and such Credit Party's cost and expense, such clerical and other assistance as may be reasonably requested with regard thereto. Without limiting the generality of the foregoing, Lender shall be entitled to conduct no more than 4 Field Examinations and 3 inventory appraisals per year (although it is anticipated that the Lender will conduct only two inventory appraisals per year), provided that there shall be no limit on the number of Field Examinations or inventory appraisals if an Event of Default is continuing.
- (d) After the occurrence and during the continuance of a Default, Borrower, at its own expense, shall cause its chartered accountants or any other appraiser selected by Lender to deliver to Lender the results of any physical verifications of all or any portion of the Inventory made or observed by such accountants or appraisers when and if such verification is conducted. Lender shall be permitted to observe and consult with Borrower's accountants or appraisers in the performance of these tasks.

### **6.3 Grant of License to Use Intellectual Property Collateral**

Borrower and each other Credit Party executing this Agreement hereby grants to Lender an irrevocable, non-exclusive license (exercisable upon the occurrence and during the continuance of an Event of Default without payment of royalty or other compensation to Borrower or such Credit Party) (each a "Granted License") to use, transfer, license or sublicense any Intellectual Property now owned, licensed to, or hereafter acquired by Borrower or such Credit Party, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof, and, subject to the following paragraph of this Section 6.3, represents, promises and agrees that any such license or sublicense is not and will not be in conflict with the contractual or commercial rights of any third Person; provided, that such license will terminate on the Termination Date.

Notwithstanding the foregoing paragraph, to the extent that any Credit Party is expressly prohibited by any agreement to which it is a party from granting a Granted License, the Granted License shall not apply or attach to that agreement and the Credit Party shall hold its interest in the right to use, assign, license or sublicense the property in respect of which the grant of a Granted License is expressly prohibited, in trust for the Lender.

### **6.4 Leases**

- (a) The last day of the term of any lease or sub-lease, oral or written, or any agreement therefor, now held or hereafter acquired by any Credit Party, shall be excepted from the security interest hereby granted and shall not form part of the Collateral, but the Credit Party shall stand possessed of such one day remaining, upon trust to assign and dispose of same as the Lender or any assignee of such lease, or sub-lease or agreement shall direct. If any such lease, sub-lease or agreement therefore contains a provision which provides in effect that such lease, sub-lease or agreement may not be assigned, sub-leased charged or encumbered without the leave, license, consent or approval of the lessor, the application of the security interest created hereby to any such lease, sub-lease or agreement shall be conditional upon such leave, license, consent or approval having been obtained.
- (b) Pursuant to this Article 6:
  - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or the default under, or permit the acceleration or termination of any agreement, right, licence or permit of any Credit Party which constitutes Collateral (each, a "Restricted Asset"), the security interest created hereunder shall not be attach to the Restricted Asset, but the Credit Party shall, subject to paragraph (b) below, hold its interest in the Restricted Asset in trust for the Lender, provided that, until the security interest created hereby has become enforceable, the Credit Party shall be entitled to all proceeds arising under or in connection with the restricted Asset.
  - (ii) To the extent that the creation of the trust in paragraph (a) above would constitute a breach or permit the acceleration or termination of any Restricted asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Lender pursuant to which the Credit Party shall hold as trustee its interest in all proceeds arising under or in connection with the restricted Asset in trust for the Lender, provided that until the security interest created hereby has become enforceable, the Credit Party shall be entitled to receive all such proceeds.

## SECTION 7 – EVENTS OF DEFAULT, RIGHTS AND REMEDIES

### 7.1 Events of Default

The occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder which shall be deemed to be continuing until waived in writing by Lender in accordance with Section 8.3:

- (a) Borrower shall fail to make any payment in respect of any Obligations when due and payable or declared due and payable;
- (b) Borrower, any other Credit Party or any other party to a Loan Document shall fail or neglect to perform, keep or observe any of the covenants, promises, agreements, requirements, conditions or other terms or provisions contained in this Agreement or any of the other Loan Documents;
- (c) any Material Contract terminates, expires or ceases to be legal, valid, binding and enforceable or if a Credit Party breaches a Material Contract or an event of default shall occur under any Contractual Obligation of Borrower or any other Credit Party (other than this Agreement and the other Loan Documents), and such event of default under this clause "(c)" (i) involves the failure to make any payment (whether or not such payment is

blocked pursuant to the terms of an intercreditor agreement or otherwise), whether of principal, interest or otherwise, and whether due by scheduled maturity, required prepayment, acceleration, demand or otherwise, in respect of any Indebtedness (other than the Obligations) of such Person in an aggregate amount exceeding the Minimum Actionable Amount or which results in the acceleration of any debt, exceeding the Minimum Actionable Amount or (ii) causes (or permits any holder of such Indebtedness or a trustee to cause) such Indebtedness, or a portion thereof, in an aggregate amount exceeding the Minimum Actionable Amount to become due prior to its stated maturity or prior to its regularly scheduled date of payment; or

- (d) any representation or warranty in this Agreement or any other Loan Document, or in any written statement pursuant hereto or thereto, or in any report, financial statement or certificate made or delivered to Lender by Borrower or any other Credit Party shall be untrue or incorrect as of the date when made or deemed made, regardless of whether such breach involves a representation or warranty with respect to a Credit Party that has not signed this Agreement; or
- (e) there shall be commenced against Borrower or any other Credit Party any litigation seeking or effecting any seizure (whether in execution or otherwise), attachment, execution, distraint or similar process against all or any substantial part of its assets which remain unreleased or undismissed for thirty (30) consecutive days unless within such thirty (30) days, any seizure or taking possession of any property of such Credit Party shall have occurred; or any creditor (other than Lender) takes possession of all or any substantial part of the assets of Borrower or any other Credit Party; or any creditor (other than Lender) enforces or gives notice of its intention to enforce or gives prior notice with respect to the exercise of any of its hypothecary or other rights under any Liens granted to it by or over any assets of Borrower or any other Credit Party; or any custodian, receiver, interim receiver, liquidator, assignee, trustee, monitor, sequestrator or similar official is appointed in respect of Borrower or any other Credit Party or takes possession of all or any substantial part of the assets of Borrower or any other Credit Party or Borrower or any other Credit Party commits an "act of bankruptcy" (as defined under the relevant provisions of the BIA), becomes insolvent or shall have concealed, removed or permitted to be concealed or removed, any part of its property with intent to hinder, delay or defraud any of its creditors or make or suffer a transfer of any of its property or the incurring of an obligation which may be fraudulent, reviewable or the object of any proceedings under any applicable bankruptcy or insolvency legislation, creditor protection legislation or other similar laws; or
- (f) a petition, proposal, notice of intention to file a proposal, case or proceeding shall have been commenced involuntarily against Borrower or any other Credit Party in a court having competent jurisdiction seeking a declaration, judgment, decree, order or other relief: (i) under the BIA, CCAA or any other applicable federal, provincial, state or foreign bankruptcy or other law providing for suspension of operations or reorganization of debts or relief of debtors, and seeking either (x) the appointment of a custodian, receiver, interim receiver, liquidator, assignee, trustee, monitor or sequestrator (or similar official) for such Person or of any substantial part of its properties, or (y) the reorganization or winding-up or liquidation of the affairs of any such Person, and such proposal, case or proceeding shall remain undismissed or unstayed for sixty (60) consecutive days or such court shall enter a declaration, judgment, decree or order granting the relief sought in such case or proceeding; or (ii) invalidating or denying any Person's right, power, or competence to enter into or perform any of its obligations under any Loan Document or invalidating or denying the validity or enforceability of this Agreement or any other Loan Document or any action taken hereunder or thereunder; or
- (g) Borrower or any other Credit Party shall (i) commence any petition, proposal, notice of intention to file a proposal, case, proceeding or other action under any existing or future

law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization, suspension of operations, conservatorship or relief of debtors, seeking to have an order for relief entered with respect to it or seeking appointment of a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) for it or any substantial part of its properties, (ii) make a general assignment for the benefit of creditors, (iii) consent to or take any action in furtherance of, or, indicating its consent to, approval of, or acquiescence in, any of the acts set forth in paragraphs (e) or (f) of this Section 7.1 or clauses (i) or (ii) of this paragraph (g), or (iv) shall admit in writing its inability to, or shall be generally unable to, pay its debts as such debts become due; or

- (h) a final judgment or judgments for the payment of money in excess of the Minimum Actionable Amount in the aggregate shall be rendered against Borrower or any other Credit Party, unless the same shall be (i) fully covered by insurance and the issuer(s) of the applicable insurance policies shall have acknowledged full coverage in writing within fifteen (15) days of judgment, or (ii) vacated, stayed, bonded, paid or discharged within a period of fifteen (15) days from the date of such judgment, unless within such fifteen (15) days, any seizure or taking possession of the property of such Corporate Credit Party shall have occurred; or
- (i) any other event shall have occurred which has had or could reasonably be expected to have a Material Adverse Effect; or
- (j) any provision of any Loan Document shall for any reason cease to be valid, binding and enforceable in accordance with its terms, or any Lien granted, or intended by the Loan Documents to be granted, to Lender shall cease to be a valid and perfected Lien having the first priority (or a lesser priority if expressly permitted in the Loan Documents) in any of the Collateral (or any Credit Party shall so assert any of the foregoing); or
- (k) a Change of Control shall have occurred;
- (l) a Pension Event shall have occurred that, in the opinion of Lender, could give rise to a Material Adverse Effect or could result in any Lien or any liability on the part of Lender in either case in an aggregate amount exceeding the Minimum Actionable Amount; or
- (m) any Credit Party assigns or transfers to any Person who is not a Credit Party, (A) any security it holds with respect to the assets of any other Credit Party or; (B) any registrations or filings with respect to any such security (including, without limitation, PPSA registrations or any like registrations) over the assets of any other Credit Party.

## 7.2 Remedies

- (a) If any Default shall have occurred and be continuing, then Lender may terminate or suspend its obligation to make further Revolving Credit Advances and to incur additional Letter of Credit or other Obligations. In addition, if any Event of Default shall have occurred and be continuing, Lender may, without notice, take any one or more of the following actions: (i) declare all or any portion of the Obligations to be forthwith due and payable, including contingent liabilities with respect to Letter of Credit Obligations, whereupon such Obligations shall become and be due and payable; (ii) require that all Letter of Credit Obligations be fully cash collateralized pursuant to Schedule C; or (iii) exercise any rights and remedies provided to Lender under the Loan Documents or at law or equity, including all remedies provided under the PPSA; provided, that upon the occurrence of any Event of Default specified in Sections 7.1(e), 7.1(f) or 7.1(g), the Obligations shall become immediately due and payable (and any obligation of Lender to make further Loans, if not previously terminated, shall immediately be terminated) without declaration, notice or demand by Lender.

- (b) Without limiting the generality of the foregoing, Borrower and each other Credit Party executing this Agreement expressly agrees that upon the occurrence of any Event of Default or acceleration, Lender may collect, receive, assemble, process, appropriate and realize upon the Collateral, or any part thereof, and may forthwith sell, lease, assign, give an option or options to purchase or otherwise dispose of and deliver said Collateral (or contract to do so), or any part thereof, in one or more parcels at public or private sale or sales, at any exchange or at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. Lender shall have the right upon any such public sale, to the extent permitted by law, to purchase for the benefit of Lender the whole or any part of said Collateral so sold, free of any right of equity of redemption, which right Borrower and each other Credit Party executing this Agreement hereby releases. Such sales may be adjourned, or continued from time to time with or without notice. Lender shall have the right to conduct such sales on any Corporate Credit Party's premises or elsewhere and shall have the right to use any Corporate Credit Party's premises without rent or other charge for such sales or other action with respect to the Collateral for such time as Lender deems necessary or advisable.
- (c) Upon the occurrence and during the continuance of an Event of Default and at Lender's request, Borrower and each other Credit Party executing this Agreement further agrees to assemble the Collateral and make it available to Lender at places which Lender shall reasonably select, whether at its premises or elsewhere. Until Lender is able to effect a sale, lease, or other disposition of the Collateral, Lender shall have the right to complete, assemble, use or operate the Collateral or any part thereof, to the extent that Lender deems appropriate, for the purpose of preserving such Collateral or its value or for any other purpose. Lender shall have no obligation to any Credit Party to maintain or preserve the rights of any Credit Party as against third parties with respect to any Collateral while such Collateral is in the possession of Lender. Lender may, if it so elects, seek the appointment of a receiver or receiver manager to take possession of any Collateral and to enforce any of Lender's remedies with respect thereto without prior notice or hearing. To the maximum extent permitted by applicable law, Borrower and each other Credit Party executing this Agreement waives all claims, damages, and demands against Lender, its Affiliates, agents, and the officers and employees of any of them arising out of the repossession, retention or sale of any Collateral except such as are determined in a final judgment by a court of competent jurisdiction to have arisen solely out of the gross negligence or wilful misconduct of such Person. Borrower and each other Credit Party executing this Agreement agrees that ten (10) days prior notice by Lender to such Credit Party of the time and place of any public sale or of the time after which a private sale may take place is reasonable notification of such matters. Borrower and each other Credit Party shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all amounts to which Lender is entitled.
- (d) Lender's rights and remedies under this Agreement shall be cumulative and nonexclusive of any other rights and remedies which Lender may have under any Loan Document or at law or in equity. Recourse to the Collateral shall not be required. All provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited, to the extent necessary, so that they do not render this Agreement invalid or unenforceable, in whole or in part.

### **7.3 Waivers by Credit Parties**

Except as otherwise provided for in this Agreement and to the fullest extent permitted by applicable law, Borrower and each other Credit Party executing this Agreement waives: (a) presentment, demand and protest, and notice of presentment, dishonour, intent to accelerate, acceleration, protest, default, non payment, maturity, release, compromise, settlement, extension or renewal of any or all Loan Documents, commercial paper, Accounts, Contracts, Documents, Instruments, Chattel Paper and guaranties at any

time held by Lender on which such Credit Party may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard; (b) all rights to notice and a hearing prior to Lender's taking possession or control of, or to Lender's replevy, attachment or levy upon, any Collateral or any bond or security which might be required by any court prior to allowing Lender to exercise any of its remedies; and (c) the benefit of all valuation, appraisal and exemption laws. Borrower and each other Credit Party executing this Agreement acknowledges that it has been advised by counsel of its choices and decisions with respect to this Agreement, the other Loan Documents and the transactions evidenced hereby and thereby and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of this Agreement.

#### **7.4 Proceeds**

The Proceeds of any sale, disposition or other realization upon any Collateral shall be applied by Lender upon receipt to the Obligations in such order as Lender may deem advisable in its sole discretion (including the cash collateralization of any Letter of Credit Obligations) and after the indefeasible payment and satisfaction in full in cash of all of the Obligations, and after the payment by Lender of any other amount required by any provision of law, the surplus, if any, shall be paid to Borrower or its representatives or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

### **SECTION 8 – MISCELLANEOUS**

#### **8.1 Complete Agreement; Modification of Agreement**

This Agreement and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and thereof, supersede all prior agreements, commitments, understandings or inducements (oral or written, expressed or implied). No Loan Document may be modified, altered or amended except by a written agreement signed by Lender, and each other Credit Party that is a party to such Loan Document. Borrower and each other Credit Party executing this Agreement or any other Loan Document shall have all duties and obligations under this Agreement and such other Loan Documents from the date of its execution and delivery, regardless of whether the initial Loan has been funded at that time.

#### **8.2 Expenses**

Borrower agrees to pay or reimburse Lender for all costs and expenses (including the fees and expenses of all counsel, advisors, consultants (including environmental and management consultants), field examiners, appraisers and auditors retained in connection therewith), incurred in connection with: (a) the preparation, negotiation, execution, delivery, performance and enforcement of the Loan Documents and the preservation of any rights thereunder; (b) collection, including deficiency collections; (c) the forwarding to Borrower or any other Person on behalf of Borrower by Lender of the proceeds of any Loan; (d) any amendment, waiver or other modification with respect to any Loan Document or advice in connection with the administration of the Loans or the rights thereunder; (e) any litigation, dispute, suit, proceeding or action (whether instituted by or between any combination of Lender, Borrower or any other Person), and an appeal or review thereof, in any way relating to the Collateral, any Loan Document, or any action taken or any other agreements to be executed or delivered in connection therewith, whether as a party, witness or otherwise; and (f) any effort (i) to monitor the Loans, (ii) to evaluate, observe or assess Borrower or any other Credit Party or the affairs of such Person, and (iii) to verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of the Collateral. Without limiting the foregoing, Borrower will reimburse Lender for the costs (including out of pocket expenses and applicable taxes) related to Field Examinations and the verification, evaluation, assessment and approval of Collateral.

#### **8.3 No Waiver**



Neither Lender's failure, at any time, to require strict performance by Borrower or any other Credit Party of any provision of any Loan Document, nor Lender's failure to exercise, nor any delay in exercising, any right, power or privilege hereunder, shall operate as a waiver thereof or waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or future exercise thereof or the exercise of any other right, power or privilege. Any suspension or waiver of a Default or other provision under the Loan Documents shall not suspend, waive or affect any other Default or other provision under any Loan Document, and shall not be construed as a bar to any right or remedy which Lender would otherwise have had on any future occasion. None of the undertakings, indemnities, agreements, warranties, covenants and representations of Borrower or any other Credit Party to Lender contained in any Loan Document and no Default by Borrower or any other Credit Party under any Loan Document shall be deemed to have been suspended or waived by Lender, unless such waiver or suspension is by an instrument in writing signed by an officer or other authorized employee of Lender and directed to Borrower specifying such suspension or waiver (and then such waiver shall be effective only to the extent therein expressly set forth), and Lender shall not, by any act (other than execution of a formal written waiver), delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder.

#### **8.4 Severability; Section Titles**

Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of any Loan Document shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of such Loan Document. Except as otherwise expressly provided for in the Loan Documents, no termination or cancellation (regardless of cause or procedure) of any financing arrangement under the Loan Documents shall in any way affect or impair the Obligations, duties, covenants, representations and warranties, indemnities, and liabilities of Borrower or any other Credit Party or the rights of Lender relating to any unpaid Obligation, (due or not due, liquidated, contingent or unliquidated), or any transaction or event occurring prior to such termination, or any transaction or event, the performance of which is not required until after the Commitment Termination Date, all of which shall not terminate or expire, but rather shall survive such termination or cancellation and shall continue in full force and effect until the Termination Date; provided, that all indemnity obligations of the Credit Parties under the Loan Documents shall survive the Termination Date. The Section titles contained in any Loan Document are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

#### **8.5 Authorized Signature**

Until Lender shall be notified in writing by Borrower or any other Credit Party to the contrary, the signature upon any document or instrument delivered pursuant hereto and believed by Lender or any of Lender's officers, agents, or employees to be that of a Credit Party or of an officer of Borrower or such other Corporate Credit Party shall bind Borrower or such other Credit Party and be deemed to be the act of Borrower or such other Credit Party affixed pursuant to and in accordance with resolutions duly adopted by Borrower's or such other Corporate Credit Party's board of directors, and Lender shall be entitled to assume the authority of each signature and authority of the person whose signature it is or appears to be unless the person acting in reliance thereon shall have actual knowledge to the contrary.

#### **8.6 Notices**

Except as otherwise provided herein, whenever any notice, demand, request or other communication shall or may be given to or served upon any party by any other party, or whenever any party desires to give or serve upon any other party any communication with respect to this Agreement, each such communication shall be in writing and shall be deemed to have been validly served, given or delivered (a) upon the earlier of actual receipt (or refusal thereof) and three (3) Business Days after deposit in the mail, registered or certified mail, return receipt requested, with proper postage prepaid, (b) upon transmission during regular business hours at the place of receipt, when sent by telecopy, e-mail or other similar

facsimile or electronic transmission (with such telecopy, e-mail or facsimile promptly confirmed by delivery of a copy by personal delivery or mail as otherwise provided in this Section 8.6, (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid or (d) when hand-delivered during regular business hours at the place of receipt, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated in Schedule B or to such other address (or facsimile number) as may be substituted by notice given as herein provided. Failure or delay in delivering copies of any such communication to any Person (other than Borrower or Lender) designated in Schedule B to receive copies shall in no way adversely affect the effectiveness of such communication.

#### **8.7 Counterparts**

Any Loan Document may be executed in any number of separate counterparts, each of which when so executed and delivered (including by facsimile transmission or as a pdf attachment to an e-mail) shall constitute an original, but all such counterparts when taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a Loan Document by telecopier or by other electronic means shall be as effective as delivery of a manually executed counterpart.

#### **8.8 Assignments**

This Agreement shall be binding upon and inure to the benefit of Lender, the Credit Parties and their respective heirs, executors, administrators, other legal representatives, successors and assigns. Neither this Agreement nor any interest in this Agreement may be assigned by Borrower or any other Credit Party without the prior written consent of Lender. After the occurrence of an Event of Default, Lender may assign or transfer or grant participations in its rights or obligations under this Agreement in whole or in part at any time without notice to or consent of the Credit Parties. Prior to an Event of Default, the Lender may assign or transfer in its rights and obligations under this Agreement if it completely exits the asset based lending industry, provided that in such case the Lender shall provide 120 days notice to the Borrower prior to assigning this Agreement in whole. Lender may disclose to potential or actual transferees or assignees or participants, any information regarding the Credit Parties as Lender considers necessary and the Credit Parties consent to such disclosure.

#### **8.9 Time of the Essence**

Time is of the essence for performance of the Obligations under the Loan Documents.

#### **8.10 Governing Law**

Except for Loan Documents expressed to be governed by the laws of another jurisdiction, the Loan Documents and the obligations arising under the Loan Documents shall be governed by, (i) and construed and enforced in accordance with, the laws of the province of Ontario applicable to contracts made and performed in such province, without regard to the principles thereof regarding conflicts of laws, and any applicable laws and (ii) the federal laws of Canada applicable in Ontario.

#### **8.11 Submission to Jurisdiction; Waiver of Jury Trial**

- (a) Borrower and each other Credit Party executing this Agreement hereby consent and agree that the courts located in Ontario shall have exclusive jurisdiction to hear and determine any claims or disputes between Borrower and such Credit Party and Lender pertaining to this Agreement or any of the other Loan Documents or to any matter arising out of or related to this Agreement or any of the other Loan Documents; that nothing in this Agreement shall be deemed or operate to preclude Lender from bringing suit or taking other legal action in any other jurisdiction to collect the Obligations, to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favour of Lender. Borrower and each other Credit Party executing this Agreement expressly submit and consent in advance to such jurisdiction in any action or



suit commenced in any such court, and Borrower and such Credit Party hereby waive any objection which they may have based upon lack of personal jurisdiction, improper venue or forum non conveniens. Borrower and each other Credit Party executing this Agreement hereby waive, to the extent permitted by applicable law, personal service of the summons, complaint and other process issued in any such action or suit and agree that service of such summons, complaint and other process may be made by registered or certified mail addressed to Borrower or such Credit Party at the address set forth in Schedule B of this Agreement and that service so made shall be deemed completed upon the earlier of Borrower's or such Credit Party's actual receipt thereof (or refusal) or three (3) Business Days after deposit in the mail, proper postage prepaid.

- (b) THE PARTIES HERETO WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE BETWEEN LENDER, BORROWER AND ANY CREDIT PARTY ARISING OUT OF, CONNECTED WITH, RELATED OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THE LOAN DOCUMENTS OR THE TRANSACTIONS RELATED THERETO.

#### **8.12 Press Releases**

Neither the Lender, any Credit Party nor any of its Affiliates will in the future issue any press release (other than internal communications of the Lender and its affiliates) or other public disclosure using the name of Royal Bank of Canada or its affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Lender of the Borrower as applicable, and without the prior written consent of Lender or the Borrower as applicable unless (and only to the extent that) such Lender, Credit Party or Affiliate is required to do so under law and then, in any event, such Lender, Credit Party or Affiliate will consult with Lender or Borrower as applicable before issuing such press release or other public disclosure.

#### **8.13 Reinstatement**

This Agreement shall continue to be effective, or be reinstated, as the case may be, if at any time payment of all or any part of the Obligations is rescinded or must otherwise be returned or restored by Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Borrower or any other Credit Party, or otherwise, all as though such payments had not been made.

#### **8.14 Illegality**

In the event that Lender determines that, in consequence of any change in any Requirement of Law or any policy applicable to it that it is illegal, unlawful or prohibited for it to make or continue any Loans, Letter of Credit Obligations, Bank Products or any other Obligations hereunder, it shall have the right to immediately terminate such Loans, Letter of Credit Obligations, Bank Products or other Obligations as it shall determine necessary or appropriate and to terminate any commitment to make or continue such Loans, Letters of Credit Obligations, Bank Products or other Obligations and/or to terminate its commitments hereunder and any of the Loan Documents as it shall determine necessary or appropriate.

#### **8.15 Set Off and Survival**

Without limitation to any other rights or remedies of Lender, Lender shall have the right at all times without notice to the Credit Parties (which notice is hereby waived to the maximum extent permitted by law) to set off or apply against any Obligations now and hereafter owing (whether matured or contingent) any deposits at any time held by, or other indebtedness at any time owing by, Lender or any of its Affiliates to or for the credit or account of any Credit Party. All indemnities hereunder or under the other

Loan Documents shall survive any termination of the Loan Documents unless expressly released in writing.

#### **8.16 Increased Costs**

If, by reason of (a) any change in any Requirement of Law (including any change by way of imposition or increase of statutory reserves or other reserve requirements) or interpretation thereof, or (b) the compliance with any guideline or request from any government authority or other Person exercising control over banks or financial institutions generally (whether or not having the force of law):

- (i) Lender shall be subject to any Tax with respect to any Loan (including a Letter of Credit) or a change shall result in the basis of taxation of any payment to Lender with respect to its obligation to make or continue any Loan or issue Letters of Credit or participate in Letter of Credit Obligations; or
- (ii) any reserve (including any imposed by the board of governors or any other applicable Governmental Authority), special deposits or similar requirement against assets of, deposits with or for the account of, or credit extended by, Lender shall be imposed or deemed applicable, or any other condition affecting Lender's obligation to make any Loans or issue Letters of Credit, shall be imposed on Lender;

and as a result there shall be an increase in the cost to Lender of agreeing to make or making, funding or maintaining Loans, Letters of Credit or Letter of Credit Obligations (except to the extent already included in determination of the rate of interest), or there shall be a reduction in the amount receivable by Lender, then Lender shall promptly notify Borrower of such event, and Borrower shall, within five (5) Business Days following demand therefor, pay Lender the amount of such increased costs or reduced amounts.

If Lender determines that, because of circumstances described above or any other circumstances arising hereafter affecting such Lender the Applicable Margin will not adequately and fairly reflect the cost to Lender of funding Loans or incurring Letter of Credit Obligations or the cost to Lender of issuing Letters of Credit, then (A) Lender shall promptly notify Borrower of such event; and (B) Lender's obligation to issue Letters of Credit, shall be immediately suspended, until each condition giving rise to such suspension no longer exists.

Notwithstanding anything herein to the contrary, Borrower shall only be required to compensate Lender in respect of any such increased costs or reduction in the amount received or receivable by Lender to the extent Borrower has received a written request for such compensation within ninety (90) days after Lender has received actual notice of the occurrence of the relevant circumstance giving rise to such increased costs or reduction in the amount received or receivable by Lender.

#### **8.17 Conflict**

If any provision of this Agreement conflicts with and is incapable of being construed together with any other Loan Document, then the provisions of this Agreement shall prevail to the extent necessary to remove such conflict. If there is a representation, warranty, covenant, agreement or event of default contained in any Loan Document which is not contained herein, or vice versa, such additional provision shall not constitute a conflict.

### **SECTION 9 – SPECIAL PROVISIONS**

#### **9.1 Interest Act (Canada)**

For the purposes of this Agreement, whenever interest or a fee to be paid hereunder is to be calculated on the basis of a year of three hundred and sixty (360) days, or any other period of time that is less than a

calendar year, the yearly rate of interest or the yearly fee 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 three hundred and sixty (360) or such other period of time, as the case may be.

## **9.2 Excess Resulting from Exchange Rate Change**

If at any time following one or more fluctuations in the exchange rate of the Canadian Dollar against the U.S. Dollar, (a) the Obligations exceed any limitations hereunder or (b) any part of the Obligations exceeds any limit set forth herein for such Obligations, the applicable Borrower shall within three (3) Business Days or, if an Event of Default has occurred and is continuing, immediately (i) make the necessary payments or repayments to reduce such Obligations to an amount necessary to eliminate such excess or (ii) maintain or cause to be maintained with Lender deposits in an amount equal to or greater than the amount of such excess, such deposits to be maintained in such form and upon such terms as are acceptable to the Lender in its reasonable discretion. Without in any way limiting the foregoing provisions, Lender shall, weekly or more frequently in Lender's sole discretion, make the necessary exchange rate calculations (based upon the rate of exchange established by Lender as at noon on the date of determination) to determine whether any such excess exists on such date.

## **9.3 Judgment Currency**

If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, Lender could purchase in the Toronto foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given. Borrower agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date Lender receives payment of any sum so adjudged to be due hereunder in the Second Currency, Lender may, in accordance with normal banking procedures, purchase, in Toronto foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency, Borrower agrees as a separate obligation and notwithstanding any such payment or judgment to indemnify Lender against such loss. The term "rate of exchange" in this Section means the spot rate at which Lender, in accordance with normal practices, is able on the relevant date to purchase the Original Currency with the Second Currency, and includes any premium and costs of exchange payable in connection with such purchase.

## **9.4 Amendment and Restatement**

Upon satisfaction of the conditions precedent to the effectiveness of this Agreement, (a) this Agreement shall amend and restate the Original Loan Agreement in its entirety (b) all Loans (as defined in the Original Loan Agreement) have, pursuant to the Assignment Agreement, been assumed by the Borrower, and (c) the rights and obligations of the parties under the Original Loan Agreement shall be subsumed within, and be governed by, this Agreement; provided, however, that the Credit Parties hereby agree that (i) the outstanding Letters of Credit under, and as defined in, the Original Loan Agreement on the date hereof shall be outstanding Letters of Credit hereunder, and (ii) except as provided in clause (b) hereof, all Obligations of the Credit Parties under, and as defined in, the Original Loan Agreement shall remain outstanding, shall constitute continuing Obligations (as defined in this Agreement) secured by the Collateral, and this Agreement shall not be deemed to evidence or result in a novation or repayment and reborrowing of such obligations and other liabilities.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date first written above.

It is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

**LABELAD LTD.**

Per: 

Name: Lionel Waldman

Title: Vice - President

Per: 

Name: Sandra Waldman

Title: Secretary-Treasurer

**MARNLEN MANAGEMENT LTD.**

Per: 

Name: Lionel Waldman

Title: President

Per: 

Name: Sandra Waldman

Title: Secretary-Treasurer

**ROYAL BANK OF CANADA**

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

Name:

Title: Attorney In Fact

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

Name:

Title: Attorney In Fact

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date first written above.

It is the express wish of the parties that this Agreement and any related documents be drawn up and executed in English. Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

**LABELAD LTD.**

I Per: \_\_\_\_\_  
Name: Lionel Waldman  
Title: Vice - President

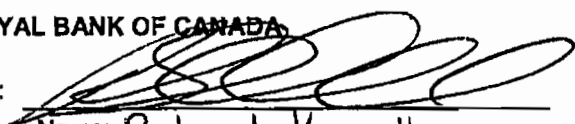
Per: \_\_\_\_\_  
Name: Sandra Waldman  
Title: Secretary-Treasurer

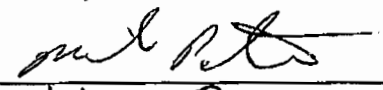
**MARNLEN MANAGEMENT LTD.**

Per: \_\_\_\_\_  
Name: Lionel Waldman  
Title: President

Per: \_\_\_\_\_  
Name: Sandra Waldman  
Title: Secretary-Treasurer

**ROYAL BANK OF CANADA**

Per:   
Name: Robert Kizell  
Title: Attorney In Fact

Per:   
Name: Michael Petersen  
Title: Attorney In Fact

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## SCHEDULE A

### DEFINITIONS

Capitalized terms used in this Agreement and the other Loan Documents shall have (unless otherwise provided elsewhere in this Agreement or in the other Loan Documents) the following respective meanings:

**"Account Debtor"** shall mean any Person who is or may become obligated with respect to, or on account of, an Account.

**"Accounts"** shall mean all "accounts," as such term is defined in the PPSA and includes any right of any Person to payment for goods sold or leased or for services rendered, whether or not it has been earned by performance, now owned or hereafter acquired by any Person, including: (i) all accounts receivable, other receivables, book debts and other forms of obligations whether arising out of goods sold or leased or services rendered or from any other transaction whatsoever (including any contract rights); (ii) all of such Person's rights in, to and under all purchase orders or receipts for goods or services; (iii) all of such Person's rights to any goods represented by any of the foregoing (including unpaid sellers' rights of rescission, replevin, reclamation, stoppage in transit, repossession rights under any statute or law including those under Section 81.1 of the BIA, and rights to returned, claimed or repossessed goods); (iv) all monies due or to become due to such Person under all purchase orders and contracts for the sale or lease of goods or the performance of services or both by such Person or in connection with any other transaction (whether or not yet earned by performance on the part of such Person), including the right to receive the proceeds of said purchase orders and contracts; and (v) all collateral security and guarantees of any kind given by any other Person with respect to any of the foregoing.

**"Affiliate"** shall mean, with respect to a Person: (i) each other Person that, directly or indirectly, owns or controls, whether beneficially, or as a trustee, guardian or other fiduciary, five percent (5%) or more of the Shares having ordinary voting power for the election of directors of such Person; (ii) each other Person that controls, is controlled by or is under common control with such Person or any Affiliate of such Person; or (iii) each of such Person's officers, directors (or person having a similar function), joint venturers and partners. For the purpose of this definition, "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.

**"Agreement"** shall mean this amended and restated loan agreement including all appendices, exhibits or schedules attached or otherwise identified thereto, restatements and modifications and supplements thereto, and any appendices, exhibits or schedules to any of the foregoing, each as in effect at the time such reference becomes operative; provided, that except as specifically set forth in this agreement, any reference to the Disclosure Schedules to this agreement shall be deemed a reference to the Disclosure Schedules as in effect on the Closing Date or in a written amendment thereto executed by Borrower and Lender.

**"Applicable Margin"** shall mean, for the purposes of determining the applicable interest rate for the Revolving Credit Loan, 2.50% per annum.

**"Appraisal Fees"** shall have the meaning assigned to it in Schedule E.

**"Assignment Agreement"** means the assignment and assumption agreement with respect to the Original Loan Agreement dated as of the date of this Agreement between Marnlen, as assignor, the Borrower, as assignee, and the Lender.

**"Authorized Officer"** shall mean the president, chief financial officer, chief executive officer or such other officer or signatory of Borrower (as may be appointed by resolution, in writing, by all of the directors of Borrower) as is acceptable to Lender.

**"Availability Block"** means \$350,000.

**"BIA"** means the Bankruptcy and Insolvency Act (Canada), and any successor act or statute, as in effect from time to time or at any time.

**"Bank Products"** shall mean any ancillary services, facilities or obligations which Lender may in its sole discretion undertake in connection with any of the Credit Parties, and includes any Visa Facility and/or Foreign Exchange Facility described in Schedule H hereto.

**"Blocked Accounts"** shall have the meaning assigned to it in Schedule D.

**"Blocked Accounts Agreement"** shall have the meaning assigned it in Schedule D.

**"Books and Records"** shall mean all books, records, board minutes, contracts, licenses, insurance policies, environmental audits, business plans, files, computer files, computer discs and other data and software storage and media devices, accounting books and records, financial statements (actual and pro forma), filings with Governmental Authorities and any and all records and instruments relating to the Collateral or Borrower's or any other Credit Party's business.

**"Borrower"** shall mean the Person identified as such in the preamble of this Agreement, and includes its successors.

**"Borrowing Availability"** shall mean, at any time, the lesser of (i) the Maximum Amount less the Availability Block and (ii) the Borrowing Base, in each case less reserves (without duplication of reserves against the Borrowing Base) established by Lender from time to time in its good faith discretion.

**"Borrowing Base"** shall mean at any time an amount equal to the sum at such time of:

- (i) ninety percent (90%) of Eligible Insured Accounts, plus;
- (ii) the lesser of:
  - (A) \$1,000,000; and
  - (B) the sum of (i) the principal amount of the guaranteed interest certificate granted by Nanlark Holdings Limited in favour of Lender as the same may be increased, or decreased from time to time; and (ii) the amount of any other collateral posted by Nanlark that is acceptable to the Bank at the sole and absolute discretion of the Bank which may be unreasonably withheld; plus;
- (iii) eighty-five percent (85%) of Eligible Accounts other than Eligible Insured Accounts plus;
- (iv) the lesser of:
  - (A) eighty-five percent (85%) of the net orderly liquidation value (as determined by an appraisal firm acceptable to Lender) of Eligible Inventory, other than Eligible Inventory which constitutes work in progress; and
  - (B) sixty-five percent (65%) of the book value of Eligible Inventory, other than Eligible Inventory which constitutes work in progress, recorded at the lower of cost and net realizable value, plus;



(v) the lesser of:

(A) \$500,000; and

(B) the lesser of:

(I) eighty-five percent (85%) of the net orderly liquidation value (as determined by an appraisal firm acceptable to Lender) of Eligible Inventory which constitutes work in progress; and

(II) sixty-five percent (65%) of the book value of Eligible Inventory which constitutes work in progress recorded at the lower of cost and net realizable value, and

less;

Availability Block and reserves, including the Fx Reserve, established by Lender from time to time in its good faith discretion.

**"Borrowing Base Certificate"** shall mean a certificate in the form of Exhibit C.

**"Business Day"** shall mean any day that is not a Saturday, a Sunday or a day on which banks are required or permitted to be closed in the City of Toronto, Province of Ontario.

**"Canadian Dollars"**, "CAD\$" or "\$" shall mean the lawful currency of Canada.

**"Capital Expenditures"** shall mean all payments or accruals (including Capital Lease Obligations) for any fixed assets or improvements or for replacements, substitutions or additions thereto, that have a useful life of more than one year and that are required to be capitalized under GAAP.

**"Capital Lease"** shall mean, with respect to any Person, any lease of any property (whether real, personal or mixed) by such Person as lessee that, in accordance with GAAP, either would be required to be classified and accounted for as a capital lease on a balance sheet of such Person or otherwise would be disclosed as such in a note to such balance sheet, other than, in the case of Borrower or any Credit Party, any such lease under which Borrower is the lessor.

**"Capital Lease Obligation"** shall mean, with respect to any Capital Lease, the amount of the obligation of the lessee thereunder that, in accordance with GAAP, would appear on a balance sheet of such lessee in respect of such Capital Lease or otherwise be disclosed in a note to such balance sheet.

**"Cash Collateral Account"** shall have the meaning assigned to it in Schedule C.

**"CAA"** means the Companies' Creditors Arrangement Act (Canada) and any successor legislation thereto, as in effect from time to time or at any time.

**"Change of Control"** shall mean, with respect to any Corporate Credit Party on or after the Closing Date, any change to the legal or organizational structure of any Corporate Credit Party or any change in the composition of its shareholders as of the Closing Date shall occur which would result in any shareholder or group acquiring 49.9% or more of any class of Shares of such Corporate Credit Party, or that any Person (or group of Persons acting in concert) shall otherwise acquire, directly or indirectly (including through Affiliates), the power to elect a majority of the board of directors of such Corporate Credit Party or otherwise direct the management or affairs of such Corporate Credit Party by obtaining proxies, entering into voting agreements or trusts, acquiring securities or otherwise.

**"Charges"** shall mean all federal, provincial, state, county, city, municipal, local, foreign or other governmental or quasi-governmental taxes, levies, customs or other duties, assessments, charges, liens, and all additional charges, interest, penalties, expenses, claims or encumbrances upon or relating to (i) the Collateral, (ii) the Obligations, (iii) the employees, payroll, income or gross receipts of any Credit Party, (iv) the ownership or use of any assets by any Credit Party, or (v) any other aspect of any Credit Party's business as well as any and all amounts at any time due and payable by any Credit Party to and/or in respect of any Plan (whether as a result of under-funding or otherwise).

**"Chattel Paper"** shall mean a writing or writings which evidence both a monetary obligation and a security interest in or lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not Chattel Paper. When a transaction is evidenced by both such a security agreement or a lease and by an instrument or a series of instruments, the group of writings then together constitutes Chattel Paper.

**"Closing Date"** shall mean the Business Day on which the conditions precedent set forth in Section 2 have been satisfied or waived in writing by Lender, and the initial Loan has been made.

**"Closing Fee"** shall have the meaning assigned to it in Schedule E.

**"Collateral"** shall have the meaning assigned to it in Section 6.1.

**"Collateral Monitoring Fee"** shall have the meaning assigned to it in Schedule E.

**"Commitment Termination Date"** shall mean the earliest of (i) the Stated Expiry Date and (ii) the date Lender's obligation to advance funds, issue Letters of Credit or otherwise extend or continue any credit hereunder is otherwise terminated pursuant to the terms hereof.

**"Compliance Certificate"** shall mean a certificate in the form of Exhibit D.

**"Contracts"** shall mean all the contracts, undertakings, or agreements (other than rights evidenced by Chattel Paper, Documents or Instruments) in or under which any Person may now or hereafter have any right, title or interest, including any agreement relating to the terms of payment or the terms of performance of any Account.

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

**"Copyright License"** shall mean rights under any written agreement now owned or hereafter acquired by any Person granting the right to use any Copyright or Copyright registration.

**"Copyrights"** shall mean all of the following now owned or hereafter acquired by any Person: (i) all copyrights in any original work of authorship fixed in any tangible medium of expression, now known or later developed, all registrations and applications for registration of any such copyrights in the United States, Canada or any other country, including registrations, recordings and applications, and supplemental registrations, recordings, and applications in the United States Copyright Office or in the applicable office in Canada; and (ii) all Proceeds of the foregoing, including license royalties and proceeds of infringement suits, the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all renewals and extensions thereof.

**"Corporate Credit Party"** shall mean any Credit Party that is a corporation, partnership (including a limited partnership) or limited or unlimited liability company.

**"Credit Party"** shall mean Borrower, and each other Person (other than Lender and its affiliates) that is or may become a party to this Agreement or any other Loan Document, but does not include any landlord that executes a landlord waiver.

**"Default"** shall mean the occurrence of any Event of Default or any event which, with the passage of time or notice or both, would, unless cured or waived, become an Event of Default.

**"Default Rate"** shall have the meaning assigned to it in Section 1.5(c).

**"Disbursement Accounts"** shall have the meaning assigned to it in Schedule D.

**"Documents"** shall mean all documents of title (as defined in PPSA), now owned or hereafter acquired by any Person, wherever located, including all bills of lading, dock warrants, dock receipts, warehouse receipts, and other documents of title, whether negotiable or non-negotiable.

**"EBITDAR"** shall mean, for any period, the Net Income (Loss) for such period plus interest expense, income tax expense, amortization expense, depreciation expense, expenses in respect of Operating Leases and non-cash extraordinary losses and minus non-cash extraordinary gains, for such period, determined in accordance with GAAP and to the extent included in the determination of such Net Income (Loss).

**"Eligible Accounts"** shall mean as at the date of determination, all Accounts of the Borrower, except any Account:

- (a) that does not arise from the sale of goods or the performance of services by Borrower in the ordinary course of Borrower's business;
- (b) upon which (i) Borrower's right to receive payment is not absolute or is contingent upon the fulfillment of any condition whatsoever or (ii) Borrower is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process;
- (c) to the extent of any concessions, offsets, deductions, contras, returns, chargebacks or understandings with the Account Debtor therein that in any way could reasonably be expected to adversely affect the payment of, or the amount of, such Account;
- (d) with respect to which an invoice, acceptable to Lender in form and substance, has not been sent to the account of the debtor;
- (e) that is not owned by Borrower or is subject to any right, claim, or interest of another Person, other than Permitted Liens which are in favour of the Lender or have been subordinated on terms satisfactory to the Lender to Liens in favour of the Lender or which otherwise rank in priority behind the Liens in favour of Lender;
- (f) that arises from a sale to or performance of services for an employee, Affiliate, Subsidiary or Shareholder of Borrower or any other Credit Party, or an entity which has common officers or directors with Borrower or any other Credit Party;
- (g) that is the obligation of an Account Debtor that is the federal, or provincial government or a political subdivision thereof, unless Lender has agreed to the contrary in writing;
- (h) that is the obligation of an Account Debtor located other than in Canada or the continental United States unless such Account is supported by a letter of credit in which Lender has a first priority perfected security interest and Lien by possession or credit insurance acceptable to Lender (and naming Lender as loss payee);
- (i) that is the obligation of an Account Debtor to whom Borrower is or may become liable for goods sold or services rendered by the Account Debtor to Borrower, to the extent of Borrower's liability to such Account Debtor;

- (j) that arises with respect to goods which are delivered on a cash-on-delivery basis or placed on consignment, guaranteed sale or other terms by reason of which the payment by the Account Debtor may be conditional;
- (k) that is an obligation for which the total unpaid Accounts of the Account Debtor exceed 25% (or such other amount as determined by Lender in its discretion) of the aggregate of all gross Accounts as related to accounts receivable (excluding any inter-company accounts receivable), to the extent of such excess;
- (l) that is not paid prior to the earlier of 60 days from its due date or 120 days from its invoice date or that are Accounts of an Account Debtor if, in respect of accounts owing from an Account Debtor, 25% or more of the Accounts owing from such Account Debtor remain unpaid within such time periods;
- (m) that is an obligation of an Account Debtor that has suspended business, made a general assignment for the benefit of creditors, is unable to pay its debts as they become due or as to which a petition has been filed (voluntary or involuntary) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors;
- (n) that arises from any bill-and-hold or other sale of goods which remain in Borrower's possession or under Borrower's control;
- (o) as to which Lender's interest therein is not a first priority perfected security interest and Lien;
- (p) to the extent that such Account exceeds any credit limit established by Lender in Lender's good faith discretion;
- (q) as to which any of Borrower's representations or warranties pertaining to Accounts are untrue;
- (r) that represents interest payments, late or finance charges, or service charges owing to Borrower; or
- (s) that is not otherwise acceptable in the good faith discretion of Lender, provided, that Lender shall have the right to create and adjust eligibility standards and related reserves from time to time in its good faith discretion.

**"Eligible Insured Accounts"** shall mean Eligible Accounts (or Accounts acceptable to the Lender at its sole and absolute discretion) insured with an insurer on terms satisfactory to Lender in its sole discretion.

**"Eligible Inventory"** shall mean as at the date of determination, all Inventory of Borrower, including Inventory covered by commercial Letters of Credit, that:

- (a) is not subject to any Liens other than Permitted Encumbrances which are in favour of the Lender or have been subordinated on terms satisfactory to the Lender to Liens in favour of Lender or which otherwise rank in priority behind the Liens in favour of Lender;
- (b) is located on premises owned or operated by Borrower and referenced in Disclosure Schedule (3.6) or is located on premises with respect to which Lender has received a landlord, bailee or mortgagee letter acceptable in form and substance to Lender or, in the sole discretion of Lender, in respect of which Lender has established an appropriate reserve;

- (c) is not in transit unless (i) title has been transferred to Borrower, (ii) the goods are in transit to the Borrower's premises, (iii) the goods are insured to Lender's satisfaction with Lender as first loss payee and such insurance has been assigned to Lender to its satisfaction; (iv) the goods are supported by documentation acceptable to Lender (including but not limited to the original bill of lading and invoice and the documentation provided for in paragraph (d)), and (v) any and all amounts in respect of the purchase and transportation of such Inventory, including duty, freight, brokerage fees, insurance and other similar costs (all such amounts other than purchase price, the "Clearance Costs"), are either (A) supported by a letter of credit acceptable to the Lender, (B) paid for by Borrower and such payments have been verified by Lender, or (C) as to the Clearance Costs reserved for in the Borrowing Base and, as to the purchase price, reserved for in the Borrowing Base unless waivers of all repossession, revendication or similar rights of an unpaid supplier have been received to the satisfaction of the Lender or (D) or such other arrangement that may be satisfactory to Lender;
- (d) is not covered by a negotiable document of title, unless such document and evidence of acceptable insurance covering such Inventory has been delivered to Lender;
- (e) is of good and merchantable quality, free from any defects and is not obsolete, unsalable, shopworn, damaged, unfit for further processing or of substandard quality, in Lender's good faith credit judgment;
- (f) does not consist of (i) discontinued items, (ii) slow-moving or excess items, or (iii) used items held for resale;
- (g) consists of raw materials, work in progress and finished goods;
- (h) meets all standards imposed by any Governmental Authority, including with respect to its production, acquisition or importation (as the case may be);
- (i) is not placed by Borrower on consignment or held by Borrower on consignment from another Person;
- (j) is not held for rental or lease by or on behalf of Borrower;
- (k) does not breach or violate any warranty, representation or covenant contained in this Agreement or any other Loan Document;
- (l) is not subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third parties;
- (m) does not require the consent of any Person for the completion or manufacture, sale or other disposition of such Inventory by Lender and such completion, manufacture or sale does not constitute a breach or default under any contract or agreement to which Borrower is a party or to which such Inventory is or may become subject; and
- (n) is otherwise acceptable in the good faith discretion of Lender, provided, that Lender shall have the right to create and adjust eligibility standards and related reserves from time to time in its good faith discretion.

**"Environmental Laws"** shall mean all federal, provincial, state, municipal and local laws, statutes, ordinances, programs, permits, guidance, orders, decrees and regulations, now or hereafter in effect, and in each case as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof relating to the regulation and protection of human health, safety, the environment

and natural resources (including ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation).

**"Environmental Liabilities"** shall mean all liabilities, obligations, responsibilities, remedial actions, removal costs, losses, damages of whatever nature, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts and consultants and costs of investigation and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any claim, suit, action or demand of whatever nature by any Person and which relate to any health or safety condition regulated under any Environmental Law, environmental permits or in connection with any Release, threatened Release, or the presence of a Hazardous Material.

**"EPA"** means the Environmental Protection Act (Ontario) and the similar laws of Canada and any other province where any Collateral may be located, and any successor law or statute, as in effect from time to time or at any time.

**"Equipment"** shall mean all "equipment" as defined in the PPSA and, in any event, includes tangible or corporeal property other than Inventory, now or hereafter acquired by any Person, wherever located, including any and all machinery, apparatus, equipment, fittings, furniture, fixtures, motor vehicles and other tangible or corporeal personal or movable property (other than Inventory) of every kind and description which may be now or hereafter used in such Person's operations or which are owned by such Person or in which such Person may have an interest, and all parts, accessories and accessions thereto and substitutions and replacements therefor.

**"Equivalent Amount"** shall mean the amount of U.S.\$ to which any amount in \$ is equivalent as determined by Lender based on its rate of exchange as determined at noon (Toronto time) on the date of determination.

**"Event of Default"** shall have the meaning assigned to it in Section 7.1.

**"Fees"** shall mean the fees due to Lender as set forth in Schedule E.

**"Field Examination"** shall have the meaning assigned to it in Section 6.2(c).

**"Field Examination Fees"** shall have the meaning assigned to it in Schedule E.

**"Financial Statements"** shall mean for any Person, the income statement, balance sheet and statement of cash flows of such Person, prepared in accordance with GAAP.

**"Fiscal Month"** shall mean a monthly accounting period of Borrower or of a Corporate Credit Party, as applicable.

**"Fiscal Year"** shall mean the 12 month period of Borrower ending December 31 of each year. Subsequent changes of the fiscal year of Borrower shall not change the term "Fiscal Year" unless Lender shall consent in writing to such change.

**"Fixed Charge Coverage Ratio"** shall mean the ratio of the following determined in accordance with GAAP: (i) EBITDAR for such period less Capital Expenditures for such period which are not financed through the incurrence of any Indebtedness (excluding the Revolving Credit Loan), plus the amount of any equity investments in the Borrower or shareholder loans to the Borrower postponed to the Lender, made by the shareholders of the Borrower, and less income taxes paid, accrued or otherwise payable for such period, to (ii) the sum of (a) interest paid, accrued or otherwise payable in respect of any Indebtedness for such period, (b) regularly scheduled payments made or that were required to be made under Operating Leases, (c) regularly scheduled payments of principal paid or that were required to be paid on Funded Debt (excluding the Revolving Credit Loan) for such period, (d) payments to Affiliates, and (e) any distributions made to shareholders during such period. For Fiscal Year 2011, the Borrower

shall be permitted to add the amount of \$1,120,000 to the EBITDAR for the purposes of calculating the Fixed Charged Coverage Ratio.

**"FSCO"** means the Financial Services Commission of Ontario and any Person succeeding to the functions thereof and includes the Superintendent under such statute and any other Public Authority empowered or created by the PBA.

**"Funded Debt"** shall mean, with respect to any Person, all of such Person's Indebtedness consisting of or relating to the borrowing of money or the obtaining of credit (other than trade payables incurred in the ordinary course of business but including vendor note payables).

**"Fx Contracts"** shall have the meaning assigned to it in Schedule H.

**"Fx Facility"** shall have the meaning assigned to it in Schedule H.

**"Fx Reserve"** shall have the meaning assigned to it in Schedule H.

**"GAAP"** shall mean generally accepted accounting principles in Canada as in effect from time to time, consistently applied.

**"Goods"** shall mean all "goods," as such term is defined in the PPSA and, in any event, includes all things which are movable at the time Lender's Liens attach thereto (other than money, Documents, Instruments, Accounts, Chattel Paper and Intangibles) as well as all fixtures, standing timber which is to be cut, the unborn young of animals and growing crops, all now owned or hereafter acquired by any Person, wherever located, including Equipment, Inventory and all other tangible or corporeal personal or movable property.

**"Goodwill"** shall mean all goodwill, trade secrets, proprietary or confidential information, technical information, procedures, formulae, quality control standards, designs, operating and training manuals, customer lists, and distribution agreements, now owned or hereafter acquired by any Person.

**"Governmental Authority"** shall mean any nation or government, any state, provincial or other political subdivision thereof, and any agency, department or other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

**"Guaranteed Indebtedness"** shall mean, as to any Person, any obligation of such Person guaranteeing any indebtedness, lease, dividend, or other obligation ("primary obligations") of any other Person (the "primary obligor") in any manner, including any obligation or arrangement of such guaranteeing Person (whether or not contingent): (i) to purchase or repurchase any such primary obligation; (ii) to advance or supply funds (a) for the purchase or payment of any such primary obligation or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet condition of the primary obligor; (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation; or (iv) to indemnify the owner of such primary obligation against loss in respect thereof.

**"Guarantor"** shall mean each Person which executes a Guarantee in favour of Lender in connection with the transactions contemplated by this Agreement.

**"Guarantee"** shall mean any guarantee or any other agreement to perform all or any portion of the Obligations on behalf of Borrower or any other Credit Party, in favour of, and in form and substance satisfactory to, Lender, together with all amendments, modifications and supplements thereto, and shall refer to such Guarantee as the same may be in effect at the time such reference becomes operative.

**"Hazardous Material"** shall mean any substance, material or waste which is regulated by or forms the basis of liability now or hereafter under, any Environmental Laws, including any material or substance which is (a) defined as a "solid waste," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant," "contaminant," "hazardous constituent," "special waste," "toxic substance" or other similar term or phrase under any Environmental Laws, (b) petroleum or any fraction or by-product thereof, asbestos, polychlorinated biphenyls (PCB's), or (c) any radioactive substance.

**"Hazardous Waste"** shall include any Hazardous Material as well as any other substance, material or waste which is now or may hereafter be classified as hazardous (or similarly classified) under any applicable legislation.

**"Indebtedness"** of any Person shall mean: (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services (including reimbursement and all other obligations with respect to surety bonds, letters of credit and bankers' acceptances, whether or not matured, but not including obligations to trade creditors incurred in the ordinary course of business and not more than 45 days past due); (ii) all obligations evidenced by notes, bonds, debentures or similar instruments; (iii) all indebtedness created or arising under any conditional sale or other title retention agreements with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (iv) all Capital Lease Obligations; (v) all Guaranteed Indebtedness; (vi) all Indebtedness referred to in clauses (i), (ii), (iii), (iv) or (v) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness; and (vii) the Obligations.

**"Indemnified Liabilities"** and **"Indemnified Person"** shall have the meaning assigned to such terms in Section 1.11.

**"Instruments"** shall mean all "instruments," as defined in the PPSA and, in any event, includes all negotiable instruments (including all bills of exchange and promissory notes), all certificated securities or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is, in the ordinary course of business, transferred by delivery with any necessary endorsement or assignment, now owned or hereafter acquired by any Person, wherever located, including all certificated securities and all notes and other evidences of indebtedness, other than instruments that constitute, or are a part of a group of writings that constitute, Chattel Paper.

**"Intangibles"** shall mean all "intangibles" as defined in the PPSA and, in any event, includes intangible or incorporeal property, real or personal, moveable or immovable now owned or hereafter acquired by any Person, including all right, title and interest which such Person may now or hereafter have in or under any Contract, Intellectual Property, interests in partnerships, joint ventures and other business associations, permits, proprietary or confidential information, inventions (whether or not patented or patentable), technical information, procedures, designs, knowledge, know-how, software, data bases, data, skill, expertise, experience, processes, models, drawings, materials, Books and Records, Goodwill (including the Goodwill associated with any Intellectual Property), all rights and claims in or under insurance policies (including insurance for fire, damage, loss, and casualty, whether covering personal or movable property, real or immovable property, tangible rights or intangible rights, corporeal or incorporeal rights, all liability, life, key-person, and business interruption insurance, and all unearned premiums), uncertificated securities, choses in action, deposit accounts, rights to receive tax refunds and other payments and rights of indemnification.

**"Intellectual Property"** shall mean any and all Licenses, Patents, Copyrights, Trademarks, trade secrets and customer lists.

**"Inventory"** shall mean all "inventory," as such term is defined in the PPSA, now or hereafter owned or acquired by any Person, wherever located, including all inventory, merchandise, goods and other



personal property which are held by or on behalf of such Person for sale or lease or are furnished or are to be furnished under a contract of service or which constitute raw materials, work in process or materials used or consumed or to be used or consumed in such Person's business or in the processing, production, packaging, promotion, delivery or shipping of the same, including other supplies.

**"Investment Grade Debtor"** shall mean a debtor of Borrower whose long-term unsecured and unsubordinated indebtedness has been rated as follows by 2 of the 3 rating agencies below:

- (a) S&P: > BBB
- (b) Moody's: > Baa2
- (c) DBRS: ≥BBB

**"Investment Property"** shall mean all investment property now or hereafter acquired by any Person, wherever located and includes security (whether or not certificated), securities entitlement, securities account, commodity contract or commodity account.

**"Lender"** shall mean Royal Bank of Canada and, if at any time Lender shall decide to assign or syndicate all or any of the Obligations, such term shall include such assignee or such other members of the syndicate.

**"Letters of Credit"** shall mean any and all commercial or standby letters of credit issued at the request and for the account of Borrower for which Lender has incurred Letter of Credit Obligations, and includes any letters of guarantee issued in the discretion of Lender.

**"Letter of Credit Fee"** shall have the meaning assigned to it in Schedule E.

**"Letter of Credit Obligations"** shall mean all outstanding obligations (including all duty, freight, taxes, costs, insurance and any other charges and expenses) incurred by Lender, whether direct or indirect, contingent or otherwise, due or not due, in connection with the issuance or guarantee, by Lender or another, of Letters of Credit, all as further set forth in Schedule C.

**"Letter of Credit Sublimit"** shall mean \$1,200,000 or the Equivalent Amount thereof in U.S.\$ which amount may be amended from time to time at the sole discretion of the Lender.

**"License"** shall mean any Copyright License, Patent License, Trademark License or other license of rights or interests now held or hereafter acquired by any Person.

**"Lien"** shall mean, whether based on common law, statute or contract, whether choate or inchoate, whether or not crystallized or fixed, whether or not for amounts due or accruing due, (a) any mortgage, security deed or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, security title, deemed trust, requirement to pay, easement, reservation, exception, encroachment, privilege, title exception, garnishment right, prior claim or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the PPSA or comparable law of any jurisdiction) and (b) any rights of repossession or similar right of an unpaid supplier.

**"Litigation"** shall mean any claim, lawsuit, litigation, investigation or proceeding of, or before, any arbitrator or Governmental Authority.

**"Loan Documents"** shall mean this Agreement, the Financial Statements, each Guarantee, the Blocked Accounts Agreement, and the other documents and instruments listed in Schedule F, and all security

agreements, hypothecs, mortgages and all other documents, instruments, certificates, and notices at any time delivered by any Person (other than Lender and its affiliates) in connection with any of the foregoing.

**"Loans"** shall mean the Revolving Credit Loan (including Overdrafts and the Letter of Credit Obligations).

**"Marnlen"** means Marnlen Management Ltd.

**"Material Adverse Effect"** shall mean: a material adverse effect on (a) the business, assets, operations, prospects or financial or other condition of Borrower or any other Credit Party or the industry within which Borrower or any other Credit Party operates, (b) Borrower's or any other Credit Party's ability to pay or perform the Obligations under the Loan Documents to which such Credit Party is a party in accordance with the terms thereof, (c) the Collateral or any realization thereof or Lender's Liens on the Collateral or the priority of any such Lien, or (d) Lender's rights and remedies under this Agreement and the other Loan Documents.

**"Material Contract"** shall mean any agreement to which any Credit Party is party which constitutes a guarantee in such Credit Party's favour or otherwise providing for any Lien on another Person's property, is essential to a Credit Party's ability to carry on business as currently conducted (including without limitation, take or pay contracts and product licenses) or the breach or termination of which could otherwise give rise to a Material Adverse Effect.

**"Maximum Amount"** shall mean \$3,500,000 or the Equivalent Amount thereof in U.S.\$.

**"Minimum Actionable Amount"** shall mean \$100,000.

**"Miscellaneous Fees"** shall have the meaning assigned to it in Schedule E.

**"Net Borrowing Availability"** shall mean at any time the Borrowing Availability less the Revolving Credit Loan.

**"Net Income (Loss)"** shall mean for any period, the aggregate net income (or loss) after taxes for such period, determined in accordance with GAAP.

**"Notice of Revolving Credit Advance"** shall have the meaning assigned to it in Section 1.1(b).

**"Obligations"** shall mean all loans, advances, debts, expense reimbursement, fees, liabilities, and obligations for the performance of covenants, tasks or duties or for payment of monetary amounts (whether or not such performance is then required or contingent, or amounts are liquidated or determinable) owing by Borrower and any other Credit Party to Lender, of any kind or nature, present or future, whether or not evidenced by any note, agreement or other instrument, whether arising under any of the Loan Documents or under any other agreement between Borrower, such Credit Party and Lender, and all covenants and duties regarding such amounts including all such obligations and liabilities in respect of Bank Products, Overdrafts and reimbursement obligations in respect of Letters of Credit. This term includes all principal, interest, Fees, Charges, expenses, legal fees and any other sum chargeable to Borrower under any of the Loan Documents, and all principal and interest due in respect of the Loans and all obligations and liabilities of any Guarantor under any Guarantee.

**"Operating Lease"** shall mean any lease of property (including rentals of office, retail or other space) which, in accordance with GAAP, shall be reflected as an operating lease in the financial statements of a Person.

**"Original Loan Agreement"** has the meaning ascribed thereto in Recital A to this Agreement.

**"Overdraft"** shall have the meaning assigned to it in Section 1.1(f).

**"Patent License"** shall mean rights under any written agreement now owned or hereafter acquired by any Person granting any right with respect to any invention on which a Patent is in existence.

**"Patents"** shall mean all of the following in which any Person now holds or hereafter acquires any interest: (i) all patents and letters patent of the United States, Canada or any other country, all registrations and recordings thereof, and all applications for patents and letters patent of the United States, Canada or any other country, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, Canada or any Province, State or Territory thereof, or any other country; and (ii) all reissues, continuations, continuations-in-part or extensions thereof.

**"PBA"** means the Pension Benefits Act (Ontario) and the similar laws of any other province or territory of Canada, as in effect from time to time or at any time.

**"Pension Event"** shall mean (a) the existence of any unfunded liability or windup or withdrawal liability, including contingent withdrawal or windup liability, or any solvency deficiency in respect of any Plan, (b) the whole or partial termination or windup of any Plan or occurrence of any act, event or circumstance which could give rise to the whole or partial termination or windup of any Plan, (c) the failure to make any contribution or remittance in respect of any Plan when due, (d) the failure to file any report, actuarial valuation, return, statement or other document, when due, in respect of any Plan, (e) the existence of any Lien except for current contribution amounts not due in connection with any Plan, or (f) the establishment or commencement to contribute to any Plan not in existence on the date thereof.

**"Permitted Encumbrances"** shall mean (provided same shall not constitute any agreement by Lender to subordinate any of its Liens to same) the following encumbrances:

- (a) any Lien created by, or arising under a statute or regulation or common law (in contrast with Liens voluntarily granted) in connection with, without limiting the foregoing, workers' compensation, employment insurance, employers' health tax or other social security or statutory obligations that secure amounts that are not yet due or which are being contested in good faith by proper proceedings diligently pursued and as to which adequate reserves have been established on the applicable Credit Parties' books and records and a stay of enforcement of the Lien is in effect;
- (b) Liens made or incurred in the ordinary course of business to secure the performance of bids, tenders, contracts (other than for the borrowing of money), leases, statutory obligations or surety and performance bonds;
- (c) any construction, workers', materialmen's or other like Lien created by law (in contrast with Liens voluntarily granted), arising in connection with construction or maintenance in the ordinary course of business, in respect of obligations which are not due or which are being contested in good faith by proper proceedings diligently pursued and as to which adequate reserves have been established on any Credit Parties' books and records and a stay of enforcement of the Lien is in effect;
- (d) any Lien for Taxes not due or being contested in good faith by appropriate proceedings diligently pursued and as to which adequate reserves have been established on the applicable Credit Parties' books and records and a stay of enforcement of the Lien is in effect;
- (e) minor imperfections in title on real property that do not materially detract from the value of the real property subject thereto and do not materially impair any Credit Parties' ability to carry on its business or Lenders' rights and remedies under the Loan Documents;

- (f) restrictions, easements, rights-of-way, servitudes or other similar rights in land (including rights-of-way, and servitudes for railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light and power and telephone or telegraph or cable television conduits, poles, wires and cables) granted to or reserved by other Persons which in the aggregate do not materially impair the usefulness, in the operation of the business of any Credit Party, of the real property subject to the restrictions, easements, rights-of-way, servitudes or other similar rights in land granted to or reserved by other Persons and, in each case, which do not impair the use and operation of the business by the Credit Party or Lender's rights and remedies under the Loan Documents;
- (g) the rights reserved to or vested in any Person by the terms of any lease, licence, franchise, grant or permit held by any Credit Party or by any statutory provision, to terminate any such lease, licence, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;
- (h) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown;
- (i) restrictive covenants affecting the use to which real property may be put, provided that the covenants are complied with and do not materially detract from the value of the real property concerned or materially impair its use in the operations of any Credit Party or impair Lenders' rights and remedies under the Loan Documents;
- (j) Liens in favour of Lender created by the Loan Documents;
- (k) Liens disclosed in Disclosure Schedule 5(e) but only to the extent such Liens conform to their description in Disclosure Schedule 5(e), and includes any extension or renewal thereof provided the amount secured thereby does not exceed the original amount secured immediately prior to the extension, renewal or refinancing and the scope of security creating the Lien is not extended;
- (l) Purchase Money Liens securing Purchase Money Indebtedness to the extent permitted under Section 5.2(b)(vi);
- (m) Liens given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operation of the business or the ownership of the assets of the Person, provided that such Liens do not reduce the value of the assets of the Person or materially interfere with their use in the operation of the business of the Person or impair Lenders' rights and remedies under the Loan Documents;
- (n) servicing agreements, development agreements, site plan agreements, and other agreements with governmental entities pertaining to the use or development of any of the assets of the Person, provided same are complied with and do not reduce the value of the assets of the Person or materially interfere with their use in the operation of the business of the Person including, without limitation, any obligations to deliver letters of credit and other security as required or impair Lenders' rights and remedies under the Loan Documents; and
- (o) applicable municipal and other governmental restrictions, including municipal by-laws and regulations, affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and do not reduce the value of the assets of the Person or materially interfere with their use in the operation of the business of the Person or impair Lenders' rights and remedies under the Loan Documents.

**"Person"** shall mean any individual, sole proprietorship, partnership, limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, legal person, institution, public benefit corporation, entity or government (whether federal, provincial, state, county, city, municipal or otherwise, including any instrumentality, division, agency, body or department thereof), and shall include such Person's successors and assigns.

**"Plan"** shall mean any employee pension benefit plan which Borrower sponsors or maintains or to which it makes or is making or is required to make contributions, and includes any pension or benefit plan regulated by the FSCO or similar authority or otherwise subject to the PBA.

**"PPSA"** shall mean the Personal Property Security Act (or any successor statutes) as the same may, from time to time, be in effect in the Province of Ontario; provided, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of Lender's security interest in any Collateral is governed by the Personal Property Security Act as in effect in a jurisdiction other than the Province of Ontario, the term "PPSA" shall mean the Personal Property Security Act or a similar act or statute as in effect in such other jurisdiction for purposes of the provisions of this Agreement relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

**"Prepayment Fee"** shall have the meaning assigned to it in Schedule E.

**"Proceeds"** shall mean "proceeds," as such term is defined in the PPSA and, in any event, includes whatever is received or receivable upon the sale, exchange, collection or other disposition of the Collateral and, in any event shall include: (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Borrower or any other Credit Party from time to time with respect to any Collateral; (ii) any and all payments (in any form whatsoever) made or due and payable to Borrower or any other Credit Party from time to time in connection with any requisition, confiscation, expropriation, seizure or forfeiture of any Collateral by any governmental body, authority, bureau or agency (or any person acting under colour of governmental authority); (iii) any claim of Borrower or any other Credit Party against third parties (a) for past, present or future infringement of any Intellectual Property or (b) for past, present or future infringement or dilution of any Trademark or Trademark License or for injury to the goodwill associated with any Trademark, Trademark registration or Trademark licensed under any Trademark License; (iv) any recoveries by Borrower or any other Credit Party against third parties with respect to any litigation or dispute concerning any Collateral; and (v) any and all other amounts from time to time paid or payable under or in connection with any Collateral, upon disposition or otherwise.

**"Projections"** shall mean the consolidated income statement, balance sheet and statement of cash flows of Borrower and its Subsidiaries for any future period, including forecasted Capital Expenditures and Net Borrowing Availability.

**"Purchase Money Indebtedness"** shall mean (i) any Indebtedness incurred for the payment of all or any part of the purchase price of any fixed asset, (ii) any Indebtedness incurred for the sole purpose of financing or refinancing all or any part of the purchase price of any fixed asset, and (iii) any renewals, extensions or refinancings thereof (but not any increases in the principal amounts thereof outstanding at that time).

**"Purchase Money Lien"** shall mean any Lien upon any fixed assets which secures the Purchase Money Indebtedness related thereto but only if such Lien shall at all times be confined solely to the asset the purchase price of which was financed or refinanced through the incurrence of the Purchase Money Indebtedness secured by such Lien and only if such Lien secures only such Purchase Money Indebtedness.

**"RBP"** shall mean, at any time, the rate of interest per annum equal to the rate which the principal office of Royal Bank of Canada in Toronto, Ontario quotes, publishes and refers to as its "prime rate" and which is its reference rate of interest for loans in Canadian Dollars to its borrowers in Canada, adjusted

automatically with each quoted or published change in such rate, all without the necessity of any notice to Borrower or any other Person.

**"RBUSTR" and "Royal Bank U.S. Base Prime Rate"** shall mean the annual rate of interest announced by Lender from time to time as being a reference rate in effect for determining interest rates on US Dollar commercial loans made in Canada.

**"Real Property"** shall have the meaning assigned to it in Section 3.15.

**"Release"** shall mean, as to any Person, any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials in the indoor or outdoor environment by such Person, including the movement of Hazardous Materials through or in the air, soil, surface water, ground water or property.

**"Requirement of Law"** shall mean as to any Person, the certificate or articles of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, judgment, declaration, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case binding upon such Person or any of its property or to which such Person or any of its property is subject.

**"Restricted Payment"** shall mean: (i) the declaration or payment of any dividend or the incurrence of any liability to make any other payment or distribution of cash or other property or assets on or in respect of Borrower's or any other Corporate Credit Party's Shares; (ii) any payment or distribution made in respect of any subordinated Indebtedness of Borrower or any other Corporate Credit Party in violation of any subordination or other agreement made in favour of Lender, , but subject in all cases to the subordination, priority or intercreditor agreement with Lender; (iii) any payment on account of the purchase, redemption, defeasance or other retirement of Borrower's or any other Corporate Credit Party's Shares or Indebtedness or any other payment or distribution made in respect of any thereof, either directly or indirectly other than (a) that arising under this Agreement or (b) interest and principal, when due without acceleration or modification of the amortization as in effect on the Closing Date, under Indebtedness (not including subordinated Indebtedness, payments of which shall be permitted only in accordance with the terms of the relevant subordination, priority or intercreditor agreement made in favour of Lender) described in Disclosure Schedule (5.2(b)) or otherwise permitted under Section 5.2(b)(vi); or (iv) any payment, loan, contribution, or other transfer of funds or other property to any Shareholder of such Person which is not expressly and specifically permitted in this Agreement or any other Loan Document (including any payments or distributions to Nanlark Holdings Limited); provided, that no payment to Lender shall constitute a Restricted Payment.

**"Revolving Credit Advance"** shall have the meaning assigned to it in Section 1.1(a).

**"Revolving Credit Loan"** shall mean at any time the sum of (i) the aggregate amount of Revolving Credit Advances then outstanding, plus (ii) the total Letter of Credit Obligations incurred by Lender and outstanding at such time, plus (iii) the amount of accrued but unpaid interest thereon and Letter of Credit Fees with respect thereto.

**"Revolving Credit Rate"** shall have the meaning assigned to it in Section 1.5.

**"Stated Expiry Date"** shall mean, unless extended to a later date in the sole, unfettered discretion of Lender following a written request by Borrower (and subject to an extension fee to be determined by Lender at the time of granting of such extension), July 14, 2013.

**"Shares"** shall mean all certificated and uncertificated shares, options, warrants, membership interests, general or limited partnership interests, participation or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity whether voting or nonvoting, including common shares, preferred shares, or any other "equity security" (as such term is

defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934) or "security" (as defined in the Securities Act (Ontario) or any other applicable Canadian provincial legislation or regulations thereunder).

**"Shareholder"** shall mean each holder of Shares of Borrower or any other Corporate Credit Party.

**"Subsidiary"** shall mean, with respect to any Person, (i) any corporation of which an aggregate of more than 50% of the outstanding Shares having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, Shares of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, owned legally or beneficially by such Person and/or one or more Subsidiaries of such Person, or with respect to which any such Person has the right to vote or designate the vote of 50% or more of such Shares whether by proxy, agreement, operation of law or otherwise, and (ii) any partnership or limited liability company in which such Person or one or more Subsidiaries of such Person has an equity interest (whether in the form of voting or participation in profits or capital contribution) of more than 50% or of which any such Person is a general partner or manager or may exercise the powers of a general partner or manager.'

**"Tangible Net Worth"** shall mean the aggregate amount of all contributed capital, retained earnings, contributed surplus and shareholder and other loans as agreed to by Lender and formally and unconditionally postponed and subordinated to the liabilities and obligations owing to Lender, on terms and conditions satisfactory to Lender, less any and all Intangibles, goodwill arising on consolidation, prepaid expenses, deferred charges (including deferred taxes), net leasehold improvements, and investments in or advances to any shareholders or any subsidiary or Affiliate of Borrower or any of its officers, directors, employees or shareholders, determined in accordance with GAAP.

**"Taxes"** shall mean taxes, (including goods and services taxes and applicable sales taxes), levies, imposts, deductions, Charges or withholdings, and all liabilities with respect thereto, excluding taxes imposed on or measured by the net income of Lender.

**"Termination Date"** shall mean the date on which the indefeasible payment in full of the Obligations has occurred and Lender has no further obligation to advance funds, issue Letters of Credit or otherwise extend or continue any credit hereunder (whether due to the State Expiry Date or otherwise pursuant to the terms hereof).

**"Trademark License"** shall mean rights under any written agreement now owned or hereafter acquired by any Person granting any right to use any Trademark or Trademark registration.

**"Trademarks"** shall mean all of the following now owned or hereafter acquired by any Person: (i) all trademarks, trade names, corporate names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, Canada, any Province, State or Territory thereof, or any other country or any political subdivision thereof, and (ii) all reissues, extensions or renewals thereof.

**"Unused Line Fee"** shall have the meaning assigned to it in Schedule E.

**"U.S. Dollars" or "U.S.\$"** shall mean the lawful currency of the United States of America.

**"Visa Facility"** shall have the meaning assigned to it in Schedule H.

**"Visa Facility Agreements"** shall have the meaning assigned to it in Schedule H.



"Visa Limit" shall have the meaning assigned to it in Schedule H.

Any accounting term used in this Agreement or the other Loan Documents shall have, unless otherwise specifically provided therein, the meaning customarily given such term in accordance with GAAP, and all financial computations thereunder shall be computed, unless otherwise specifically provided therein, in accordance with GAAP consistently applied; provided, that all financial covenants and calculations in the Loan Documents shall be made in accordance with GAAP as in effect on the Closing Date unless Borrower and Lender shall otherwise specifically agree in writing. That certain items or computations are explicitly modified by the phrase "in accordance with GAAP" shall in no way be construed to limit the foregoing. All other undefined terms contained in this Agreement or the other Loan Documents shall, unless the context indicates otherwise, have the meanings provided for by the PPSA. The words "herein," "hereof" and "hereunder" or other words of similar import refer to this Agreement as a whole, including the exhibits and schedules thereto, as the same may from time to time be amended, modified or supplemented, and not to any particular section, subsection or clause contained in this Agreement.

For purposes of this Agreement and the other Loan Documents, the following additional rules of construction shall apply, unless specifically indicated to the contrary: (a) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural; (b) the term "or" is not exclusive; (c) the term "including" (or any form thereof) shall not be limiting or exclusive; (d) all references to statutes, acts and related regulations shall include any amendments of same and any successor statutes and regulations; (e) all references to any instruments or agreements, including references to any of the Loan Documents, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof; (f) the specification of any Lien as a Permitted Encumbrance shall not constitute any postponement or subordination (or agreement to do so) of Lender's Liens; and (g) all references to "\$" dollars or amounts of currency shall unless otherwise expressly provided mean lawful currency of Canada.

The Credit Parties confirm and agree that for purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Québec, (a) "personal property" shall be deemed to include "movable property", (b) "real property" shall be deemed to include "immovable property", (c) "tangible property" shall be deemed to include "corporeal property", (d) "intangible property" shall be deemed to include "incorporeal property", (e) "security interest" and "mortgage" shall be deemed to include a "hypothec", (f) all references to filing, registering or recording under the UCC or the PPSA shall be deemed to include publication under the Civil Code of Québec, (g) all references to "perfection" of or "perfected" Liens shall be deemed to include a reference to the "opposability" of such Liens to third parties, (h) any "right of offset", "right of setoff" or similar expression shall be deemed to include a "right of compensation", (i) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, and (j) an "agent" shall be deemed to include a "mandatary".



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**SCHEDULE B****LENDER'S AND BORROWER'S ADDRESSES FOR NOTICES*****Lender's Address:***

200 Bay Street  
Royal Bank Plaza  
30th Floor, South Tower  
Toronto, Ontario  
M5J 2J5

Attention: Portfolio Manager

***Lender's Address for Borrowing Notices:***

20 King Street West, 7th Floor  
Toronto, Ontario  
M5H 1C4

Attention: Operations, Asset Based Lending Group

***Borrower's Address:***

400 Cochrane Drive  
Markham, Ontario L3R 8E3

Attention: President

Telefax: (905) 475-3935

***Credit Parties' Address:***

c/o Borrower's address above (unless otherwise specified below).

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## SCHEDULE C

### LETTERS OF CREDIT

1. Lender agrees, subject to the terms and conditions hereinafter set forth, to incur Letter of Credit Obligations in respect of the issuance of Letters of Credit issued on terms acceptable to Lender and supporting obligations of Borrower incurred in the ordinary course of Borrower's business, in order to support the payment of Borrower's inventory purchase obligations, insurance premiums, or utility or other operating expenses and obligations, and, in the case of any Letters of Guarantee, for such purposes as Lender may agree in its sole discretion, as Borrower shall request by written notice to Lender that is received by Lender not less than five (5) Business Days prior to the requested date of issuance of any such Letter of Credit; provided, that: (a) the aggregate amount of all Letter of Credit Obligations at any one time outstanding (whether or not then due and payable) shall not exceed the Letter of Credit Sublimit; (b) no Letter of Credit shall have an expiry date which is later than the Stated Expiry Date or one year following the date of issuance thereof; (c) all Letters of Guarantee shall be and shall be continued in the sole discretion of Lender; and (d) Lender shall be under no obligation to incur any Letter of Credit Obligation if after giving effect to the incurrence of such Letter of Credit Obligation, the Net Borrowing Availability would be less than zero. Borrower will enter into an application and agreement for such Letter of Credit.
2. The notice to be provided to Lender requesting that Lender incur Letter of Credit Obligations shall be in the form of a Letter of Credit application in the form customarily employed by Lender, together with a written request by Borrower. Approval by Lender in the written form agreed upon between Lender and the issuing bank (a) will authorize the bank to issue the requested Letter of Credit, and (b) will conclusively establish the existence of the Letter of Credit Obligation as of the date of such approval.
3. In the event that Lender shall make any payment on or pursuant to any Letter of Credit Obligation, Borrower shall be unconditionally obligated to reimburse Lender therefore, and such payment shall then be deemed to constitute a Revolving Credit Advance. For purposes of computing interest under Section 1.5, a Revolving Credit Advance made in satisfaction of a Letter of Credit Obligation shall be deemed to have been made as of the date on which the issuer or endorser makes the related payment under the underlying Letter of Credit.
4. In the event that any Letter of Credit Obligations, whether or not then due or payable, shall for any reason be outstanding on the Commitment Termination Date, Borrower will either (a) cause the underlying Letter of Credit to be returned and cancelled and each corresponding Letter of Credit Obligation to be terminated, or (b) pay to Lender, in immediately available funds, an amount equal to 110% of the maximum amount then available to be drawn under all Letters of Credit not so returned and cancelled to be held by Lender as cash collateral in an account under the exclusive dominion and control of Lender (the "Cash Collateral Account").
5. In the event that Lender shall incur any Letter of Credit Obligations, Borrower agrees to pay the Letter of Credit Fee to Lender as compensation to Lender for incurring such Letter of Credit Obligations. In addition, Borrower shall reimburse Lender for all fees and charges paid by Lender on account of any such Letters of Credit or Letter of Credit Obligations to the issuing bank.
6. Borrower's Obligations to Lender with respect to any Letter of Credit or Letter of Credit Obligation shall be evidenced by Lender's records and shall be absolute, unconditional and irrevocable and shall not be affected, modified or impaired by (a) any lack of validity or enforceability of the transactions contemplated by or related to such Letter of Credit or Letter of Credit Obligation; (b) any amendment or waiver of or consent to depart from all or any of the terms of the transactions contemplated by or related to such Letter of Credit or Letter of Credit Obligation; (c) the existence of any claim, set-off, defense or other right which Borrower or any other Credit Party may have against Lender, the issuer or beneficiary of such Letter of Credit, or any other Person, whether in

connection with this Agreement, any other Loan Document or such Letter of Credit or the transactions contemplated thereby or any unrelated transactions; or (d) the fact that any draft, affidavit, letter, certificate, invoice, bill of lading or other document presented under or delivered in connection with such Letter of Credit or any other Letter of Credit proves to have been forged, fraudulent, invalid or insufficient in any respect or any statement therein proves to have been untrue or incorrect in any respect.

7. In addition to any other indemnity obligations which Borrower may have to Lender under this Agreement and without limiting such other indemnification provisions, Borrower hereby agrees to indemnify Lender from and to hold Lender harmless against any and all claims, liabilities, losses, costs and expenses (including, legal fees and expenses) which Lender may (other than as a result of its own gross negligence or wilful misconduct) incur or be subject to as a consequence, directly or indirectly, of (a) the issuance of or payment of or failure to pay under any Letter of Credit or Letter of Credit Obligation or (b) any suit, investigation or proceeding as to which Lender is or may become a party as a consequence, directly or indirectly, of the issuance of any Letter of Credit, the incurring of any Letter of Credit Obligation or any payment of or failure to pay under any Letter of Credit or Letter of Credit Obligation. The obligations of Borrower under this paragraph shall survive any termination of this Agreement and the payment in full of the Obligations.
8. Borrower hereby assumes all risks of the acts, omissions or misuse of each Letter of Credit by the beneficiary or issuer thereof and, in connection therewith, Lender shall not be responsible (a) for the validity, sufficiency, genuineness or legal effect of any document submitted in connection with any drawing under any Letter of Credit even if it should in fact prove in any respect to be invalid, insufficient, inaccurate, untrue, fraudulent or forged; (b) for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or any rights or benefits thereunder or any proceeds thereof, in whole or in part, even if it should prove to be invalid or ineffective for any reason; (c) for the failure of any issuer or beneficiary of any Letter of Credit to comply fully with the terms thereof, including the conditions required in order to effect or pay a drawing thereunder; (d) for any errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, telecopy, telex or otherwise; (e) for any loss or delay in the transmission or otherwise of any document or draft required in order to make a drawing under any Letter of Credit; or (f) for any consequences arising from causes beyond the direct control of Lender.

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## SCHEDULE D

### CASH MANAGEMENT SYSTEM

Borrower agrees to establish, and to maintain, until the Termination Date, the cash management system described below:

1. No Corporate Credit Party: (i) shall (nor shall it permit any of its Subsidiaries to) open or maintain any deposit, chequing, operating or other bank account, or similar money handling account, with any bank or other financial institution except at Lender or as permitted by Lender in its sole discretion and as identified in Attachment 1 hereto; and (ii) shall close or permit to be closed any of the accounts identified in Attachment 1 without Lender's prior written consent, and then only after such Corporate Credit Party has implemented agreements with Lender or bank or financial institution acceptable to Lender.
2. Commencing on the Closing Date and until the Termination Date, all monies (which term when used in this Agreement includes all cheques, bills of exchange and other payment instruments as well as cash) received by the Corporate Credit Parties, including, but not limited to, any receipts in payment of any Accounts or in respect of any insurance proceeds, whether or not a notice and direction has been sent to the Corporate Credit Parties' account debtors, shall be received and held, and shall be deemed to be received and held, in trust for Lender and shall be, and shall be deemed to be, kept separate and apart from the Corporate Credit Parties' own funds and immediately deposited by it on a daily basis in one or more blocked accounts set up for this purpose and listed in Attachment 1 hereto (collectively, the "Blocked Accounts"). The Corporate Credit Parties shall execute and deliver to Lender, Lender's standard form Blocked Accounts agreement ("Blocked Accounts Agreement"), the receipt of which is a condition precedent to any accommodation of credit hereunder. Lender is hereby irrevocably and unconditionally authorised and directed by Borrower to sweep the Blocked Accounts on a daily basis and to set-off, compensate and apply any credit balances in the Blocked Accounts (after conversion into Canadian Dollars as determined necessary by Lender) to repay any Obligations in such order as Lender sees fit, with any remaining funds then being deposited to the Corporate Credit Party's disbursement accounts with Lender.
3. Borrower may maintain, in its name, accounts (the "Disbursement Accounts") at Lender into which Lender shall, from time to time, deposit proceeds of Revolving Credit Advances made pursuant to Section 1.1 for use solely in accordance with the provisions of Section 1.3. All of the Disbursement Accounts as of the Closing Date are listed in Attachment 1 hereto.
4. Upon the request of Lender, each Corporate Credit Party shall forward to Lender, on a daily basis, evidence of the deposit of all items of payment received by such Corporate Credit Party into the Blocked Accounts and copies of all such cheques and other items, together with a statement showing the application of those items relating to payments on Accounts to outstanding Accounts and a collection report with regard thereto in form and substance satisfactory to Lender.

**ATTACHMENT 1 TO SCHEDULE D**  
**LIST OF BANK ACCOUNTS**

**1. Blocked Accounts**

Marnlen

Blocked Cad account: 06032-1062173

Blocked USD account: 06032-4015731

Borrower

Blocked Cad account: 06032-1062421

Blocked USD account 06032-4015889

**2. Disbursement Accounts**

Marnlen

Cad account: 06032-1062165

USD account: 06032-4015723 REGULAR US ACCOUNT

Borrower

Cad account: 06032-1062181

USD account: 06032-4015749 PAR CROSS ACCOUNT



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## SCHEDULE E

### FEES

1. **Unused Line Fee:** For each day from the Closing Date, and through and including the Commitment Termination Date, an amount equal to the Maximum Amount less the aggregate of: (a) the aggregate amount of Revolving Credit Advances outstanding at the end of each day; and (ii) the total Letter of Credit Obligations incurred by Lender and outstanding at the end of each day multiplied by 0.50% and divided by 365 or 366, as applicable, depending on the actual number of days in the year in respect of the period for which the Unused Line Fee is payable. The Unused Line Fee for each month (except for the month in which the Commitment Termination Date occurs) is payable in arrears on the first day of each calendar month following the Closing Date; the final monthly instalment of the Unused Line Fee is payable on the Commitment Termination Date. Notwithstanding the foregoing, any unpaid Unused Line Fee is immediately due and payable on the Commitment Termination Date.
2. **Letter of Credit Fee:** For each day for which Lender maintains Letter of Credit Obligations outstanding, an amount equal to the amount of the Letter of Credit Obligations outstanding on such day, multiplied by such percentage interest rate in effect at the time of issuance. The Letter of Credit Fee is payable at the time of issue. Notwithstanding the foregoing, any unpaid Letter of Credit Fee is immediately due and payable on the Commitment Termination Date.
3. **Closing Fee:** A non-refundable closing fee of \$25,000 payable and fully earned at closing (the "Closing Fee").
4. **Collateral Monitoring Fee:** A fully earned and non-refundable collateral monitoring fee of \$18,000 per annum, payable in advance in equal monthly instalments beginning on the Closing Date and on the first day of each month thereafter.
5. **Prepayment Fee:**  
  
An amount equal to the sum of the Maximum Amount on the date of prepayment and termination, multiplied by:  
  
1% if Lender's obligation to make further Revolving Credit Advances or incur additional Letter of Credit Obligations is terminated (voluntarily by Borrower, upon Default or otherwise) prior to the Stated Expiry Date payable on the Commitment Termination Date, and provided that should the Lender terminate this facility not on account of a Default, but rather on account of the fact that it is completely exiting the asset based lending industry then the pre-payment fee shall not apply.  
  
Borrower acknowledges and agrees that (i) it would be difficult or impractical to calculate Lender's actual damages from early termination of Lender's obligation to make further Revolving Credit Advances and incur additional Letter of Credit Obligations for any reason pursuant to Section 1.2(c) or Section 7.2; (ii) the Prepayment Fees provided above are intended to be fair and reasonable approximations of such damages, and (iii) the Prepayment Fees are not intended to be penalties. No Prepayment Fee will be payable if the Revolving Credit Loan is refinanced by another Royal Bank of Canada credit facility.
6. **Field Examination Fees:** Borrower will reimburse Lender for all fees of any third party providers retained by Lender and Lender's per diem rate in effect at such applicable time and established by Lender in its sole discretion for internal personnel of Lender, together with all out of pocket expenses incurred in connection therewith and applicable taxes, for the audit reviews, field examinations and collateral examinations conducted by or on behalf of Lender.

7. **Appraisal Fees:** Borrower will reimburse Lender for all out of pocket expenses incurred by Lender in connection with the appraisals of inventory conducted for Lender by an appraisal firm acceptable to Lender.
8. **Miscellaneous Fees:** Borrower shall be liable for all of Lender's customary miscellaneous fees for activities undertaken by Lender, including additional uploads, amendments, waivers and other matters.

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## SCHEDULE F

### SCHEDULE OF DOCUMENTS

The obligation of Lender to make the initial Revolving Credit Advances and extend other credit is subject to satisfaction of the condition precedent that Lender shall have received the following, each, unless otherwise specified below or the context otherwise requires, dated the Closing Date, in form and substance satisfactory to Lender and its counsel:

#### PRINCIPAL LOAN DOCUMENTS

1. Loan Agreement. The Loan Agreement duly executed by Borrower and the Credit Parties party thereto.
2. Borrowing Base Certificate. An original Borrowing Base Certificate duly executed by an Authorized Officer of Borrower.
3. Notice of Revolving Credit Advance. An original Notice of Revolving Credit Advance duly executed by an Authorized Officer of Borrower.

#### COLLATERAL DOCUMENTS

1. Acknowledgement Copies of Financing Statements. Acknowledgement copies of proper Financing Statements and notices of recording under the PPSA and Civil Code of Quebec, as applicable (the "Financing Statements") duly filed in all jurisdictions as may be necessary or, in the opinion of Lender, desirable to perfect Lender's Lien on the Collateral.
2. Searches. Certified copies of PPSA and as applicable, Register of Personal and Movable Real Rights of Quebec Searches, as applicable, or other evidence satisfactory to Lender, listing all effective financing statements and recordations which name Borrower and each other applicable Credit Party (under present name, any previous name or any trade or doing business name) as debtor and together with copies of such other financing statements.
3. GSAs/Hypothecs. General security agreements granted by the Borrower, Marnlen and Nanlark, granting a first priority Lien, subject to Permitted Encumbrances, in favour of Lender, in form and substance satisfactory to Lender in its sole, unfettered discretion (but not contradicting the term hereof).
4. Intellectual Property Documents. Agreements relating to the granting to Lender of a security interest in Intellectual Property of Borrower to the extent applicable in a form suitable for filing with the appropriate federal filing office.
5. Other Recordings and Filings. Evidence of the completion of all other recordings and filings (including termination statements and other Lien release documentation) as may be necessary or, in the opinion of and at the request of Lender, desirable to perfect Lender's Lien on the Collateral and ensure such Collateral is free and clear of other Liens (except Permitted Encumbrances).

#### THIRD PARTY AGREEMENTS

1. Landlord and Mortgagee Consents. Unless otherwise agreed to in writing by Lender, duly executed landlord (in the form of Exhibit E), bailee and mortgagee waivers and consents from the landlords, bailees and mortgagees of all of Borrower's leased or owned locations where Collateral is held, in each case, in form and substance satisfactory to Lender.

2. Cash Management System. Duly executed Blocked Accounts Agreement and, if required by Lender, pledged account agreements in respect of the Disbursement Accounts as contemplated by Schedule D.
3. Guarantees and Postponements. (a) Guarantees granted by Marnlen (b) Limited Recourse Guarantee granted by Nanlark Holdings Limited in favour of the Lender limited to realization on the GIC granted by Nanlark Holdings Limited; (c) Subordinations with respect to all loans from a Shareholder to the Borrower or any Affiliate.
4. Intercreditor Agreement. Intercreditor and Subordination Agreements executed by the following Persons: CIT with respect to existing loans over equipment.
5. Other Documents. GIC in the amount of \$1,000,000 granted by Nanlark Holdings Limited (or a lesser amount as agreed to by the Lender in its sole and absolute discretion) in favour of the Lender.

#### **OTHER DOCUMENTS**

1. Environmental Audit. Lender's standard form environmental questionnaire and copies of all existing environmental reviews and audits and other information pertaining to actual or potential environmental claims relating to the Collateral and the Credit Parties, as Lender may require.
2. Insurance Policies. Originals or certified copies of Insurance policies described in Section 3.16, together with evidence showing loss payable or additional insured clauses or endorsements in favour of Lender.
3. Existing Lease Agreements. Copies of any existing real property leases and equipment leases to which Borrower is a party and any other document or instrument evidencing or relating to existing Indebtedness of Borrower, together with all certificates, opinions, instruments, security documents and other documents relating thereto, all of which shall be satisfactory in form and substance to Lender, certified by an Authorized Officer of Borrower as true, correct and complete copies thereof.
4. CRA Consent. Canada Revenue Agency's ("CRA") business consent form whereby each Credit Party requested by Lender provides its authorization and consent for Lender to communicate directly with CRA.

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**SCHEDULE G**  
**MATERIAL CONTRACTS**

NIL



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## SCHEDULE H

### BANK PRODUCTS

#### A. Visa Facility

The Lender may, at its sole and absolute discretion make a corporate visa credit card facility (the "**Visa Facility**") available to Borrower in such amount as agreed to in writing by Lender in its sole and absolute discretion (the "**Visa Limit**"), subject to, without limitation, the following terms and conditions:

- a) notwithstanding any other provision of this Agreement, the Visa Facility is payable on demand and Lender may cancel or restrict the availability of the Visa Facility, or any unutilized portion thereof, at any time in its sole and absolute discretion. The Visa Limit will be reserved, dollar for dollar, from the Borrowing Availability (the "**Visa Reserve**");
- b) the Visa Facility will be governed by separate agreements entered into between Borrower and Lender (collectively, the "**Visa Facility Agreements**") and, in the event of a conflict between the terms and conditions of this Agreement and the Visa Facility Agreements, the terms and conditions of the Visa Facility Agreements will govern and prevail to the extent of such conflict; and
- c) the Visa Facility shall form part of the Obligations secured by all of Lender's security.

#### B. Foreign Exchange Facility

Provided that no Event of Default has occurred, Lender may at its sole option and discretion, upon Borrower's written request, enter into foreign exchange transactions, agreements or options ("**Fx Contracts**") with Borrower from time to time on terms and conditions to be negotiated on a transaction-by-transaction basis (the "**Fx Facility**"). Lender makes no commitment to enter into or arrange any Fx Contracts with Borrower and may at any time, in its sole and absolute discretion, decline to enter into or terminate any Fx Contracts. In the event that Borrower requests, and Lender agrees, to enter into any such Fx Contracts with Borrower, it will do so subject to the following:

- a) in no event, shall the "credit exposure" as determined by the bank from time to time in its discretion of the Fx Facility exceed at any time the aggregate amount of \$0 or such other amount as agreed to in writing by Lender in its sole and absolute discretion. Such Fx "credit exposure" may be reserved, dollar for dollar, from the Borrowing Availability (the "**Fx Reserve**");
- b) Borrower shall promptly issue or countersign and return a confirmation or acknowledgement of the terms of each such Fx Contract as required by Lender;
- c) Borrower shall, if required by Lender, promptly enter into a Foreign Exchange and Options Master Agreement or such other agreement, in form and substance satisfactory to Lender, to govern such Fx Contracts;
- d) in the event of demand for payment concerning any Fx Contracts, Lender may terminate all or any other Fx Contracts at its sole option and discretion. If the agreement governing any such Fx Contracts does not contain provisions governing termination, any such termination shall be effected in accordance with customary market practice applied by Lender from time to time. Lender's determination of amounts owing under any terminated Fx Contracts shall be conclusive evidence of the amounts owing thereunder, absent manifest error;

- e) Lender shall apply any amount owing by Lender to Borrower on termination of any such Fx Contracts against Borrower's obligations to Lender and any amount owing by Borrower to Lender on such termination shall form part of the Obligations secured by all of Lender's security;
- f) Borrower shall pay all required fees in connection with any such Fx Contracts and hereby indemnifies and holds Lender harmless from and against any and all losses, costs and expenses incurred by Lender in relation to any Fx Contracts, including, without limitation, the costs of terminating or cancelling any Fx Contracts;
- g) any rights of Lender in respect of any such Fx Contracts are in addition to and not in limitation of, or substitution for, any rights of Lender under any agreement governing such Fx Contracts. In the event that there is any inconsistency at any time between the terms hereof and any agreement governing such Fx Contracts, the terms of such agreement governing such Fx Contracts shall prevail to the extent of such inconsistency; and
- h) Borrower hereby covenants and agrees to report the outstanding amounts of any and all Fx Contracts to Lender in its Borrowing Base Certificate required to be delivered to Lender on a weekly basis.

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**DISCLOSURE SCHEDULE (3.2)****EXECUTIVE OFFICES**

400 Cochrane Drive, Markham, ON, L3R 8E3

**CORPORATE NAMES**

MARNLEN MANAGEMENT LTD.

WALDMAN HOLDINGS INC., 1121642 ALBERTA LTD. (CONTINUED INTO ONTARIO AS 1810564),  
BOTH AMALGAMATED WITH MARNLEN MANAGEMENT LTD. ON JAN.1, 2010

LABELAD LTD.

**BUSINESS NAMES**

MARNLEN RFID

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**DISCLOSURE SCHEDULE (3.6)****REAL ESTATE; PROPERTY**

400 Cochrane Drive, Markham, ON, L3R 8E3

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## DISCLOSURE SCHEDULE (3.7)

## SHARES; AFFILIATES

Corporate Credit Party / Affiliate	Name of Owner	Number of Shares, Etc.	Percentage of Company Owned
MARNLEN MANAGEMENT LTD.	NANLARK HOLDINGS LIMITED	100 Class A Shares 100 Class B Shares 100 Class C Shares	100%
1547904 ONTARIO INC. (FORMERLY SANDYLION INC.)	MARNLEN MANAGEMENT LTD.	157 Class A Shares 100 Common Shares 10,611,155 Class B Shares 4,062,254 Class C Shares	100%
LABELAD LTD.	MARNLEN MANAGEMENT LTD.	1000 Class A Shares 100 Common Shares	100%

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**DISCLOSURE SCHEDULE (3.9)****TAXES****LABELAD INC.**

CRA AUDIT - June 2008 to January 2009

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**DISCLOSURE SCHEDULE (3.11)****PENSION****NIL**

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**DISCLOSURE SCHEDULE (3.12)****LITIGATION****MARNLEN MANAGEMENT LTD.**

<b>Name of Plaintiff</b>	<b>Court and Case Number</b>	<b>Amount Claimed and Brief Description of Claim</b>
Lithocolour Services Ltd.	CV-09-377-060	The Plaintiff commenced a collection action against Marnlen in the Ontario Superior Court of Justice on April 22, 2009, seeking damages in the amount \$176,675.92 as well as interest and costs. Marnlen has filed a defence. The plaintiff was examined for discovery and Bob Hicks was examined for discovery on behalf of Marnlen. The Plaintiff is requiring someone from Marnlen to re-attend for further discovery following which the matter will likely have to be mediated at some point.

Lite International (HK) Limited	CV-09-377-490	<p>The Plaintiff commenced a collection action against Marnlen in the Ontario Superior Court of Justice on April 28, 2009, seeking damages in the amount \$462,048.60 (USD), as well as liquidated damages for a rejected shipment in the amount of \$292,476.05 (USD), \$53,933.86 (USD) for alleged repudiatory breach of contract, \$1,809.00 (USD) for alleged inspection costs and \$6,903.00 (USD) for the return shipment of goods plus interest and costs of the action. This claim is subject to dispute by Marnlen. Marnlen alleges that a significant portion of the product in question was defective, and that other goods were never released to Marnlen. There are also alleged discrepancies in the amounts claimed for some of the invoices in question and that the amount claimed by Lite does not take into account an outstanding credit owed by Lite to Marnlen in the amount of \$50,000. Sandylion had issued a counterclaim in connection with the damages it claims that it has suffered in connection with the allegedly defective goods supplied by Lite but this is stayed as a result of Sandylion's bankruptcy. Marnlen is awaiting a decision from the court in respect to its motion seeking a court order requiring Lite to post security for costs. Lite is bringing a summary judgement motion which is scheduled at present to be heard in October of this year, only with respect to goods that supposedly were not deemed defective. There is a dispute as to whether Marnlen is properly a party to any contracts with Lite - Lite contends that it is, we are opposing in part on this basis. Lite also has a pending motion in August requesting particulars with respect to certain aspects of Marnlen's defence.</p>
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RSM Richter Inc., Interim Receiver for Grafikom Limited Partnership	CU-09-3200-00	<p>On July 15, 2009, RSM Richter Inc., Interim Receiver for Grafikom Limited Partnership issued a Statement of Claim against "Marnen Management Ltd. operating as Sandylion" seeking \$98,971.30 along with interest and costs. The action is based on unpaid invoices issued to Sandylion from September 2008 to November 2008. Marnen filed a defence denying liability in August 2009. Our current review of the company records suggests that the product supplied by Grafikom was defective and that the proper party defendant is Labelad, but Grafikom has set the action down for trial without serving an affidavit of documents or discovery (invoices were attached to the Statement of Claim). This matter is at a very preliminary stage we are unable to determine at this time the amount or likelihood of any loss (or gain) of Marnen that may ultimately result from this claim and/or any counterclaim.</p>
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**DISCLOSURE SCHEDULE (3.13)****INTELLECTUAL PROPERTY****MARNLEN MANAGEMENT LTD.****SEE ATTACHED APPENDIX "A"**

**Canadian Trade Marks**  
**Owned by Marnlen Management Ltd.**

Trade Mark	Application No.	Registration No.	Status	Due Dates
AD-ONS BY LABELAD	1393764	N/A	Published	File DU Nov. 1, 2011
ENVIROTAC	1382037	N/A	Published	File DU Aug. 5, 2011
INFO PLUS	858467	505529	Registered	Renewal Dec. 15, 2013
LABELAD	853669	500117	Registered	Renewal Sept. 4, 2013
MARNLEN RFID & DESIGN	1286909	734062	Registered	Renewal Feb. 6, 2024

**United States Trade Marks**  
**Owned by Marnlen Management Ltd.**

Trade Mark	Application No.	Registration No.	Status	Due Dates
AD-ONS BY LABELAD	77/469339	N/A	Suspended (file certified copy of Canadian registration once issued)	Suspension Action - Response due Oct. 26, 2011
ENVIROTAC	77/503231	N/A	Suspended (file certified copy of Canadian registration once issued)	Suspension Action - Response due Oct. 26, 2011
LABELAD	75/425413	2315387	Registered	Renewal Feb. 8, 2020
MARNLEN RFID & DESIGN	78/931604	3778165	Registered	Section 8 & 15 Affidavit Due Apr. 20, 2016 Renewal Apr. 20, 2020

**Foreign Trade Marks (Excluding U.S.A.)**  
**Owned by Marnlen Management Ltd.**

Trade Mark	Country	Application No.	Registration No.	Status	Due Dates
ENVIROTAC	European Community	7008485	7008037	Registered	Work Requirements April 2, 2014; Renewal Jun 23, 2018
LABELAD	Mexico	322003	577281	Registered	Renewal Feb. 09, 2018

June 29, 2011

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**DISCLOSURE SCHEDULE (3.15)****ENVIRONMENTAL MATTERS****NIL**

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## DISCLOSURE SCHEDULE (3.16)

## INSURANCE

Type of Insurance	Name of Insured	Beneficiary	Insurance Company	Policy Number
Property, Crime, Liability, E&O	Marnlen Mgmt Ltd.(MML), Labelad Ltd (LBL), 2249573 Ontario	Labelad Ltd (LBL), Marnlen Management Ltd. (MML)	Chubb Ins Co of Canada	35128460
Commercial Excess Umbrella Liability	Marnlen Mgmt Ltd	LBL, MML	Chubb Ins Co of Canada	79277759
Boiler & Machinery	Marnlen Mgmt Ltd	LBL, MML	Chubb Ins Co of Canada	76406322
Directors & Officers Liability	Marnlen Mgmt Ltd. Labelad, Sandyllon, Waldman Holdings, 1121642 Albera Ltd.	LBL, MML	Chubb Ins Co of Canada	82094684



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**DISCLOSURE SCHEDULE (3.18)****CONTRACTS (OFFSET RISK)**NIL

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## DISCLOSURE SCHEDULE (5.2(b))

## INDEBTEDNESS

MARNLEN MANAGEMENT LTD.

Name of Lender and Amount of Loan	*Purpose	Collateral
Nanlark Holdings Limited \$2,800,000	Inter-company Loan / Advance	Secured - GSA
Nanlark Holdings Limited \$1,765,000	Inter-company Loan / Advance	Secured - GSA
Nanlark Holdings Limited \$349,973	Inter-company Loan / Advance Accrued Interest	Secured - GSA
Nanlark Holdings Limited \$5,250,000	Inter-company Loan / Advance	Secured - GSA

## 1547904 ONTARIO INC. (FORMERLY SANDYLION INC.)

Name of Lender and Amount of Loan	*Purpose	Collateral
Marnlen Management Ltd. \$42,450,450	Corporate Reorganization	Secured - GSA

LABELAD LTD.

Name of Lender and Amount of Loan	*Purpose	Collateral
CIT Financial \$702,422 as at June 30, 2011	Promissory Note. Not to be paid off at closing	Two Printing Presses
Marnlen Management Ltd. \$24,904,287	Corporate Reorganization	Secured - GSA

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**DISCLOSURE SCHEDULE (5.2(e))****LIENS**

The Liens perfected by the following *Personal Property Security Act* (Ontario) financing statements:

- (1) **20110314 1549 6005 3844** (5 years)  
File No. 668270511

Debtor: Marnlen Management Ltd.

**Secured Party: National Leasing Group Inc.**  
1525 Buffalo Place (2520802), Winnipeg, MB R3T 1L9

Collateral: Equipment

Description: All photocopiers of every nature or kind described in lease number 2520802 between Konica Minolta Business Solutions (Canada) Ltd., as original lessor and the debtor, as lessee, which lease was assigned by the original lessor to the secured party, as amended from time to time, together with all attachments, accessories and substitutions.

- (2) **20090713 1451 1530 8980** (10 years)  
File No. 654863427

Debtor: Marnlen Management Ltd.

**Secured Party: Nanlark Holdings Limited**  
400 Cochrane Drive, Markham, ON L3R 8E3

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle

Amended: 20090717 1953 1531 7386

Reason: Amendment as a result of amalgamation of Nanlark Holdings Limited Sanwal Holdings Inc. and Lionwall Holdings Inc. on July 16, 2009 to form Nanlark Holdings Limited.

**Secured Party: Nanlark Holdings Limited**  
400 Cochrane Drive, Markham, ON L3R 8E3

Amendment: 20100225 1948 1531 5459

Reason: Amended to reflect the amalgamation of Marnlen Management Ltd., Waldman Holdings Inc. and 1810564 Ontario Inc. (formerly, 1121642 Alberta Ltd.) to continue as Marnlen Management Ltd., pursuant to Articles of Amalgamation, dated January 1, 2010.

- (3) **20081028 1732 8077 1212** (5 years)  
File No. 649557522

Debtor 1: Marnlen Management Ltd.

Debtor 2: Marnlen Management

Debtor 3: Labelad

**Secured Party: MCAP Leasing Inc.**

5575 North Service Rd, Ste 300 Burlington, ON L7L 6M1

Collateral: Equipment, Accounts, Other

Description: Equipment

(4) 20080228 1953 1531 2858 (4 years)  
File No. 643017591

Debtor: Marnlen Management Ltd.

**Secured Party: CBSC Capital**

100-1235 North Service Rd W, Oakville, ON, L6M 2W2

Collateral: Equipment, Other

(5) 20110429 1946 1531 0823 (5 years)  
File No. 669480975

Debtor: Labelad

**Secured Party: E.I. Dupont Canada Company**

7070 Mississauga Road, Mississauga, ON L5N 5M8

Collateral: Equipment

Amount: \$35,400

Description: One (1) PW82 Platewasher WR, amount secured is in US Dollars \$35,400.00

(6) 20081028 1732 8077 1212 (5 years)  
File No. 649557522

Debtor 1: Marnlen Management Ltd.

Debtor 2: Marnlen Management

Debtor 3: Labelad

**Secured Party: MCAP Leasing Inc.**

5575 North Service Rd, Ste 300 Burlington, ON L7L 6M1

Collateral: Equipment, Accounts, Other

Description: Equipment

(7) 20070618 1113 1862 7962 (10 years)  
File No. 636421923

Debtor: Labelad Ltd.

**Secured Party: XSYS Print Solutions US LLC (D/B/A Flint Group Printing Plates)**

2401 Whitehall Park Drive, Suite 100 Charlotte, NC 28273

Collateral: Equipment

Description: Progressive Recovery Inc. (PRI) Model PV-50 Plate-VAC Distillation System PRI CUL on a PLATE-VAC control panel.

(8) 20060418 1412 1590 5147 (10 years)  
File No. 624347496

Debtor: Labelad Ltd.

**Secured Party: Marnlen Management Ltd.**

400 Cochrane Drive, Markham ON L3R 8E3

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle Included

Change: 20060905 1042 1862 8413

Reason: Subordination and Postponement Agreement by Marnlen Management Ltd. ("Marnlen") in favour of Canadian Imperial Bank of Commerce ("CIBC") whereby all existing and future security issued by Labelad Inc. ("Labelad") to Marnlen is subordinated and postponed in all respects and for all purposes to all existing and future security issued by Labelad to CIBC.

(9) 20051130 1647 1616 6142 (9 years)  
File No. 620928801

Debtor: Labelad Ltd.

**Secured Party: CIT Financial Ltd.**

5035 South Service Road Burlington ON, L7R 4C8

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle Included



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**DISCLOSURE SCHEDULE (6.1)****ACTIONS TO PERFECT LIENS****NIL**

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**EXHIBIT A****FORM OF NOTICE OF REVOLVING CREDIT ADVANCE**

(Letter to be typed on Borrower's Letterhead)

**[DATE]**

Royal Bank of Canada  
20 King Street West, 7th Floor  
Toronto, Ontario M5H 1C4  
Attention: Operations Group  
FAX: 1-800-924-9610  
E-MAIL: assetbfi@rbc.com

cc:  
Attention: Portfolio Manager  
FAX:

**BORROWING NOTICE**

We refer to the loan agreement dated as of ●, 20\_\_ (as amended, restated, supplemented, replaced or otherwise modified from time to time, the "Agreement"; capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Agreement), among [ ] ("Borrower") and Royal Bank of Canada ("Lender").

We hereby instruct and authorize Lender to make advances (or conversion of an outstanding loan) to our disbursement account(s), subject to and in accordance with the terms and provisions of the Agreement to the account numbers specified below and to charge Borrower's loan account with each such advance(s).

Borrower hereby requests an advance or conversion of an outstanding loan (the "Advance") be made as follows:

- A. The drawdown date: \_\_\_\_\_
- B. Borrower name: \_\_\_\_\_
- C. The amount of the Advance:

i) RBP Loan (CAD\$): \_\_\_\_\_

Proceeds of the Advance are to be directed as follows:

CAD\$ # \_\_\_\_\_

ii) RBUSBR Loan (U.S\$): \_\_\_\_\_

Proceeds of the Advance are to be directed as follows:

U.S.\$ # \_\_\_\_\_

**Borrower hereby confirms as follows:**

- (a) Each of the representations and warranties made by each of the Credit Parties in or pursuant to the Agreement and the other Loan Documents are true and correct in all material respects on and as of the date hereof as if made on and as of such date, except as Lender may have otherwise agreed to herein or in a separate writing.
- (b) No Default has occurred as of the date hereof or will occur after the making of the Advance(s) requested hereunder.

**DATED** this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**BORROWER:** \_\_\_\_\_

By: \_\_\_\_\_ c/s

Name:

Title:

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**EXHIBIT B**  
**OTHER REQUIRED REPORTS AND INFORMATION**

NIL

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## EXHIBIT C

### FORM OF BORROWING BASE CERTIFICATE

I, the Authorized Officer of Labelad Ltd. ("Borrower") hereby certify as of, 20●● :

1. I am familiar with and have examined the provisions of the loan agreement (the "Agreement") dated, \_\_\_\_\_ 20●●, between Labelad Ltd. ("Borrower") and Royal Bank of Canada ("Lender") and have made reasonable investigations of records and inquiries of other officers and senior personnel of Borrower. Terms defined in the Agreement have the same meanings where used in this certificate.

2. The Net Borrowing Availability is \$● , calculated as follows:

*U.S.\$ exchange rate at ● (Bank of Canada noon rate for ●, 20●●)*

	CAD\$	U.S.\$	Total (CAD\$)
<b>total accounts receivable (excluding those from Investment Grade Debtors or that are insured)</b>			

less:

(a) That portion of an Account that has been outstanding for over the earlier of: (i) 60 days past due date; and (ii) 120 days past invoice date

(b) Accounts due from Affiliates

(c) "Past due date" Accounts where collection is suspect

(d) Accounts subject to hold backs, contras or rights of set-off

(e) Accounts subject to prior encumbrances

(f) foreign Accounts

(g) Accounts due from the federal [provincial or state] government

(h) debit notes included in Accounts

(i) "bill and hold" Accounts

(j) Accounts relating to pre-billings

(k) past due credit notes (over [90] days)

(l) non trade related Accounts

(m) other ineligible Accounts

(n) credit notes not included in Accounts

(o) cross-aging adjustment

(p) concentration adjustment

(q) accrued rebates

(r) other adjustments

**Net accounts receivable (excluding those from Investment Grade Debtors or that are insured)**

**Less: dilution reserve**

**Eligible Accounts, (excluding those from Investment Grade Debtors or that are insured)**

**Eligible Accounts margined at 85%**           **A****accounts receivable from Investment Grade Debtors or that are insured****less:**

- (a) That portion of an Account that has been outstanding for over the earlier of: (i) 60 days past due date; and (ii) 120 days past invoice date.
- (b) Accounts subject to hold backs, contras or rights of set-off
- (c) Accounts subject to prior encumbrances
- (d) debit notes included in Accounts
- (e) "bill and hold" Accounts
- (f) Accounts relating to pre-billings
- (g) past due credit notes (over [90] days)
- (h) non trade related Accounts
- (i) other ineligible Accounts
- (j) credit notes not included in Accounts
- (k) amounts in excess of credit insurance < [90] days
- (l) other adjustments

**net accounts receivable from Investment Grade Debtors or that are insured****less: dilution reserve****Eligible Investment Grade or Insured Accounts****Eligible Investment Grade or Insured Accounts margined at 90%**           **B****total margined Accounts (A+B)**           **C****Inventory (raw materials)****less:**

- (a) slow moving Inventory
- (b) packaging materials
- (c) Inventory located where landlord waivers/bailee letters are needed but not held
- (d) Inventory at contract manufacturers or outside processors
- (e) Inventory subject to prior encumbrances
- (f) other non-qualifying Inventory
- (g) 30 day goods

**Eligible Inventory (raw materials)**

**Eligible Inventory (raw materials) margined at lesser of 85% of NOLV and 65%**

\_\_\_\_\_D

**Inventory (work in progress)**

less:

- (a) slow moving Inventory
- (b) packaging materials
- (c) Inventory located where landlord waivers/bailee letters are needed but not held
- (d) Inventory at contract manufacturers or outside processors
- (e) Inventory subject to prior encumbrances
- (f) other non-qualifying Inventory

**Eligible Inventory (work in progress)**

**Eligible Inventory (work in progress) margined at lesser of 85% of NOLV and 65% (to a maximum of \$. 5MM)**

\_\_\_\_\_E

**Inventory (finished goods)**

less:

- (a) slow moving Inventory
- (b) Inventory located where landlord waivers/bailee letters are needed but not held
- (c) Inventory at contract manufacturers or outside processors
- (d) Inventory subject to prior encumbrances
- (e) other non-qualifying Inventory
- (f) packaging materials

**Eligible Inventory (finished goods)**

**Eligible Inventory (finished goods) margined at lesser of 85% of NOLV and 65%**

\_\_\_\_\_F

**total margined Inventory (D+E+F) (to a maximum of \$1. 5MM)**

\_\_\_\_\_G

**total margined Cash**

\_\_\_\_\_H

**total margined Accounts and Inventory and Cash (C+G+H)**

\_\_\_\_\_I

less: reserves

potential prior ranking claims (per attachment)

\_\_\_\_\_J

Fx Reserve

\_\_\_\_\_K

[online LC accommodation/other]

\_\_\_\_\_L

**Borrowing Base (I-J-K-L)**

\_\_\_\_\_M

Maximum Amount	_____	N
Borrowing Availability (lesser of M and N)	_____	O
less:		
Revolving Credit Advances	_____	P
Letter of Credit Obligations	_____	Q
Overdrafts	_____	R
 Net Borrowing Availability (O-P-Q-R)	 \$ _____	

3. The following reports are either annexed hereto or have been submitted electronically:

- (a) aged accounts receivable and aged accounts payable listings for Borrower and .....;
- (b) schedule showing Accounts subject to hold backs, contras, rights of set-off, etc.
- (c) Inventory perpetual or physical listing;
- (d) listing of potential prior ranking claims; and
- (e) listing of supplier payables having 30 day repossession rights over Inventory.

4. The reports and information provided herewith are accurate and complete in all respects and all amounts included as potential prior ranking claims are current amounts owing and not in arrears [if this is not the case, indicate any claims that are past due].

Dated this ● day of ●, 20●.

Per: \_\_\_\_\_  
Authorized Officer

**POTENTIAL PRIOR RANKING CLAIMS****CADS**

GST	_____
HST	_____
PST	_____
corporate income taxes	_____
	_____
employee source deductions	_____
employer health tax	_____
workers' compensation	_____
WEPPA reserve (\$2,000/full time employee; \$1,000/part time employee)	_____
RRSP (employee contributions)	_____
pension plan contribution	_____
rent	_____
Other	_____
<b>total</b>	_____
<b>number of full time employees:</b>	_____
<b>number of part time employees:</b>	_____

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## EXHIBIT D

## FORM OF COMPLIANCE CERTIFICATE

TO: Royal Bank of Canada ("Lender")

The undersigned, \_\_\_\_\_ [TITLE of AUTHORIZED OFFICER], of \_\_\_\_\_ ("Borrower"), pursuant to the provisions of the loan agreement dated as of □, 20□□, among, inter alia, Lender and Borrower (as amended, restated, supplemented, replaced or otherwise modified from time to time the "Agreement"), **DOES HEREBY CERTIFY** in [his/her] capacity as an authorized officer of Borrower and not in [his/her] personal capacity that:

1. The financial statements attached hereto fairly and accurately represent Borrower's financial condition at the end of the particular accounting period set out in such financial statements, as well as Borrower's and its Subsidiaries' operating results during such accounting period, subject to year-end audit adjustments;
2. A review of such financial statements and of the activities of Borrower and its Subsidiaries during the period covered by such financial statements has been made under my supervision with a view to determining whether Borrower and the Subsidiaries have fulfilled all of their obligations;
3. During the accounting period set out in such financial statements:
  - (a) each of Borrower and the Subsidiaries have fulfilled each of its respective obligations under each of the Loan Documents to which it is a party;
  - (b) there has been no default under the Agreement;
  - (c) Borrower is not aware of any event or circumstance which could reasonably have or could reasonably have had a Material Adverse Effect;
  - (d) the representations and warranties contained in the Agreement and the other Loan Documents are correct in all material respects on and as of the date hereof as though made on and as of such date, other than any such representation or warranty which relates to a specified prior date and except to the extent that Lender has been notified in writing by Borrower that any representation or warranty is not correct and Lender has explicitly waived in writing compliance with such representation or warranty;
  - (e) Borrower has been in full compliance with all covenants set out in the Agreement, including Financial Covenants as evidenced by the calculations attached hereto as Attachment 1;
  - (f) No new Subsidiaries were formed or acquired since the end of the previous calendar month [If acquired or formed, indicate for each such Subsidiary, the date of the formation or acquisition];
  - (g) no change in GAAP or in the application thereof has occurred since the date of the most recent audited annual financial statements of Borrower delivered to Lender [If a change has occurred, specify the details of the change and its effect on the accompanying financial statements]; and

[If any of the foregoing is incorrect, revise wording accordingly to include particulars of any variation.]

4. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Loan Agreement.

**IN WITNESS WHEREOF**, the undersigned has executed this Compliance Certificate on behalf of Borrower as of the \_\_\_\_\_ day of \_\_\_\_\_, 20<●>.

By: \_\_\_\_\_

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

Title of Authorized Officer



## ATTACHMENT "1" TO EXHIBIT D

## FINANCIAL COVENANTS

COMPANY NAME \_\_\_\_\_

MONTHLY CERTIFICATE \_\_\_\_\_, 20\_\_\_\_

**A. Fixed Charge Coverage Ratio**

net Income (Loss)  
 Interest expense  
 Income tax expense  
 amortization expense  
 depreciation expense  
 expenses in respect of Operating Leases  
 extraordinary losses  
 less: extraordinary gains

**EBITDAR**

less: unfunded Capital Expenditures

**(i) TOTAL**

interest paid, accrued or otherwise payable  
 Income taxes paid, accrued or otherwise payable  
 scheduled payments under Operating Leases  
 scheduled payments of principal on Funded Debt  
 payments to Affiliates  
 [dividends]  
 other  
**(ii) TOTAL**

Fixed Charge Coverage Ratio = (i)/(ii)

**A. Tangible Net Worth**

contributed capital  
 retained earnings  
 contributed surplus  
 fully and unconditionally postponed and subordinated shareholder loans  
 other fully and unconditionally postponed and subordinated loans  
 other  
**(i) TOTAL**

Intangibles  
 goodwill arising on consolidation  
 prepaid expenses  
 deferred charges  
 net leasehold improvements

advances to shareholders, employees etc.  
 [investments]  
 other

**(ii) TOTAL**

Tangible Net Worth = (i) - (ii)

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EXHIBIT E

FORM OF LANDLORD WAIVER

LANDLORD'S WAIVER AND CONSENT

This Landlord's Waiver and Consent made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by ● (the "Landlord") to Royal Bank of Canada (the "Lender").

The Lender has a security interest under, *inter alia*, the *Personal Property Security Act* (Ontario) in all of the personal property of (the "Borrower") which includes, without limitation, all of Borrower's equipment, inventory, stock, goods and other property which are now or in the future may become located or stored (but excludes any leasehold improvements or fixtures installed or affixed to the applicable real property) (collectively, the "Collateral") at the location set forth in Attachment "1" hereto and any other location owned or controlled by the Landlord or any of its affiliates (as defined in the *Business Corporations Act* (Canada) (collectively, the "Premises").

The Landlord owns or has an interest in the Premises and has entered into a lease of the Premises set forth in Attachment "1" with the Borrower, a copy of such lease being attached hereto as Attachment "2" (the "Lease"). In order to induce the Lender, now or from time-to-time, to make financial accommodations to the Borrower, and in consideration of any financial accommodation extended by the Lender to the Borrower at any time and for other good and valuable consideration now paid by the Lender to the Landlord (the receipt and sufficiency of which consideration is hereby acknowledged by the Landlord), the Landlord does hereby consent and agree with the Lender, as follows:

- (i) the Landlord acknowledges that (a) the Lease is in full force and effect, and (b) the Landlord is not aware of any existing default under the Lease.
- (ii) the Landlord consents to the issuance of and acknowledges the validity of the Lender's security interest in the Collateral and disclaims and waives all interest in the Collateral at any time during which the Borrower is indebted to the Lender and does hereby specifically waive any security interest in the Collateral provided in the Lease, and consents to the placement, storage and retention upon the Premises of the Collateral or any portion thereof on the Premises. The Landlord will not assert any claim or interest in the Collateral in priority to the Lender nor seek levy or distraint upon it for rent or otherwise.
- (iii) the Landlord consents to the Lender's entry upon the Premises at reasonable times to inspect or remove the Collateral from the Premises (without the Lender being deemed to be in possession of the Premises or being required to pay any amount to the Landlord whatsoever), so long as the Lender repairs physical damage, if any, done to the Premises by the Lender or its agents, or reimburses the Landlord for the reasonable cost of such repairs, but not for any diminution in the value of the Premises caused by the absence of the Collateral removed or by the necessity of replacing it.
- (iv) the Landlord agrees to promptly give to the Lender written notice at 200 Bay Street, 30th Floor, Royal Bank Plaza, Toronto, Ontario M5J 2J5, Attn: Portfolio Manager (Fax: (416) 974-0716) of any default by the Borrower under the Lease and the Lender shall have the right, but not the obligation, for a period of five (5) business days from receipt of that notice (or such longer period as may be provided for in the Lease) to cure any default and in the event of a payment default, the payment by the Lender to the Landlord of the maximum amount of one (1) month arrears of basic rent, as provided for in the lease, shall be deemed to be a cure of such payment default. In addition, the Landlord shall also promptly advise the Lender, in writing, of the initiation of any proceeding, judicial or otherwise, to terminate the Borrower's rights in the Premises, and the Landlord agrees that the Lender shall have thirty (30) days after receipt of that notice to enter upon the Premises for purposes of taking possession or removing the Collateral from the Premises (without the Lender

being required to pay any amount to the Landlord whatsoever or being deemed to be in possession of the Premises).

- (v) provided that the Lender or its agent cures any existing default under the Lease as provided for and within the time specified in paragraph (iv) and continues to pay all amounts becoming due to the Landlord under the Lease after the curing of such default, the Lender or its agents shall be entitled to continued possession of the Premises. If any default is by its nature not capable of rectification or remedy or if any trustee in bankruptcy of the Borrower disclaims the Lease, the Landlord shall so notify the Lender and if requested in writing by the Lender within ten (10) days of the delivery of such notice and provided the Lender has remedied any uncured monetary default by the Borrower, the Landlord shall grant to the Lender or its nominee a new lease of the Premises on the same terms and conditions (including renewal rights) as those contained in the Lease for a term equal to the balance of the unexpired term (a "**Replacement Lease**").
- (vi) in the event that the Lender exercises in writing its rights pursuant to Section (v) hereof, the Landlord agrees that the Lender shall have the right to make a further transfer, assignment or sublet of the Lease or Replacement Lease, as the case may be, to a third party who is not more objectionable to the Landlord than the Borrower, to be determined by the Landlord and the Lender, acting reasonably, on the prior written consent of the Landlord (such consent not to be unreasonably withheld or delayed), and upon such transfer, assignment or sublet, the Lender shall hereby be released from all obligations under the Lease or Replacement Lease, as the case may be, in respect of that period from and after the effective date of any such transfer, assignment or subletting.
- (vii) the Landlord agrees that after the Lender has repossessed the Collateral and notified the Landlord of such fact, the Lender shall have the option of keeping the Collateral on the Premises for purposes of disposing of it from the Premises for ninety (90) days after the giving of such notice (the "**Option Period**"). During the Option Period, the Lender shall only be obligated to pay any basic rent on a *per diem* basis, as specified in the Lease, until such time as the Collateral is removed from the Premises and the Lender has provided the Landlord with written notice that it intends to terminate the Option Period. Notwithstanding the right to remain on the Premises for the full Option Period, the Lender shall have the option of terminating such arrangement at any time during the Option Period upon providing the Landlord with written notice of its intent at least three (3) days before such commitment termination date.
- (viii) all notices hereunder shall be in writing, sent personal delivery or fax, to the respective parties and the addresses set forth on the signature page or at such other address as the receiving party shall designate in writing.
- (ix) this Landlord's Waiver and Consent (i) may be executed in any number of counterparts by facsimile transmission, each of which counterparts shall be deemed to be originals and all of which when taken together shall form one and the same Landlord Waiver & Consent, (ii) shall be governed by and in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and (iii) shall enure to the benefit of the Lender and its successors and assigns, and shall be binding upon the successors and assigns of the Landlord. The Landlord shall not transfer title to the Premises unless the Landlord obtains an agreement in writing in favour of the Landlord and the Lender that such transferee/purchaser agrees to be bound by the provision of this Landlord Waiver and Consent as if such transferee/purchaser was a party hereto.

**IN WITNESS WHEREOF**, this Landlord's Waiver and Consent is entered into as of the date first set forth above.

**NOTICE ADDRESS:**

Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

●  
By: \_\_\_\_\_ c/s  
Name:  
Title:

By: \_\_\_\_\_ c/s  
Name:  
Title:  
I/we have authority to bind the Corporation

**Agreed and acknowledged by Borrower:**

●  
By: \_\_\_\_\_ c/s  
Name:  
Title:

**ATTACHMENT "1" TO EXHIBIT E**

Legal Description of the Premises

**Municipal Address:**

*[To be completed by Borrower's Counsel or Landlord]*

**Legal Description:**

*[To be completed by Borrower's Counsel or Landlord]*

**ATTACHMENT "2" TO EXHIBIT E****Copy of Lease****(To Be Provided by Landlord)**

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**EXHIBIT 4.1(c)(ii)**

**[NAME OF CREDIT PARTY PROVIDING FINANCIAL STATEMENTS]  
CERTIFICATE OF VP FINANCE REGARDING YEAR END FINANCIALS**

**TO: ROYAL BANK OF CANADA (the "Lender")**

**RE: Certification of year end financial statements [NAME OF CREDIT PARTY PROVIDING FINANCIAL STATEMENTS] (the "Corporation")**

Reference is made to the Loan Agreement dated as of \_\_\_\_\_ 2011, between, amongst others, the Corporation and the Lender (as the same may be further amended, restated, supplemented, revised or replaced from time to time the "**Loan Agreement**"); (the "**Loan Agreement**"). Capitalized terms used in this certificate without definition have the meanings specified in the Loan Agreement.

I, **[name of person signing]**, the Vice President, Finance of the Corporation certify for and on behalf of the Corporation (and not in my personal capacity) as follows:

1. This certificate is being delivered pursuant to Section 4.1(c)(ii) of the Loan Agreement.
2. The attached year end financial statements of the Corporation are true and complete and accurately reflect the financial condition of the Corporation.

**DATED** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**[name]**



**FIRST AMENDMENT AND WAIVER TO AMENDED AND RESTATED LOAN AGREEMENT**

(the "First Amendment")

**AMONG: LABELAD LTD. (the "Borrower")**

**AND: ROYAL BANK OF CANADA (the "Lender")**

**WHEREAS** the Borrower, the Lender, and Marnlen Management Ltd. entered into an Amended and Restated Loan Agreement dated as of July 14, 2011 (as the same may be amended, restated, supplemented, revised or replaced from time to time the "**Loan Agreement**");

**AND WHEREAS** the Borrower and Lender desire to amend certain provisions of the Loan Agreement but only to the extent and subject to the limitations set forth herein;

**AND WHEREAS** the Lender has agreed, at the request of the Borrower to waive certain provisions of the Loan Agreement, but only to the extent and subject to the limitations set forth herein;

**NOW THEREFORE** for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

**ARTICLE I  
INTERPRETATION**

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

**ARTICLE II  
AMENDMENTS TO LOAN AGREEMENT**

2.1 Amendment to Definitions

Schedule "A" of the Loan Agreement is hereby amended as follows:

- (a) By deleting the definition of "Maximum Amount" and substituting the following therefor:

"**Maximum Amount**" shall mean \$4,000,000 or the Equivalent Amount thereof in U.S.\$.."

- (b) By deleting part (k) of the definition of "Eligible Accounts" and substituting the following therefor:

"(k) that is an obligation for which the total unpaid Accounts of the Account Debtor exceed 25% (or 35% with respect Accounts where Jamieson Laboratories Ltd. is the Account Debtor, or such other amount as determined by Lender in its discretion) of the aggregate of all gross

Accounts as related to accounts receivable (excluding any inter-company accounts receivable), to the extent of such excess;"

2.2 **Amendment to Financial Covenants**

Section 5.1(b)(i) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

"(b) Borrower and its Subsidiaries shall maintain, as at the end of each Fiscal Month, consolidated Tangible Net Worth of not less than:

(i) One Million Three Hundred Thousand Dollars (\$1,300,000) for each Fiscal Month from and including the Fiscal Month of the Closing Date through to and including May 2012; and

(ii) One Million Eight Hundred Thousand Dollars (\$1,800,000) for the Fiscal Months from and including June 2012 through to the Termination Date."

**ARTICLE III- WAIVERS**

- 3.1 Subject to the terms of this First Amendment, the Lender waives, as of the Amendment Date the breaches of Sections 5(i)(b)(i) of the Loan Agreement that occurred for the months of July 2011, August 2011 and September 2011 and any and all Events of Default which may now exist under Section 5(i)(b)(i) solely as the result of the Borrower's breach of such covenants for July 2011, August 2011 and September 2011.

**ARTICLE IV - ACKNOWLEDGEMENT**

- 4.1 Section 3.12 of the Loan Agreement provides that "Following the Closing Date, each Credit Party shall notify Lender promptly in writing upon learning of the existence, threat or commencement of any Litigation against any Credit Party or any Plan, in each case, if applicable, or any allegation of criminal misconduct against any Credit Party." The Borrower represents that it has delivered various statements of claim to the Lender (the "Statements of Claim") and that as of the date hereof, except as set forth on Disclosure Schedule (3.12) there is no Litigation pending or threatened against any Credit Party which seeks damages in excess of the Minimum Actionable Amount or injunctive relief or alleges criminal misconduct of any Credit Party except as described in the Statements of Claim.

**ARTICLE V  
REAFFIRMATION OF OBLIGATIONS**

5.1 **The Borrower:**

- (a) reaffirms its obligations under the Loan Agreement, and

- (b) confirms that its obligations remain in full force and effect with respect to the Loan Agreement,

in each case after giving effect to the amendments provided for herein.

#### **ARTICLE VI NO OTHER AMENDMENT**

- 6.1 Except to the limited extent set forth herein no amendment or waiver of any other term, condition, covenant, agreement or any other aspect of the Loan Agreement is intended or implied. This First Amendment is therefore limited exclusively to the specific purposes and time period for which it is given.

#### **ARTICLE VII AMENDMENT FEE**

- 7.1 In consideration of the amendments provided for herein, the Borrower shall pay to the Lender a fee of \$2,500 (the "Amendment Fee"), which fee shall be fully earned, due and payable on the date hereof.
- 7.2 All costs incurred by the Lender in preparing this First Amendment (including all external legal fees incurred by the Lender) shall be on the account of the Borrower, and shall form part of the Obligations secured by the General Security Agreement granted by the Borrower to the Lender dated as of July 14, 2011. The Borrower hereby irrevocably directs the Lender to debit any accounts it may have with the Lender in an amount equal to such expenses.

#### **ARTICLE VIII EFFECTIVENESS AND CONDITIONS**

- 8.1 This First amendment shall become effective upon satisfaction of the following conditions precedent (the date of the fulfilment of such conditions being herein referred to as the "Amendment Date"):
- (a) the Borrower delivering to the Lender an executed copy of this First Amendment by electronic means (.pdf format); and
  - (b) receipt by the Lender of the Amendment Fee.

#### **ARTICLE IX MISCELLANEOUS**

- 9.1 This First Amendment supersedes and replaces any prior agreements or understandings with respect to any of the matters provided for herein.
- 9.2 This First Amendment shall be deemed to have been made in the Province of Ontario and shall be governed by and interpreted in accordance with the laws of such Province and the laws of Canada applicable therein.

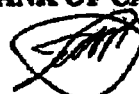
- 9.3 This First Amendment may be executed in one or more counterparts, including by way of facsimile, .pdf or other electronic means, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**DATED** as of the 21<sup>st</sup> day of November, 2011.

**ROYAL BANK OF CANADA**

Per:



Name: Felix Mednikov

Title: Attorney In Fact

Per:



Name: Robert Kizell

Title: Attorney In Fact

I/We have the authority to bind the corporation

**LABELAD LTD.**

Per:

Name:

Title:

Per:

Name:

Title:

I/We have the authority to bind the corporation

DATED as of the 17<sup>th</sup> day of November, 2011.

**ROYAL BANK OF CANADA**

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

Name: Name

Title: Attorney In Fact

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

Name: Name

Title: Attorney In Fact

I/We have the authority to bind the corporation

**LABELAD LTD.**

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

Name:  Ouliel Ouellet

Title: President

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

Name:  Zissy Kanda

Title: VP Finance

I/We have the authority to bind the corporation



MARNLEN MANAGEMENT LTD. (the "Guarantor"). (i) consents to and approves the execution and delivery of this First Amendment by the parties hereto, (ii) agrees that this First Amendment does not and shall not limit or diminish in any manner the obligations of the Guarantor under the Guarantee dated as of July 14, 2011 delivered by the Guarantor to the Lender (the "Guarantee") and that such obligations would not be limited or diminished in any manner even if such Guarantor had not executed this First Amendment, (iii) agrees that this First Amendment shall not be construed as requiring the consent of such Guarantor in any other circumstance, (iv) reaffirms its obligations under the Guarantee, and (v) agrees that the Guarantee remains in full force and effect and is hereby ratified and confirmed.

DATED as of the 19 day of November, 2011.

MARNLEN MANAGEMENT LTD.

Per: 

Name: Sandra Waldman

Title:

Per: 

Name: Sandra Waldman

Title:

I/We have the authority to bind the corporation

**SECOND AMENDMENT TO AMENDED AND RESTATED LOAN AGREEMENT**

**(the "Second Amendment")**

**AMONG: LABELAD LTD. (the "Borrower")**

**AND: ROYAL BANK OF CANADA (the "Lender")**

**WHEREAS** the Borrower, the Lender, and Marnlen Management Ltd. entered into an Amended and Restated Loan Agreement dated as of July 14, 2011, as amended by a First Amendment and Waiver to Amended and Restated Loan Agreement dated as of November 21, 2011 (as the same may be further amended, restated, supplemented, revised or replaced from time to time the "**Loan Agreement**");

**AND WHEREAS** the Borrower and Lender desire to amend certain provisions of the Loan Agreement but only to the extent and subject to the limitations set forth herein;

**NOW THEREFORE** for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

**ARTICLE I  
INTERPRETATION**

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

**ARTICLE II  
AMENDMENTS TO LOAN AGREEMENT**

2.1 Amendment to Definitions

Schedule "A" of the Loan Agreement is hereby amended as follows:

- (a) By deleting the definition of "Availability Block" and substituting the following therefor:

""**Availability Block**" means \$350,000 except that during the period from January 1, 2012 through and including January 31, 2012 the Availability Block shall mean \$200,000."

**ARTICLE III  
REAFFIRMATION OF OBLIGATIONS**

3.1 **The Borrower:**

- (a) reaffirms its obligations under the Loan Agreement, and
-

- 2 -

- (b) confirms that its obligations remain in full force and effect with respect to the Loan Agreement,

in each case after giving effect to the amendments provided for herein.

#### **ARTICLE IV NO OTHER AMENDMENT**

- 4.1 Except to the limited extent set forth herein no amendment or waiver of any other term, condition, covenant, agreement or any other aspect of the Loan Agreement is intended or implied. This Second Amendment is therefore limited exclusively to the specific purposes and time period for which it is given.

#### **ARTICLE V EFFECTIVENESS AND CONDITIONS**

- 5.1 This Second Amendment shall become effective upon the Borrower delivering to the Lender an executed copy of this Second Amendment (which delivery may occur by electronic means in .pdf format).

#### **ARTICLE VI MISCELLANEOUS**

- 6.1 This Second Amendment supersedes and replaces any prior agreements or understandings with respect to any of the matters provided for herein.
- 6.2 All costs incurred by the Lender in preparing this Second Amendment (including all external legal fees incurred by the Lender) shall be on the account of the Borrower, and shall form part of the Obligations secured by the General Security Agreement granted by the Borrower to the Lender dated as of July 14, 2011. The Borrower hereby irrevocably directs the Lender to debit any accounts it may have with the Lender in an amount equal to such expenses.
- 6.3 This Second Amendment shall be deemed to have been made in the Province of Ontario and shall be governed by and interpreted in accordance with the laws of such Province and the laws of Canada applicable therein.
- 6.4 This Second Amendment may be executed in one or more counterparts, including by way of facsimile, .pdf or other electronic means, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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**DATED** as of the 29 day of December, 2011.

**ROYAL BANK OF CANADA**

Per: 

Name: Felix Mednikov

Title: Attorney in Fact

Per: 

Name: Michael Petersen

Title: Attorney in Fact

I/We have the authority to bind the corporation

**LABELAD LTD.**

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind the corporation

DATED as of the 29 day of DECEMBER, 2011.

**ROYAL BANK OF CANADA**

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

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

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

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

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

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

I/We have the authority to bind the corporation

**LABELAD LTD.**

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

Name: OWEN DUCKMAN

Title: PRESIDENT

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

Name: ZIGGY KRUPA

Title: VP FINANCE

I/We have the authority to bind the corporation

MARNLEN MANAGEMENT LTD. (the "Guarantor"). (i) consents to and approves the execution and delivery of this Second Amendment by the parties hereto, (ii) agrees that this Second Amendment does not and shall not limit or diminish in any manner the obligations of the Guarantor under the Guarantee dated as of July 14, 2011 delivered by the Guarantor to the Lender (the "Guarantee") and that such obligations would not be limited or diminished in any manner even if such Guarantor had not executed this Second Amendment, (iii) agrees that this Second Amendment shall not be construed as requiring the consent of such Guarantor in any other circumstance, (iv) reaffirms its obligations under the Guarantee, and (v) agrees that the Guarantee remains in full force and effect and is hereby ratified and confirmed.

DATED as of the 29 day of DECEMBER, 2011.

MARNLEN MANAGEMENT LTD.

Per:

Name:

Title: Sec - Treas.

Per:

Name:

Title: PRESIDENT

I/We have the authority to bind the corporation

### THIRD AMENDMENT TO AMENDED AND RESTATED LOAN AGREEMENT

(the "Third Amendment")

**AMONG:** LABELAD LTD. (the "Borrower")

**AND:** ROYAL BANK OF CANADA (the "Lender")

WHEREAS the Borrower, the Lender, and Marnlen Management Ltd. entered into an Amended and Restated Loan Agreement dated as of July 14, 2011, as amended by a First Amendment and Waiver to Amended and Restated Loan Agreement dated as of November 21, 2011 and a Second Amendment to Amended and Restated Loan Agreement dated as of December 29, 2011 (as the same may be further amended, restated, supplemented, revised or replaced from time to time the "Loan Agreement");

AND WHEREAS the Borrower and Lender desire to amend certain provisions of the Loan Agreement but only to the extent and subject to the limitations set forth herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

#### ARTICLE I INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

#### ARTICLE II AMENDMENTS TO LOAN AGREEMENT

##### 2.1 Amendment to Definitions

Schedule "A" of the Loan Agreement is hereby amended as follows:

- (a) By deleting the definition of "Availability Block" and substituting the following therefor:

"Availability Block" means \$350,000 except that during the period from April 9, 2012 through and including May 9, 2012 the Availability Block shall mean \$200,000."

#### ARTICLE III CONFIRMATION OF RESERVE

- 3.1 As a courtesy, the Lender hereby notifies the Borrower that pursuant to Section 1.12 and Schedule II part A(a) of the Loan Agreement, the Lender intends to establish a reserve in the amount of \$5,000 upon the establishment of a Visa facility in favour of the Borrower.

The Lender reserves its rights to establish additional reserves or change the amount of this reserve at any time.

#### **ARTICLE IV REAFFIRMATION OF OBLIGATIONS**

**4.1 The Borrower:**

- (a) reaffirms its obligations under the Loan Agreement, and
- (b) confirms that its obligations remain in full force and effect with respect to the Loan Agreement,

in each case after giving effect to the amendments provided for herein.

#### **ARTICLE V NO OTHER AMENDMENT**

- 5.1 Except to the limited extent set forth herein no amendment or waiver of any other term, condition, covenant, agreement or any other aspect of the Loan Agreement is intended or implied. This Third Amendment is therefore limited exclusively to the specific purposes and time period for which it is given.

#### **ARTICLE VI EFFECTIVENESS AND CONDITIONS**

- 6.1 This Third Amendment shall become effective upon the Borrower delivering to the Lender an executed copy of this Third Amendment (which delivery may occur by electronic means in .pdf format).

#### **ARTICLE VII MISCELLANEOUS**

- 7.1 This Third Amendment supersedes and replaces any prior agreements or understandings with respect to any of the matters provided for herein.
- 7.2 All costs incurred by the Lender in preparing this Third Amendment (including all external legal fees incurred by the Lender) shall be on the account of the Borrower, and shall form part of the Obligations secured by the General Security Agreement granted by the Borrower to the Lender dated as of July 14, 2011. The Borrower hereby irrevocably directs the Lender to debit any accounts it may have with the Lender in an amount equal to such expenses.
- 7.3 This Third Amendment shall be deemed to have been made in the Province of Ontario and shall be governed by and interpreted in accordance with the laws of such Province and the laws of Canada applicable therein.



- 7.4 This Third Amendment may be executed in one or more counterparts, including by way of facsimile, pdf or other electronic means, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**DATED** as of the 9th day of April, 2012.

**ROYAL BANK OF CANADA**

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

Name: Felix Modnikov

Title: Attorney in Fact

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

Name: Marcelle Fernandes

Title: Attorney in Fact

I/We have the authority to bind the corporation

**LABELAD LTD.**

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind the corporation

DATED as of the 9th day of April, 2012.

ROYAL BANK OF CANADA

Per:

Name: Felix Mednikov

Title: Attorney in Fact

Per:

Name: Marcelle Fernandes

Title: Attorney in Fact

I/We have the authority to bind the corporation

LABELAD LTD.

Per:

Name: Lionel Waldman

Title: President

Per:

Name: Owen Pechman

Title: President

I/We have the authority to bind the corporation

MARNLEN MANAGEMENT LTD. (the "**Guarantor**"). (i) consents to and approves the execution and delivery of this Third Amendment by the parties hereto, (ii) agrees that this Third Amendment does not and shall not limit or diminish in any manner the obligations of the Guarantor under the Guarantee dated as of July 14, 2011 delivered by the Guarantor to the Lender (the "**Guarantee**") and that such obligations would not be limited or diminished in any manner even if such Guarantor had not executed this Third Amendment, (iii) agrees that this Third Amendment shall not be construed as requiring the consent of such Guarantor in any other circumstance, (iv) reaffirms its obligations under the Guarantee, and (v) agrees that the Guarantee remains in full force and effect and is hereby ratified and confirmed.

**DATED** as of the 9th day of April, 2012.

**MARNLEN MANAGEMENT LTD.**

Per:

Name:

Title:

Per:

Name:

Title:

(We have the authority to bind the corporation)

## **Exhibit "B"**

This is Exhibit B referred to in the  
affidavit of FELIX MEDNIKOV  
sworn before me, this 17th  
day of JULY, 2012  
  
A COMMISSIONER, ETC.

GUARANTEE

TO: ROYAL BANK OF CANADA

1. For valuable consideration, each of the undersigned hereby unconditionally guarantees and promises to pay to ROYAL BANK OF CANADA (the "Lender"), or order to be paid, on demand, any and all indebtedness of LABELAD LTD., and any of its permitted successors and assigns (each individually, and collectively, referred to as the "Borrower") to the Lender including all indebtedness pursuant to the Amended and Restated Loan Agreement dated as of the date hereof by and among, amongst others, the Lender, and the Borrower as the same may be amended, supplemented, revised, replaced or restated from time to time (the "Loan Agreement"). The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of the Borrower, heretofore, now, or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether direct or acquired by the Lender by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether the Borrower may be liable individually or jointly with others, or whether recovery upon such indebtedness may be or hereafter become barred by any statute of limitations, or whether such indebtedness may be or hereafter become otherwise unenforceable.
2. The liability of each of the undersigned under this Guarantee shall be unlimited. Regardless of whether or not any proposed guarantor or any other person or persons has or have executed or shall execute this Guarantee or is or are or shall become in any other way responsible to the Lender for the indebtedness or any part thereof whether under this Guarantee or otherwise shall cease to be so liable, this shall be a continuing Guarantee relating to any indebtedness, including that arising under successive transactions which shall either continue the indebtedness or from time to time renew it after it has been satisfied and shall secure the ultimate repayment of all monies owing from the Borrower to the Lender and shall be binding as a continuing security on each of the undersigned jointly and severally. Any payment by any of the undersigned shall not reduce the maximum obligation of any of the undersigned hereunder.
3. The obligations hereunder are independent of the obligations of the Borrower and a separate action or actions may be brought and prosecuted against any of the undersigned whether action is brought against the Borrower or whether the Borrower be joined in any such action or actions; and each of the undersigned waives the benefit of any statute of limitations affecting its liability.
4. Each of the undersigned authorizes the Lender, without notice or demand and without affecting its liability hereunder, from time to time, either before or after revocation hereof, to:
  - (a) renew, compromise, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of the indebtedness or any part thereof, including increase or decrease of the rate of interest thereon;

- (b) receive and hold security for the payment of this Guarantee or the indebtedness guaranteed, and exchange, enforce, waive, release, fail to perfect, sell, or otherwise dispose of any such security;
  - (c) apply such security and direct the order or manner of sale thereof as the Lender in its discretion may determine; and
  - (d) release or substitute any guarantors.
5. Each of the undersigned waives any right to require the Lender to:
- (a) proceed against the Borrower;
  - (b) proceed against or exhaust any security held from the Borrower or any other person; or
  - (c) pursue any other remedy in the Lender's power whatsoever.

Each of the undersigned waives any defence arising by reason of any disability or other defence of the Borrower, or the cessation from any cause whatsoever of the liability of the Borrower, or any claim that each of the undersigned's obligations exceed or are more burdensome than those of the Borrower, each of the undersigned waives any right of subrogation, reimbursement, indemnification, and contribution (contractual, statutory or otherwise), arising from the existence or performance of this Guarantee and each of the undersigned waives any right to enforce any remedy which the Lender now has or may hereafter have against the Borrower, and waives any benefit of, and any right to participate in, any security now or hereafter held by the Lender. The Lender may foreclose, either by judicial foreclosure or by exercise of power of sale, or realize any deed of trust or other security securing the indebtedness, and, even though the foreclosure or other realization may destroy or diminish each of the undersigned's rights against the Borrower or may result in security being sold at an under value, each of the undersigned shall be liable to the Lender for any part of the indebtedness remaining unpaid after the foreclosure or other realization. Each of the undersigned waives all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonour, and notices of acceptance of this Guarantee and of the existence, creation, or incurring of new or additional indebtedness.

6. Each of the undersigned acknowledges and agrees that it shall have the sole responsibility for obtaining from the Borrower such information concerning the Borrower's financial conditions or business operations as each of the undersigned may require, and that the Lender does not have any duty at any time to disclose to any of the undersigned any information relating to the business operations or financial conditions of the Borrower.
7. To secure all of each of the undersigned's obligations hereunder, each of the undersigned assigns and grants to the Lender a security interest in all now owned or hereafter acquired moneys, securities and other property of each of the undersigned, and all deposit accounts of each of the undersigned maintained with the Lender or otherwise, and all proceeds thereof. Upon default or breach of any of the undersigned's obligations to the Lender, the Lender may apply any deposit account to reduce the indebtedness, and may realize upon

any collateral as provided by law and in any security agreements between the Lender and any of the undersigned.

8. Any obligations of the Borrower to each of the undersigned, now or hereafter existing, including but not limited to any obligations to each of the undersigned as subrogee of the Lender or resulting from each of the undersigned's performance under this Guarantee, are hereby assigned as security to the Lender and postponed and subordinated to the indebtedness. Any such obligations of the Borrower to each of the undersigned received by each of the undersigned shall be received in trust for the Lender and remain hereunder, the proceeds thereof shall forthwith be paid over to the Lender on account of the indebtedness of the Borrower to the Lender, but without reducing or affecting in any manner the liability of any of the undersigned under the provisions of this Guarantee. Notwithstanding the forgoing sentence, each of the undersigned may receive payment on account of interest or principal from the Borrower without holding such payments in trust for the Lender to the extent that such payments are permitted by the terms of any subordination agreements executed between the Lender and the relevant undersigned. This assignment and postponement is independent of and severable from this Guarantee and shall remain in full force and effect whether or not each of the undersigned is liable for any amount under this Guarantee.
9. Export Development Canada is guaranteeing or insuring certain obligations of the Borrower and/or affiliates of the Borrower. In addition to the provisions set out in Section 8, each of the undersigned agrees that any subrogation rights the undersigned may have at any time with the respect to any indebtedness guaranteed hereby, shall rank and be subordinated to any interests, or subrogation rights of Export Development Canada in any security in favour of the Lender with respect to the Borrower or any affiliates of the Borrower, or any assets of the Borrower or any affiliate of the Borrower.
10. Where any Borrower becomes bankrupt or makes an assignment for the benefit of creditors or if any circumstances arise necessitating the Lender to file a claim against such Borrower and/or to value its securities, the Lender shall be entitled to place such valuation on its securities as the Lender may in its absolute discretion see fit and the filing of such claim and the valuing of securities shall not in any way prejudice or restrict the claim of the Lender against each of the undersigned and in no way discharges each of the undersigned from its liability hereunder to the Lender, either in whole or in part and until all indebtedness of the Borrower to the Lender has been fully paid, the Lender shall have the right to include in its claim the amount of all sums paid by any of the undersigned to the Lender under this Guarantee and to prove and rank for and receive dividends in respect of such claim, any and all rights to prove and rank for such sums paid for by any of the undersigned and receive the full amount of all dividends in respect thereto are hereby assigned and transferred to the Lender by each of the undersigned.
11. Any account settled or stated by or between the Lender and the Borrower, or, if any such account has not been so settled or stated immediately before demand for payment under this Guarantee, any account stated by the Lender, shall be accepted by each of the undersigned as conclusive evidence, absent manifest error, of the amount which at the date of the account so settled or stated is due by the Borrower to the Lender or remains unpaid by the Borrower to the Lender.



12. Each of the undersigned shall make payment to the Lender of the amount of its liability to the Lender forthwith after demand therefor is made in writing and such demand shall be deemed to have been effectually made when such demand addressed to each of the undersigned at its address last known to the Lender, is delivered in the mail or sent via fax or other direct electronic transmission. All payments hereunder shall be made to the Lender at the office of the Lender set out in the Loan Agreement or such other address as directed in writing by the Lender.
13. Any and all payments by each of the undersigned to the Lender under this Guarantee or the Loan Agreement shall be made free and clear of, and without deduction or withholding for any taxes, levies, imposts, deductions, charges or withholdings of whatever kind or nature (the "Taxes") unless each of the undersigned is required to withhold or deduct taxes in which case Sections 14 and 15 of this Guarantee shall apply.
14. Each of the undersigned agrees to indemnify and hold harmless the Lender for the full amount of Taxes (including any Taxes imposed by any jurisdiction on amounts payable under this paragraph) paid by the Lender with respect to payments made by any of the undersigned to the Lender under this Guarantee, and any liability (including penalties, interest, additions to tax and expenses) arising therefrom or with respect thereto (but excluding for greater certainty, net income taxes payable by the Lender directly). Payment under this indemnification shall be made within thirty (30) days after the date the Lender makes written demand therefor. The Lender agrees, within a reasonable time after receiving a written request from any of the undersigned, to provide such undersigned with such certificates as are reasonably required, and take such other actions as are reasonably necessary (so long as such actions do not have a negative effect on the Lender), to claim such exemptions as the Lender may be entitled to claim in respect of all or a portion of any Taxes which are otherwise required to be paid or deducted or withheld hereunder.
15. If any of the undersigned shall be required by law to deduct or withhold any Taxes from or in respect of any sum payable hereunder to the Lender, then:
  - (a) the sum payable shall be increased as necessary so that after making all required deductions and withholdings (including deductions and withholdings applicable to additional sums payable under this paragraph) the Lender receive an amount equal to the sum it would have received had no such deductions or withholdings been made;
  - (b) the relevant undersigned shall make such deductions and withholdings;
  - (c) the relevant undersigned shall timely pay the full amount deducted or withheld to the relevant taxing authority or other authority in accordance with applicable law; and
  - (d) the relevant undersigned shall also pay to the Lender, at the time interest is paid, all additional amounts (without duplication) which the Lender specifies as necessary to preserve the after-tax yield the Lender would have received if such Taxes had not been imposed.

16. Within thirty (30) days after the date of any payment by any of the undersigned of Taxes, each of the undersigned shall furnish the Lender the original or a certified copy of a receipt evidencing payment thereof, or other evidence of payment satisfactory to the Lender.
17. If any provision of this Guarantee is determined in any proceeding in a court of competent jurisdiction to be void or to be wholly or partly unenforceable, that provision shall for the purposes of such proceeding, be severed from this Guarantee at the Lender's option and shall be treated as not forming a part hereof and all the remaining provisions of this Guarantee shall remain in full force and be unaffected thereby.
18. This Guarantee shall not be subject to or affected by any promise or condition affecting or limiting the liability of each of the undersigned except as expressly set forth herein and no statement, representation, agreement or promise on the part of the Lender or any officer, employee or agent thereof, unless contained herein, forms any part of this contract or has induced the making thereof or shall be deemed in any way to affect the liability of each of the undersigned hereunder.
19. There are no representations, collateral agreements or conditions with respect to this Guarantee and agreement affecting the liability of each of the undersigned hereunder other than contained herein.
20. This Guarantee and agreement shall extend to and enure to the benefit of the Lender and its successors and assigns, and shall extend to and be binding upon each of the undersigned and its successors and permitted assigns.
21. It is not necessary for the Lender to inquire into the powers of the Borrower or each of the undersigned or of the officers, directors, partners, or agents acting or purporting to act on their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.
22. The Lender may to the extent permitted under the Loan Agreement without notice to any of the undersigned and without affecting each of the undersigned's obligations hereunder, assign the indebtedness and this Guarantee, in whole or in part. Each of the undersigned agrees that the Lender may, to the extent permitted under the Loan Agreement, disclose to any assignee or purchaser, or any prospective assignee or purchaser, of all or part of the indebtedness any and all information in the Lender's possession concerning each of the undersigned, this Guarantee, and any security for this Guarantee.
23. If for the purpose of obtaining judgment in any court or for the purpose of determining, pursuant to the obligations of each of the undersigned, the amounts owing hereunder it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the Lender could purchase, in the New York foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given or any other payment is due hereunder. Each of the undersigned agrees that its obligation in respect of any Original Currency due from it to the Lender hereunder shall, notwithstanding any judgment or payment in such other currency, be

discharged only to the extent that, on the Business Day following the date the Lender receives payment of any sum so adjudged or owing to be due hereunder in the Second Currency the Lender may, in accordance with normal banking procedures, purchase, in the New York foreign exchange market the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency, each of the undersigned agrees as a separate obligation and notwithstanding any such payment or judgment to indemnify the Lender against such loss. The term "rate of exchange" in this Section 23 means the spot rate at which the Lender, in accordance with normal practices is able, on the relevant date, to purchase the Original Currency with the Second Currency and includes any premium and costs of exchange payable in connection with such purchase.

24. If any of the undersigned is a partnership, this Guarantee shall extend to the person, persons and corporations for the time being and from time to time carrying on the business now being carried on by such undersigned notwithstanding any change or changes in the name or membership of the partnership or the incorporation of a company for the purpose of acquiring the business of the partnership and where any of the undersigned is a corporation, this Guarantee shall extend to any amalgamated or new company formed to take over the business of such undersigned and any reorganization thereof, whether the new company is the same or different in its objects, character and constitution.
25. Each of the undersigned agrees to pay all reasonable legal fees, including allocated costs of the Lender's in-house counsel, and all other costs and expenses which may be incurred by the Lender in the enforcement of this Guarantee.
26. The obligations of undersigned under this Guarantee shall be joint and several.
27. All words used herein in the plural shall be deemed to have been used in the singular where the context and construction so require.
28. This Guarantee shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
29. Each of the undersigned acknowledges receipt of an executed copy of this Guarantee.

The parties acknowledge that they have required that this Guarantee and all related documents be prepared in English.

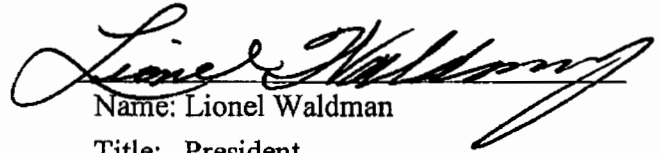
Les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.

*[remainder of page intentionally left blank]*

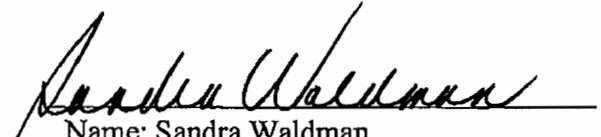
Executed as of this 14<sup>th</sup> day of July, 2011.

**MARNLEN MANAGEMENT LTD.**

Per:

  
Name: Lionel Waldman  
Title: President

Per:

  
Name: Sandra Waldman  
Title: Secretary & Treasurer

## **Exhibit "C"**

# GENERAL SECURITY AGREEMENT

TO: **ROYAL BANK OF CANADA**

200 Bay Street,

Royal Bank Plaza, South Tower, 30<sup>th</sup> Floor This is Exhibit C referred to in the

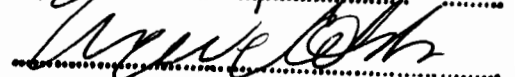
Toronto, Ontario, M5J 2J5

(hereinafter the "Lender")

affidavit of FELIX MEDNIKOV

sworn before me, this 17<sup>th</sup>

day of JULY, 2012



A COMMISSIONER, ETC.

GRANTED BY: **LABELAD LTD.**

having its principal office at:

400 Cochrane Drive

Markham, ON L3R 8E3

(hereinafter the "Corporation")

## **SECTION 1 - GRANT OF SECURITY INTEREST**

### **1.1 Security Interest**

As general and continuing security for the payment and performance of any and all indebtedness, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Corporation to the Lender or remaining unpaid by the Corporation to the Lender wheresoever and howsoever incurred and howsoever evidenced, whether arising from dealings between the Lender and the Corporation or from other dealings or proceedings by which the Corporation may be or become in any manner indebted, obligated or liable to the Lender including, without limitation, under the Loan Agreement (as such term is hereinafter defined) and the other Loan Documents and wherever incurred and in any currency and whether incurred by the Corporation alone or with another or others and whether as principal, guarantor or surety, and all interest, commissions, cost of realization, legal and other costs, charges and expenses (all of the foregoing being herein collectively called the "Obligations"), the Corporation, **IN CONSIDERATION OF THE OBLIGATIONS** and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants bargains, assigns and transfers to the Lender a continuing security interest in, and a security interest is taken in, all of the property, assets and undertakings of the Corporation, whether now owned or hereafter-acquired by or on behalf of the Corporation, wherever located (the "Collateral"), including, without limitation, all of the Corporation's present and after acquired personal property and including without limitation:

#### **(a) Accounts Receivable**

All debts, book debts, accounts, claims, demands, moneys and choses in action whatsoever including, without limitation, claims against the Crown and claims under insurance policies, which are now owned by or are due, owing or accruing due to the Corporation or which may hereafter be owned by or become due, owing or accruing due to the Corporation together with all contracts, investment property, bills, notes, lien notes, judgments, chattel mortgages, mortgages and all other rights, benefits and documents now or hereafter taken, vested in or held by the Corporation in respect of or as security for the same and the full benefit and advantage thereof, and all rights of action or claims which the Corporation now has or may at any time hereafter have against any Person in

respect thereof (all of the foregoing being herein collectively called the "**Accounts Receivable**");

(b) Inventory

All inventory of whatever kind now or hereafter owned by the Corporation or in which the Corporation now or hereinafter has an interest or right of any kind, and all accessions thereto and products thereof, including, without limitation, all goods, merchandise, raw materials, goods in process, finished goods, packaging and packing material and other tangible personal property now or hereafter held for sale, lease, rental or resale or that are to be furnished or have been furnished under a contract of service or that are to be used or consumed in the business of the Corporation (all of the foregoing being herein collectively called the "**Inventory**");

(c) Equipment

All goods now or hereafter owned by the Corporation which are not inventory or consumer goods as defined in the *Personal Property Security Act* (Ontario) or, to the extent applicable, similar legislation of any other jurisdiction, as amended from time to time (collectively, the "**PPSA**") including, without limitation, all machinery, equipment, furniture, furnishings, fixtures, and other tangible personal property (except Inventory), including motor vehicles with respect to which a certificate of title has been issued, aircraft, dies, tools, jigs, and office equipment, as well as all of such types of property leased by the Corporation and all of the Corporation's rights and interests with respect thereto under such leases (including, without limitation, options to purchase); together with all present and future additions and accessions thereto, replacements therefor, component and auxiliary parts and supplies used or to be used in connection therewith, and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto; wherever any of the foregoing is located (all of the foregoing being herein collectively called the "**Equipment**");

(d) Chattel Paper, Instruments, Securities, etc.

All chattel paper, instruments, warehouse receipts, bills of lading and other documents of title, whether negotiable or non negotiable, share, stock, security entitlements, warrants, bonds, debentures, debenture stock or other securities or investment property and financial assets now or hereafter owned by the Corporation;

(e) Intangibles

All intangibles now or hereafter owned by the Corporation including, without limitation, all goodwill connected with or symbolized by any of such general intangibles; all contract rights, documents, applications, licenses, materials and other matters related to such general intangibles; all tangible property embodying or incorporating any such general intangibles; and all chattel paper and instruments relating to such general intangibles. The Collateral shall include (i) all patents, and all unpatented or unpatentable inventions; (ii) all trademarks, service marks, and trade names ; (iii) all copyrights and literary rights; (iv) all computer software programs; (v) all mask works of semiconductor chip products; (vi) all trade secrets, proprietary information, customer lists,

manufacturing, engineering and production plans, drawings, specifications, processes and systems. (collectively, the "Intellectual Property" and, together with all of the foregoing, collectively, the "Intangibles").

(f) Books and Accounts, etc.

With respect to the personal property described in Paragraphs (a) to (e) inclusive, all books, accounts, invoices, deeds, documents, writings, letters, papers, security certificates and other records in any form evidencing or relating thereto and all contracts, securities, instruments and other rights and benefits in respect thereof;

(g) Other Property

The uncalled capital, money, rights, bills of exchange, negotiable and non negotiable instruments, judgments and securities not otherwise described in Paragraphs (a) to (f) inclusive;

(h) Replacements, etc.

With respect to the personal property described in Paragraphs (a) to (g) inclusive, all substitutions and replacements thereof, increases, additions and accessions thereto and any interest of the Corporation therein; and

(i) Proceeds

With respect to the personal property described in Paragraphs (a) to (h) inclusive, personal property in any form or fixtures derived directly or indirectly from any dealing with such property or that indemnifies or compensates for such property destroyed or damaged and proceeds of proceeds whether of the same type, class or kind as the original proceeds.

## 1.2 Definitions and Interpretation

In this General Security Agreement:

- (a) Terms used herein and defined in the PPSA shall have the same meanings as in the PPSA unless the context otherwise requires;
- (b) Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement (as hereinafter defined);
- (c) Any reference to "Collateral" shall, unless the context otherwise requires, refer to "Collateral or any part thereof";
- (d) Any reference to the "STA" shall refer to the *Securities Transfer Act* (Ontario) or, to the extent applicable, similar legislation of any other jurisdiction, as amended from time to time;



- (e) The grant of the security interest herein provided for shall include, without limitation, a fixed mortgage, hypothecation, pledge, charge and assignment of the Collateral in favour of the Lender;
- (f) "Loan Agreement" shall mean the Amended and Restated Loan Agreement dated as of the date hereof, by and among, amongst others, the Lender and the Corporation as the same may be amended, supplemented, revised, replaced or restated from time to time;
- (g) The term "security interest" shall include, without limitation, a fixed mortgage, hypothecation, pledge, charge and assignment;
- (h) The term "purchase money security interest" shall mean a purchase money security interest granted by the Corporation under the PPSA to secure all or any part of the indebtedness incurred by the Corporation in connection with the acquisition of property (not in excess of the acquisition price of such property) or any extension or renewal or replacement of such indebtedness provided that the principal amount of such indebtedness is not increased; and
- (i) The term "encumbrance" includes, without limitation, a security interest, lien, hypothec, claim, charge, deemed trust or encumbrance of any kind whatsoever.

### 1.3 Leases

- (a) The last day of the term of any lease or sub-lease, oral or written, or any agreement therefor, now held or hereafter acquired by the Corporation, shall be excepted from the security interest hereby granted and shall not form part of the Collateral, but the Corporation shall stand possessed of such one day remaining, upon trust to assign and dispose of the same as the Lender or any assignee of such lease, or sub-lease or agreement shall direct. If any such lease, sub-lease or agreement therefor contains a provision which provides in effect that such lease, sub-lease or agreement may not be assigned, sub-leased, charged or encumbered without the leave, license, consent or approval of the lessor, the application of the security interest created hereby to any such lease, sub-lease or agreement shall be conditional upon such leave, license, consent or approval having been obtained.
- (b) Pursuant to this General Security Agreement:
  - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or default under, or permit the acceleration or termination of any agreement, right, licence or permit of the Corporation which constitutes Collateral (each, a "Restricted Asset"), the security interest created hereunder shall not attach to the Restricted Asset, but the Corporation shall, subject to paragraph (b) below, hold its interest in the Restricted Asset in trust for the Lender, provided that, until the security interest created hereby has become enforceable, the Corporation shall be entitled to all proceeds arising under or in connection with the Restricted Asset.

- (ii) To the extent that the creation of the trust in paragraph (a) above would constitute a breach or permit the acceleration or termination of any Restricted Asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Lender pursuant to which the Corporation shall hold as trustee its interest in all proceeds arising under or in connection with the Restricted Asset in trust for the Lender, provided that until the security interest created hereby has become enforceable, the Corporation shall be entitled to receive all such proceeds.

#### **1.4 Corporation Remains Liable**

Notwithstanding anything herein to the contrary:

- (a) the Corporation shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all its duties and obligations thereunder to the same extent as if this General Security Agreement had not been executed;
- (b) the exercise by the Lender of any of the rights or remedies hereunder shall not release the Corporation from any of its duties or obligations under the contracts and agreements included in the Collateral; and
- (c) the Lender shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this General Security Agreement, nor shall the Lender be obligated to perform any of the obligations or duties of the Corporation thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

#### **1.5 Attachment**

The Corporation acknowledges that the security interests that arise under this General Security Agreement attach upon the execution of this General Security Agreement and that value has been given. A security interest in any after acquired property included in the Collateral attaches to that property on acquisition of any rights therein by the Corporation.

### **SECTION 2 – REPRESENTATIONS AND WARRANTIES**

The Corporation represents and warrants to and in favour of the Lender on the Closing Date and on the date of each borrowing (including each issuance, amendment, renewal or extension of any letter of credit) under the Loan Agreement:

#### **2.1 Enforceability**

This General Security Agreement constitutes a valid and legally binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, subject to:

- (a) applicable bankruptcy, insolvency, reorganization, limitations, moratorium and other laws generally affecting creditors' rights; and

- (b) equitable remedies such as injunction and specific performance which remedies are available in the discretion of a court of competent jurisdiction.

## **2.2 Locations of Collateral**

The tangible Collateral, except where it is in transit to and from the locations herein described and for Equipment out for repair, is located at the location specified above as the Corporation's principal office or place of business (and its chief place of business and chief executive office) and at such additional addresses as provided for in the Loan Agreement. The location at which all records of the Corporation pertaining to Accounts Receivable (and all chattel paper which evidences Accounts Receivable) and contract rights are kept at the location specified above unless the contrary is provided for in the Loan Agreement.

## **2.3 Survival**

All representations and warranties of the Corporation made herein or in any certificate or other document delivered by or on behalf of the Corporation to the Lender are material, shall be deemed to have been relied upon by the Lender notwithstanding any investigation heretofore or hereafter made by or on behalf of the Lender, shall survive the execution and delivery of this General Security Agreement and shall continue in full force and effect without time limit.

## **2.4 Loan Agreement**

The Corporation acknowledges and has reviewed the representations and warranties made by it in the Loan Agreement and all such representations and warranties are true and correct.

# **SECTION 3 – COVENANTS OF THE CORPORATION**

The Corporation covenants and agrees with the Lender that so long as there shall remain any Obligations of or affecting any party to this General Security Agreement:

## **3.1 Payment**

The Corporation will pay duly and punctually all sums of money due by it to the Lender under this General Security Agreement at the times and places and in the manner provided for herein and the Loan Agreement, as applicable, and at the times and places and in the manner provided for therein and under any other agreements forming part of the Obligations.

## **3.2 Loan Agreement**

The Corporation acknowledges having reviewed its covenants contained in the Loan Agreement and agrees to observe and perform all such covenants provided for in the Loan Agreement.

## **3.3 Notice Regarding Change of Address, etc.**

The Corporation shall notify the Lender in writing:

- (a) At least 20 days prior to any change of name of the Corporation;

- (b) At least 20 days prior to any transfer of the Corporation's interest in any part of the Collateral not expressly permitted hereunder or under the Loan Agreement;
- (c) Promptly of any significant loss of or damage to Collateral;
- (d) At least 20 days prior to any change in the location(s) of the Collateral and any records relating thereto; and
- (e) Forthwith upon becoming aware of the existence of any condition or event which could cause or which, with the passage of time or notice, or both, constitute a Default, give the Lender written notice thereof specifying the nature and duration thereof and the action being taken or proposed to be taken with respect thereto.

### **3.4 Other Financing Statements or Control.**

Except as otherwise permitted under the Loan Agreement and the other Loan Documents, the Corporation shall not (a) file, or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to any of the Collateral in which the Lender is not named as the sole secured party, or (b) cause or permit any Person other than the Lender to have "control" (as defined in the STA) of any financial asset or investment property constituting part of the Collateral, other than "control" in favour of any depositary bank or securities intermediary which has subordinated its lien to the lien of the Lender pursuant to documentation in form and substance satisfactory to the Lender. For greater certainty, to the extent the Loan Agreement and the other Loan Documents permit the granting or existence of a security interest in any Collateral, the filing of a financing statement or like instrument in respect thereof is also permitted. Immediately upon having knowledge that a financing statement or like instrument is or is reasonably likely to be on file in any jurisdiction, with respect to any Collateral, the Corporation shall (i) immediately give written notice to the Lender of such filing, or proposed filing; and (ii) take such steps as may be requested by the Lender, having regard to the Permitted Encumbrances under the Loan Agreement, with respect to such filing.

### **3.5 Special Provisions Relating to Pledged Securities.**

- (a) All securities currently owned by the Corporation are listed on Schedule 3.5(a) hereto. The Corporation will cause any and all Collateral that is a security (collectively, the "Pledged Securities"), to constitute at all times 100% of the total number of shares of the relevant issuer that are owned by the Corporation.
- (b) So long as no Event of Default shall have occurred and be continuing, the Corporation shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Securities for all purposes not inconsistent with the terms of this Agreement, the Loan Agreement or any of the other Loan Documents or any other instrument or agreement referred to herein or therein, provided that the Corporation agrees that it will not vote the Pledged Securities in any manner that is inconsistent with the terms of this Agreement, Loan Agreement, and the other Loan Documents or any such other instrument or agreement. The Lender shall promptly upon the request of the Corporation execute and deliver to the Corporation or cause to be executed and delivered to

the Corporation all such proxies and powers of attorney and all such instruments, without recourse, as the Corporation may reasonably request for the purpose of enabling the Corporation to exercise the rights and powers that it is entitled to exercise pursuant to this Section 3.5(b).

- (c) Unless and until a Default shall have occurred and be continuing, the Corporation shall be entitled to receive and retain any dividends, distributions or proceeds on the Pledged Securities (whether paid or distributed in cash, securities or other property).
- (d) If a Default shall have occurred and be continuing, whether or not the Lender exercises any available right to declare any Obligations due and payable or seeks or pursues any other relief or remedy available to it under applicable law or under this General Security Agreement, the other Loan Documents or any other agreement relating to such Obligation, upon notice to the Corporation, all dividends and other distributions on the Pledged Securities shall be paid directly to the Lender and retained by it as part of the Collateral, subject to the terms of this Agreement, and, if the Lender shall so request in writing, the Corporation agrees to execute and deliver to the Lender any instruments or other documents necessary or desirable to ensure that the Pledged Securities shall be paid directly to the Lender, provided that if such Event of Default is cured, any such dividend or distribution theretofore paid to the Lender shall, promptly upon request of the Corporation (except to the extent theretofore applied to the Obligations), be returned by the Lender to the Corporation.

#### **SECTION 4 – COLLECTION OF PROCEEDS**

##### **4.1 Payments to the Lender**

Upon the occurrence of a Default, the Corporation shall:

- (a) Collect and enforce payment of all Accounts Receivable (except as provided for in Section 4.2 or the Loan Agreement) and shall dispose of and receive payment for all Inventory which is ordinarily disposed of in the Corporation's business;
- (b) Receive and hold in trust for the Lender, all payments on or instruments received in respect of the Collateral, all rights by way of suretyship or guarantee which the Corporation now has or may hereafter acquire to enforce payment of Collateral and all rights in the nature of a security interest whereby the Corporation may satisfy any Collateral out of property, and all non cash proceeds of any such collection, disposition or realization of any of the Collateral shall be subject to the security interest hereby created;
- (c) Endorse to the Lender and forthwith deliver to it all such payments and instruments in the form received by the Corporation; and
- (d) Forthwith deliver to the Lender all property in the Corporation's possession or hereafter coming into its possession through enforcement of any such rights.

#### **4.2 Account Debtor**

Upon and after the occurrence of a Default, the Lender may at any time notify or require the Corporation to notify an account debtor or debtor under any Accounts Receivable, investment property, chattel paper or Intangible of the assignment of such Accounts Receivable, investment property, chattel paper or Intangible to the Lender and require such person to make payment to the Lender in respect of any of the Accounts Receivable, investment property, chattel paper or Intangible, and the Lender may hold all amounts acquired or received from any such account debtors or obligors (and if any such amounts are received by the Corporation, they shall be held in trust by the Corporation for the benefit of the Lender and as promptly as possible remitted or delivered to the Lender for application as provided herein), together with income on such amounts, as part of the Collateral and as security for the Obligations.

### **SECTION 5 – DEFAULT**

#### **5.1 Default**

Without in any way limiting the demand nature of the Obligations or any of them, the Obligations secured hereby shall, in relation to the Loan Agreement in accordance with this General Security Agreement, become immediately due and payable and the security interests hereby constituted shall become enforceable in each and every of the following events (each herein called a "Default"):

- (a) if the Corporation fails to make any payment of any of the Obligations when due; and
- (b) upon the occurrence and during the continuance of any other Event of Default, as defined in the Loan Agreement.

#### **5.2 Demand Nature of Obligations**

The Corporation agrees that the provision of defaults in Section 5.1 hereof shall not derogate from any demand nature of the Obligations as provided in the Loan Agreement as at any time without restriction, whether or not the Corporation has complied with the provisions of this General Security Agreement or any other agreement or instrument between it and the Lender. The Corporation agrees that upon the occurrence and during the continuance of a Default under Section 5.1 hereof, the security interests hereby constituted shall become enforceable and the Lender shall be entitled to exercise and enforce any or all of the remedies herein provided or which may otherwise be available to the Lender by statute at law or in equity and all amounts secured hereby shall immediately be paid to the Lender by the Corporation.

### **SECTION 6 – REMEDIES ON DEFAULT**

If the security interests hereby constituted become enforceable, the Lender shall have, in addition to any other rights, remedies and powers which it may have at law, in equity or under the PPSA, the Civil Code of Quebec (the "CCQ") or the Uniform Commercial Code (the "Code") (whether or not the CCQ or the Code applies to the affected Collateral) and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where

any rights and remedies hereunder may be asserted, including the right, to the fullest extent permitted by law, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Lender were the sole and absolute owner thereof (and the Corporation agrees to take all such action as may be appropriate to give effect to such right), the following rights, remedies and powers:

#### **6.1 Power of Entry**

The Corporation shall forthwith upon demand assemble and deliver to the Lender possession of all of the Collateral at such place or places as may be specified by the Lender. The Lender may take such steps as it considers necessary or desirable to obtain possession of all or any part of the Collateral and, to that end, the Corporation agrees that the Lender, its servants or agents or Receiver (as hereinafter defined) may, at any time, during the day or night, enter upon lands and premises where the Collateral may be found for the purpose of taking possession of and/or removing the Collateral or any part thereof. In the event of the Lender taking possession of the Collateral, or any part thereof, the Lender shall have the right to maintain the same upon the premises on which the Collateral may then be situate. The Lender may take such action or do such things as to render any Equipment unusable.

#### **6.2 Power of Sale**

The Lender may sell, lease or otherwise dispose of all or any part of the Collateral, as a whole or in separate parcels, by public auction, private tender or by private contract, with or without notice, except as otherwise required by applicable law, with or without advertising and without any other formality, all of which are hereby waived by the Corporation to the extent permitted by applicable law. Such sale, lease or disposition shall be on such terms and conditions as to credit and otherwise and as to upset or reserve bid or price as the Lender, in its sole discretion, may seem advantageous. If such sale, transfer or disposition is made on credit or part cash and part credit, the Lender need only credit against the Obligations the actual cash received at the time of the sale. Any payments made pursuant to any credit granted at the time of the sale shall be credited against the Obligations as they are received. The Lender may buy in or rescind or vary any contract for sale of all or any of the Collateral and may resell without being answerable for any loss occasioned thereby. Any such sale, lease or disposition may take place whether or not the Lender has taken possession of the Collateral. The Lender may, before any such sale, lease or disposition, perform any commercially reasonable repair, processing or preparation for disposition and the amount so paid or expended shall be deemed advanced to the Corporation by the Lender, shall become part of the Obligations, shall bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

#### **6.3 Validity of Sale**

No person dealing with the Lender or its servants shall be concerned to inquire whether the security hereby constituted has become enforceable, whether the powers which the Lender is purporting to exercise have become exercisable, whether any money remains due on the security of the Collateral, as to the necessity or expedience of the stipulations and conditions subject to which any sale, lease or disposition shall be made, otherwise as to the propriety or regularity of any sale or any other dealing by the Lender with the Collateral or to see to the application of any money paid to the Lender. In the absence of fraud on the part of such persons, such dealings shall



be deemed, so far as regards the safety and protection of such person, to be within the powers hereby conferred and to be valid and effective accordingly.

#### **6.4 Receiver-Manager**

The Lender may, in addition to any other rights it may have, appoint by instrument in writing a receiver or receiver and manager (both of which are herein called a "Receiver") of all or any part of the Collateral or may institute proceedings in any court of competent jurisdiction for the appointment of such a Receiver. Any such Receiver is hereby given and shall have the same powers and rights and exclusions and limitations of liability as the Lender has under this General Security Agreement, at law or in equity. In exercising any such powers, any such Receiver shall, to the extent permitted by law, act as and for all purposes shall be deemed to be the agent of the Corporation and the Lender shall not be responsible for any act or default of any such Receiver. The Lender may appoint one or more Receivers hereunder and may remove any such Receiver or Receivers and appoint another or others in his or their stead from time to time. Any Receiver so appointed may be an officer or employee of the Lender. A court need not appoint, ratify the appointment by the Lender of or otherwise supervise in any manner the actions of any Receiver. Upon the Corporation receiving notice from the Lender of the taking of possession of the Collateral or the appointment of a Receiver, all powers, functions, rights and privileges of each of the directors and officers of the Corporation with respect to the Collateral shall cease, unless specifically continued by the written consent of the Lender.

#### **6.5 Carrying on Business**

The Lender may carry on, or concur in the carrying on of, all or any part of the business or undertaking of the Corporation, may, to the exclusion of all others, including the Corporation, enter upon, occupy and use all or any of the premises, buildings, plant and undertaking of or occupied or used by the Corporation and may use all or any of the tools, machinery, equipment and intangibles of the Corporation for such time as the Lender sees fit, free of charge, to carry on the business of the Corporation and, if applicable, to manufacture or complete the manufacture of any Inventory and to pack and ship the finished product.

#### **6.6 Dealing with Collateral**

- (a) The Lender may seize, collect, realize, dispose of, enforce, release to third parties or otherwise deal with the Collateral or any part thereof in such manner, upon such terms and conditions and at such time or times as may seem to it advisable, all of which without notice to the Corporation except as otherwise required by any applicable law. The Lender may, but shall not be obligated to, in its name or in the name of the Corporation or otherwise, demand, sue for, collect and receive any Collateral and with or without notice to the Corporation, give such receipts, discharges and extensions of time and make such compromises or settlements deemed desirable with respect to any of the Collateral. The Lender may charge on its own behalf and pay to others, sums for costs and expenses incurred including, without limitation, legal fees and expenses on a solicitor and his own client scale and Receivers' and accounting fees, in or in connection with seizing, collecting, realizing, disposing, enforcing or otherwise dealing with the Collateral and in connection with the protection and enforcement of the rights of the Lender hereunder including, without limitation, in connection with advice with respect to



any of the foregoing. The amount of such sums shall be deemed advanced to the Corporation by the Lender, shall become part of the Obligations, shall bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

- (b) Without limitation to the foregoing, the Lender may require the Corporation to cause any Collateral that is investment property to be transferred of record into the name of the Lender or its nominee (and the Lender agrees that if any such investment property is transferred into its name or the name of its nominee, the Lender will thereafter promptly give to the Corporation copies of any notices and communications received by it with respect to investment property). The Lender may exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is investment property as if the Lender were the absolute owner of such investment property.
- (c) To the extent that applicable law imposes duties on the Lender to exercise remedies in a commercially reasonable manner, and without prejudice to the ability of the Lender to dispose of the Collateral in any such manner, the Corporation acknowledges and agrees that it is not commercially unreasonable for the Lender (i) to incur expenses reasonably deemed significant by the Lender to prepare the Collateral for disposition, (ii) to fail to obtain third party consents for access to the Collateral to be disposed of, (iii) to fail to exercise collection remedies against account debtors obligated on the Collateral or to remove Liens against the Collateral, (iv) to exercise collection remedies against the Corporation directly or through the use of collection agencies, (v) to dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (vi) to contact other Persons, whether or not in the same business of the Corporation, for expressions of interest in acquiring all or any portion of the Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, and (viii) to dispose of Collateral in whole or in part.
- (d) The Lender is authorized, in connection with any offer or sale of any Pledged Securities or any Collateral that is a security entitlement ("**Security Entitlements**"), to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Pledged Securities or Security Entitlements. The Corporation further agrees that compliance with any such limitation or restriction will not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lender will not be liable or accountable to the Corporation for any discount allowed by reason of the fact that such Pledged Securities or Security Entitlements are sold in compliance with any such limitation or restriction. If the Lender chooses to exercise its right

to sell any or all Pledged Securities or Security Entitlements, upon written request, the Corporation will cause each applicable issuer to furnish to the Lender all such information as the Lender may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lender in exempt transactions under any laws governing securities, and the rules and regulations of any applicable securities regulatory thereunder, as the same are from time to time in effect.

- (e) The Corporation agrees that to the extent the Lender is required by applicable law to give reasonable prior notice of any sale or other disposition of any Collateral, fifteen (15) days' notice shall be deemed to constitute reasonable prior notice.

#### **6.7 Right to Use**

- (a) The Corporation hereby grants to the Lender an irrevocable, non exclusive license (exercisable upon the occurrence and during the continuance of an Event of Default without payment of royalty or other compensation to the Corporation) (each a "Granted Licence") to use, assign, license, or sublicense all of the Corporation's present and future property, whether real or personal, including, without limitation, labels, Intellectual Property and advertising matter, or any other property of any nature or of a similar nature, and all reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof, as it pertains to the Collateral, in completing production of, advertising for sale, and selling of any Collateral and the Corporation's rights under all licenses and all franchise agreements shall inure to the Lender.
- (b) To the extent that and for so long as the Corporation is expressly prohibited by any agreement to which it is a party from granting a Granted Licence the Granted License shall not apply or attach to that agreement but the Corporation shall hold its interest in the right to use, assign, license or sublicense the property in respect of which the grant of a Granted License is expressly prohibited, in trust for the Lender.

#### **6.8 Retention of Collateral**

Upon notice to the Corporation and subject to any obligation to dispose of any of the Collateral, as provided in the PPSA, the Lender may elect to retain all or any part of the Collateral in satisfaction of the Obligations or any of them.

#### **6.9 Pay Encumbrances**

The Lender may pay any encumbrance that may exist or be threatened against the Collateral. In addition, the Lender may borrow money required for the maintenance, preservation or protection of the Collateral or for the carrying on of the business or undertaking of the Corporation and may grant further security interests in the Collateral in priority to the security interest created hereby as security for the money so borrowed. In every such case the amounts so paid or borrowed together with costs, charges and expenses incurred in connection therewith shall be deemed to have been advanced to the Corporation by the Lender, shall become part of the Obligations, shall

bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

#### **6.10 Application of Payments Against Obligations**

Any and all payments made in respect of the Obligations from time to time and moneys realized on the Collateral may be applied to such part or parts of the Obligations as the Lender may see fit. The Lender shall, at all times and from time to time, have the right to change any appropriation as it may see fit. Any insurance moneys received by the Lender pursuant to this General Security Agreement may, at the option of the Lender, be applied to rebuilding or repairing the Collateral or be applied against the Obligations in accordance with the provisions of this Section.

#### **6.11 Set-Off**

The Obligations will be paid by the Corporation without regard to any equities between the Corporation and the Lender or any right of set-off or cross-claim. Any indebtedness owing by the Lender to the Corporation may be set off and applied by the Lender against the Obligations at any time or from time to time either before or after maturity, without demand upon or notice to anyone.

#### **6.12 Deficiency**

If the proceeds of the realization of the Collateral are insufficient to repay the Lender all monies due to it, the Corporation shall forthwith pay or cause to be paid to the Lender such deficiency.

#### **6.13 Lender Not Liable**

The Lender shall not be liable or accountable for any failure to seize, collect, realize, dispose of, enforce or otherwise deal with the Collateral, shall not be bound to institute proceedings for any such purposes or for the purpose of preserving any rights of the Lender, the Corporation or any other Person in respect of the Collateral and shall not be liable or responsible for any loss, cost or damage whatsoever which may arise in respect of any such failure, including, without limitation, any loss, cost or damage resulting from the negligence of the Lender or any of its officers, servants, partners, employees, agents, solicitors, attorneys, Receivers or otherwise. Neither the Lender nor any of its partners, officers, employees, servants, agents, or Receivers shall be liable by reason of any entry into possession of the Collateral or any part thereof, to account as a mortgagee in possession, for anything except actual receipts, for any loss on realization, for any act or omission for which a mortgagee in possession might be liable, for any negligence in the carrying on or occupation of the business or undertaking of the Corporation as provided in Section 6.5 or for any loss, cost, damage or expense whatsoever which may arise in respect of any such actions, omissions or negligence.

#### **6.14 Extensions of Time**

The Lender may grant renewals, extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, perfect or fail to perfect any securities, release any part of the Collateral to third parties and otherwise deal or fail to deal with the Corporation, Subsidiaries of the Corporation, guarantors, sureties and others and with the

Collateral and other securities as the Lender may see fit, all without prejudice to the liability of the Corporation to the Lender or the Lender's rights and powers under this General Security Agreement.

#### **6.15 Rights in Addition**

The rights and powers conferred by this Section 6 are in supplement of and in addition to and not in substitution for any other rights or powers the Lender may have from time to time under this General Security Agreement or under applicable law. The Lender may proceed by way of any action, suit, remedy or other proceeding at law or in equity and no such remedy for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other such remedy. Any one or more of such remedies may from time to time be exercised separately or in combination. The Corporation recognizes that if it fails to perform or observe its obligations hereunder, no remedy at law will provide adequate relief to the Lender, and the Corporation agrees that the Lender shall be entitled to seek temporary and permanent injunctive relief in any such case without the necessity of proving irreparable harm.

### **SECTION 7 – DEALING WITH COLLATERAL BY THE CORPORATION**

#### **7.1 Sale of Inventory**

Prior to the occurrence of a Default, the Corporation shall be entitled to deal with the Collateral in the ordinary course of business, provided that, no such action shall be taken which would impair the validity, effectiveness, perfection or priority of the security interest created by this General Security Agreement or which would result in a Default. For greater certainty, the Corporation may, in the ordinary course of its business and on customary trade terms, lease or sell items of Inventory, so that the purchaser thereof takes title clear of the security interest hereby created. If such sale or lease results in an Account Receivable, such Account Receivable shall be subject to the security interest hereby created.

### **SECTION 8 – GENERAL**

#### **8.1 Security in Addition**

The security hereby constituted is not in substitution for any other security for the Obligations or for any other agreement between the parties creating a security interest in all or part of the Collateral, whether heretofore or hereafter made, and such security and such agreements shall be deemed to be continued and not affected hereby unless expressly provided to the contrary in writing and signed by the Lender and the Corporation. The taking of any action or proceedings or refraining from so doing, or any other dealing with any other security for the Obligations or any part thereof, shall not release or affect the security interest created by this General Security Agreement and the taking of the security interest hereby created or any proceedings hereunder for the realization of the security interest hereby created shall not release or affect any other security held by the Lender for the repayment of or performance of the Obligations.

## 8.2 Waiver

Any waiver of a breach by the Corporation of any of the terms or provisions of this General Security Agreement or of a Default under Section 5.1 hereof must be in writing to be effective against and bind the Lender. No such waiver by the Lender shall extend to or be taken in any manner to affect any subsequent breach or Default or the rights of the Lender arising therefrom.

## 8.3 Further Assurances

The Corporation shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, conveyances, instruments, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions and purposes of this General Security Agreement including, without limitation, in respect of the Lender's enforcement of the security and its realization on the Collateral, and for the better granting, transferring, assigning, charging, setting over, assuring, confirming and/or perfecting the security interest of the Lender in the Collateral pursuant to this General Security Agreement. Effective upon the occurrence and during the continuance of a Default, the Corporation hereby constitutes and appoints any officer of the Lender at its above address, or any Receiver appointed by the court or the Lender as provided herein, the true and lawful attorney of the Corporation irrevocably with full power of substitution to do, make and execute all such assignments, documents, acts, matters or things with the right to use the name of the Corporation whenever and wherever it may be deemed necessary or expedient in connection with the exercise of its rights and remedies set forth in this General Security Agreement. Without limiting the generality of the foregoing, so long as the Lender shall be entitled under Section 6 to make collections in respect of the Collateral, the Lender shall have the right and power to receive, endorse and collect all cheques payable to the order of the Corporation representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same. The Corporation hereby authorizes the Lender to file such proofs of claim and other documents as may be necessary or advisable in order to prove its claim in any bankruptcy, proposed winding-up or other proceeding relating to the Corporation.

Without limiting the generality of the foregoing, the Corporation:

- (a) shall at all times after the occurrence of a Default mark conspicuously each chattel paper evidencing or relating to Accounts Receivable and each related contract and, at the request of the Lender, each of its records pertaining to the Collateral with a legend, in form and substance satisfactory to the Lender, indicating that such chattel paper, related contract or Collateral is subject to the security interests granted hereby;
- (b) shall, if any Accounts Receivable shall be evidenced by a promissory note or other instrument or chattel paper, deliver and pledge to the Lender hereunder such note, instrument or chattel paper duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Lender;
- (c) shall execute, deliver, file, record, authorize or obtain all such financing statements, continuation statements, notices, instruments, documents, agreements,

consents, or other papers or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Lender may request, in order to create, preserve, perfect, maintain the perfection of, or validate the security interest granted or purported to be granted hereby, or to enable the Lender to exercise and enforce its rights hereunder with respect to such security interest and, without limiting the foregoing, shall:

- (i) deliver and pledge to the Lender any and all chattel paper representing Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Lender;
- (ii) deliver to the Lender any and all certificates representing Collateral that is a certificated security (the "Pledged Certificated Securities") and other materials as may be required from time to time to provide the Lender with control over all Pledged Certificated Securities in the manner provided under Section 23 of the STA, and at the request of the Lender, will cause all Pledged Certificated Securities to be registered in the name of the Lender or its nominee;
- (iii) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is an uncertificated security in the manner provided under Section 24 of the STA;
- (iv) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is a security entitlement in the manner provided under Section 25 or 26 of the STA;
- (v) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is a futures contract in the manner provided under subsection 1(2) of the PPSA;
- (vi) promptly from time to time upon request by the Lender enter into such control agreements, each in form and substance reasonably acceptable to the Lender, as may be required to perfect the security interest created hereby in any and all investment property, and will promptly furnish to the Lender true and complete copies thereof;
- (vii) promptly from time to time upon the request of the Lender, execute and deliver such short-form security agreements as the Lender may reasonably deem necessary or desirable to protect the interests of the Lender in respect of that portion of the Collateral consisting of intellectual property;
- (viii) promptly upon request of the Lender, with respect to any securities issued by an issuer that is organized outside of Canada, cause to be delivered to the Lender a securities pledge agreement covering such securities; and

- (ix) keep full and accurate books and records relating to the Collateral, and stamp or otherwise mark such books and records in such manner as the Lender may reasonably require in order to reflect the security interests granted by this Agreement.
- (d) hereby authorizes the Lender to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of the Corporation, where permitted by law; and
- (e) shall furnish to the Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Lender may request, all in reasonable detail.

#### **8.4 No Merger**

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Corporation to make payment of or satisfy the Obligations. The acceptance of any payment or alternate security shall not constitute or create any novation and the taking of a judgment or judgments under any of the covenants herein contained shall not operate as a merger of such covenants.

#### **8.5 Notices**

All notices, demands, and other communications made in respect of this Agreement shall be made to the following addresses, each of which may be changed upon seven (7) days written notice to all others given by registered mail, return receipt requested:

If to the Lender:

ROYAL BANK OF CANADA  
200 Bay Street,  
Royal Bank Plaza, South Tower, 30<sup>th</sup> Floor  
Toronto, Ontario, M5J 2J5

Attention: Portfolio Manager  
Fax: 416.842.5844

With a copy to:

Norton Rose OR LLP  
200 Bay Street, Suite 3800  
Royal Bank Plaza, South Tower  
Toronto, Ontario, Canada M5J 2Z4

Attention: Kevin Morley/James Padwick  
Fax: 416 216 1900/416 216 1912

If to the Corporation:

LABELAD LTD.  
400 Cochrane Drive  
Markham, Ontario L3R 8E3

Attention: President  
Fax No.: (905) 475-3935

**8.6 Notice Given**

- (a) Except as otherwise specifically provided herein, notices shall be deemed made and correspondence received, as follows (all times being local to the place of delivery or receipt):
  - (i) By recognized overnight express delivery: the Business Day following the day when sent.
  - (ii) By Hand: If delivered on a Business Day after 9:00 a.m. and no later than Three (3) hours prior to the close of customary business hours of the recipient, when delivered. Otherwise, at the opening of the then next Business Day.
  - (iii) By Facsimile transmission (which must include a header on which the party sending such transmission is indicated): If sent on a Business Day after 9:00 a.m. and no later than Three (3) hours prior to the close of customary business hours of the recipient, one (1) hour after being sent. Otherwise, at the opening of the then next Business Day.
- (b) Rejection or refusal to accept delivery and inability to deliver because of a changed address or facsimile number for which no due notice was given shall each be deemed receipt of the notice sent.

**8.7 Continuing Security Interest and Discharge**

This General Security Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until payment and performance in full of the Obligations and the termination of the Loan Agreement, notwithstanding any dealing between the Lender and the Corporation in respect of the Obligations or any release, exchange, non-perfection, amendment, waiver, consent or departure from or in respect of any or all of the terms or provision of any security held for the Obligations.

If the Corporation pays to the Lender the Obligations secured by this General Security Agreement and otherwise observes and performs the terms and conditions hereof, then the Lender shall at the request and at the expense of the Corporation promptly release and discharge the security interest created hereby and execute and deliver to the Corporation such deeds and other instruments as shall be requisite therefor.



### **8.8 Governing Law**

This General Security Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, except as required by mandatory provisions of law and except to the extent that the validity or perfection of the security interests hereunder, or remedies hereunder, in respect of any particular Collateral are governed by the laws of a jurisdiction other than the Province of Ontario.

ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE PROVINCE OF ONTARIO OR OF THE FEDERAL COURTS OF CANADA THEREIN, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE CORPORATION CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE CORPORATION IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION OR ANY OTHER JURISDICTION SELECTED BY THE LENDER IN RESPECT OF THIS AGREEMENT. THE CORPORATION WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF ONTARIO.

The parties hereto hereby waive trial by jury in any action, proceeding, claim or counterclaim, whether in contract or tort, at law or in equity with respect to, in connection with, or arising out of this General Security Agreement, other financing agreements, the obligations of the Borrowers and the Corporation, the Collateral, or any instrument, document or guarantee delivered pursuant hereto or to any of the foregoing, or the validity, protection, interpretation, administration, collection or enforcement hereof or thereof, or any other claim or dispute hereunder or thereunder. The Corporation agrees that it will not assert against the Lender any claim for consequential, incidental, special, or punitive damages in connection with this General Security Agreement or the transactions contemplated hereby or thereby. No officer of the Lender has authority to waive, condition, or modify this provision.

### **8.9 Security Interest Effective Immediately**

Neither the execution or registration of this General Security Agreement or any partial advances by the Lender shall bind the Lender to advance any other amounts to the Corporation. The parties intend the security interest created hereby to attach and take effect forthwith upon execution of this General Security Agreement by the Corporation and the Corporation acknowledges that value has been given and that the Corporation has rights in the Collateral.

### **8.10 No Collateral Warranties**

There is no representation, warranty or collateral agreement affecting this General Security Agreement or the Collateral, other than as expressed herein in writing.

**8.11 Joint and Several Liability**

If more than one person executes this General Security Agreement as guarantor, their obligations under this General Security Agreement shall be joint and several.

**8.12 Provisions Reasonable**

The Corporation expressly acknowledges and agrees that the provisions of this General Security Agreement and, in particular, those respecting remedies and powers of the Lender against the Corporation, its business and the Collateral upon default, are commercially reasonable and not manifestly unreasonable.

**8.13 Number and Gender**

In this General Security Agreement, words importing the singular number include the plural and vice-versa and words importing gender include all genders.

**8.14 Invalidity**

In the event that any term or provision of this General Security Agreement shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this General Security Agreement shall be unaffected thereby and shall be valid and enforceable to the fullest extent permitted by law.

**8.15 Precedence**

In the event that any provisions of this General Security Agreement contradict, are inconsistent with and are otherwise incapable of being construed in conjunction with the provisions (including any rights, remedies and covenants therein) of the Loan Agreement, the provisions of the Loan Agreement, as applicable, shall take precedence over those contained in this General Security Agreement and, in particular, if any act of the Corporation is expressly permitted under the Loan Agreement but is prohibited under this General Security Agreement, any such act shall be deemed to be permitted under this General Security Agreement.

**8.16 Judgement Currency**

If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the Lender could purchase in the New York foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given. The Corporation agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date the Lender receives payment of any sum so adjudged to be due hereunder in the Second Currency, the Lender may, in accordance with normal banking procedures, purchase, in the New York foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency, the Corporation agrees

as a separate obligation and notwithstanding any such payment or judgment to indemnify the Lender against such loss. The term "rate of exchange" in this Section 8.16 means the spot rate at which the Lender, in accordance with normal practices, is able on the relevant date to purchase the Original Currency with the Second Currency, and includes any premium and costs of exchange payable in connection with such purchase.

**8.17 Sections and Headings**

The division of this General Security Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

**8.18 Receipt of Copy**

The Corporation acknowledges receipt of an executed copy of this General Security Agreement.

**8.19 Assignment**

The obligations of the Corporation under this General Security Agreement are not assignable to any other Person without the prior written consent of the Lender. The Lender may, to the extent permitted under the Loan Agreement, at any time, assign or transfer all or any of its rights and benefits hereunder to one or more Persons without the prior written consent of, but on notice to, the Corporation.

**8.20 Binding Effect**

All rights of the Lender hereunder shall enure to the benefit of its successors and assigns and all obligations of the Corporation hereunder shall bind the Corporation and its successors and permitted assigns.

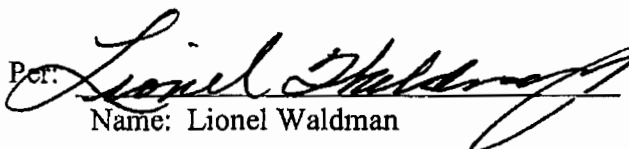
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The parties hereto acknowledge that they have requested and are satisfied that the foregoing, as well as all notices, actions and legal proceedings be drawn up in the English language.

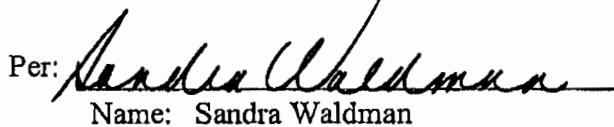
Les parties à cette convention reconnaissent qu'elles ont exigé que ce qui précède ainsi que tous avis, actions et procédures légales soient rédigés et exécutés en anglais et s'en déclarent satisfaites.

IN WITNESS WHEREOF the Corporation has duly executed this General Security Agreement as of this 14<sup>th</sup> day of July, 2011.

**LABELAD LTD.**

Per:   
Name: Lionel Waldman

Title: Vice-President

Per:   
Name: Sandra Waldman

Title: Secretary & Treasurer

## Exhibit "D"

**GENERAL SECURITY AGREEMENT**

TO: **ROYAL BANK OF CANADA**  
200 Bay Street,  
Royal Bank Plaza, South Tower, 30<sup>th</sup> Floor  
Toronto, Ontario, M5J 2J5  
(hereinafter the "Lender")

GRANTED BY: **MARNLEN MANAGEMENT LTD.**  
having its principal office at:  
400 Cochrane Drive  
Markham, ON L3R 8E3  
(hereinafter the "Corporation")

This is Exhibit.....*D*.....referred to in the  
affidavit of *FELIX MEDNIKOV*  
sworn before me, this *17<sup>th</sup>*  
day of *JULY*, 20*12*  
*[Signature]*  
A COMMISSIONER, ETC.

**SECTION 1 – GRANT OF SECURITY INTEREST**

**1.1 Security Interest**

As general and continuing security for the payment and performance of any and all indebtedness, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Corporation to the Lender or remaining unpaid by the Corporation to the Lender wheresoever and howsoever incurred and howsoever evidenced, whether arising from dealings between the Lender and the Corporation or from other dealings or proceedings by which the Corporation may be or become in any manner indebted, obligated or liable to the Lender including, without limitation, under the Loan Agreement (as such term is hereinafter defined) or the Guarantee (as such term is hereinafter defined) and the other Loan Documents and wherever incurred and in any currency and whether incurred by the Corporation alone or with another or others and whether as principal, guarantor or surety, and all interest, commissions, cost of realization, legal and other costs, charges and expenses (all of the foregoing being herein collectively called the "Obligations"), the Corporation, **IN CONSIDERATION OF THE OBLIGATIONS** and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants bargains, assigns and transfers to the Lender a continuing security interest in, and a security interest is taken in, all of the property, assets and undertakings of the Corporation, whether now owned or hereafter-acquired by or on behalf of the Corporation, wherever located (the "Collateral"), including, without limitation, all of the Corporation's present and after acquired personal property and including without limitation:

(a) **Accounts Receivable**

All debts, book debts, accounts, claims, demands, moneys and choses in action whatsoever including, without limitation, claims against the Crown and claims under insurance policies, which are now owned by or are due, owing or accruing due to the Corporation or which may hereafter be owned by or become due, owing or accruing due to the Corporation together with all contracts, investment property, bills, notes, lien notes, judgments, chattel mortgages, mortgages and all other rights, benefits and documents now or hereafter taken, vested in or held by the Corporation in respect of or as security for the same and the full benefit and advantage thereof, and all rights of action or claims

which the Corporation now has or may at any time hereafter have against any Person in respect thereof (all of the foregoing being herein collectively called the "Accounts Receivable");

(b) Inventory

All inventory of whatever kind now or hereafter owned by the Corporation or in which the Corporation now or hereinafter has an interest or right of any kind, and all accessions thereto and products thereof, including, without limitation, all goods, merchandise, raw materials, goods in process, finished goods, packaging and packing material and other tangible personal property now or hereafter held for sale, lease, rental or resale or that are to be furnished or have been furnished under a contract of service or that are to be used or consumed in the business of the Corporation (all of the foregoing being herein collectively called the "Inventory");

(c) Equipment

All goods now or hereafter owned by the Corporation which are not inventory or consumer goods as defined in the *Personal Property Security Act* (Ontario) or, to the extent applicable, similar legislation of any other jurisdiction, as amended from time to time (collectively, the "PPSA") including, without limitation, all machinery, equipment, furniture, furnishings, fixtures, and other tangible personal property (except Inventory), including motor vehicles with respect to which a certificate of title has been issued, aircraft, dies, tools, jigs, and office equipment, as well as all of such types of property leased by the Corporation and all of the Corporation's rights and interests with respect thereto under such leases (including, without limitation, options to purchase); together with all present and future additions and accessions thereto, replacements therefor, component and auxiliary parts and supplies used or to be used in connection therewith, and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto; wherever any of the foregoing is located (all of the foregoing being herein collectively called the "Equipment");

(d) Chattel Paper, Instruments, Securities, etc.

All chattel paper, instruments, warehouse receipts, bills of lading and other documents of title, whether negotiable or non negotiable, share, stock, security entitlements, warrants, bonds, debentures, debenture stock or other securities or investment property and financial assets now or hereafter owned by the Corporation;

(e) Intangibles

All intangibles now or hereafter owned by the Corporation including, without limitation, all goodwill connected with or symbolized by any of such general intangibles; all contract rights, documents, applications, licenses, materials and other matters related to such general intangibles; all tangible property embodying or incorporating any such general intangibles; and all chattel paper and instruments relating to such general intangibles. The Collateral shall include (i) all patents, and all unpatented or unpatentable inventions; (ii) all trademarks, service marks, and trade names ; (iii) all copyrights and literary rights; (iv) all computer software programs; (v) all mask works of semiconductor

chip products; (vi) all trade secrets, proprietary information, customer lists, manufacturing, engineering and production plans, drawings, specifications, processes and systems. (collectively, the "Intellectual Property" and, together with all of the foregoing, collectively, the "Intangibles").

(f) Books and Accounts, etc.

With respect to the personal property described in Paragraphs (a) to (e) inclusive, all books, accounts, invoices, deeds, documents, writings, letters, papers, security certificates and other records in any form evidencing or relating thereto and all contracts, securities, instruments and other rights and benefits in respect thereof;

(g) Other Property

The uncalled capital, money, rights, bills of exchange, negotiable and non negotiable instruments, judgments and securities not otherwise described in Paragraphs (a) to (f) inclusive;

(h) Replacements, etc.

With respect to the personal property described in Paragraphs (a) to (g) inclusive, all substitutions and replacements thereof, increases, additions and accessions thereto and any interest of the Corporation therein; and

(i) Proceeds

With respect to the personal property described in Paragraphs (a) to (h) inclusive, personal property in any form or fixtures derived directly or indirectly from any dealing with such property or that indemnifies or compensates for such property destroyed or damaged and proceeds of proceeds whether of the same type, class or kind as the original proceeds.

## 1.2 Definitions and Interpretation

In this General Security Agreement:

- (a) Terms used herein and defined in the PPSA shall have the same meanings as in the PPSA unless the context otherwise requires;
- (b) Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement (as hereinafter defined);
- (c) Any reference to "Collateral" shall, unless the context otherwise requires, refer to "Collateral or any part thereof";
- (d) Any reference to the "STA" shall refer to the *Securities Transfer Act* (Ontario) or, to the extent applicable, similar legislation of any other jurisdiction, as amended from time to time;



- (e) The grant of the security interest herein provided for shall include, without limitation, a fixed mortgage, hypothecation, pledge, charge and assignment of the Collateral in favour of the Lender;
- (f) "Loan Agreement" shall mean the Amended and Restated Loan Agreement dated as of the date hereof, by and among, amongst others, the Lender and the Corporation as the same may be amended, supplemented, revised, replaced or restated from time to time;
- (g) "Guarantee" shall mean the guarantee dated as of the date hereof, granted by the Corporation in favour of the Lender;
- (h) The term "security interest" shall include, without limitation, a fixed mortgage, hypothecation, pledge, charge and assignment;
- (i) The term "purchase money security interest" shall mean a purchase money security interest granted by the Corporation under the PPSA to secure all or any part of the indebtedness incurred by the Corporation in connection with the acquisition of property (not in excess of the acquisition price of such property) or any extension or renewal or replacement of such indebtedness provided that the principal amount of such indebtedness is not increased; and
- (j) The term "encumbrance" includes, without limitation, a security interest, lien, hypothec, claim, charge, deemed trust or encumbrance of any kind whatsoever.

### 1.3 Leases

- (a) The last day of the term of any lease or sub-lease, oral or written, or any agreement therefor, now held or hereafter acquired by the Corporation, shall be excepted from the security interest hereby granted and shall not form part of the Collateral, but the Corporation shall stand possessed of such one day remaining, upon trust to assign and dispose of the same as the Lender or any assignee of such lease, or sub-lease or agreement shall direct. If any such lease, sub-lease or agreement therefor contains a provision which provides in effect that such lease, sub-lease or agreement may not be assigned, sub-leased, charged or encumbered without the leave, license, consent or approval of the lessor, the application of the security interest created hereby to any such lease, sub-lease or agreement shall be conditional upon such leave, license, consent or approval having been obtained.
- (b) Pursuant to this General Security Agreement:
  - (i) To the extent that the creation of the security interest created hereby would constitute a breach of or default under, or permit the acceleration or termination of any agreement, right, licence or permit of the Corporation which constitutes Collateral (each, a "Restricted Asset"), the security interest created hereunder shall not attach to the Restricted Asset, but the Corporation shall, subject to paragraph (b) below, hold its interest in the Restricted Asset in trust for the Lender, provided that, until the security interest created hereby has become enforceable, the Corporation shall be

entitled to all proceeds arising under or in connection with the Restricted Asset.

- (ii) To the extent that the creation of the trust in paragraph (a) above would constitute a breach or permit the acceleration or termination of any Restricted Asset, the security interest created hereunder shall not attach to the Restricted Asset, but the security interest created hereby will constitute a trust created in favour of the Lender pursuant to which the Corporation shall hold as trustee its interest in all proceeds arising under or in connection with the Restricted Asset in trust for the Lender, provided that until the security interest created hereby has become enforceable, the Corporation shall be entitled to receive all such proceeds.

#### **1.4 Corporation Remains Liable**

Notwithstanding anything herein to the contrary:

- (a) the Corporation shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all its duties and obligations thereunder to the same extent as if this General Security Agreement had not been executed;
- (b) the exercise by the Lender of any of the rights or remedies hereunder shall not release the Corporation from any of its duties or obligations under the contracts and agreements included in the Collateral; and
- (c) the Lender shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this General Security Agreement, nor shall the Lender be obligated to perform any of the obligations or duties of the Corporation thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

#### **1.5 Attachment**

The Corporation acknowledges that the security interests that arise under this General Security Agreement attach upon the execution of this General Security Agreement and that value has been given. A security interest in any after acquired property included in the Collateral attaches to that property on acquisition of any rights therein by the Corporation.

### **SECTION 2 – REPRESENTATIONS AND WARRANTIES**

The Corporation represents and warrants to and in favour of the Lender on the Closing Date and on the date of each borrowing (including each issuance, amendment, renewal or extension of any letter of credit) under the Loan Agreement:

#### **2.1 Enforceability**

This General Security Agreement constitutes a valid and legally binding obligation of the Corporation enforceable against the Corporation in accordance with its terms, subject to:

- (a) applicable bankruptcy, insolvency, reorganization, limitations, moratorium and other laws generally affecting creditors' rights; and
- (b) equitable remedies such as injunction and specific performance which remedies are available in the discretion of a court of competent jurisdiction.

## **2.2 Locations of Collateral**

The tangible Collateral, except where it is in transit to and from the locations herein described and for Equipment out for repair, is located at the location specified above as the Corporation's principal office or place of business (and its chief place of business and chief executive office) and at such additional addresses as provided for in the Loan Agreement. The location at which all records of the Corporation pertaining to Accounts Receivable (and all chattel paper which evidences Accounts Receivable) and contract rights are kept at the location specified above unless the contrary is provided for in the Loan Agreement.

## **2.3 Survival**

All representations and warranties of the Corporation made herein or in any certificate or other document delivered by or on behalf of the Corporation to the Lender are material, shall be deemed to have been relied upon by the Lender notwithstanding any investigation heretofore or hereafter made by or on behalf of the Lender, shall survive the execution and delivery of this General Security Agreement and shall continue in full force and effect without time limit.

## **2.4 Loan Agreement**

The Corporation acknowledges and has reviewed the representations and warranties made by it in the Loan Agreement and all such representations and warranties are true and correct.

# **SECTION 3 – COVENANTS OF THE CORPORATION**

The Corporation covenants and agrees with the Lender that so long as there shall remain any Obligations of or affecting any party to this General Security Agreement:

## **3.1 Payment**

The Corporation will pay duly and punctually all sums of money due by it to the Lender under this General Security Agreement at the times and places and in the manner provided for herein and the Loan Agreement, as applicable, and at the times and places and in the manner provided for therein and under any other agreements forming part of the Obligations.

## **3.2 Loan Agreement**

The Corporation acknowledges having reviewed its covenants contained in the Loan Agreement and agrees to observe and perform all such covenants provided for in the Loan Agreement.

## **3.3 Notice Regarding Change of Address, etc.**

The Corporation shall notify the Lender in writing:

- (a) At least 20 days prior to any change of name of the Corporation;
- (b) At least 20 days prior to any transfer of the Corporation's interest in any part of the Collateral not expressly permitted hereunder or under the Loan Agreement;
- (c) Promptly of any significant loss of or damage to Collateral;
- (d) At least 20 days prior to any change in the location(s) of the Collateral and any records relating thereto; and
- (e) Forthwith upon becoming aware of the existence of any condition or event which could cause or which, with the passage of time or notice, or both, constitute a Default, give the Lender written notice thereof specifying the nature and duration thereof and the action being taken or proposed to be taken with respect thereto.

#### **3.4 Other Financing Statements or Control.**

Except as otherwise permitted under the Loan Agreement and the other Loan Documents, the Corporation shall not (a) file, or suffer to be on file, or authorize or permit to be filed or to be on file, in any jurisdiction, any financing statement or like instrument with respect to any of the Collateral in which the Lender is not named as the sole secured party, or (b) cause or permit any Person other than the Lender to have "control" (as defined in the STA) of any financial asset or investment property constituting part of the Collateral, other than "control" in favour of any depository bank or securities intermediary which has subordinated its lien to the lien of the Lender pursuant to documentation in form and substance satisfactory to the Lender. For greater certainty, to the extent the Loan Agreement and the other Loan Documents permit the granting or existence of a security interest in any Collateral, the filing of a financing statement or like instrument in respect thereof is also permitted. Immediately upon having knowledge that a financing statement or like instrument is or is reasonably likely to be on file in any jurisdiction, with respect to any Collateral, the Corporation shall (i) immediately give written notice to the Lender of such filing, or proposed filing; and (ii) take such steps as may be requested by the Lender, having regard to the Permitted Encumbrances under the Loan Agreement, with respect to such filing.

#### **3.5 Special Provisions Relating to Pledged Securities.**

- (a) All securities currently owned by the Corporation are listed on Schedule 3.5(a) hereto. The Corporation will cause any and all Collateral that is a security (collectively, the "Pledged Securities"), to constitute at all times 100% of the total number of shares of the relevant issuer that are owned by the Corporation.
- (b) So long as no Event of Default shall have occurred and be continuing, the Corporation shall have the right to exercise all voting, consensual and other powers of ownership pertaining to the Pledged Securities for all purposes not inconsistent with the terms of this Agreement, the Loan Agreement or any of the other Loan Documents or any other instrument or agreement referred to herein or therein, provided that the Corporation agrees that it will not vote the Pledged Securities in any manner that is inconsistent with the terms of this Agreement, Loan Agreement, and the other Loan Documents or any such other instrument or

agreement. The Lender shall promptly upon the request of the Corporation execute and deliver to the Corporation or cause to be executed and delivered to the Corporation all such proxies and powers of attorney and all such instruments, without recourse, as the Corporation may reasonably request for the purpose of enabling the Corporation to exercise the rights and powers that it is entitled to exercise pursuant to this Section 3.5(b).

- (c) Unless and until a Default shall have occurred and be continuing, the Corporation shall be entitled to receive and retain any dividends, distributions or proceeds on the Pledged Securities (whether paid or distributed in cash, securities or other property).
- (d) If a Default shall have occurred and be continuing, whether or not the Lender exercises any available right to declare any Obligations due and payable or seeks or pursues any other relief or remedy available to it under applicable law or under this General Security Agreement, the other Loan Documents or any other agreement relating to such Obligation, upon notice to the Corporation, all dividends and other distributions on the Pledged Securities shall be paid directly to the Lender and retained by it as part of the Collateral, subject to the terms of this Agreement, and, if the Lender shall so request in writing, the Corporation agrees to execute and deliver to the Lender any instruments or other documents necessary or desirable to ensure that the Pledged Securities shall be paid directly to the Lender, provided that if such Event of Default is cured, any such dividend or distribution theretofore paid to the Lender shall, promptly upon request of the Corporation (except to the extent theretofore applied to the Obligations), be returned by the Lender to the Corporation.

#### **SECTION 4 – COLLECTION OF PROCEEDS**

##### **4.1 Payments to the Lender**

Upon the occurrence of a Default, the Corporation shall:

- (a) Collect and enforce payment of all Accounts Receivable (except as provided for in Section 4.2 or the Loan Agreement) and shall dispose of and receive payment for all Inventory which is ordinarily disposed of in the Corporation's business;
- (b) Receive and hold in trust for the Lender, all payments on or instruments received in respect of the Collateral, all rights by way of suretyship or guarantee which the Corporation now has or may hereafter acquire to enforce payment of Collateral and all rights in the nature of a security interest whereby the Corporation may satisfy any Collateral out of property, and all non cash proceeds of any such collection, disposition or realization of any of the Collateral shall be subject to the security interest hereby created;
- (c) Endorse to the Lender and forthwith deliver to it all such payments and instruments in the form received by the Corporation; and

- (d) Forthwith deliver to the Lender all property in the Corporation's possession or hereafter coming into its possession through enforcement of any such rights.

#### **4.2 Account Debtor**

Upon and after the occurrence of a Default, the Lender may at any time notify or require the Corporation to notify an account debtor or debtor under any Accounts Receivable, investment property, chattel paper or Intangible of the assignment of such Accounts Receivable, investment property, chattel paper or Intangible to the Lender and require such person to make payment to the Lender in respect of any of the Accounts Receivable, investment property, chattel paper or Intangible, and the Lender may hold all amounts acquired or received from any such account debtors or obligors (and if any such amounts are received by the Corporation, they shall be held in trust by the Corporation for the benefit of the Lender and as promptly as possible remitted or delivered to the Lender for application as provided herein), together with income on such amounts, as part of the Collateral and as security for the Obligations.

### **SECTION 5 - DEFAULT**

#### **5.1 Default**

Without in any way limiting the demand nature of the Obligations or any of them, the Obligations secured hereby shall, in relation to the Loan Agreement in accordance with this General Security Agreement, become immediately due and payable and the security interests hereby constituted shall become enforceable in each and every of the following events (each herein called a "Default"):

- (a) if the Corporation fails to make any payment of any of the Obligations when due; and
- (b) upon the occurrence and during the continuance of any other Event of Default, as defined in the Loan Agreement.

#### **5.2 Demand Nature of Obligations**

The Corporation agrees that the provision of defaults in Section 5.1 hereof shall not derogate from any demand nature of the Obligations as provided in the Loan Agreement as at any time without restriction, whether or not the Corporation has complied with the provisions of this General Security Agreement or any other agreement or instrument between it and the Lender. The Corporation agrees that upon the occurrence and during the continuance of a Default under Section 5.1 hereof, the security interests hereby constituted shall become enforceable and the Lender shall be entitled to exercise and enforce any or all of the remedies herein provided or which may otherwise be available to the Lender by statute at law or in equity and all amounts secured hereby shall immediately be paid to the Lender by the Corporation.

### **SECTION 6 - REMEDIES ON DEFAULT**

If the security interests hereby constituted become enforceable, the Lender shall have, in addition to any other rights, remedies and powers which it may have at law, in equity or under the PPSA,

the Civil Code of Quebec (the "CCQ") or the Uniform Commercial Code (the "Code") (whether or not the CCQ or the Code applies to the affected Collateral) and such additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted, including the right, to the fullest extent permitted by law, to exercise all voting, consensual and other powers of ownership pertaining to the Collateral as if the Lender were the sole and absolute owner thereof (and the Corporation agrees to take all such action as may be appropriate to give effect to such right), the following rights, remedies and powers:

#### **6.1 Power of Entry**

The Corporation shall forthwith upon demand assemble and deliver to the Lender possession of all of the Collateral at such place or places as may be specified by the Lender. The Lender may take such steps as it considers necessary or desirable to obtain possession of all or any part of the Collateral and, to that end, the Corporation agrees that the Lender, its servants or agents or Receiver (as hereinafter defined) may, at any time, during the day or night, enter upon lands and premises where the Collateral may be found for the purpose of taking possession of and/or removing the Collateral or any part thereof. In the event of the Lender taking possession of the Collateral, or any part thereof, the Lender shall have the right to maintain the same upon the premises on which the Collateral may then be situate. The Lender may take such action or do such things as to render any Equipment unusable.

#### **6.2 Power of Sale**

The Lender may sell, lease or otherwise dispose of all or any part of the Collateral, as a whole or in separate parcels, by public auction, private tender or by private contract, with or without notice, except as otherwise required by applicable law, with or without advertising and without any other formality, all of which are hereby waived by the Corporation to the extent permitted by applicable law. Such sale, lease or disposition shall be on such terms and conditions as to credit and otherwise and as to upset or reserve bid or price as the Lender, in its sole discretion, may seem advantageous. If such sale, transfer or disposition is made on credit or part cash and part credit, the Lender need only credit against the Obligations the actual cash received at the time of the sale. Any payments made pursuant to any credit granted at the time of the sale shall be credited against the Obligations as they are received. The Lender may buy in or rescind or vary any contract for sale of all or any of the Collateral and may resell without being answerable for any loss occasioned thereby. Any such sale, lease or disposition may take place whether or not the Lender has taken possession of the Collateral. The Lender may, before any such sale, lease or disposition, perform any commercially reasonable repair, processing or preparation for disposition and the amount so paid or expended shall be deemed advanced to the Corporation by the Lender, shall become part of the Obligations, shall bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

#### **6.3 Validity of Sale**

No person dealing with the Lender or its servants shall be concerned to inquire whether the security hereby constituted has become enforceable, whether the powers which the Lender is purporting to exercise have become exercisable, whether any money remains due on the security of the Collateral, as to the necessity or expedience of the stipulations and conditions subject to



which any sale, lease or disposition shall be made, otherwise as to the propriety or regularity of any sale or any other dealing by the Lender with the Collateral or to see to the application of any money paid to the Lender. In the absence of fraud on the part of such persons, such dealings shall be deemed, so far as regards the safety and protection of such person, to be within the powers hereby conferred and to be valid and effective accordingly.

#### **6.4 Receiver-Manager**

The Lender may, in addition to any other rights it may have, appoint by instrument in writing a receiver or receiver and manager (both of which are herein called a "Receiver") of all or any part of the Collateral or may institute proceedings in any court of competent jurisdiction for the appointment of such a Receiver. Any such Receiver is hereby given and shall have the same powers and rights and exclusions and limitations of liability as the Lender has under this General Security Agreement, at law or in equity. In exercising any such powers, any such Receiver shall, to the extent permitted by law, act as and for all purposes shall be deemed to be the agent of the Corporation and the Lender shall not be responsible for any act or default of any such Receiver. The Lender may appoint one or more Receivers hereunder and may remove any such Receiver or Receivers and appoint another or others in his or their stead from time to time. Any Receiver so appointed may be an officer or employee of the Lender. A court need not appoint, ratify the appointment by the Lender of or otherwise supervise in any manner the actions of any Receiver. Upon the Corporation receiving notice from the Lender of the taking of possession of the Collateral or the appointment of a Receiver, all powers, functions, rights and privileges of each of the directors and officers of the Corporation with respect to the Collateral shall cease, unless specifically continued by the written consent of the Lender.

#### **6.5 Carrying on Business**

The Lender may carry on, or concur in the carrying on of, all or any part of the business or undertaking of the Corporation, may, to the exclusion of all others, including the Corporation, enter upon, occupy and use all or any of the premises, buildings, plant and undertaking of or occupied or used by the Corporation and may use all or any of the tools, machinery, equipment and intangibles of the Corporation for such time as the Lender sees fit, free of charge, to carry on the business of the Corporation and, if applicable, to manufacture or complete the manufacture of any Inventory and to pack and ship the finished product.

#### **6.6 Dealing with Collateral**

- (a) The Lender may seize, collect, realize, dispose of, enforce, release to third parties or otherwise deal with the Collateral or any part thereof in such manner; upon such terms and conditions and at such time or times as may seem to it advisable, all of which without notice to the Corporation except as otherwise required by any applicable law. The Lender may, but shall not be obligated to, in its name or in the name of the Corporation or otherwise, demand, sue for, collect and receive any Collateral and with or without notice to the Corporation, give such receipts, discharges and extensions of time and make such compromises or settlements deemed desirable with respect to any of the Collateral. The Lender may charge on its own behalf and pay to others, sums for costs and expenses incurred including, without limitation, legal fees and expenses on a solicitor and his own client scale and Receivers' and accounting fees, in or in connection with seizing, collecting,



realizing, disposing, enforcing or otherwise dealing with the Collateral and in connection with the protection and enforcement of the rights of the Lender hereunder including, without limitation, in connection with advice with respect to any of the foregoing. The amount of such sums shall be deemed advanced to the Corporation by the Lender, shall become part of the Obligations, shall bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

- (b) Without limitation to the foregoing, the Lender may require the Corporation to cause any Collateral that is investment property to be transferred of record into the name of the Lender or its nominee (and the Lender agrees that if any such investment property is transferred into its name or the name of its nominee, the Lender will thereafter promptly give to the Corporation copies of any notices and communications received by it with respect to investment property). The Lender may exercise any and all rights, privileges, entitlements and options pertaining to any Collateral that is investment property as if the Lender were the absolute owner of such investment property.
- (c) To the extent that applicable law imposes duties on the Lender to exercise remedies in a commercially reasonable manner, and without prejudice to the ability of the Lender to dispose of the Collateral in any such manner, the Corporation acknowledges and agrees that it is not commercially unreasonable for the Lender (i) to incur expenses reasonably deemed significant by the Lender to prepare the Collateral for disposition, (ii) to fail to obtain third party consents for access to the Collateral to be disposed of, (iii) to fail to exercise collection remedies against account debtors obligated on the Collateral or to remove Liens against the Collateral, (iv) to exercise collection remedies against the Corporation directly or through the use of collection agencies, (v) to dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (vi) to contact other Persons, whether or not in the same business of the Corporation, for expressions of interest in acquiring all or any portion of the Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature or an upset or reserve bid or price is established, and (viii) to dispose of Collateral in whole or in part.
- (d) The Lender is authorized, in connection with any offer or sale of any Pledged Securities or any Collateral that is a security entitlement ("**Security Entitlements**"), to comply with any limitation or restriction as it may be advised by counsel is necessary to comply with applicable law, including compliance with procedures that may restrict the number of prospective bidders and purchasers, requiring that prospective bidders and purchasers have certain qualifications, and restricting prospective bidders and purchasers to Persons who will represent and agree that they are purchasing for their own account or investment and not with a view to the distribution or resale of such Pledged Securities or Security Entitlements. The Corporation further agrees that compliance with any such limitation or restriction will not result in a sale being considered or deemed not to have been made in a commercially reasonable manner, and the Lender will not be

liable or accountable to the Corporation for any discount allowed by reason of the fact that such Pledged Securities or Security Entitlements are sold in compliance with any such limitation or restriction. If the Lender chooses to exercise its right to sell any or all Pledged Securities or Security Entitlements, upon written request, the Corporation will cause each applicable issuer to furnish to the Lender all such information as the Lender may request in order to determine the number of shares and other instruments included in the Collateral which may be sold by the Lender in exempt transactions under any laws governing securities, and the rules and regulations of any applicable securities regulatory thereunder, as the same are from time to time in effect.

- (e) The Corporation agrees that to the extent the Lender is required by applicable law to give reasonable prior notice of any sale or other disposition of any Collateral, fifteen (15) days' notice shall be deemed to constitute reasonable prior notice.

#### **6.7 Right to Use**

- (a) The Corporation hereby grants to the Lender an irrevocable, non exclusive license (exercisable upon the occurrence and during the continuance of an Event of Default without payment of royalty or other compensation to the Corporation) (each a "Granted Licence") to use, assign, license, or sublicense all of the Corporation's present and future property, whether real or personal, including, without limitation, labels, Intellectual Property and advertising matter, or any other property of any nature or of a similar nature, and all reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof, as it pertains to the Collateral, in completing production of, advertising for sale, and selling of any Collateral and the Corporation's rights under all licenses and all franchise agreements shall inure to the Lender.
- (b) To the extent that and for so long as the Corporation is expressly prohibited by any agreement to which it is a party from granting a Granted Licence the Granted License shall not apply or attach to that agreement but the Corporation shall hold its interest in the right to use, assign, license or sublicense the property in respect of which the grant of a Granted License is expressly prohibited, in trust for the Lender.

#### **6.8 Retention of Collateral**

Upon notice to the Corporation and subject to any obligation to dispose of any of the Collateral, as provided in the PPSA, the Lender may elect to retain all or any part of the Collateral in satisfaction of the Obligations or any of them.

#### **6.9 Pay Encumbrances**

The Lender may pay any encumbrance that may exist or be threatened against the Collateral. In addition, the Lender may borrow money required for the maintenance, preservation or protection of the Collateral or for the carrying on of the business or undertaking of the Corporation and may grant further security interests in the Collateral in priority to the security interest created hereby

as security for the money so borrowed. In every such case the amounts so paid or borrowed together with costs, charges and expenses incurred in connection therewith shall be deemed to have been advanced to the Corporation by the Lender, shall become part of the Obligations, shall bear interest at the highest rate per annum charged by the Lender on the Obligations or any part thereof and shall be secured by this General Security Agreement.

#### **6.10 Application of Payments Against Obligations**

Any and all payments made in respect of the Obligations from time to time and moneys realized on the Collateral may be applied to such part or parts of the Obligations as the Lender may see fit. The Lender shall, at all times and from time to time, have the right to change any appropriation as it may see fit. Any insurance moneys received by the Lender pursuant to this General Security Agreement may, at the option of the Lender, be applied to rebuilding or repairing the Collateral or be applied against the Obligations in accordance with the provisions of this Section.

#### **6.11 Set-Off**

The Obligations will be paid by the Corporation without regard to any equities between the Corporation and the Lender or any right of set-off or cross-claim. Any indebtedness owing by the Lender to the Corporation may be set off and applied by the Lender against the Obligations at any time or from time to time either before or after maturity, without demand upon or notice to anyone.

#### **6.12 Deficiency**

If the proceeds of the realization of the Collateral are insufficient to repay the Lender all monies due to it, the Corporation shall forthwith pay or cause to be paid to the Lender such deficiency.

#### **6.13 Lender Not Liable**

The Lender shall not be liable or accountable for any failure to seize, collect, realize, dispose of, enforce or otherwise deal with the Collateral, shall not be bound to institute proceedings for any such purposes or for the purpose of preserving any rights of the Lender, the Corporation or any other Person in respect of the Collateral and shall not be liable or responsible for any loss, cost or damage whatsoever which may arise in respect of any such failure, including, without limitation, any loss, cost or damage resulting from the negligence of the Lender or any of its officers, servants, partners, employees, agents, solicitors, attorneys, Receivers or otherwise. Neither the Lender nor any of its partners, officers, employees, servants, agents, or Receivers shall be liable by reason of any entry into possession of the Collateral or any part thereof, to account as a mortgagee in possession, for anything except actual receipts, for any loss on realization, for any act or omission for which a mortgagee in possession might be liable, for any negligence in the carrying on or occupation of the business or undertaking of the Corporation as provided in Section 6.5 or for any loss, cost, damage or expense whatsoever which may arise in respect of any such actions, omissions or negligence.

#### **6.14 Extensions of Time**

The Lender may grant renewals, extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, perfect or fail to perfect any securities, release any part of the Collateral to third parties and otherwise deal or fail to deal with the Corporation, Subsidiaries of the Corporation, guarantors, sureties and others and with the Collateral and other securities as the Lender may see fit, all without prejudice to the liability of the Corporation to the Lender or the Lender's rights and powers under this General Security Agreement.

#### **6.15 Rights in Addition**

The rights and powers conferred by this Section 6 are in supplement of and in addition to and not in substitution for any other rights or powers the Lender may have from time to time under this General Security Agreement or under applicable law. The Lender may proceed by way of any action, suit, remedy or other proceeding at law or in equity and no such remedy for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other such remedy. Any one or more of such remedies may from time to time be exercised separately or in combination. The Corporation recognizes that if it fails to perform or observe its obligations hereunder, no remedy at law will provide adequate relief to the Lender, and the Corporation agrees that the Lender shall be entitled to seek temporary and permanent injunctive relief in any such case without the necessity of proving irreparable harm.

### **SECTION 7 – DEALING WITH COLLATERAL BY THE CORPORATION**

#### **7.1 Sale of Inventory**

Prior to the occurrence of a Default, the Corporation shall be entitled to deal with the Collateral in the ordinary course of business, provided that, no such action shall be taken which would impair the validity, effectiveness, perfection or priority of the security interest created by this General Security Agreement or which would result in a Default. For greater certainty, the Corporation may, in the ordinary course of its business and on customary trade terms, lease or sell items of Inventory, so that the purchaser thereof takes title clear of the security interest hereby created. If such sale or lease results in an Account Receivable, such Account Receivable shall be subject to the security interest hereby created.

### **SECTION 8 – GENERAL**

#### **8.1 Security in Addition**

The security hereby constituted is not in substitution for any other security for the Obligations or for any other agreement between the parties creating a security interest in all or part of the Collateral, whether heretofore or hereafter made, and such security and such agreements shall be deemed to be continued and not affected hereby unless expressly provided to the contrary in writing and signed by the Lender and the Corporation. The taking of any action or proceedings or refraining from so doing, or any other dealing with any other security for the Obligations or any part thereof, shall not release or affect the security interest created by this General Security Agreement and the taking of the security interest hereby created or any proceedings hereunder

for the realization of the security interest hereby created shall not release or affect any other security held by the Lender for the repayment of or performance of the Obligations.

## **8.2 Waiver**

Any waiver of a breach by the Corporation of any of the terms or provisions of this General Security Agreement or of a Default under Section 5.1 hereof must be in writing to be effective against and bind the Lender. No such waiver by the Lender shall extend to or be taken in any manner to affect any subsequent breach or Default or the rights of the Lender arising therefrom.

## **8.3 Further Assurances**

The Corporation shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, conveyances, instruments, transfers, assignments, security agreements and assurances as the Lender may reasonably require in order to give effect to the provisions and purposes of this General Security Agreement including, without limitation, in respect of the Lender's enforcement of the security and its realization on the Collateral, and for the better granting, transferring, assigning, charging, setting over, assuring, confirming and/or perfecting the security interest of the Lender in the Collateral pursuant to this General Security Agreement. Effective upon the occurrence and during the continuance of a Default, the Corporation hereby constitutes and appoints any officer of the Lender at its above address, or any Receiver appointed by the court or the Lender as provided herein, the true and lawful attorney of the Corporation irrevocably with full power of substitution to do, make and execute all such assignments, documents, acts, matters or things with the right to use the name of the Corporation whenever and wherever it may be deemed necessary or expedient in connection with the exercise of its rights and remedies set forth in this General Security Agreement. Without limiting the generality of the foregoing, so long as the Lender shall be entitled under Section 6 to make collections in respect of the Collateral, the Lender shall have the right and power to receive, endorse and collect all cheques payable to the order of the Corporation representing any dividend, payment or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same. The Corporation hereby authorizes the Lender to file such proofs of claim and other documents as may be necessary or advisable in order to prove its claim in any bankruptcy, proposed winding-up or other proceeding relating to the Corporation.

Without limiting the generality of the foregoing, the Corporation:

- (a) shall at all times after the occurrence of a Default mark conspicuously each chattel paper evidencing or relating to Accounts Receivable and each related contract and, at the request of the Lender, each of its records pertaining to the Collateral with a legend, in form and substance satisfactory to the Lender, indicating that such chattel paper, related contract or Collateral is subject to the security interests granted hereby;
- (b) shall, if any Accounts Receivable shall be evidenced by a promissory note or other instrument or chattel paper, deliver and pledge to the Lender hereunder such note, instrument or chattel paper duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Lender;

- (c) shall execute, deliver, file, record, authorize or obtain all such financing statements, continuation statements, notices, instruments, documents, agreements, consents, or other papers or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Lender may request, in order to create, preserve, perfect, maintain the perfection of, or validate the security interest granted or purported to be granted hereby, or to enable the Lender to exercise and enforce its rights hereunder with respect to such security interest and, without limiting the foregoing, shall:
- (i) deliver and pledge to the Lender any and all chattel paper representing Collateral duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Lender;
  - (ii) deliver to the Lender any and all certificates representing Collateral that is a certificated security (the "Pledged Certificated Securities") and other materials as may be required from time to time to provide the Lender with control over all Pledged Certificated Securities in the manner provided under Section 23 of the STA, and at the request of the Lender, will cause all Pledged Certificated Securities to be registered in the name of the Lender or its nominee;
  - (iii) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is an uncertificated security in the manner provided under Section 24 of the STA;
  - (iv) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is a security entitlement in the manner provided under Section 25 or 26 of the STA;
  - (v) deliver to the Lender any and all such documents, agreements and other materials as may be required from time to time to provide the Lender with control over all Collateral that is a futures contract in the manner provided under subsection 1(2) of the PPSA;
  - (vi) promptly from time to time upon request by the Lender enter into such control agreements, each in form and substance reasonably acceptable to the Lender, as may be required to perfect the security interest created hereby in any and all investment property, and will promptly furnish to the Lender true and complete copies thereof;
  - (vii) promptly from time to time upon the request of the Lender, execute and deliver such short-form security agreements as the Lender may reasonably deem necessary or desirable to protect the interests of the Lender in respect of that portion of the Collateral consisting of intellectual property;

- (viii) promptly upon request of the Lender, with respect to any securities issued by an issuer that is organized outside of Canada, cause to be delivered to the Lender a securities pledge agreement covering such securities; and
- (ix) keep full and accurate books and records relating to the Collateral, and stamp or otherwise mark such books and records in such manner as the Lender may reasonably require in order to reflect the security interests granted by this Agreement.
- (d) hereby authorizes the Lender to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of the Corporation, where permitted by law; and
- (e) shall furnish to the Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Lender may request, all in reasonable detail.

#### **8.4 No Merger**

Neither the taking of any judgment nor the exercise of any power of seizure or sale shall operate to extinguish the liability of the Corporation to make payment of or satisfy the Obligations. The acceptance of any payment or alternate security shall not constitute or create any novation and the taking of a judgment or judgments under any of the covenants herein contained shall not operate as a merger of such covenants.

#### **8.5 Notices**

All notices, demands, and other communications made in respect of this Agreement shall be made to the following addresses, each of which may be changed upon seven (7) days written notice to all others given by registered mail, return receipt requested:

If to the Lender:

ROYAL BANK OF CANADA  
200 Bay Street,  
Royal Bank Plaza, South Tower, 30<sup>th</sup> Floor  
Toronto, Ontario, M5J 2J5

Attention: Portfolio Manager  
Fax: 416.842.5844

With a copy to:

Norton Rose OR LLP  
200 Bay Street, Suite 3800  
Royal Bank Plaza, South Tower  
Toronto, Ontario, Canada M5J 2Z4

Attention: Kevin Morley/James Padwick  
Fax: 416 216 1900/416 216 1912

If to the Corporation:

MARNLEN MANAGEMENT LTD.  
400 Cochrane Drive  
Markham, Ontario L3R 8E3

Attention: President  
Fax No.: (905) 475-3935

#### **8.6 Notice Given**

- (a) Except as otherwise specifically provided herein, notices shall be deemed made and correspondence received, as follows (all times being local to the place of delivery or receipt):
  - (i) By recognized overnight express delivery: the Business Day following the day when sent.
  - (ii) By Hand: If delivered on a Business Day after 9:00 a.m. and no later than Three (3) hours prior to the close of customary business hours of the recipient, when delivered. Otherwise, at the opening of the then next Business Day.
  - (iii) By Facsimile transmission (which must include a header on which the party sending such transmission is indicated): If sent on a Business Day after 9:00 a.m. and no later than Three (3) hours prior to the close of customary business hours of the recipient, one (1) hour after being sent. Otherwise, at the opening of the then next Business Day.
- (b) Rejection or refusal to accept delivery and inability to deliver because of a changed address or facsimile number for which no due notice was given shall each be deemed receipt of the notice sent.

#### **8.7 Continuing Security Interest and Discharge**

This General Security Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until payment and performance in full of the Obligations and the termination of the Loan Agreement, notwithstanding any dealing between the Lender and the Corporation in respect of the Obligations or any release, exchange, non-perfection, amendment, waiver, consent or departure from or in respect of any or all of the terms or provision of any security held for the Obligations.

If the Corporation pays to the Lender the Obligations secured by this General Security Agreement and otherwise observes and performs the terms and conditions hereof, then the Lender shall at the request and at the expense of the Corporation promptly release and discharge



the security interest created hereby and execute and deliver to the Corporation such deeds and other instruments as shall be requisite therefor.

#### **8.8 Governing Law**

This General Security Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, except as required by mandatory provisions of law and except to the extent that the validity or perfection of the security interests hereunder, or remedies hereunder, in respect of any particular Collateral are governed by the laws of a jurisdiction other than the Province of Ontario.

ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE PROVINCE OF ONTARIO OR OF THE FEDERAL COURTS OF CANADA THEREIN, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE CORPORATION CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE CORPORATION IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION OR ANY OTHER JURISDICTION SELECTED BY THE LENDER IN RESPECT OF THIS AGREEMENT. THE CORPORATION WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF ONTARIO.

The parties hereto hereby waive trial by jury in any action, proceeding, claim or counterclaim, whether in contract or tort, at law or in equity with respect to, in connection with, or arising out of this General Security Agreement, other financing agreements, the obligations of the Borrowers and the Corporation, the Collateral, or any instrument, document or guarantee delivered pursuant hereto or to any of the foregoing, or the validity, protection, interpretation, administration, collection or enforcement hereof or thereof, or any other claim or dispute hereunder or thereunder. The Corporation agrees that it will not assert against the Lender any claim for consequential, incidental, special, or punitive damages in connection with this General Security Agreement or the transactions contemplated hereby or thereby. No officer of the Lender has authority to waive, condition, or modify this provision.

#### **8.9 Security Interest Effective Immediately**

Neither the execution or registration of this General Security Agreement or any partial advances by the Lender shall bind the Lender to advance any other amounts to the Corporation. The parties intend the security interest created hereby to attach and take effect forthwith upon execution of this General Security Agreement by the Corporation and the Corporation acknowledges that value has been given and that the Corporation has rights in the Collateral.

#### **8.10 No Collateral Warranties**

There is no representation, warranty or collateral agreement affecting this General Security Agreement or the Collateral, other than as expressed herein in writing.

**8.11 Joint and Several Liability**

If more than one person executes this General Security Agreement as guarantor, their obligations under this General Security Agreement shall be joint and several.

**8.12 Provisions Reasonable**

The Corporation expressly acknowledges and agrees that the provisions of this General Security Agreement and, in particular, those respecting remedies and powers of the Lender against the Corporation, its business and the Collateral upon default, are commercially reasonable and not manifestly unreasonable.

**8.13 Number and Gender**

In this General Security Agreement, words importing the singular number include the plural and vice-versa and words importing gender include all genders.

**8.14 Invalidity**

In the event that any term or provision of this General Security Agreement shall, to any extent, be invalid or unenforceable, the remaining terms and provisions of this General Security Agreement shall be unaffected thereby and shall be valid and enforceable to the fullest extent permitted by law.

**8.15 Precedence**

In the event that any provisions of this General Security Agreement contradict, are inconsistent with and are otherwise incapable of being construed in conjunction with the provisions (including any rights, remedies and covenants therein) of the Loan Agreement, the provisions of the Loan Agreement, as applicable, shall take precedence over those contained in this General Security Agreement and, in particular, if any act of the Corporation is expressly permitted under the Loan Agreement but is prohibited under this General Security Agreement, any such act shall be deemed to be permitted under this General Security Agreement.

**8.16 Judgement Currency**

If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "**Original Currency**") into another currency (the "**Second Currency**"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the Lender could purchase in the New York foreign exchange market, the Original Currency with the Second Currency on the date two (2) Business Days preceding that on which judgment is given. The Corporation agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date the Lender receives payment of any sum so adjudged to be due hereunder in the Second Currency, the Lender may, in accordance with normal banking procedures, purchase, in the New York foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency, the Corporation agrees

as a separate obligation and notwithstanding any such payment or judgment to indemnify the Lender against such loss. The term "rate of exchange" in this Section 8.16 means the spot rate at which the Lender, in accordance with normal practices, is able on the relevant date to purchase the Original Currency with the Second Currency, and includes any premium and costs of exchange payable in connection with such purchase.

**8.17 Sections and Headings**

The division of this General Security Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

**8.18 Receipt of Copy**

The Corporation acknowledges receipt of an executed copy of this General Security Agreement.

**8.19 Assignment**

The obligations of the Corporation under this General Security Agreement are not assignable to any other Person without the prior written consent of the Lender. The Lender may, to the extent permitted under the Loan Agreement, at any time, assign or transfer all or any of its rights and benefits hereunder to one or more Persons without the prior written consent of, but on notice to, the Corporation.

**8.20 Binding Effect**

All rights of the Lender hereunder shall enure to the benefit of its successors and assigns and all obligations of the Corporation hereunder shall bind the Corporation and its successors and permitted assigns.

*The remainder of this page is intentionally left blank*

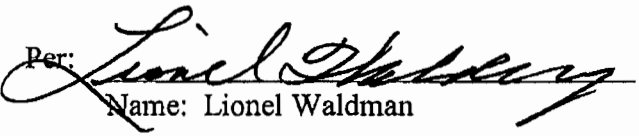
The parties hereto acknowledge that they have requested and are satisfied that the foregoing, as well as all notices, actions and legal proceedings be drawn up in the English language.

Les parties à cette convention reconnaissent qu'elles ont exigé que ce qui précède ainsi que tous avis, actions et procédures légales soient rédigés et exécutés en anglais et s'en déclarent satisfaites.

IN WITNESS WHEREOF the Corporation has duly executed this General Security Agreement as of this 14<sup>th</sup> day of July, 2011.

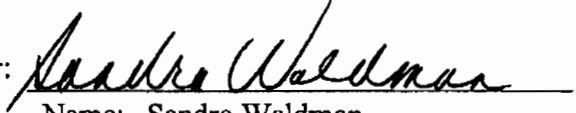
**MARNLEN MANAGEMENT LTD.**

Per:

  
Name: Lionel Waldman

Title: President

Per:

  
Name: Sandra Waldman

Title: Secretary & Treasurer