

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE PHARMACEUTICALS LLC**

(the "Applicants")

**MOTION RECORD  
(Motion for ARIO and SISP Approval Order)  
Returnable December 22, 2023**

December 18, 2023

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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CONTRACT PHARMACEUTICALS LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE  
PHARMACEUTICALS LLC**

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(As at December 18, 2023)**

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(the “Applicants”)

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Applicants

**NOTICE OF MOTION  
(Motion for ARIO and SISP Approval Order)  
Returnable December 22, 2023**

Contract Pharmaceuticals Limited (“**CPL**”), CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada (“**CPL Canada**”), Glasshouse Pharmaceuticals Limited Canada, and Glasshouse Pharmaceuticals LLC (collectively, the “**Applicants**” or the “**Company**”) will bring a motion before the Honourable Justice Penny of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Friday, December 22, 2023, at 10:00am (Toronto time), or as soon thereafter as the Motion can be heard.

**PROPOSED METHOD OF HEARING:**

- In writing under subrule 37.12.1 (1);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference;

at a Zoom link to be made available by the Court and posted to CaseLines in advance of the Hearing. Please contact [eaxell@goodmans.ca](mailto:eaxell@goodmans.ca) in order to be provided with access to the matter on CaseLines.

**THIS MOTION IS FOR:<sup>1</sup>**

1. An Amended and Restated Initial Order (the “**ARIO**”), substantially in the form attached at Tab 3 of the Applicants’ Motion Record (the “**Motion Record**”), amending and restating the Initial Order granted by the Court on December 15, 2023 (the “**Initial Order**”), among other things:

- (a) extending the Stay Period (as defined in the Initial Order) until and including March 22, 2024;
- (b) increasing the maximum principal amount that the Applicants can borrow under the DIP Loan to \$6,000,000;
- (c) increasing the amount of the Charges (as defined below), as follows:
  - (i) increasing the Administration Charge to CA\$600,000;
  - (ii) increasing the Directors’ Charge to CA\$2,306,000; and
  - (iii) increasing the DIP Lender’s Charge to \$6,000,000, plus interest, fees and expenses payable in accordance with the DIP Term Sheet;
- (d) approving a Key Employee Retention Plan (the “**KERP**”), authorizing the Applicants to make payments in accordance with the terms of the KERP, and granting the related KERP Charge, to a maximum amount of CA\$998,311, ranking

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<sup>1</sup> All capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Affidavit of Jan Sahai sworn December 14, 2023 (the “**Sahai Affidavit**”). Unless otherwise stated, all monetary amounts referenced herein are in U.S. dollars.



subordinate to the Administration Charge and the Directors' Charge, and in priority to the Financial Advisor Charge (if granted) and the DIP Lender's Charge;

- (e) sealing the Confidential Appendix to the First Report of the Monitor providing further details of the KERP until further Order of the Court; and
  - (f) approving the engagement of the Financial Advisor *nunc pro tunc* and granting the related Financial Advisor Charge, which shall rank subordinate to the Administration Charge, the Directors' Charge, and the KERP Charge, and in priority to the DIP Lender's Charge.
2. A Sale and Investment Solicitation Process Approval Order (the "**SISP Approval Order**"), substantially in the form attached at Tab 4 of the Motion Record, among other things:
- (a) approving the sale and investment solicitation process (the "**SISP**") in respect of the Company's business attached as Schedule "A" to the SISP Approval Order; and
  - (b) authorizing and directing the Applicants, the Financial Advisor, and the Monitor to implement the SISP pursuant to the terms thereof, and authorizing and directing the Applicants, the Financial Advisor and the Monitor to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder.
3. Such further and other relief as counsel may advise, and this Court may deem just.

**THIS GROUNDS FOR THIS MOTION ARE:****BACKGROUND**

4. Headquartered in Mississauga, Ontario with nearly 300 employees, the Company is in the business of developing, manufacturing, packaging and testing non-sterile liquid and semi-solid pharmaceutical and regulated over-the-counter products. The Company's core business is that of CPL Canada, an industry-leading contract development and manufacturing organization.

5. For years, the Company achieved consistent revenue and profitability from the CPL Business. However, in 2016, the Company shifted its business strategy to focus on top line revenue growth and began exploring new product lines such as generic drugs. Glasshouse was established to operate the Company's generic pharmaceuticals business. Unfortunately, Glasshouse suffered losses since its inception, which eroded the Company's margins, distracted from its core business and has left the Company with a significant legacy debt burden.

6. Despite operational restructuring efforts (including winding-down the Glasshouse Business and divesting related assets) and the financial support of its shareholders (who injected \$7.05 million of additional equity financing in 2022 and 2023), the Company remains burdened by the interest expense of its debt obligations and suppressed availability under its operating line of credit, which has led to increasingly constrained liquidity. In addition, the Company has funded debt obligations totaling in excess of \$38 million, most of which have now either matured, are in default and/or are payable on demand.

7. In light of these circumstances, beginning in February 2023, the Company, with the assistance of its financial advisors, began to explore strategic alternatives. The Company's efforts did not result in a definitive transaction that could be achieved in the time available to the Company given its financial constraints. Accordingly, facing imminent liquidity challenges and burdened by

their debt obligations, on December 15, 2023, the Applicants commenced these proceedings and obtained protection pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") pursuant to the Initial Order.

8. The Initial Order, among other things: (a) appointed KSV Restructuring Inc. as Monitor of the Applicants (in such capacity, the "**Monitor**"); (b) granted an initial stay of proceedings until and including December 22, 2023; (c) authorized the Applicants to enter into the DIP Term Sheet with Deerfield, the Company's largest secured creditor, and to obtain and borrow under and provide guarantees of the DIP Loan (as the case may be), provided that borrowings under the DIP Loan did not exceed \$1,500,000 unless permitted by further Order of the Court; (d) authorized CPL to act as the foreign representative and to apply for foreign recognition and approval of these CCAA proceedings, as necessary, in any jurisdiction outside of Canada, including the United States; and (e) granted the following charges against the Property (the "**Charges**"), in the following initial amounts and priority: (i) the Administration Charge (to the maximum amount of CA\$375,000); (ii) the Directors' Charge (to the maximum amount of CA\$1,801,000); and (iii) the DIP Lender's Charge (to the maximum amount of \$1,500,000, plus interest, fees and expenses).

9. Additional background regarding the Applicants and these CCAA proceedings, including the relief requested in this Motion, is set out in the Sahai Affidavit.

#### **AMENDED AND RESTATED INITIAL ORDER**

##### ***DIP Loan Increase and Increase to the DIP Lenders' Charge***

10. In connection with the commencement of these CCAA proceedings, the Applicants entered into the DIP Term Sheet with Deerfield, as the DIP Lender.

11. Pursuant to the DIP Term Sheet, the DIP Lender agreed to make the DIP Loan in the maximum principal amount of \$6,000,000 available to the Applicants.
12. The Initial Order authorized the Applicants to borrow under the DIP Term Sheet, up to a maximum amount of \$1,500,000 (unless permitted by further Order of the Court).
13. Pursuant to the ARIO, the Applicants seek to increase the maximum amount that they can borrow under the DIP Term Sheet to \$6,000,000, being the maximum principal amount of the DIP Loan.
14. Given their financial circumstances, the Applicants require access to the full amount of the DIP Loan to provide them with the necessary funding to continue their business and operations and to advance their restructuring efforts, including the implementation of the SISP. Without access to the additional availability under the DIP Loan, the Applicants will be unable to continue their business and operations and to pursue their restructuring efforts.
15. The ARIO proposes to increase the amount of the DIP Lender's Charge to \$6,000,000 (plus interest, fees and expenses) so that it is commensurate with the maximum borrowings under the DIP Loan. It is a condition to further advances under the DIP Term Sheet that the DIP Lender's Charge be so increased.

***Increase to the Administration Charge and Directors' Charge***

16. Pursuant to the Initial Order, the Court granted an Administration Charge in the amount of CA\$375,000, in favour of the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements), and a Directors' Charge in the amount of CA\$1,801,000 in favour of the Applicants' directors and officers.

17. The quantum of the Administration Charge and the Directors' Charge under the Initial Order was determined in consultation with the Monitor and limited to the amount required in the initial Stay Period.

18. The Company proposes to increase the Administration Charge to CA\$600,000 and the Directors' Charge to CA\$2,306,000 pursuant to the ARIO, in each case based on the increased period the Company will be subject to these proceedings and based on amounts determined in consultation with the Monitor. The proposed increases will ensure the continued participation of the beneficiaries of the Administration Charge and the Directors' Charge, who will continue to contribute to these CCAA proceedings and the Applicants' overall restructuring efforts.

***Approval of the KERP***

19. The retention of key employees is of vital importance to the Applicants during these CCAA proceedings. The Applicants, with the assistance of the Monitor, have developed the KERP to facilitate and encourage the continued participation of such employees during these CCAA proceedings.

20. Pursuant to the terms of the KERP, certain key employees who remain in the employment of the Company through the completion of a transaction identified through these CCAA proceedings will be eligible to receive a retention bonus, subject to certain conditions.

21. The maximum aggregate retention bonuses payable pursuant to the KERP total CA\$998,311. The proposed ARIO contemplates that amounts owing under the KERP would be secured by the KERP Charge, which shall rank subordinate to the Administration Charge and the Directors' Charge, and in priority to the Financial Advisor Charge (if granted) and the DIP Lender's Charge.

22. The Confidential Appendix to the First Report will contain a confidential summary of the KERP, including individual compensation information, which the Applicants seek to have sealed. There is a public interest in protecting sensitive personal compensation information and, as a matter of proportionality, the benefits of the proposed sealing outweigh any potential negative effects, including because the overall potential cost of the KERP has been disclosed to stakeholders.

***Approval of Financial Advisor Engagement and Financial Advisor Charge***

23. The Applicants are seeking approval of the retention of the Financial Advisor, who will play an active role in implementing the SISP. The Applicants also seek the granting of the related Financial Advisor Charge to secure the payment of the Transaction Fee, which shall become due and payable pursuant to the terms of the Financial Advisor's engagement letter. It is proposed that the Financial Advisor Charge shall rank subordinate to the Administration Charge, the Directors' Charge, and the KERP Charge, and in priority to the DIP Lender's Charge.

***Stay Extension***

24. The Initial Order granted a stay of proceedings until and including December 22, 2023, or such later date as this Court may order. The Applicants are seeking to extend the Stay Period until and including March 22, 2024, to align with the date by which Court-approval of a transaction is contemplated under the SISP.

25. Since the granting of the Initial Order, the Applicants, in consultation and with the assistance of the Monitor, have been acting and continue to act in good faith and with due diligence in these CCAA proceedings to stabilize their business and operations and to advance their restructuring efforts. The Applicants and their advisors have been in contact with various

stakeholders, including customers, suppliers, and employees, to notify them of these CCAA proceedings and/or to respond to inquiries.

26. Extending the Stay Period will preserve the *status quo* and allow the Applicants to continue operations as they pursue restructuring efforts, including to implement the SISP (if approved) and return to Court to seek approval of any transaction in connection therewith.

27. It is just and convenient and in the interests of the Applicants and their stakeholders that the Stay Period be extended until and including March 22, 2024.

28. Subject to the granting of the ARIO and the increase to the DIP Loan, the Applicants are expected to have sufficient financing to fund their normal course obligations and the costs of these CCAA proceedings through to the end of the extended Stay Period.

29. The requested extension of the Stay Period until and including March 22, 2024, is supported by the Monitor and the DIP Lender.

## **SISP APPROVAL ORDER**

### ***SISP***

30. The Applicants are seeking approval of the proposed SISP, which authorizes the Applicants, with the assistance of the Financial Advisor and under the oversight of the Monitor, to solicit binding bids from interested parties for a refinancing, sale or other strategic investment or transaction involving the business, assets and/or equity of the Applicants.

31. The proposed SISP must commence by no later than January 8, 2024, provided that the Applicants and the Financial Advisor, in consultation with the Monitor, shall be at liberty to

provide marketing materials and commence discussions with interested parties prior to such date as they consider appropriate.

32. The Applicants developed the proposed SISP in consultation with their professional advisors including the Financial Advisor, the Monitor, and the DIP Lender, in order to build on the marketing process that began pre-filing. The SISP provides for a fair and reasonable process that will adequately canvass the market to identify the best available transaction, while simultaneously protecting against the burdens of an extended CCAA proceeding.

33. The Monitor and the DIP Lender support the request to approve and implement the SISP.

**Other Grounds:**

34. The circumstances that exist make the ARIO and the SISP Approval Order appropriate.

35. Such other grounds as set out in the Sahai Affidavit and the Reports of the Monitor.

36. The provisions of the CCAA, including s. 11.02(2), 11.2, 11.51, 11.52 and this Court's equitable and statutory jurisdiction thereunder.

37. Section 137(2) of the *Courts of Justice Act*, R.S.O 1990, c. 43, as amended.

38. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.S.O. 1990, Reg. 194, as amended.

39. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application:

- (a) the Sahai Affidavit and the exhibits attached thereto;



- (b) the Pre-Filing Report of the Monitor dated December 14, 2023 and the appendices thereto;
- (c) the First Report of the Monitor and the appendices thereto, to be filed; and
- (d) such further and other materials as counsel may advise and this Court may permit.

Date: December 18, 2023

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Proceeding commenced at Toronto

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Applicants

**AFFIDAVIT OF JAN SAHAI**  
(sworn December 14, 2023)

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED,  
CPL CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS  
LIMITED CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED  
CANADA, AND GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

**AFFIDAVIT OF JAN SAHAI  
(sworn December 14, 2023)**

I, Jan Sahai, of the City of Oakville, in the Province of Ontario, MAKE OATH AND SAY:

**I. INTRODUCTION**

1. I am the Chief Executive Officer (“CEO”) of Contract Pharmaceuticals Limited Canada (“CPL Canada” and, collectively with the other Applicants, the “Company”). I have been employed by CPL Canada for over 18 years. I previously served as Vice President, Business Development from September 2005 to May 2022; interim CEO from June 1, 2022 to October 31, 2022; and was appointed CEO on November 1, 2022. In my role as CEO, I am responsible for major corporate decisions, managing overall operations, allocating capital, and setting the company’s strategic direction under the oversight of the board of directors. As such, I have knowledge of the matters hereinafter deposed to, except where stated to be on information and belief and whereso stated I verily believe it to be true. I do not, and do not intend to, waive privilege by any statement herein.

2. This affidavit is made in support of an application by the Applicants for an initial order (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”).

Unless otherwise indicated, all monetary references in this affidavit are to U.S. dollars.

3. The Applicants consist of Contract Pharmaceuticals Limited (“**CPL**”) and its wholly-owned direct and indirect subsidiaries, being: (i) CPL Canada Holdco Limited (“**CPL Canada HoldCo**”); (ii) CPL Canada; (iii) Glasshouse Pharmaceuticals Limited Canada (“**Glasshouse Canada**”); and (iv) Glasshouse Pharmaceuticals LLC (“**Glasshouse America**”).

4. The Company’s core business is that of CPL Canada, an industry-leading pharmaceutical contract development and manufacturing organization (“**CDMO**”). CPL Canada specializes in the development, manufacturing, packaging and testing of non-sterile liquid and semi-solid pharmaceutical and regulated over-the-counter products, and also provides laboratory services that include materials, product release and stability testing as well as product development services (the “**CPL Business**”).

5. The Applicants have commenced these CCAA proceedings in order to stabilize the CPL Business, obtain urgently required interim debtor-in-possession (“**DIP**”) financing, continue the implementation of their operational restructuring efforts, and to pursue a refinancing, sale and investment solicitation process (“**SISP**”) with a view to identifying and completing the best transaction available to the Company.

6. The Company has limited remaining cash on hand, owes past due amounts to many of its suppliers and its largest funded debt obligation recently matured. As such, the relief sought on the initial CCAA application, including approval of interim DIP financing, is urgently required in order for the Company to maintain ongoing business operations and preserve the status quo.

7. If the CCAA application is granted, the Applicants intend to bring a motion within 10 days of the Initial Order (the “**Comeback Hearing**”) seeking an amended and restated Initial Order (the “**ARIO**”) and an order approving the SISP (the “**SISP Approval Order**”).

## II. OVERVIEW AND EVENTS LEADING TO THE CCAA FILING

8. Founded over 30 years ago, the Company is a world-class provider of contract development and full-service commercial manufacturing services for a broad spectrum of non-sterile liquid and semi-solid pharmaceutical products. Non-sterile liquids include suspensions, solutions, and nasal topical sprays, which are filled into bottles. Semi-solids include lotions, creams, ointments and gels filled into bottles, tubes and sachets.

9. Headquartered in Mississauga, Ontario, the Company has nearly 300 Canadian employees, manufactures over 30 unique formulas (with 17 more in development) and provides over a hundred different products for a range of pharmaceutical companies, including many of the top 20 global pharmaceutical companies as well as several specialty dermatology companies.

10. For years, the Company achieved consistent revenue and profitability from the CPL Business. However, beginning in 2016, several decisions were made that negatively impacted performance. In particular, from 2016 to 2021, the Company focused on top-line revenue growth, and CPL Canada accepted and/or retained large, unprofitable contracts with low or negative margins for over-the-counter pharmaceutical products.

11. To help meet its revenue growth aspirations, the Company also began exploring new product lines such as generic pharmaceuticals, new chemical entities and packaging, which led to the establishment of Glasshouse Canada and Glasshouse America (collectively “**Glasshouse**”) in 2017 to operate the Company’s generic pharmaceuticals business (the “**Glasshouse Business**”).



To facilitate the launch and development of Glasshouse, and to fund the Company's general operational requirements, in 2018 the Company obtained the Deerfield Term Loan (as defined and discussed below) in the initial principal amount of \$20,000,000.

12. Although the Company was successful in establishing the Glasshouse Business, the cost of producing, marketing and selling Glasshouse's generic pharmaceutical products ultimately proved to be uncompetitive relative to U.S. market prices, with Glasshouse suffering consistent losses since its inception. The issues with Glasshouse in turn eroded the Company's margins, distracted management from the core CPL Business, and has left the Company with a legacy debt burden which has impeded attempts to return to profitability. These issues were exacerbated by the onset of COVID-19 and the supply chain issues that followed, which negatively impacted the Company's ability to obtain necessary raw materials to continuously develop and produce products for current and new customers, in turn hampering its revenues.

13. The Company has taken a number of steps to begin to address these issues. In November 2022, I was appointed CEO and made several executive team changes, including replacing the then Vice President of Operations with a new Director of Operations. New management has refocused the Company on the CPL Business and its core competency as a CDMO. As part of these efforts, the Company strategically divested most of the assets of Glasshouse, and in January 2023 began implementing an operational turnaround plan to grow revenues, drive margin improvement and facilitate long-term growth.

14. Over the past year, the Company has been successful in cultivating a robust pipeline of new high-margin commercial pharmaceutical products while also optimizing legacy over-the-counter contracts resulting in substantial margin improvements. Management has also divested the Company's abbreviated new drug applications, initiated employee headcount rationalization

measures and limited capital expenditures, the cumulative effect of which has resulted in the Company returning to its historical positive EBITDA levels during the 2023 fiscal year. The Company's shareholders provided \$7.05 million of equity financing in 2022 and 2023 to support these turnaround efforts and strengthen the Company's balance sheet.

15. Despite these operational restructuring efforts and the financial support of its shareholders, the Company, burdened by the significant interest expense of its debt obligations and suppressed availability on its operating line of credit, has continued to struggle to support its ongoing working capital requirements, leading to stretched trade payables and increasingly constrained liquidity. At present, the Company owes approximately \$7.6 million to its suppliers, \$5.2 million of which is past due, and now has less than \$1.5 million of cash on hand. The Company's shareholders have advised that they are not prepared to provide additional equity injections at this juncture.

16. In addition to its liquidity issues, the Company's most significant funded secured debt obligation, the Deerfield Term Loan, recently matured and the Company is in default under the EDC Term Loan (as defined and discussed below). Further, the Company's RBC Operating Facility (as defined and discussed below) is a demand facility and RBC has advised the Company that it would like to be repaid the amounts owing to it and exit its lending arrangements with the Company. The Company does not currently have the ability to repay these secured debt obligations, which total in excess of \$34 million.

17. In anticipation of these issues, in February 2023, the Company engaged a financial advisor to assist in exploring a range of strategic alternatives. Although a new potential lender was identified that was prepared to refinance the RBC Operating Facility and the EDC Term Loan, the proposal would have required Deerfield (as defined below) to extend the Deerfield Term Loan and agree to new intercreditor terms, which was not acceptable to Deerfield.

18. In October 2023, the Company engaged SSG Capital Advisors, LLC (“SSG”) to further assist it in exploring strategic alternatives in consultation with its stakeholders, including a refinancing and/or raising additional capital. Although several parties expressed interest in a potential transaction, a definitive transaction has not yet been identified. In light of the Company’s limited remaining cash on hand, in recent weeks the Company also began exploring incremental financing options (including potential DIP financing) with the assistance of SSG and the proposed Monitor, KSV Restructuring Inc. (“KSV”).

19. Following careful consideration of its available options and alternatives with the assistance of its financial and legal advisors, the Company has determined that the best path to maximize stakeholder value and preserve the Company as a going-concern is to commence these CCAA proceedings, obtain DIP financing from Deerfield and continue its efforts to explore a refinancing or other strategic transaction in the context of a Court-supervised SISP.

20. Accordingly, the Applicants seek an Initial Order, providing for, among other relief: (a) a stay of proceedings for an initial 10-day period (the “**Initial Stay Period**”); (b) authorization to enter into the DIP Term Sheet and borrow under the DIP Loan (each as defined below) in the maximum principal amount of \$1,500,000 for the Initial Stay Period; and (c) the granting of the following priority charges (collectively, the “**Charges**”) over the Applicants’ Property (as defined in the Initial Order), listed in order of priority: (i) the Administration Charge (as defined below) up to a maximum amount of CA\$375,000; (ii) the Directors’ Charge (as defined below) up to a maximum amount of CA\$1,801,000; and (iii) the DIP Lender’s Charge (as defined below) up to a maximum amount of \$1,500,000 (plus interest, fees and expenses), provided that the DIP Lender’s Charge shall be subordinate to the security interests granted by the Applicants to each of RBC and

EDC in connection with the RBC Loan Agreement and the EDC Loan Agreement, respectively (collectively, the “**RBC/EDC Security**”).

21. If the proposed Initial Order is granted, at the Comeback Hearing the Applicants intend to seek the ARIO, among other things:

- (a) extending the stay of proceedings until and including March 22, 2024, and granting other customary Comeback Hearing relief under the CCAA;
- (b) increasing the maximum principal amount that the Applicants can borrow under the DIP Loan to \$6,000,000;
- (c) increasing the maximum amounts of the Administration Charge to CA\$600,000, the Directors’ Charge to CA\$2,306,000, and the DIP Lender’s Charge to \$6,000,000 (plus interest, fees and expenses payable in accordance with the terms of the DIP Term Sheet);
- (d) approving a key employee retention program (the “**KERP**”) and the granting of a charge on the Property for the benefit of the key employees referred to in the KERP up to a maximum amount of CA\$998,311 (the “**KERP Charge**”);
- (e) approving the Financial Advisor’s (as defined below) engagement letter and granting the Financial Advisor Charge (as defined below); and
- (f) granting priority to the Charges over any secured creditor who did not receive notice of the application for the Initial Order.

22. In addition, at the Comeback Hearing the Applicants also intend to seek the SISP Approval Order, among other things, approving the SISP and authorizing the Applicants, the Monitor, and SSG as financial advisor to the Applicants in these proceedings (in such capacity, the “**Financial Advisor**”), to implement the SISP pursuant to its terms.

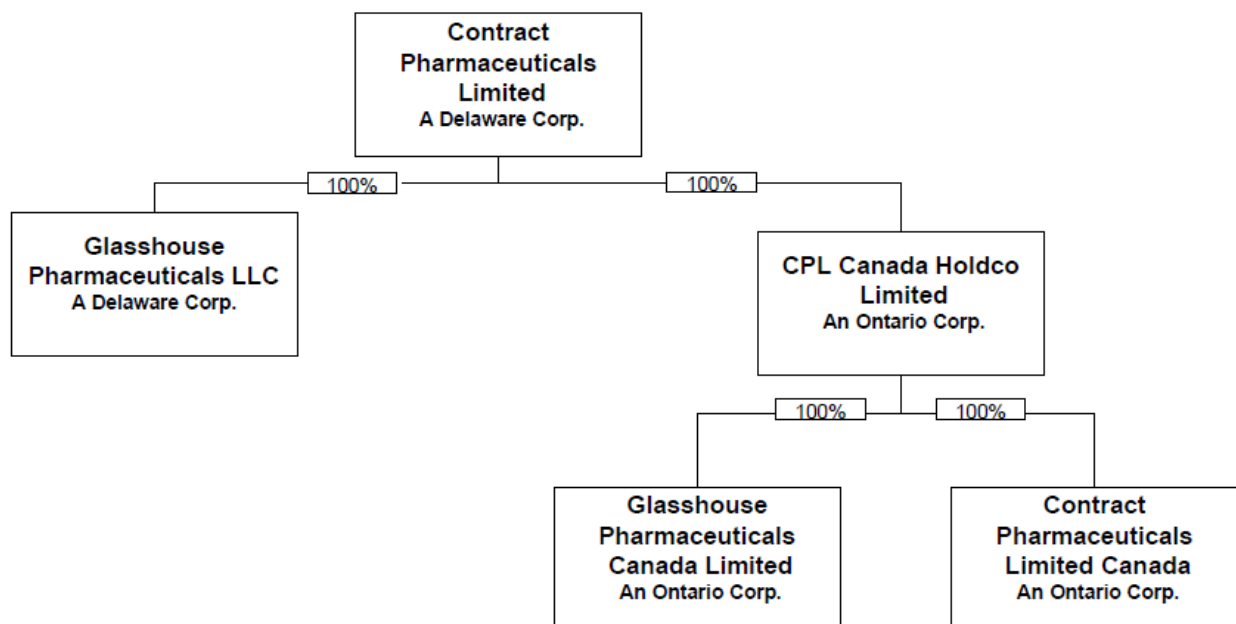
23. The CCAA proceedings and the relief outlined herein are in the best interests of the Applicants and their stakeholders and, in light of the Company’s liquidity position and current inability to repay its funded debt, present the only viable means of preserving the CPL Business as a going-concern for the benefit of stakeholders, including its almost 300 employees located in Ontario.

### III. BACKGROUND REGARDING THE COMPANY AND THE BUSINESS OF THE APPLICANTS

#### A. Corporate Structure

##### (i) Overview

24. An organizational chart outlining the Company’s corporate structure is set forth below.



(ii) *Contract Pharmaceuticals Limited (CPL)*

25. CPL, the privately-held parent company of the Applicants, is incorporated under the laws of Delaware with a registered head office located at 7600 Danbro Crescent, Mississauga, Ontario (the “**Mississauga HQ**”). CPL is a holding company and its main assets are its 100% ownership interests in its subsidiaries, although it also maintains a bank account with the Royal Bank of Canada (“**RBC**”) in Canada with approximately \$140,000 on deposit and holds a loan receivable from an employee of CPL Canada based in Canada.

(iii) *CPL Canada Holdco Limited (CPL Canada HoldCo)*

26. CPL Canada HoldCo is a company incorporated under the laws of Ontario with its registered head office at the Mississauga HQ. CPL Canada Holdco is a holding company and its main assets are its 100% ownership interests in CPL Canada and Glasshouse Canada.

(iv) *Contract Pharmaceuticals Limited Canada (CPL Canada)*

27. CPL Canada is a company incorporated under the laws of Ontario with its registered head office at the Mississauga HQ. CPL Canada is the main operating entity of the Company and holds substantially all of its assets. The business and operations of CPL Canada are discussed in greater detail below.

(v) *Glasshouse Pharmaceuticals Limited Canada (Glasshouse Canada)*

28. Glasshouse Canada is a company incorporated under the laws of Ontario with its registered head office at the Mississauga HQ. Glasshouse Canada was the main operating entity of the Glasshouse Business. As described below, the core assets of Glasshouse have been sold and Glasshouse Canada is in the process of being wound down with its few remaining customers being

transferred to CPL Canada. Glasshouse Canada still owes amounts to its suppliers and has various residual assets, including accounts receivable due to it.

(vi) *Glasshouse Pharmaceuticals LLC (Glasshouse America)*

29. Glasshouse America is incorporated under the laws of Delaware with its registered head office at the Mississauga HQ. Glasshouse America facilitated the commercialization of the Glasshouse Business in the United States. Although Glasshouse America does not currently have any active business operations, various Medicare and Medicaid rebates and wholesaler charge backs, as well as relationships with a third party logistics supplier for product returns continue to be processed through Glasshouse America as a result of its historical operations. Glasshouse America maintains bank accounts in Canada with RBC and Toronto-Dominion Bank (“TD”) with approximately \$20,000 on deposit at this time.

**B. The CPL Business**

(i) *Products*

30. As referenced above, the Company’s core and only remaining operating business is the CPL Business. CPL Canada specializes in the development, manufacturing, packaging, filing and testing of non-sterile liquid and semi-solid pharmaceutical and regulated over-the-counter products.

- (a) *Non-Sterile Liquids*: Non-sterile liquids are suspensions, solutions, nasal and topical sprays. Sample applications include immunologic disorders, pain management, cough and cold, hair growth, nail infections, chronic allergies, nasal polyps and digestive issues.

- (b) **Non-Sterile Semi Solids**: Non-sterile semi solids are lotions, creams, ointments and gels. Sample applications include skin conditions including psoriasis, pain management, wound care and hormone therapy.

31. CPL Canada produces more than 6 million tubes, 4 million bottles, and 2 million sachets of product per year. Of the products CPL Canada develops and manufactures, 85% are prescription products, with 20% of those being oral liquids (suspension solutions), 15% nasal sprays (multi dose), and 65% topicals (creams, lotions, ointments and gels).

32. CPL Canada has unique capabilities as it has significant expertise in handling hormones (both male and female), corticosteroids, permethrin-based products for the treatment of lice, alcohol-containing products, and light sensitive products. Since 2012, CPL Canada has been contracted on over 80 abbreviated new drug application and new drug application projects submitted to the U.S. Food and Drug Administration (“**FDA**”), resulting in 14 FDA approved products and another 16 drug application submissions under review with the FDA.

(ii) *Operations*

33. CPL Canada offers product development, commercial manufacturing, packaging and testing services all under one roof, meaning that it works with its customers from concept to commercialization. To achieve this, CPL Canada has two state of the art analytical (laboratory) and production facilities located at its corporate park in Mississauga, Ontario, both of which are registered with the FDA and Health Canada. These facilities provide a centralized operation for manufacturing, packaging and warehouse operations which is essential to meet the needs of CPL Canada’s customers.



34. CPL Canada is a full service CDMO and is the sole source supplier for more than 70% of its customers. If CPL Canada is not able to manufacture its sole-sourced products, patient care in Canada and abroad is highly likely to be negatively affected as customers would be unable to source products from alternative supplier in the near to medium term.

*(iii) Suppliers*

35. There are four principle types of suppliers the Company works with as it relates to the manufacturing and packaging of its products. The first type supplies active pharmaceutical ingredients (“**API**”) which are unique to each product (e.g. oestrogen) and cannot be substituted as health regulatory agencies do not allow for the substitution of one source of API for another without a product undergoing further clinical tests and other regulatory steps. The second group consists of suppliers of non-API ingredients in product formulas, which again cannot be readily substituted due to regulatory requirements. The third type supplies the “primary” packaging (*i.e.*, packaging that touches the product such as bottles, tubes and caps) and the fourth type consists of suppliers of secondary packaging (*e.g.* certain foil pouches and cartons), most of which are proprietary to a particular product and/or customer. All four types of suppliers are critical to the Company’s ability to manufacture, package and supply products to its customers in the normal course and are not readily replaceable owing to the regulatory and proprietary issues described above. Certain of these suppliers are also located outside of the United States and Canada.

36. It is vital to the preservation of the CPL Business that the Company is able to continue its relationships with these key suppliers without disruption and on existing trade terms while the Company pursues its restructuring efforts. Accordingly, the proposed Initial Order authorizes the Company to pay pre-filing amounts to suppliers, with the consent of KSV and the DIP Lender (as defined below).

(iv) *Customers*

37. CPL Canada has a diverse customer base of global, mid-size, and growth stage pharmaceutical companies. CPL Canada's customers include all of the top pharmaceutical companies with non-sterile liquid/semi solid portfolios, including Taro Canada, Johnson & Johnson, GSK, Pfizer, Apotex, Sanofi, Eli Lilly, Endo, and Allergan. CPL Canada's commitment to quality, efficiency and innovation has allowed it to establish long-standing relationships with its customers, including acting as a sole source product supplier for more than 70% of its customers. It has also allowed CPL Canada to become entrenched and strategically important to its customers' supply chains, as these customers rely solely on CPL Canada to be able to manufacture their non-sterile liquid/semi solid products. Moving product from one CDMO to another takes years and is fraught with regulatory and technical risk, potentially risking patient access to important prescription medications.

38. Certain arrangements the Company has with some of its customers permit wholesaler charge backs, or require the Company to pay rebates to customers in the event that they meet certain volume based criteria under their respective contracts. The Company is also required to pay Medicare and Medicaid rebates from time to time. These obligations are not material to the Company's financial position, and, in the case of any volume rebates, are not anticipated to be due until well into 2024. The Company believes it is in its best interests and those of its stakeholders to continuing making these payments in the normal course to avoid any potential impact on its customer relationships that may result if the Company did not pay them.

(v) *Employees*

39. CPL Canada presently employs approximately 289 individuals across 22 departments, all of whom are full-time, salaried employees that work out of CPL Canada's facilities in Mississauga,

Ontario. The Company has no unionized employees and does not maintain any registered pension plans.

40. CPL Canada's employees are paid bi-weekly, one week in arrears. As of the date of this affidavit, CPL Canada is current on its payroll obligations, including all source deductions. Each December, the Company typically makes modest increases to employee compensation to reflect updated market conditions. This year's increase will take effect on the Company's December 29, 2023, payroll. CPL Canada also provides health, dental and other employee benefits through a third-party insurance provider.

41. CPL offers a deferred profit sharing plan (the "**DPSP**") and a retirement savings plan (the "**RSP**") for its employees. CPL makes employer contributions to the DPSP equal to 2% of an employee's earnings, funded bi-weekly. In addition, it matches employee contributions to the RSP to a maximum of 2% of an employee's earnings. The Company does not owe any amounts in respect of the DPSP or the RSP at present. The Company has also previously issued stock options to certain key management employees.

#### **IV. FINANCIAL POSITION**

##### **A. Financial Statements**

42. The Company prepares financial statements that report the financial position of CPL and its subsidiaries on a consolidated basis.

43. The fiscal year end of the Company is October 31. Copies of the Company's audited financial statements for the year ended October 31, 2022 (the "**2022 Financials**"), and unaudited financial statements for the year ended October 31, 2023 (the "**2023 Financials**") are attached

hereto as Exhibits “A” and “B”, respectively. Both the 2022 Financials and 2023 Financials reflect that the liabilities of the Company exceed its assets.

## B. Assets

44. As at October 31, 2023, the Company’s assets had an unaudited book value of approximately \$43.9 million, consisting of the following:

<b>Current Assets</b>	
Cash & Equivalents	\$1.5 million
Accounts Receivable, net	\$10.3 million
Inventory	\$14.4 million
Prepaid Expenses and Other Assets	\$1.7 million
<b>Long-Term Assets</b>	
Plant, Property & Equipment, net	\$15.6 million
Goodwill & Intangible Assets	\$0.4 million
<b>Total Assets</b>	<b>\$43.9 million</b>

## C. Liabilities

45. As at October 31, 2023, the Company’s liabilities had an unaudited book value of approximately \$52.3 million.

## D. Funded Debt Obligations

### (i) Overview

46. The Company is party to four credit facilities, which are summarized in the following table and described in greater detail in the paragraphs that follow:

<b>Debt Obligation</b>	<b>Principal Amount Outstanding as at Nov. 30, 2023 (approximately)</b>	<b>Maturity</b>	<b>Borrower(s)</b>	<b>Guarantor(s)</b>	<b>Secured</b>	<b>Priority</b>
RBC	\$5,311,373	Demand	CPL Canada	CPL	Yes	1 <sup>st</sup> on all assets of

Debt Obligation	Principal Amount Outstanding as at Nov. 30, 2023 (approximately)	Maturity	Borrower(s)	Guarantor(s)	Secured	Priority
Operating Facility		facility		(unsecured)  CPL Canada HoldCo (secured)		CPL Canada (excluding equipment) 1 <sup>st</sup> on equity of CPL Canada held by CPL Canada HoldCo 2 <sup>nd</sup> on equipment of CPL Canada
EDC Facility	\$4,968,632	May 10, 2025	CPL Canada	CPL Canada HoldCo (unsecured)	Yes	1 <sup>st</sup> on equipment of CPL Canada 3 <sup>rd</sup> on assets other than equipment of CPL Canada
Deerfield Term Loan	\$24,319,118	December 6, 2023	Glasshouse Canada	CPL (secured)  CPL Canada HoldCo (secured)  CPL Canada (secured)  Glasshouse America (secured)	Yes	1 <sup>st</sup> on assets of CPL, Glasshouse Canada and Glasshouse America 1 <sup>st</sup> on equity of Glasshouse Canada held by CPL Canada HoldCo 2 <sup>nd</sup> on assets of CPL Canada (excluding equipment) 2 <sup>nd</sup> on equity of CPL Canada held by CPL Canada HoldCo 3 <sup>rd</sup> on equipment of CPL Canada
Fed Dev Loan	\$4,259,427	June 1, 2027	CPL Canada	CPL Canada HoldCo (unsecured)	No	
<b>TOTAL</b>	<b>\$38,858,550</b>					

(ii) *RBC Operating Facility*

47. CPL Canada, as borrower, is party to a credit agreement with Royal Bank of Canada (“RBC”) dated November 22, 2017 (as amended, the “**RBC Loan Agreement**”), pursuant to which RBC has made available to CPL Canada a revolving loan operating facility, due on demand (as amended, the “**RBC Operating Facility**”). The original availability under the RBC Operating

Facility was CA\$19,500,000 (subject to a borrowing base calculation), which has since been reduced to CA\$7,500,000. As at November 30, 2023, approximately CA\$7,214,000 of principal was outstanding under the RBC Operating Facility. Interest on the RBC Operating Facility is calculated as the Canadian prime rate plus 0.5% on prime rate based loans and LIBOR plus 2.75% on LIBOR-based loans in U.S. dollars.

48. Over the past several months, the Company's borrowing base calculation under the RBC Operating Facility, which is reviewed and calculated together with RBC, has reflected suppressed availability in the range of CA\$4 million, although the most recent calculation as at October 31, 2023, reflected suppressed availability of CA\$6.7 million. The Company has requested that RBC permit it to borrow additional funds under the RBC Operating Facility, but RBC has not permitted it to do so. A copy of the RBC Loan Agreement and the amendments thereto is attached as Exhibit "C".

49. The RBC Operating Facility is guaranteed by each of CPL and CPL Canada HoldCo. Each of CPL Canada and CPL Canada HoldCo granted RBC a security interest in substantially all of their assets as security for the obligations under the RBC Operating Facility. RBC has a first ranking security interest in substantially all assets of CPL Canada (excluding equipment) and in the equity of CPL Canada held by CPL Canada HoldCo, and a second ranking security interest in all equipment of CPL Canada. The CPL guarantee to RBC is unsecured.

50. As previously indicated, RBC has advised the Company that it wishes to be repaid the amounts outstanding under the RBC Operating Facility and exit its lending arrangements with the Company. On December 4, 2023, RBC delivered a notice of default and reservations of rights letter to CPL Canada notifying CPL Canada that one or more events of default under the RBC Loan Agreement has occurred and is continuing to occur.

51. Attached as Exhibit “D” is a summary of the *Personal Property Security Act* (Ontario) (“**PPSA**”) registrations against CPL Canada HoldCo as at December 11, 2023, and against CPL Canada, and Glasshouse Canada as at December 12, 2023 (“**PPSA Search Summary**”). The PPSA Search Summary shows that RBC has a first in time registration against each of CPL Canada and CPL Canada HoldCo in respect of all classes of collateral excluding consumer goods.

(i) *EDC Term Loan*

52. CPL Canada is party to a credit agreement with Export Development Canada (“**EDC**”) dated March 6, 2018 (as amended, the “**EDC Loan Agreement**”) pursuant to which EDC made available to CPL Canada a term loan facility with a maximum borrowing limit of \$15,000,000 (the “**EDC Term Loan**”). The EDC Term Loan bears interest at U.S. prime rate plus 2.5% per annum, payable monthly in cash. The outstanding principal under the EDC Term Loan is due in monthly installments through May 2025. As of November 30, 2023, approximately \$4,968,632 of principal was outstanding under the EDC Loan Agreement. The Company stopped payment on a scheduled repayment installment of \$311,535 that was to be made to EDC on December 11, 2023. A copy of the EDC Loan Agreement and the amendments thereto is attached as Exhibit “E”.

53. The EDC Term Loan is guaranteed by CPL Canada HoldCo on an unsecured basis. CPL Canada has granted a security interest in substantially all of its assets as security for the obligations under the EDC Term Loan. EDC has a first ranking security interest in all of the equipment of CPL Canada and a third ranking security interest in substantially all other assets of CPL Canada.

54. The PPSA Search Summary shows that EDC has a second in time registration against CPL Canada in respect of all classes of collateral excluding consumer goods.

(ii) *Deerfield Term Loan*

55. Glasshouse Canada, as borrower, is party to a facility agreement with, among others, Deerfield Private Design Fund IV, L.P., as agent and lender, and Deerfield Private Design Fund III, L.P., as lender (together, “**Deerfield**”) dated December 6, 2018 (as amended, the “**Deerfield Facility Agreement**”), pursuant to which Deerfield made available to Glasshouse Canada a non-revolving term loan in an initial principal amount \$20,000,000 (the “**Deerfield Term Loan**”). The Deerfield Term Loan matured on December 6, 2023, and accrues interest at a rate of: (i) 6.5% per annum on the initial principal amount; and (ii) 10% per annum on a portion of interest and fees that was capitalized, with interest payable quarterly. Deerfield also holds certain warrants and contingent value rights (“**CVRs**”) granted as consideration in connection with the Deerfield Facility Agreement. As at November 30, 2023, \$24,319,118 of principal (excluding capitalized interest of approximately \$295,000) was outstanding under the Deerfield Term Loan. A copy of the Deerfield Facility Agreement (excluding the schedules) and the amendments thereto is attached hereto as Exhibit “F”.

56. The obligations of Glasshouse Canada under the Deerfield Facility Agreement are guaranteed by each of the other Applicants. Among other security, each of CPL, CPL Canada HoldCo, CPL Canada, Glasshouse America and Glasshouse Canada have granted Deerfield a security interest in substantially all of their assets pursuant to a United States guaranty and security agreement and a general security agreement and guarantee, each dated December 6, 2018. In addition, pursuant to a limited recourse guaranty and security agreement dated December 6, 2018, certain shareholders of CPL holding, collectively, 73% of the issued and outstanding shares of CPL, pledged their equity interests in CPL as security for the obligations owed under the Deerfield



Facility Agreement and CVRs, with no recourse available against them, except for enforcement on the shares of CPL.

57. The PPSA Search Summary shows that Deerfield has a second in time registration against CPL Canada HoldCo, a first in time PPSA registration against Glasshouse Canada, and a third in time registration against CPL Canada in respect of all classes of collateral excluding consumer goods.

58. Attached as Exhibit “G” is a summary of the Uniform Commercial Code (Delaware) (“UCC”) registrations against each of CPL US Holdco and Glasshouse America as at December 6, 2023 (“UCC Search Summary”). The UCC Search Summary shows that Deerfield has registrations against each of CPL and Glasshouse America in respect of all assets.

(iii) *Fed Dev Loan*

59. CPL Canada is a party to a contribution agreement with His Majesty the King in Right of Ontario, as represented by the Minister of Infrastructure for Federal Economic Development Agency for Southern Ontario (“**Fed Dev**”) (as successor to Her Majesty the Queen in Right of Ontario, as represented by the Minister of Infrastructure for Federal Economic Development Agency for Southern Ontario) dated March 16, 2015 (the “**Fed Dev Agreement**”) pursuant to which Fed Dev agreed to contribute funding for 25% of new capital expenditures made by CPL Canada up to CA\$8,992,672 (the “**Fed Dev Loan**”). The Fed Dev Loan is repayable in 90 installments on an interest free basis pursuant to a payment schedule, with the final installment due on June 1, 2027. As of November 30, 2023, \$4,184,000 is owing under the Fed Dev Loan. A copy of the Fed Dev Agreement is attached hereto as Exhibit “H”.

60. The Fed Dev Loan is unsecured and CPL Canada's obligations under it are guaranteed by CPL Canada HoldCo on an unsecured basis.

*(iv) Intercreditor Agreements*

61. RBC, Deerfield and the Applicants, among others, are party to an intercreditor agreement dated December 6, 2018 (the "**RBC Intercreditor Agreement**"), and RBC, EDC, Deerfield and CPL Canada are party to a separate intercreditor agreement dated December 6, 2018 (the "**EDC Intercreditor Agreement**" and, collectively with the RBC Intercreditor Agreement, the "**Intercreditor Agreements**"). The Intercreditor Agreements, copies of which are attached as Exhibit "I", set forth the respective priorities of the lenders to the collateral pledged by the Applicants as set forth in the preceding paragraphs.

**E. Trade Creditors**

62. The Company purchases goods and services in the normal course of business to facilitate the production of goods and the administration of the Company. Payment terms have historically been 30 days from the invoice date; however, the Company has been paying certain vendors in excess of 90 days from invoice date. As a result, certain vendors are requiring payment of aged invoices prior to shipping or providing services and some are requiring payment for goods before the shipment is released to the Company due to previous and ongoing delays in payments. At present, amounts owed to trade creditors total approximately \$7.6 million, with \$5.2 million being past due and \$1.5 million being more than 60 days past due.

**F. Leased Real Property**

63. The Company leases two facilities at its corporate park in Mississauga, Ontario: its headquarters, manufacturing and warehouse facility located at the Mississauga HQ, and its quality

control and administrative functions facility located at 2145 Meadowpine Blvd. (the “**Meadowpine Property**”). The Mississauga HQ lease and Meadowpine Property lease were set to expire in June 2024, but renewals were recently executed extending both leases through 2034.

## **V. RELIEF SOUGHT AT THE INITIAL APPLICATION**

### **A. The Applicants are Insolvent**

64. As reported in both the 2022 Financials and the 2023 Financials, the book value of the Company’s liabilities exceeds the book value of its assets. Of note in this regard, the vast majority of the Company’s liabilities are its funded debt obligations, most of which are either due, in default or, in the case of the RBC Operating Facility, repayable on demand. Each of the Applicants is either a borrower or guarantor of some or all of these debts. The Company is not currently in a position to repay any of the amounts outstanding under the RBC Operating Facility, the EDC Term Loan or the Deerfield Term Loan, and, in light of the Company’s current circumstances, there is no realistic prospect of refinancing them outside of a formal restructuring process.

65. Additionally, as described above, the Company has limited remaining liquidity to operate its business and has significantly stretched its trade payables. While the Company’s shareholders have provided additional capital over the course of the past year to assist with its liquidity and fund restructuring efforts, they have indicated that they are not prepared to provide additional funding at this juncture. Absent obtaining alternative financing in the near term, the Company will be unable to meet its obligations as they fall due in the normal course.

66. In light of the foregoing, the Applicants are insolvent both on a balance sheet test and as a result of a liquidity crunch.

**B. Stay of Proceedings**

67. The Applicants require a CCAA stay of proceedings in light of their financial circumstances. Without the benefit of a CCAA stay of proceedings, there could be an immediate and significant erosion of value to the detriment of stakeholders. In particular, the Applicants are mindful of the following risks, which could materialize without the benefit of a broad stay of proceedings and other protective relief under the CCAA and the proposed Initial Order: (a) suppliers ceasing to supply or tightening payment terms in a manner that further exacerbates liquidity challenges; (b) suppliers and debt holders commencing legal action to recover amounts owing to them; (c) customers terminating agreements or exploring alternative potential suppliers; (d) the potential termination of other agreements that are critical to the operations of the Applicants' business; and (e) disruptions to patient supply in light of the foregoing operational risks.

68. The Applicants are seeking CCAA protection to, among other things, obtain the funding and forum necessary to enable the Applicants to continue operations in the normal course, undertake the SISP with the assistance of the Financial Advisor and the proposed Monitor, seek approval of the Successful Bid (as defined below) at the conclusion of the SISP and, if approved by the Court, complete the transaction contemplated by the Successful Bid, all for the benefit of the Applicants and their stakeholders. The Applicants are therefore requesting a stay of proceedings for the Initial Stay Period, and expect to seek an extension of the stay through the period the SISP will be conducted until the consummation of a Successful Bid and the termination of these CCAA proceedings.

### C. Cash Flow Forecast and DIP Financing

69. As indicated in the cash flow forecast attached to the pre-filing report of KSV as proposed Monitor (the “**Cash Flow Forecast**”), the Applicants will require access to additional funding while undertaking the SISP and working to implement a transaction. The Applicants’ principal use of cash during these CCAA proceedings will consist of costs associated with the ongoing operation of the CPL Business, including, among other things, employee compensation, supplier payments, lease payments and general administrative expenses. In addition to these normal course operating expenditures, the Applicants will also incur professional fees and disbursements in connection with these CCAA proceedings, including the SISP.

70. As described previously, to date the Company has been unable to secure additional financing. In light of the foregoing, and in addition to continuing to explore potential out of Court financing options, over the past several weeks, the Company, with the assistance of the Financial Advisor and the proposed Monitor, solicited expressions of interest in providing DIP financing from a variety of prospective lenders, including both current lenders to the Company and new potential lenders. Four expressions of interest were received and considered by the Company in consultation with its advisors. Ultimately, the Company selected the DIP proposal from Deerfield as representing the best alternative in the situation, including because Deerfield was the only potential DIP lender prepared to provide DIP financing that was junior to the RBC/EDC Security.

71. Accordingly, CPL Canada, as borrower, and each of the other Applicants, as guarantors, have entered into a term sheet (the “**DIP Term Sheet**”) with Deerfield, as lender (in such capacity, the “**DIP Lender**”) dated December 14, 2023, pursuant to which Deerfield has agreed to fund a loan (the “**DIP Loan**”) in a maximum principal amounts of \$6,000,000. The DIP Term Sheet provides for an initial authorized advance of up to the maximum amount of \$1,500,000 for use

during the Initial Stay Period, with the remaining amount to be available if such borrowing is authorized by the Court at the Comeback Hearing (subject to the terms of the DIP Term and the Cash Flow Forecast).

72. Based on the Cash Flow Forecast, the DIP Loan is expected to provide the Applicants with sufficient liquidity to continue their business operations in the ordinary course during these CCAA proceedings while conducting the SISP for the benefit of the Applicants and their stakeholders.

73. The DIP Term Sheet contemplates the granting of a super-priority Court-ordered charge over the Property (the “**DIP Lender’s Charge**”) to secure the obligations outstanding from time to time in connection with the DIP Loan, provided that the DIP Lender’s Charge will be junior to the RBC/EDC Security. The DIP Lender’s Charge will not secure any obligation that existed prior to the date of the Initial Order. Given the current financial circumstances of the Applicants, Deerfield has indicated that it is not prepared to advance additional funds without the security of the DIP Lender’s Charge, including the proposed priority thereof.

74. The material terms of the DIP Term Sheet are summarized in the below table. Capitalized terms used in the below table that are not otherwise defined herein have the meaning given to such terms in the DIP Term Sheet, a copy of which is attached hereto as Exhibit “J”.

<b>Summary of Certain Key Terms of the DIP Loan</b>	
<b>Parties</b>	<ul style="list-style-type: none"> <li>• CPL Canada, as borrower, and CPL, CPL Canada HoldCo, Glasshouse Canada and Glasshouse America, as guarantors (collectively with the borrower, the “<b>Obligors</b>”).</li> </ul>
<b>Maximum Availability</b>	<ul style="list-style-type: none"> <li>• \$6,000,000.</li> </ul>
<b>Interest</b>	<ul style="list-style-type: none"> <li>• 12.5% per annum (provided that, following a default, the rate of interest is increased by 2.0% per annum on any overdue amounts).</li> <li>• Payable in cash on the aggregate outstanding principal, compounded monthly, and payable monthly in arrears in cash on the last Business Day of each month.</li> </ul>

<b>Summary of Certain Key Terms of the DIP Loan</b>	
<b>Fees</b>	<ul style="list-style-type: none"> <li>The Borrower shall pay to the DIP Lender a commitment fee equal to (i) 3.0% of the principal amount of the Initial Advance, earned on the commencement of the CCAA Proceedings plus (ii) 3.0% of the remaining Facility Amount (excluding, for certainty, the principal amount of the Initial Advance) on the granting of the ARIO.</li> </ul>
<b>Costs and Expenses</b>	<ul style="list-style-type: none"> <li>The Borrower is responsible for all reasonable and documented fees, costs and expenses of the DIP Lender (including fees and expenses of legal counsel and financial advisor to the DIP Lender) incurred in connection with the DIP Term Sheet and these CCAA proceedings.</li> </ul>
<b>Use of Funds</b>	<ul style="list-style-type: none"> <li>Proceeds of the DIP Loan are to be used for (i) professional fees and disbursements associated with the CCAA Proceedings, (ii) the DIP Lender Expenses, (iii) operating expenses of the Obligors necessary for the preservation of the business and assets during these CCAA Proceedings, and (iv) other fees and interest owing to the DIP Lender under the DIP Term Sheet.</li> </ul>
<b>Maturity</b>	<ul style="list-style-type: none"> <li>The DIP Loan will mature on the earliest to occur of (i) April 30, 2024, (ii) the consummation of a transaction pursuant to the SISP, and (iii) early termination by the DIP Lender upon an Event of Default.</li> </ul>
<b>Certain Key Conditions Precedent to Initial Advance</b>	<ul style="list-style-type: none"> <li>Conditions precedent to the initial advance include (i) execution and delivery of the DIP Term Sheet, (ii) the DIP Lender's satisfactory prior review of materials to be filed in the CCAA Proceedings, (iii) issuance of the Initial Order, (iv) the granting of the DIP Lender's Charge, (v) that there shall be no Liens ranking <i>pari passu</i> with or in priority to the DIP Lender's Charge over the property and assets of the Obligors, other than the Permitted Liens, (vi) the accuracy of all representations and warranties provided by the Obligors, (vii) the absence of any Event of Default, and (viii) payment of the DIP Lender Expenses.</li> </ul>
<b>Certain Key Conditions Precedent to Subsequent Advances</b>	<ul style="list-style-type: none"> <li>Conditions precedent to subsequent advances include (i) the DIP Lender's satisfactory prior review of materials to be filed in connection with the motion for the ARIO and SISP Order, (ii) issuance of the ARIO and SISP Order, (iii) that neither the ARIO and SISP Order shall have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, (iv) that there shall be no Liens ranking <i>pari passu</i> with or in priority to the DIP Lender's Charge over the property and assets of the Obligors, other than the Permitted Liens, (v) the representations and warranties made by the Obligors under the DIP Term Sheet are true and correct, (vi) the absence of any Event of Default, and (vii) payment of the DIP Lender Expenses.</li> </ul>

<b>Summary of Certain Key Terms of the DIP Loan</b>	
<b>Events of Default</b>	<ul style="list-style-type: none"> <li>• Events of Default include (i) non-payment of any principal when due, (ii) non-payment of interest within two (2) Business Days of becoming due, (iii) non-payment of costs, fees, expenses of the DIP Lender within five (5) Business Days of receiving an invoice, (iv) the Borrower's material failure to perform or observe any obligations or covenants, including failure to meet a SISP Milestone or failure to deliver a Variance Report within one (1) Business Day of when due, (v) any material misrepresentation by the Borrower, (vi) the termination of the CCAA Proceedings (or the stay issued therein), (vii) the appointment of any receiver, receiver-manager, interim receiver, trustee in bankruptcy, proposal trustee or similar trustee, assignment in bankruptcy, or the making of a bankruptcy order against or in respect of any Obligor, (viii) any change to the priority of the DIP Lender's Charge, (ix) any order is made pursuant to the CCAA proceeding that contravenes the DIP Term Sheet or the DIP Lender's Charge, and (x) as at the due date of any Variance Report, there shall exist a net negative variance from the DIP Budget in excess of 15% (excluding from such calculation any variance in the DIP Lender Expenses and/or the fees and expenses payable to the Monitor and its counsel) (the "Permitted Variance") in either (i) consolidated receipts or (ii) consolidated disbursements, in either case on a cumulative basis since the beginning of the period covered by the then-current DIP Budget.</li> </ul>
<b>Security and DIP Lender's Charge</b>	<ul style="list-style-type: none"> <li>• The Borrower's obligations under the DIP Loan shall be secured by the DIP Lender's Charge, which covers all present and future assets, property and undertaking of the Obligors.</li> </ul>
<b>Priority of the DIP Charge</b>	<ul style="list-style-type: none"> <li>• The DIP Lender's Charge shall rank in priority to all other security interests, encumbrances and charges except for (i) the Administration Charge, (ii) the Directors' Charge, (iii) the KERP Charge, (iv) the Financial Advisor Charge, and (iv) the RBC/EDC Security.</li> </ul>

75. Based on discussions with representatives from the proposed Monitor and the Financial Advisor, I believe that the economic terms of the DIP Term Sheet are reasonable. The interest rates are consistent with market, and the structure and terms of the DIP Term Sheet otherwise provide significant flexibility to the Applicants to allow them to continue operations and conduct the SISP with the assistance of the Financial Advisor and under the oversight of the proposed Monitor. Further, as noted above, the DIP Term Sheet was the only proposal for DIP financing received that contemplated security in the form of a subordinated court-ordered charge, ranking junior to the RBC/EDC Security.



76. In connection with agreeing to the terms of the DIP Loan, the Company and Deerfield have also reached certain agreements pertaining to the CVRs relating to the Deerfield Term Loan. In particular, Deerfield has agreed to irrevocably waive and release its claims under the CVRs if the amounts outstanding under the DIP Loan and the Deerfield Term Loan are repaid in full by June 30, 2024, pursuant to a transaction entered into on or before April 30, 2024. This agreement provides an incremental benefit to the Company and its stakeholders by providing certainty that Deerfield will not have a claim in relation to the CVRs if the foregoing conditions are satisfied.

**D. Continued Use of Cash Management System and Related Matters**

77. In the ordinary course of its business, the Company uses a centralized cash management system (the “**Cash Management System**”). As part of the Cash Management System, the Applicants have multiple operating bank accounts with RBC and TD which are used for all day-to-day and corporate operating transactions, including the collection of receipts from its customers and payment of suppliers. The Applicants are seeking the authority to continue to use the Cash Management System. The continued operation of the existing Cash Management System will minimize disruption to the Applicants’ operations and avoid the need to negotiate and implement alternative banking arrangements. The current Cash Management System includes the necessary accounting controls to enable the Applicants and the proposed Monitor to trace funds and ensure that all transactions are adequately ascertainable. As such, the proposed Initial Order authorizes the continuation of the current Cash Management System.

78. The Company also uses a limited number of credit cards issued through American Express to facilitate certain day-to-day payments (the “**Credit Cards**”). The Applicants are seeking the authority pursuant to the proposed Initial Order to continue to use the Credit Cards, and make full repayment of all amounts outstanding thereunder, including with respect to pre-filing charges. As

with the Cash Management System, the continued use of the Credit Cards will assist in minimizing disruption to the operations of the Applicants caused by the CCAA proceedings. As at November 30, 2023, the aggregate amount outstanding on the Credit Cards was under \$24,000.

**E. Payments During the CCAA Proceedings**

79. During the course of the CCAA proceedings, the Company intends to make payments for goods and services contracted for and supplied to it post-filing in the ordinary course, as set out in the Cash Flow Forecast and requested in the proposed Initial Order.

80. Pursuant to the proposed Initial Order, the Applicants are also requesting authorization to make payments to critical suppliers and service providers, with the consent of the Monitor and the DIP Lender, for goods and services actually supplied to the Applicants prior to the CCAA proceedings being commenced.

81. The Company has identified and provided information to the proposed Monitor regarding certain suppliers and service providers that are critical for the Company to continue its business in the normal course, certain of whom are outside Canada and certain of whom are the sole supplier of a particular input the Company requires. In addition, as described previously, owing to regulatory and proprietary considerations, in certain cases the Company is not in a position to source products from alternative suppliers. Payment for goods and services supplied by such parties to the Applicants prior to the date of the commencement of the CCAA proceedings is fundamental to preserving these key relationships and the timely supply of products to the Applicants. Importantly, disruption to the provision of such goods and services could jeopardize the normal course operations of the CPL Business and the Company's ability to meet obligations to its customers.

**F. The Proposed Monitor**

82. The Applicants are seeking the appointment of KSV as the Monitor in these CCAA proceedings. KSV has consented to act as the Monitor in the within CCAA proceedings, subject to Court approval. I understand a copy of the Consent to Act as Monitor provided by KSV will be included in the Application Record filed in connection with the application for the proposed Initial Order.

83. I understand from Noah Goldstein of KSV that KSV is a trustee within the meaning of Section 2 of the *Bankruptcy and Insolvency Act* (Canada), as amended, and is not subject to any of the restrictions on who may be appointed as monitor set out in Section 11.7(2) of the CCAA.

84. KSV became involved with the Company in November 2023 to assist the Company in its review of financial and restructuring matters and in contemplation of serving as a Monitor if formal restructuring proceedings were commenced. During the course of its mandate, KSV has assisted in reviewing and analyzing the Company's financial and liquidity position (including the Cash Flow Forecast) and restructuring and financing options, including the development of the SISF, the terms of the DIP Loan and the other relief requested by the Applicants in connection with the CCAA proceedings.

85. The professionals at KSV who will have carriage of this matter have acquired knowledge of the Company, its business and financial circumstances, and the overall restructuring efforts of the Company undertaken to date. I believe that KSV is in a position to assist the Applicants with their restructuring efforts in these CCAA proceedings.

**G. Administration Charge**

86. The proposed Initial Order contemplates that a Court-ordered charge over the property would be granted in favour of the proposed Monitor (KSV), counsel to the proposed Monitor (Cassels Brock & Blackwell LLP), counsel to the Applicants (Goodmans LLP) and the Financial Advisor to secure the payment of their respective fees and disbursements (in the case of the Financial Advisor, excluding the Transaction Fee (as defined below)) incurred in connection with the CCAA proceedings up to a maximum of CA\$375,000 for the Initial Stay Period (the “**Administration Charge**”). The Administration Charge is proposed to have first ranking priority over all other charges and encumbrances on the Property. The Applicants anticipate requesting that the quantum of the Administration Charge be increased to a maximum of CA\$600,000 pursuant to the ARIO.

87. The Applicants require the expertise, knowledge, and continued participation of the proposed beneficiaries of the Administration Charge during the CCAA proceedings. Each of the beneficiaries of the Administration Charge will have distinct roles in the CCAA proceedings, and will contribute to the Applicants’ restructuring efforts.

88. The quantum of the proposed Administration Charge was estimated by the Applicants, with the assistance of the proposed Monitor. I believe that the Administration Charge is fair and reasonable in the circumstances. I understand that the proposed Monitor and Deerfield are also supportive of the Administration Charge.

**H. Directors and Officers Indemnity and Charge**

89. I am advised by Chris Armstrong of Goodmans LLP, counsel to the Applicants, and believe that, in certain circumstances, directors can be held liable for certain obligations of a company

owing to employees and government entities, which may include unpaid wages and vacation pay, together with unremitted sales, goods and services, and harmonized sales taxes.

90. The Company maintains an insurance policy in respect of the potential liability of its directors and officers, as well as those of its subsidiaries (the “**D&O Policy**”). While the D&O Policy insures directors and officers for certain claims that may arise against them in their capacity as directors and/or officers of the Applicants, that coverage is not absolute. Rather, it is subject to several exclusions and limitations, which may result in there being no coverage or insufficient coverage for potential liabilities.

91. The directors and officers of the Applicants have expressed a desire for certainty with respect to their potential personal liability if they continue in their current roles in the CCAA proceedings.

92. Each of the directors and officers has considerable experience with, and knowledge of, the Company’s business. The Applicants require, and stakeholders will benefit from, the active involvement of the directors and officers during the CCAA proceedings and the SISF. Given the uncertainty surrounding insurance and available indemnities, the Applicants’ directors and officers have indicated that their continued service and involvement in the CCAA proceedings is conditional upon the granting a Court-ordered charge on the Property (the “**Directors’ Charge**”) in the amount of CA\$1,801,000 to secure the indemnity provided to the directors and officers in the proposed Initial Order in respect of liabilities they may incur during the CCAA proceedings in their capacities as such. The Directors’ Charge would be subordinate to the proposed Administration Charge but will rank in priority to all other encumbrances.

93. The Applicants believe that the Directors' Charge is reasonable in the circumstances, especially in light of the aforementioned risks. I understand that the proposed Monitor and Deerfield are supportive of the Directors' Charge and its quantum. The amount of the Directors' Charge for purpose of the Initial Order has been calculated with the assistance of KSV based on the estimated potential exposure of the directors and officers during the initial 10-day Stay Period and has been reviewed with me. I understand that KSV will provide further information to the Court on the calculation of the Directors' Charge in its pre-filing report. The proposed Directors' Charge would apply only to the extent that the directors and officers do not have coverage under the D&O Policy.

#### **I. Priorities of Charges**

94. It is contemplated that the priorities of the various Court-ordered Charges granted pursuant to the Initial Order, as among them, will be as follows:

- (a) Administration Charge: up to a maximum of CA\$375,000;
- (b) Directors' Charge: up to a maximum of CA\$1,801,000; and
- (c) DIP Lender's Charge: up to a maximum of \$1,500,000, plus interest, fees and expenses.

95. The proposed Initial Order provides for the Charges to rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise (collectively, the "**Encumbrances**") in favour of any person, except: (i) any secured creditor of the Applicants who did not receive notice of the application for the Initial Order; and (ii) the DIP Lender's Charge shall be subordinate to the RBC/EDC Security. The proposed Initial Order authorizes the Applicant to seek an Order, on a subsequent motion on notice to those persons

likely to be affected thereby, granting priority of the Charges ahead of any Encumbrance over which the Charges have not obtained priority pursuant to the Initial Order, provided that the DIP Lender's Charge shall continue to rank behind the RBC/EDC Security.

## **VI. RELIEF TO BE SOUGHT AT THE COMEBACK HEARING**

96. As referenced above, the Applicants intend to seek the ARIO and the SISP Approval Order at the Comeback Hearing. The relief contemplated by each of the proposed ARIO and SISP Approval Order is described below.

### **A. ARIO**

#### *(i) Stay Extension*

97. The proposed Initial Order seeks the granting of a CCAA stay of proceedings for the Initial Stay Period until and including December 22, 2023. At the Comeback Hearing, the Applicants intend to seek an extension of the stay of proceedings up to and including March 22, 2024. The proposed extension of the stay of proceedings will enable the Applicants, with the assistance of the Financial Advisor and the proposed Monitor, to conduct the SISP and return to Court to seek approval of the Successful Bid.

#### *(ii) Set-off*

98. The Applicants will also seek an amendment to the Initial Order to clarify that, during the stay of proceedings, no party may assert rights of set-off in respect of any obligations owing before the commencement of these CCAA proceedings without an order of the Court. The Applicants believe that this provision is required to ensure that they can continue to operate in the ordinary course and that no set-off rights will be exercised in a way that will disrupt the Company's restructuring efforts. Specifically, I am concerned that pre-filing obligations are not set-off against

post-filing obligations. I am advised by Chris Armstrong of Goodmans LLP, counsel to the Applicants, that such a provision is consistent with a recent decision of the Supreme Court of Canada and has been included in orders granted in other recent CCAA cases.

*(iii) Approval of KERP and Granting of KERP Charge*

99. The retention of key employees is of vital importance to the Applicants during these CCAA proceedings, including in connection with maintaining ongoing business operations, pursuing the SISF and completing a restructuring transaction in connection therewith. The Applicants therefore intend to seek Court approval of the KERP, which has been developed with the assistance of KSV.

100. The KERP will entitle designated key employees to a cash payment based on a percentage of the employee's salary (or, in certain cases, a lump sum), provided that such key employee remains in the employment of the Company through the completion of the transaction identified through these proceedings, subject to other customary terms and conditions. The maximum aggregate retention payments payable pursuant to the KERP total CA\$998,311. It is contemplated that amounts owing under the KERP would be secured by the KERP Charge.

101. The Company's key employees who are proposed to be entitled to payments under the KERP have significant knowledge and responsibility with respect to the Applicants and their operations, and their commitment is key to the Company's restructuring efforts.

102. The KERP is designed to encourage these key employees to continue their employment through to the completion of a transaction. Absent the KERP, key employees may seek alternative employment and the Company believes it would be detrimental to the CPL Business and the overall restructuring process if these employees were to leave and the Company was required to attempt to find replacement employees during this critical time.



103. The KERP is also designed to recognize the significant importance of the key employees to the pursuit and implementation of a transaction, and the significant amount of additional work and effort required to advance and assist with the Company's efforts in these CCAA proceedings.

104. I understand that further details in respect of the proposed KERP, including a confidential schedule with further details in respect of the roles of the key employees and the proposed KERP payments, will be provided in the proposed Monitor's report to be filed in advance of the Comeback Hearing.

*(i) Financial Advisor Engagement*

105. As noted above, the Company retained the Financial Advisor to assist with the pre-filing refinancing and investment solicitation process and to assist with evaluating potential transactions. The Financial Advisor's role expanded to also assisting the Company with seeking DIP financing alternatives and it is contemplated that the Financial Advisor will assist the Company in conducting the SISF. At the Comeback Hearing, the Applicants intend to seek approval of the Financial Advisor's engagement letter and the Financial Advisor Charge (as described below). A copy of the Financial Advisor's engagement letter is attached hereto as Exhibit "K". The Financial Advisor's engagement letter contains a success fee provision in connection with the completion of a successful refinancing, sale or restructuring transaction (the "**Transaction Fee**"). The Applicants will request that the Transaction Fee be secured by a priority charge on the Property to provide certainty to the Financial Advisor that it will be compensated for its services in accordance with the terms of its engagement letter (the "**Financial Advisor Charge**"). The Financial Advisor Charge is necessary and reasonable in the circumstances as it is a condition of the retention of the Financial Advisor.

(ii) *Increase to Charges*

106. The charges proposed in the Initial Order are intended for the Initial Stay Period only. The proposed ARIO provides for the following amendments to the Charges, as well as the addition of the KERP Charge, listed in order of priority:

- (a) Administration Charge: increase to a maximum of CA\$600,000;
- (b) Directors' Charge: increase to a maximum of CA\$2,306,000;
- (c) KERP Charge: granted in a maximum amount of CA\$998,311;
- (d) Financial Advisor Charge; and
- (e) DIP Lender's Charge: increase to a maximum of \$6,000,000, plus accrued and unpaid interest, fees and expenses, provided that the DIP Lender's Charge shall be subordinate to the RBC/EDC Security.

107. The Applicants believe the amounts of the proposed Charges (both in the Initial Order and the ARIO) are fair and reasonable in the circumstances. I understand that the proposed Monitor and Deerfield are also supportive of the amounts of the proposed Charges, as increased and/or granted pursuant to the proposed ARIO.

108. The Applicants intend to provide notice of the Comeback Hearing and the request for the ARIO to any persons having a registered security interest in respect of any Applicant. As such, the proposed ARIO provides that the Charges shall rank in priority to all Encumbrances, provided that the DIP Lender's Charge shall be subordinate to the RBC/EDC Security.

## B. SISP Approval Order

109. As discussed above, the Company, with the assistance of its advisors, worked throughout much of 2023 to identify a strategic transaction that would have avoided the need for a formal restructuring filing. Unfortunately, none of the options identified to date led to a definitive transaction that could be achieved in the time available to the Company given its financial constraints.

110. Over the course of the coming months, the Company anticipates building on these efforts through the SISP to identify the highest or otherwise best offer for a refinancing, sale or other strategic investment or transaction involving the business, assets and/or equity of the Applicants.

111. The SISP provides for a flexible process under which the Applicants, with the assistance of the Financial Advisor and under the oversight of the Monitor, will solicit interest in a potential transaction.

112. The material terms of the SISP are summarized below. Capitalized terms used in the below summary that are not otherwise defined herein have the meanings given to such terms in the SISP, a copy of which is attached hereto as Exhibit “L”.

<b>Summary of Certain Key Terms of the SISP</b>	
<b>Process and Timeline</b>	<ul style="list-style-type: none"> <li>• <u>LOI Deadline</u>: Interested parties must submit a non-binding letter of intent meeting the requirements specified in the SISP (a “<b>LOI</b>”) by the LOI Deadline of 2:00 p.m. (Toronto time) on February 8, 2024.</li> <li>• <u>Qualified Bid Deadline</u>: Interested parties must submit a qualified bid meeting the requirements enumerated in the SISP (a “<b>Qualified Bid</b>”) by the Qualified Bid Deadline of 2:00 p.m. (Toronto time) on February 29, 2024 (the “<b>Qualified bid Deadline</b>”).</li> <li>• <u>Selection of Qualified Bid</u>: Following the Qualified Bid Deadline, the Applicants, in consultation with the Monitor and the DIP Lender, will evaluate the Qualified Bid’s based of off the criteria enumerated in section 9 of the SISP. After consideration of these factors, the Applicants, will select a successful bidder by no later than 2:00 p.m. (Toronto time) on March 12, 2024 (the “<b>Successful Bid</b>”).</li> </ul>

<b>Summary of Certain Key Terms of the SISP</b>	
<b>Certain Requirements for Qualified Bids</b>	<ul style="list-style-type: none"> <li>• Provide for consideration, payable in full on closing of the Transaction (the “<b>Consideration Value</b>”), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded.</li> <li>• As part of the Consideration Value, provide cash consideration sufficient to pay: (i) any obligations in connection with charges granted by the Court in the Applicants’ CCAA proceedings and any obligations in priority thereto; and (ii) the amount necessary to fund a wind-up of the Applicants’ CCAA proceedings and any further proceedings or wind-up costs in respect of the Applicants.</li> <li>• Contemplates closing by not later than the Outside Date of April 30, 2024.</li> <li>• Contains duly executed binding transaction documents.</li> <li>• Provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid, and if selected as the Back-Up Bid it will remain irrevocable until the earlier of (i) closing of the Successful Bid or (ii) closing of the Back-Up Bid.</li> <li>• Provides written evidence of the bidder’s ability to fully fund and consummate the Transaction and satisfy its obligations under the Transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid.</li> <li>• Does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment, or be conditional upon the outcome of unperformed due diligence and/or the securing of financing.</li> <li>• Includes a cash deposit equal to 10% of the Consideration Value.</li> <li>• Except to the extent otherwise authorized by the Court, no bid may be designated as a Successful Bid or Back-up Bid unless (x) it will pay out in cash on closing all principal, interest, fees and costs outstanding under the Deerfield Term Loan or (y) it is consented to by Deerfield.</li> </ul>

<b>Summary of Certain Key Terms of the SISP</b>	
<b>Review, Selection and Court Approval of Successful Bid</b>	<ul style="list-style-type: none"> <li>• If one or more Qualified Bids has been received by the Applicants and the Monitor on or before the Qualified Bid Deadline, the Applicants, in consultation with the Monitor and the DIP Lender, may: <ul style="list-style-type: none"> <li>○ negotiate with one or more of the bidders who submitted a Qualified Bid, including requesting that such bidder improve or otherwise modify the terms of its Qualified Bid;</li> <li>○ considering the requirements for Qualified Bids and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or release of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the bidder’s ability to close a Transaction by not later than the Outside Date, (iv) the likelihood of the Court’s approval of the Successful Bid, (v) the benefit to the Applicants and their stakeholders, and (vi) any other factors the directors or officers of Applicants may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the “<b>Consideration Factors</b>”); and (vii) designate any Qualified Bid received to be the highest or otherwise best bid in the SISP.</li> <li>○ having regard to the Consideration Factors, designate any Qualified Bid received as the Back-Up Bid.</li> </ul> </li> </ul>
<b>Consultation / Information</b>	<ul style="list-style-type: none"> <li>• The Applicants and the Monitor shall be permitted, in their discretion, to provide general updates and information in respect of the SISP to any Creditor (including any advisor thereto) on a confidential basis, upon: (a) the irrevocable confirmation in writing from such Creditor that it will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Applicants in form and substance satisfactory to the Applicants and the Monitor. The DIP Lender and DPDF IV have irrevocably confirmed that they will not submit any bid in the SISP (provided that they may credit bid following the termination of the SISP), and as such the Applicant and Monitor shall consult and provide all information in respect of the SISP to the DIP Lender and its legal and financial advisors.</li> <li>• The highest Qualified Bid may not necessarily be accepted by the Applicants. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicants, with the written consent of the Monitor, reserve the right to deal with one or more Qualified Bidders to the exclusion of others, to accept a Qualified Bid for different parts of the Opportunity or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.</li> </ul>

113. The SISP is to be conducted in accordance with the timelines set out immediately below:

<b>Key Date<sup>1</sup></b>	<b>SISP Step</b>
December 22, 2023	Anticipated issuance of the SISP Approval Order.

<sup>1</sup> Capitalized terms not otherwise defined within this table have the meaning ascribed to them in the SISP.

Key Date <sup>1</sup>	SISP Step
By no later than January 8, 2024	Applicants, with the assistance of the Financial Advisor, will commence the solicitation process.
February 8, 2024	LOI Deadline.
February 29, 2024	Qualified Bid Deadline.
March 12, 2024	Selection of Successful Bid Deadline.
By no later than March 22, 2024	Hearing for the Approval Order (subject to the Court's availability).
April 30, 2024	Outside Date for Closing of the Successful Bid.

114. I believe that the timelines and terms of the SISP are reasonable and appropriate in the circumstances, and will result in a fair and equitable process that will appropriately canvass the market in order to identify the best available transaction for the benefit of Company and its stakeholders.

## **VII. CONCLUSION**

115. The Company, with the assistance of its advisors, has reviewed and considered the potential options and alternatives available to it in the circumstances, taking into account, among other things, its limited remaining liquidity and current inability to repay its funded debt.

116. The Company has determined that it is in its best interests and those of its stakeholders to commence these CCAA proceedings, with the support of Deerfield as the DIP Lender. These CCAA proceedings, and the relief sought in the proposed Initial Order, ARIO and SISP Approval Order, will provide the stability, framework and necessary financing for the Company to canvass the market to identify a strategic transaction to provide the best result for the Company and its stakeholders, while at the same time ensuring that the core business of the Company will continue on a going-concern basis for the benefit of stakeholders.

117. The Applicants believe that the relief sought pursuant to the proposed Initial Order is appropriate and necessary in the circumstances, and respectfully request that the Court grant the proposed Initial Order. If the Initial Order is granted, the Applicants also respectfully submit that the relief sought in the proposed ARIO and SISP Approval Order is appropriate and in the best interests of the Applicants, and that such Orders be granted at the Comeback Hearing.

SWORN before me by Jan Sahai stated as being located in the City of Mississauga in the Province of Ontario, before me at the City of Toronto in the Province of Ontario, on December 14, 2023, in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.

*Erik Axell*

A Commissioner for taking affidavits

Name: Erik Axell  
LSO: # 853450

*Jan Sahai*

Signed by: Jan Sahai  
CEO  
Date & Time: December 14, 2023 17:34:09 EST

**JAN SAHAI**

**THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Axell*

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Commissioner for Taking Affidavits



# **Contract Pharmaceuticals Limited**

**Consolidated financial statements**  
**[Expressed in US dollars]**  
**October 31, 2022**



## Independent auditor's report

To the Board of Directors and Shareholders of  
**Contract Pharmaceuticals Limited**

### Opinion

We have audited the consolidated financial statements of **Contract Pharmaceuticals Limited** and its subsidiaries [the "Company"], which comprise the consolidated balance sheet as at October 31, 2022, and the consolidated statement of loss, consolidated statement of shareholders' equity (deficiency) and consolidated statement of cash flows for the year then ended, and notes to the consolidated financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Company as at October 31, 2022, and its consolidated results of operations and its consolidated cash flows for the year then ended in accordance with Canadian accounting standards for private enterprises.

### Basis for opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's responsibilities for the audit of the consolidated financial statements* section of our report. We are independent of the Company in accordance with the ethical requirements that are relevant to our audit of the consolidated financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Material uncertainty related to going concern

We draw attention to Note 2 in the consolidated financial statements, which indicates that the Company incurred a net loss of \$19,549,965 during the year ended October 31, 2022 and, as of that date, has an accumulated deficit of \$20,681,902. As stated in Note 2, these events or conditions, along with other matters as set forth in Note 2, indicate that a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern. Our opinion is not modified in respect of this matter.

### Responsibilities of management and those charged with governance for the consolidated financial statements

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

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

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



**Auditor's responsibilities for the audit of the consolidated financial statements**

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated financial statements.

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

- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Company to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the consolidated financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the Company to express an opinion on the consolidated financial statements. We are responsible for the direction, supervision and performance of the group audit. We remain solely responsible for our audit opinion.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Toronto, Canada  
February 17, 2023

*Ernst & Young LLP*

Chartered Professional Accountants  
Licensed Public Accountants



## Contract Pharmaceuticals Limited

### Consolidated balance sheet

[Expressed in US dollars]

As at October 31

	2022	2021
	\$	\$
<b>Assets</b>		
<b>Current</b>		
Cash	1,337,302	6,273,317
Accounts receivable [notes 17 and 21]	11,470,768	7,623,747
Inventory [note 4]	11,747,204	9,554,472
Prepaid expenses and other assets	1,740,588	2,205,349
<b>Total current assets</b>	<b>26,295,862</b>	<b>25,656,885</b>
Property, plant and equipment, net [note 5]	18,525,811	23,118,511
Intangible assets, net [note 6]	353,174	353,174
Goodwill [note 7]	—	11,072,817
	<b>45,174,847</b>	<b>60,201,387</b>
<b>Liabilities and shareholders' equity (deficiency)</b>		
<b>Current</b>		
Bank indebtedness [note 8]	6,407,462	5,336,438
Accounts payable and accrued liabilities	11,332,444	7,727,554
Income taxes payable	459,052	343,438
Current portion of government loan payable [note 9]	439,620	1,305,728
Current portion of long-term debt – bank [note 8]	3,312,421	3,312,421
Current portion of long-term debt – other [note 10]	147,093	4,188,617
<b>Total current liabilities</b>	<b>22,098,092</b>	<b>22,214,196</b>
Long-term portion of income taxes payable	—	150,254
Government loan payable [note 9]	4,222,944	4,360,446
Long-term debt – bank [note 8]	5,244,667	6,900,877
Long-term debt – other [note 10]	24,267,525	19,903,323
Deferred leasehold inducements	77,916	113,212
<b>Total liabilities</b>	<b>55,911,144</b>	<b>53,642,308</b>
Commitments [note 14]		
<b>Shareholders' equity (deficiency)</b>		
Capital stock [note 11]	6	6
Additional paid-in capital	21,011,345	15,832,825
Deficit	(20,681,902)	(1,131,937)
Cumulative translation adjustment [note 19]	(11,065,746)	(8,141,815)
<b>Total shareholders' equity (deficiency)</b>	<b>(10,736,297)</b>	<b>6,559,079</b>
	<b>45,174,847</b>	<b>60,201,387</b>

See accompanying notes

On behalf of the Board:

Director

Director

## Contract Pharmaceuticals Limited

### Consolidated statement of loss

[Expressed in US dollars]

Year ended October 31

	2022	2021
	\$	\$
<b>Sales</b> [note 12]	<b>48,365,458</b>	46,225,203
Cost of sales [notes 4, 5, 18 and 21]	<b>42,941,713</b>	40,897,626
<b>Gross profit</b>	<b>5,423,745</b>	5,327,577
<b>Expenses</b>		
General and administrative [notes 5, 15 and 18]	<b>12,141,697</b>	11,181,708
Product development costs	<b>967,862</b>	2,989,362
Restructuring costs [note 20]	—	1,160,500
Interest expense [notes 8, 9 and 10]	<b>2,635,983</b>	2,422,852
Loss (gain) on foreign exchange	<b>(151,928)</b>	1,171,080
	<b>15,593,614</b>	18,925,502
Loss before the following	<b>(10,169,869)</b>	(13,597,925)
Other income (loss) – government subsidy [note 21]	<b>(50,507)</b>	2,980,547
Other income – customer [note 5]	<b>1,075,752</b>	1,213,294
Goodwill impairment loss [note 7]	<b>(10,047,125)</b>	—
Gain (loss) on disposal of property, plant and equipment	<b>(6,952)</b>	14,313
Loss before income taxes	<b>(19,198,701)</b>	(9,389,771)
Provision for income taxes [note 16]	<b>351,264</b>	610,630
<b>Net loss for the year</b>	<b>(19,549,965)</b>	(10,000,401)

See accompanying notes

## Contract Pharmaceuticals Limited

## Consolidated statement of shareholders' equity (deficiency)

[Expressed in US dollars]

Year ended October 31

	Capital stock	Additional paid-in capital	Retained earnings (deficit)	Cumulative translation adjustment	Total
	\$	\$	\$	\$	\$
<b>Balance as at October 31, 2020</b>	6	15,550,046	8,868,464	(11,699,772)	12,718,744
Net loss for the year	—	—	(10,000,401)	—	(10,000,401)
Stock-based compensation <i>[note 15]</i>	—	282,779	—	—	282,779
Cumulative translation adjustment <i>[note 19]</i>	—	—	—	3,557,957	3,557,957
<b>Balance as at October 31, 2021</b>	6	15,832,825	(1,131,937)	(8,141,815)	6,559,079
Net loss for the year	—	—	(19,549,965)	—	(19,549,965)
Additional paid-in capital <i>[note 11]</i>	—	4,997,044	—	—	4,997,044
Stock-based compensation <i>[note 15]</i>	—	181,476	—	—	181,476
Cumulative translation adjustment <i>[note 19]</i>	—	—	—	(2,923,931)	(2,923,931)
<b>Balance as at October 31, 2022</b>	6	21,011,345	(20,681,902)	(11,065,746)	(10,736,297)

See accompanying notes

## Contract Pharmaceuticals Limited

### Consolidated statement of cash flows

[Expressed in US dollars]

Year ended October 31

	2022	2021
	\$	\$
<b>Operating activities</b>		
Net loss for the year	(19,549,965)	(10,000,401)
Add (deduct) items not involving cash		
Amortization of property, plant and equipment	4,203,093	4,857,081
Loss (gain) on disposal of property, plant and equipment	6,952	(14,313)
Amortization of deferred lease inducements	(35,297)	(66,699)
Accrued interest on long-term debt – other	277,594	1,486,888
Amortization of deferred financing fees	45,084	45,447
Accretion on government loan payable	85,279	87,784
Goodwill impairment loss	10,047,125	—
Stock-based compensation	181,476	282,779
Unrealized gain on foreign exchange	(2,323,410)	—
Net change in non-cash working capital balances related to operations [note 13]	(666,477)	5,445,802
<b>Cash provided by (used in) operating activities</b>	<b>(7,728,546)</b>	<b>2,124,368</b>
<b>Investing activities</b>		
Purchase of property, plant and equipment	(1,696,783)	(1,638,782)
Proceeds on disposal of property, plant and equipment	46,025	48,381
<b>Cash used in investing activities</b>	<b>(1,650,758)</b>	<b>(1,590,401)</b>
<b>Financing activities</b>		
Additional paid-in capital	4,997,044	—
Proceeds from long-term debt	—	1,500,000
Repayments of long-term debt	(1,656,210)	(3,302,744)
Bank indebtedness, net	1,673,373	2,016,070
Repayment of government loan payable	(570,918)	(862,754)
<b>Cash provided by (used in) financing activities</b>	<b>4,443,289</b>	<b>(649,428)</b>
<b>Net decrease in cash during the year</b>	<b>(4,936,016)</b>	<b>(115,461)</b>
Cash, beginning of year	6,273,317	6,388,778
<b>Cash, end of year</b>	<b>1,337,302</b>	<b>6,273,317</b>

See accompanying notes

**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**1. Nature of operations**

Contract Pharmaceuticals Limited [incorporated under the laws of the State of Delaware] [the “Company”] is a privately owned company that develops and produces pharmaceutical products, with a specialization in liquid and semi-solid products. The Company also provides laboratory services that include materials, product release and stability testing, as well as product development services.

**2. Summary of significant accounting policies****Basis of presentation**

The consolidated financial statements have been prepared in accordance with Canadian accounting standards for private enterprises [“ASPE”] and reflect the following significant accounting policies:

**Principles of consolidation**

These consolidated financial statements include the accounts of Contract Pharmaceuticals Limited and its wholly owned subsidiaries Contract Pharmaceuticals Limited Canada, CPL Canada Holdco Limited, Glasshouse Pharmaceuticals Canada Limited and Glasshouse Pharmaceuticals LLC. All intercompany balances and transactions have been eliminated on consolidation.

**Revenue recognition**

Revenue from the sale of products is recognized when evidence of an arrangement exists, shipment occurs and title passes to the customer, the sales price is fixed or determinable and there is reasonable assurance of collectability.

Revenue from the sale of generic drugs is recognized when evidence of an arrangement exists, shipment occurs and title passes to the customer, the sales price is fixed or determinable and there is reasonable assurance of collectability. The determination of the sales price includes a deduction of discounts, allowances given, provisions for chargebacks, other price adjustments and accruals for estimated future rebates and returns.

Revenue earned from laboratory testing services is recognized when testing is completed.

Revenue earned from product development services is recognized upon completion of the service and acceptance by the customer.

**Inventory**

Inventory is valued at the lower of cost [first-in, first-out method] and net realizable value. Net realizable value is the estimated selling price less the estimated cost of completion and the estimated costs necessary to make the sale. Semi-finished and finished goods include raw materials, direct labour and an allocation of overhead.



**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**Financial instruments**

The Company initially records a financial instrument that was originated, issued or assumed in an arm's length transaction at fair value. Related party debt or equity instruments that are quoted in an active market, debt instruments with observable inputs that are significant to the determination of their fair value, and derivative instruments are also initially recorded at fair value.

Related party financial instruments that have repayment terms are initially recorded at cost, representing the undiscounted cash flows of that instrument, excluding interest and dividend payments. Related party financial instruments that do not have repayment terms are recorded at cost, determined using consideration transferred or received by the Company. If the consideration transferred or received has repayment terms, then the cost is determined using the undiscounted cash flows, excluding interest and dividend payments, of the financial instrument transferred as consideration. If, however, the consideration transferred is an asset or liability that does not have repayment terms, the cost is initially recognized at the carrying or exchange amount of the consideration transferred or received, depending on the circumstances. The exchange amount is used when the transaction is in the normal course of operations or the transaction is not in the normal course of operations but has commercial substance, the change in ownership interest in the related financial item transferred is substantive and the amount of consideration transferred or received is established and agreed to by the related parties and is supported by independent evidence. Otherwise, the carrying amount of the consideration transferred or received is used as the cost of the related party financial instrument.

The Company recognizes its transaction costs in net income in the period incurred. However, arm's length financial instruments that will not be subsequently measured at fair value are adjusted by the transaction costs that are directly attributable to their origination, issuance or assumption.

Subsequently, the Company measures arm's length financial instruments at amortized cost, except for the long-term debt – other, an indexed liability, which is measured at the higher of the amortized cost of the debt and the amount that would be due at the consolidated balance sheet date if the formula for determining the additional amount was applied at that date and related party financial instruments using the cost method less any reduction for impairment.

When there are indications of possible impairment, the Company determines if there has been a significant adverse change to the expected timing or amounts of future cash flows expected from the financial asset. The amount of any impairment loss is determined by comparing the carrying amount of the financial asset with the highest of the following three amounts:

- [i] For an arm's length financial asset, the present value of the cash flows expected to be generated by holding the asset, discounted using a current market rate of interest appropriate to that asset, and for a related party debt instrument, the undiscounted cash flows expected to be generated by holding the asset, excluding interest and dividend payments;
- [ii] The amount that could be realized by selling the asset as at the consolidated balance sheet date; and
- [iii] The amount the Company expects to realize by exercising its right to any collateral held to secure repayment of the asset, net of all costs necessary to exercise those rights.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

Impairment of related party equity instruments is determined by comparing their carrying amount to the amount that could be realized by selling the asset as at the balance sheet date. A previously recognized impairment loss is reversed to the extent that the improvement can be related to an event occurring after the impairment was recognized, but the adjusted carrying amount of the financial asset shall be no greater than the amount that would have been reported at the date of the reversal had the impairment not been recognized.

Forgiveness of all or part of a related party financial asset can only occur after assessing for and recognizing any impairment. This forgiveness is then recognized in equity when the transaction that resulted in the origination or acquisition of the financial asset was not in the normal course of operations or in net income when the transaction was in the normal course of operations or when it is impracticable to determine whether or not the forgiven related party financial asset was originated or was acquired in the normal course of operations.

#### Property, plant and equipment

Property, plant and equipment are recorded at cost, less accumulated amortization.

Amortization of property, plant and equipment is calculated on a straight-line basis over their estimated useful lives as follows:

Plant equipment	10 years
Furniture and fixtures	5 years
Computer software and equipment	3 years
Leasehold improvements	Over the remaining term of the lease

Assets under construction are not amortized until they are ready for their intended use, upon which time they are transferred into another category of property, plant and equipment.

#### Intangible assets

Intangible assets are amortized on the basis of their estimated useful lives using the straight-line method over the following duration:

Licenses	10 years
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#### Deferred leasehold inducements

Leasehold inducements consist of periods of reduced rent and other capital inducements provided by the lessor. Leasehold inducements are deferred and amortized to reduce rent expense on a straight-line basis over the term of the lease.

**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**Impairment of long-lived assets subject to amortization**

Long-lived assets, which comprise property, plant and equipment and intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Impairment is assessed by comparing the carrying amount of an asset to be held and used with the total of the undiscounted cash flows expected from its use and disposition. If the asset is impaired, the impairment loss to be recognized is measured as the amount by which the carrying amount of the asset exceeds its fair value, generally determined on a discounted cash flow basis. Any impairment results in a write-down of the asset and a charge to loss during the year. An impairment loss is not reversed if the fair value of the related asset subsequently increases.

Management has determined that there was no impairment of long-lived assets as at October 31, 2022 and 2021.

**Research and development expenses**

Research and development costs are expensed as incurred.

**Government assistance and investment tax credits**

Amounts received or receivable resulting from investment tax credits are reflected as reductions of the cost of the net assets or expenses to which they relate when the Company becomes eligible to accrue them, provided there is reasonable assurance the benefits will be realized.

Amounts received or receivable resulting from wage subsidies are reflected as other income when the Company becomes eligible to accrue them, provided there is reasonable assurance the benefits will be realized.

**Goodwill**

Goodwill represents the excess of the cost of the investment in an acquired business over the fair value of the underlying net identifiable asset acquired. The Company does not amortize goodwill. The balance is tested for impairment whenever an event or circumstance occurs that indicates that goodwill might be impaired. When the carrying amount exceeds the fair value, an impairment loss is recognized in net loss in an amount equal to the excess. Any write-down of goodwill arising from impairment in value is recorded in the period in which the impairment is identified. Goodwill impairment losses are not reversed.

**Income taxes**

The Company follows the taxes payable method, whereby only the cost or benefit of current income taxes for the year is reported, as determined in accordance with the rules established by taxation authorities.

**Pension plan**

The Company maintains a deferred profit sharing plan for its Canadian employees. The cost of the defined contribution pension plan is expensed as earned by employees. The Company makes contributions in accordance with the plan's agreements, which are administered by the plan's trustees.

**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**Foreign currency translation**

Accounts in foreign currency have been translated into US dollars as follows:

- Monetary items – as at exchange rates in effect at the consolidated balance sheet date;
- Non-monetary items – at exchange rates in effect on the date of the transactions; and
- Revenue and expenses – at average exchange rates prevailing during the year.

Gains and losses arising from foreign currency translation are included in net loss.

**Self-sustaining foreign operations**

The financial statements of foreign operations that are self-sustaining in terms of financial and operational management are translated according to the current rate method using the foreign currency as the measuring unit. Under this method, assets and liabilities are translated into US dollars at the exchange rate in effect as at the consolidated balance sheet date, and revenue and expenses are translated at the average exchange rate in effect during the year. The exchange gains or losses resulting from the translation of the financial statements of these foreign operations are presented as a cumulative translation adjustment under shareholders' equity (deficiency) in the consolidated balance sheet.

**Stock-based compensation**

The Company maintains a stock-based compensation plan under which stock option awards and tandem awards, consisting of stock options with stock appreciation rights, may be granted to employees. The vesting requirements are typically service-based, and the options normally have a contractual life of ten years, although options with performance-based vesting criteria may be issued from time to time.

Stock-based compensation costs are accounted for on a fair value basis, as measured at the grant date, which is generally the date at which both the Company and the employee have a mutual understanding of the terms of the award. The fair value is measured using the option's "calculated value," a method that substitutes the historical volatility of an appropriate industry sector index for the expected volatility of an entity's share price in an option-pricing model, such as the Black-Scholes option pricing model. The resulting stock-based compensation cost is recognized on a straight-line basis, with a corresponding credit to additional paid-in capital over the vesting period involved, typically three years. The compensation expense is based on the number of awards that eventually vest, and adjustments for forfeitures are made as they occur. Any consideration paid by employees upon exercise of the options and the previously recognized compensation cost of the options exercised included in additional paid-in capital are added to share capital.

The stock-based compensation expense is based on the number of awards that eventually vest, and adjustments for forfeitures are made as they occur.

**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**Use of estimates**

The preparation of consolidated financial statements in conformity with ASPE requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from these estimates. The consolidated financial statement items requiring the use of management estimates are the valuation of stock options and tandem awards, the valuation of goodwill, the contingent value of long-term debt, the useful lives of long-lived assets, the inventory obsolescence provision, allowance for doubtful accounts and measurement of revenue, net of rebates and chargebacks, derived from generic drug sales.

**Going concern uncertainty**

The consolidated financial statements have been prepared on the basis of accounting principles applicable to a going concern, which assumes that the Company will continue in operation for the foreseeable future and will be able to realize its assets and discharge its liabilities in the normal course of operations. These consolidated financial statements do not include any adjustments to the amounts and classification of assets and liabilities that would be necessary should the Company be unable to continue as a going concern. Such adjustments could be material.

Management has determined that, as at October 31, 2022, it does not have adequate working capital for the coming year based on current capital resources. The Company incurred a total loss of \$19,549,965 for the year ended October 31, 2022, and as at that date has an accumulated deficit of \$20,681,902. These events or conditions indicate that a material uncertainty exists that may cast significant doubt on the Company's ability to continue as a going concern and, therefore, that it may be unable to realize its assets and discharge its liabilities in the normal course of business. Management and the Board of Directors believe they will be able to complete a capital raise that will provide the Company with sufficient funding to meet its expenditure commitments and support its planned level of spending. While the Company has been successful in obtaining financing to date and believes it will be able to secure sufficient funding to continue operations, there can be no assurance that it will be able to do so in the future on terms favorable for the Company.

**3. Change in accounting policy****Financial instruments in a related party transaction, risk disclosure and other amendments**

Effective November 1, 2021, the Company adopted the amendments to 3856, *Financial Instruments*, of Part II of the *CPA Canada Handbook - Accounting* ["Section 3856" or the "standard"], issued by the Canadian Accounting Standards Board.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

Under the amended standard, the measurement of related party financial instruments is now incorporated into Section 3856 as opposed to Section 3840, *Related Party Transactions* ["Section 3840"]. Consequently, related party transactions are initially measured at cost, with the exception of equity or debt instruments quoted in an active market, debt instruments when the inputs significant to the determination of the fair value of the instrument are observable, or derivative contracts, which are initially measured at fair value. Cost under the amended standard is determined based on whether the financial instrument has repayment terms. The amendments also require that the subsequent measurement of related party financial instruments be based on how the entity initially measured the instrument, provide guidance on how to measure an impairment of a debt and equity instrument in a related party transaction measured at cost, and require an entity to recognize forgiveness of a related party financial asset in either equity or net income depending on whether or not the original transaction giving rise to the financial assets was in the normal course of business. Additionally, the standard requires entities to prepare financial instrument disclosures using entity-specific information, and significant consequential amendments were made to Section 3840 to clarify that Section 3840 does not apply to related party financial instruments.

The Company adopted the amendments to Section 3856 retrospectively. There was no impact of the adoption of the amendments to Section 3856 on the consolidated financial statements of the Company as at and for the year ended October 31, 2021.

#### 4. Inventory

Inventory consists of the following:

	2022	2021
	\$	\$
Spare parts	530,931	338,029
Raw materials	4,091,859	3,074,578
Packaging	4,746,503	3,668,327
Semi-finished and finished goods	2,377,911	2,473,538
	<b>11,747,204</b>	<b>9,554,472</b>

Inventory recognized as an expense within cost of sales during the year amounted to \$38,537,854 [2021 – \$35,000,432]. Inventory is recorded net of a provision for obsolescence of \$2,083,433 [2021 – \$2,846,582].

**Contract Pharmaceuticals Limited**

**Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

**5. Property, plant and equipment**

Property, plant and equipment consist of the following:

	<b>2022</b>		
	<b>Cost</b>	<b>Accumulated amortization</b>	<b>Net book value</b>
	\$	\$	\$
Plant equipment	37,391,459	24,736,202	12,655,257
Furniture and fixtures	2,435,704	2,380,045	55,659
Computer software and equipment	5,342,396	5,268,897	73,499
Leasehold improvements	15,629,323	13,799,872	1,829,451
Construction in progress	3,911,945	—	3,911,945
	<b>64,710,827</b>	<b>46,185,016</b>	<b>18,525,811</b>
	<b>2021</b>		
	<b>Cost</b>	<b>Accumulated amortization</b>	<b>Net book value</b>
	\$	\$	\$
Plant equipment	40,849,164	25,234,763	15,614,401
Furniture and fixtures	2,684,361	2,332,561	351,800
Computer software and equipment	5,882,750	5,660,541	222,209
Leasehold improvements	16,875,073	13,932,424	2,942,649
Construction in progress	3,987,452	—	3,987,452
	<b>70,278,800</b>	<b>47,160,289</b>	<b>23,118,511</b>

Amortization expense recorded for the year ended October 31, 2022, was \$4,203,093 [2021 – \$4,857,081].

During the year, the Company received \$1,075,752 [2021 – \$1,213,294] of income from a customer to facilitate the purchase of equipment. This equipment is included in plant equipment as the Company holds title and ownership, and it is being amortized over its estimated useful life. The contribution from the customer has been included in other income.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

#### 6. Intangible assets

Intangible assets consist of the following:

	2022		2021	
	Cost	Accumulated amortization	Net book value	Net book value
	\$	\$	\$	\$
Licenses	353,174	—	353,174	353,174

During 2017, the Company purchased a perpetual license from a customer for \$353,174. This asset is not being amortized as it is not available for use.

#### 7. Goodwill

The following is a summary of the changes in goodwill:

	\$
<b>Balance as at October 31, 2020</b>	10,296,692
Impact of foreign exchange	776,125
<b>Balance as at October 31, 2021</b>	11,072,817
Impact of foreign exchange	<b>(1,025,692)</b>
Goodwill impairment loss	<b>(10,047,125)</b>
<b>Balance as at October 31, 2022</b>	<b>—</b>

During the year ended October 31, 2022, the Company identified events and circumstances that indicated the carrying amounts of reporting units to which goodwill was assigned may exceed the fair value of the reporting units. Accordingly, a test for impairment was performed and the Company determined that the goodwill was impaired. As a result, the Company has recorded an impairment loss during the year ended October 31, 2022, on goodwill of \$10,047,125 [2021 – \$nil].

#### 8. Bank indebtedness and long-term debt

##### Operating facility

*Maximum Can\$9,000,000 operating facility*

The amount available under the revolving demand credit facility is subject to a formula based on the amount of eligible accounts receivable and inventory.

As at October 31, 2022, \$6,407,462 [2021 – \$5,336,438] of this facility has been utilized. Interest on this facility is calculated as the Canadian prime rate plus 0.50% on prime-based loans and LIBOR plus 2.75% on LIBOR-based loans in US dollars.



## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

Included in interest expense is \$234,396 [2021 – \$130,465] related to the operating facility.

A general security agreement constituting a first-ranking security interest in all accounts receivable and inventory and a second-ranking security interest in all equipment of Contract Pharmaceuticals Limited Canada with a total carrying amount of \$14,382,006 [Can\$19,630,000] has been pledged as collateral for this facility, and the repayment has been guaranteed by the Company.

#### Long-term debt

##### *\$15,000,000 term facility*

Contract Pharmaceuticals Limited Canada, a subsidiary of the Company, has one term facility with a maximum borrowing limit of \$15,000,000. No draws were made during 2022 under this term facility. During 2021, an additional US\$1,500,000 was drawn under this term facility.

The term facility matures in five years from initial disbursement. Interest on this facility is based on the US prime rate plus 2.5%.

The term facility is summarized as follows:

	2022 \$	2021 \$
Long-term debt	8,557,088	10,213,298
Less current portion	3,312,421	3,312,421
	<u>5,244,667</u>	<u>6,900,877</u>

Included in interest expense for the year ended October 31, 2022, is \$624,715 [2021 – \$684,575].

The principal repayments on the existing term facility in each of the next three years are as follows:

	\$
2023	3,312,421
2024	3,312,421
2025	1,932,246
	<u>8,557,088</u>

The term facility is collateralized by a first charge against the present and after-acquired equipment and a general security agreement granting a second-ranking charge against the present and future-acquired personal property of the subsidiary.

The operating and long-term debt facilities are subject to certain restrictive financial covenants. The Company was not in compliance with these financial covenants as at October 31, 2022 and 2021 and has subsequently obtained a waiver.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

#### 9. Government loan payable

##### Repayable contribution

The note payable represents a repayable government contribution where the Federal Development Agency has agreed to contribute funding for 25% of new capital expenditures made by the Company, up to Can\$8,992,672. The Company is required to submit eligible expenses on a quarterly basis to receive the interest-free contributions. Repayment of the contribution began January 1, 2020. During 2020, the payment terms were amended to defer principal payments from April to September. During the current year, the payment terms were amended to defer principal payments from May to October.

As at October 31, 2022, the Company has received contributions totaling \$6,588,521, presented net of discount of \$189,867 [Can\$8,992,672, presented net of discount of \$254,163] [2021 – \$7,261,525, presented net of discount of \$275,146 [Can\$8,992,672, presented net of discount of \$364,305]]. The Company is in compliance with the covenants associated with this loan as at October 31, 2022 and 2021.

The estimated repayments on the existing government loan during the next five years are as follows:

	\$
2023	439,620
2024	1,106,377
2025	1,239,728
2026	1,239,728
2027	826,978
	<u>4,852,431</u>

#### 10. Long-term debt – other

During the year ended October 31, 2019, the Company closed a financing arrangement with an investor to provide additional capital to advance the development and commercialization of its pipeline of topical products. The arrangement comprised a \$20 million term loan with an annual interest rate of 6.5%, compounded quarterly. Accrued interest is due on the third anniversary date of the loan and paid quarterly thereafter. Accrued transaction cost is also due on the third anniversary date of the loan. Principal amount is due on December 6, 2023.

During 2022, the Company entered into an amendment to the financing agreement to convert the accrued interest owing and accrued transaction cost of \$500,000 as at December 27, 2021, including the accrued interest owing as at October 31, 2021 of \$3,688,617, as well as the interest accrued from October 31, 2021 until the date of amendment, into additional principal in the form of a Paid-In-Kind [“PIK”] loan due December 6, 2023 with interest to be paid quarterly in arrears with an annual interest rate of 10%.

As part of the financing arrangement, the Company provided fully vested warrants amounting to 12,071 shares of common shares at an exercise price of \$497.08 per share, which expire on December 6, 2028. The equity component of the warrants was elected to be measured at nil on initial recognition.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

The long-term debt – other is summarized as follows:

	<b>2022</b>	<b>2021</b>
	\$	\$
Long-term debt – other	24,319,118	20,000,000
Accrued transaction cost	—	500,000
Accrued interest	147,093	3,688,617
Less deferred financing fees	(51,593)	(96,677)
	<u>24,414,618</u>	<u>24,091,940</u>
Current portion of long-term debt – other	147,093	4,188,617
Long-term debt – other	<u>24,267,525</u>	<u>19,903,323</u>
	<u>24,414,618</u>	<u>24,091,940</u>

Interest expense related to the loan amounted to \$1,691,593 in 2022 [2021 – \$1,486,888].

The loan repayment amount at maturity or termination has a contingent value attached to it whereby the Company is required to pay the loan principal plus an amount based on an agreed-upon valuation of the Company. The maximum contingent amount payable in addition to the principal amount due is \$20 million. As at October 31, 2022 and 2021, no additional liability has been recorded for the contingent value of this arrangement.

#### 11. Capital stock

Capital stock consists of the following:

##### Authorized

Unlimited number of common shares with par value of \$0.01 per share

##### Issued

	<b>2022</b>	<b>2021</b>
	\$	\$
104,350 common shares	<u>6</u>	<u>6</u>

During the year ended October 31, 2022, the Company's shareholders contributed additional paid-in capital relating to common shares in the amount of \$4,997,044 [2021 - \$nil].

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

#### 12. Sales

The Company's major sources of sales are as follows:

	2022	2021
	\$	\$
Product	<b>39,953,923</b>	37,949,250
Testing	<b>1,145,234</b>	1,582,111
Product development	<b>7,266,301</b>	6,693,842
	<b>48,365,458</b>	46,225,203

#### 13. Consolidated statement of cash flows

The net change in non-cash working capital balances related to operations consists of the following:

	2022	2021
	\$	\$
Accounts receivable	<b>(4,021,003)</b>	3,350,983
Inventory	<b>(3,545,882)</b>	2,137,602
Prepaid expenses and other assets	<b>396,967</b>	(590,183)
Accounts payable and accrued liabilities	<b>6,532,390</b>	290,961
Income taxes recoverable	—	61,584
Income taxes payable	<b>(28,949)</b>	194,855
	<b>(666,477)</b>	5,445,802

#### 14. Commitments

The Company has minimum lease payment obligations under operating leases in each of the next two years as follows:

	\$
2023	1,019,855
2024	637,409
	<b>1,657,264</b>

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

#### 15. Stock incentive plan

##### Stock option awards

In the year ended October 31, 2011, the Board of Directors approved the Stock Incentive Plan of 2011 [the "Plan"], under which 15,000 common shares were reserved for issuance. An additional 3,365 common shares were reserved for issuance in 2016 under the Plan. Under the provisions of the Plan, the Board of Directors has the authority to determine the terms of each grant of award, including the exercise price, the periods of vesting and exercisability and other restrictions.

In the year ended October 31, 2020, the Board of Directors approved the issuance of 2,320 stock options under the Plan to key employees of the Company. Options granted in 2020 totalling 1,000 were forfeited during the year. 440 stock options vest each year as at December 1, 2020, 2021 and 2022.

In the year ended October 31, 2021, the Board of Directors approved the issuance of 2,050 stock options under this plan to key employees of the Company. 1,750 stock options vest at 33 1/3% per year as at November 14, 2021, 2022 and 2023 and 300 stock options vest immediately.

No stock options were issued in the year ended October 31, 2022. Subsequent to year-end, the Board of Directors issued 600 stock options to key employees and directors of the Company of which 100 vested immediately and 500 will vest over three years.

	<b>Number of stock options</b>
<b>Balance outstanding, October 31, 2020</b>	15,050
Options granted	2,050
Options forfeited	—
<b>Balance outstanding, October 31, 2021</b>	<u>17,100</u>
Options granted	—
Options forfeited	—
<b>Balance outstanding, October 31, 2022</b>	<u><b>17,100</b></u>

Certain additional information relating to outstanding stock option awards is as follows:

Range of exercise prices US\$	Outstanding as at October 31, 2022 #	Weighted average remaining life [years]	Exercisable as at October 31, 2022 #	Weighted average exercise price US\$
<b>175 to 903</b>	<b>17,100</b>	<b>4.2</b>	<b>12,363</b>	<b>494</b>

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

Range of exercise prices US\$	Outstanding as at October 31, 2021 #	Weighted average remaining life [years]	Exercisable as at October 31, 2021 #	Weighted average exercise price US\$
175 to 903	17,100	5.2	11,340	494

The fair value of each option granted was estimated using the Black-Scholes option pricing model on the date of grant. Stock-based compensation expense for the year ended October 31, 2022 amounts to \$181,476 [2021 – \$282,779] and has been included in general and administrative expenses.

#### 16. Income taxes

The provision for income taxes recorded differs from the provision for income taxes obtained by applying the statutory income tax rate of 21% [2021 – 21%] to the loss before income taxes for the year and is reconciled as follows:

	2022 \$	2021 \$
Loss before income taxes	(19,198,701)	(9,389,771)
Combined statutory income tax rates	21%	21%
Expected recovery of income taxes	(4,031,727)	(1,971,852)
Increase (decrease) resulting from		
Non-deductible expenses	3,126,258	68,106
Differences in tax rates in other jurisdictions	(1,199,028)	(249,913)
Book to actual adjustments	(36,172)	(2,820)
Deductible temporary differences	(41,777)	(56,950)
SR&ED expenditures deducted in excess of claimed	104,799	128,171
Amortization in excess of capital cost allowance	478,425	374,227
Uncertain tax position – withholding taxes		335,734
Non-capital loss benefit not applied	2,714,795	1,297,333
Other	(764,309)	688,594
<b>Provision for income taxes</b>	<b>351,264</b>	<b>610,630</b>

The Company has net operating losses available for carryforward for income tax purposes in the United States in the amount of \$2,250,238, which may be carried forward to reduce taxable income in future years. If not utilized, the tax losses will expire in 2029 to 2038.

Two subsidiaries of the Company also have non-capital losses available for carryforward in Canada in the amount of Can\$ 65,507,487, which can be applied to reduce taxable income in future years. If not utilized, the tax losses will expire in 2037 to 2042.

## Contract Pharmaceuticals Limited

### Notes to consolidated financial statements

[Expressed in US dollars]

October 31, 2022

Certain expenditures are classified as scientific research and experimental development expenditures and, for tax purposes, are grouped into a pool that can be 100% deductible in the year incurred. In addition, two subsidiaries of the Company have investment tax credits of Can\$ 999,110 [2021 – Can\$ 671,561] available to reduce future income taxes. These investment tax credits carryforward amounts expire between 2037 and 2042.

#### 17. Financial instruments and risk management

The following table shows the carrying amounts of the indicated financial assets measured at amortized cost:

	2022	2021
	\$	\$
Cash	1,337,302	6,273,317
Accounts receivable	11,470,768	7,623,747
	<b>12,808,070</b>	<b>13,897,064</b>

#### Risks and uncertainties

The Company is exposed to risks of varying degrees of significance that could affect its ability to achieve its strategic objectives for growth. The main objective of the Company's risk management process is to ensure that risks are properly identified and the capital base is adequate in relation to these risks. The principal financial risks to which the Company is exposed are described below:

##### *Credit risk*

The Company is exposed to credit risk with respect to collectability of its accounts receivable from its customers. The Company's concentration of credit risk is primarily from exposure to three customers as they account for approximately 30% [2021 – three customers for approximately 42%] of gross accounts receivable.

##### *Currency risk*

The Company undertakes sales and purchase transactions in foreign currencies. Currency risk arises from fluctuations in the foreign exchange rates, and the degree of volatility of these rates.

##### *Interest rate risk*

The bank indebtedness bears interest at a floating rate based on the bank's prime rate for prime-based loans and on the LIBOR rate for US LIBOR-based loans. The term facilities bear interest at a floating rate based on the US prime rate. As such, the bank indebtedness and the term facilities are subject to interest rate cash flow risk. The long-term debt – other bears interest at a fixed rate and therefore is subject to interest rate fair value risk. The interest-free government loan also is subject to fair value risk. The Company does not use derivative financial instruments to reduce its exposure to interest rate risk.

**Contract Pharmaceuticals Limited****Notes to consolidated financial statements**

[Expressed in US dollars]

October 31, 2022

*Liquidity risk*

Liquidity risk is the risk that the Company will encounter difficulty in meeting obligations associated with financial liabilities. The Company is exposed to this risk mainly in respect of its accounts payable and accrued liabilities, bank indebtedness, various long-term debt agreements and operating lease commitments.

**18. Pension plan**

Under the Company's employee benefits plan, the Company contributes a percentage of eligible employees' base earnings. The Company's contributions vest fully following two years of plan membership. During the year, the Company expensed \$573,969 [2021 – \$541,474] in relation to employee future benefits, which has been recorded in cost of sales and general and administrative expenses.

**19. Cumulative translation adjustment**

The cumulative foreign currency translation adjustment is composed principally of accumulated exchange gains on goodwill and property, plant and equipment, partially offset by accumulated exchange losses on long-term debt denominated in Canadian dollars in the Company's self-sustaining foreign operations.

**20. Restructuring**

During the year ended October 31, 2021, the Company restructured its workforce, resulting in a reduction of personnel. The Company expensed \$nil in 2022 and expensed \$1,160,500 in 2021 related to termination costs and salary continuance.

**21. Government assistance**

Due to the coronavirus ["COVID-19"] pandemic, the Government of Canada offered relief programs for qualifying businesses. The Company qualified for the Canada Emergency Wage Subsidy ["CEWS"] program, which provides a subsidy for wages from March 15, 2020 to October 23, 2021. During 2021, the Company claimed \$2,980,547 in subsidies of which \$906,062 was recorded in accounts receivable as at October 31, 2021 and was subsequently received during the year ended October 31, 2022.

The Company incurred research and development expenditures that are eligible for investment tax credits. No investment tax credits were recorded in 2022 and 2021. Credits are recorded as a reduction of cost of sales, are based on management's estimates of amounts expected to be recovered and are subject to audit by the taxation authorities and, accordingly, these amounts may vary.



**THIS IS EXHIBIT "B"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

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Commissioner for Taking Affidavits

**Contract Pharmaceuticals Limited**  
**Consolidated Balance Sheet**  
**As at 10/31/2023**

	12	
(expressed in U.S. dollars)	<b>October 2023</b>	<b>October 2022</b>
<b>Assets</b>		
<b>Current Assets</b>		
Cash	1,552,824	1,337,302
Accounts Receivable	10,343,196	11,470,768
Inventory	14,381,923	11,747,204
Prepaid expenses and other assets	1,682,405	1,740,589
Income taxes recoverable	-	-
<b>Total Current Assets</b>	<b>27,960,348</b>	<b>26,295,863</b>
Property, plant and equipment	15,585,017	18,525,811
Intangible Assets	353,174	353,174
Goodwill	5	0
<b>Total Assets</b>	<b>43,898,544</b>	<b>45,174,848</b>
<b>Liabilities</b>		
	2,035,579	
<b>Current Liabilities</b>		
Bank indebtedness	4,955,177	6,407,462
Accounts payable and accrued liabilities	13,273,679	11,332,444
Income taxes payable	107,415	459,053
Current portion of government loan payable	1,088,559	439,620
Current portion of long-term debt	3,312,421	3,312,421
Current portion of long-term debt-other	147,095	147,093
<b>Total Current Liabilities</b>	<b>22,884,346</b>	<b>22,098,092</b>
Long-term portion of income taxes payable	-	-
Government Loan Payable	3,144,991	4,222,944
Long-term debt	1,932,246	5,244,667
Deerfield Loan	24,311,808	24,267,525
Deferred leasehold inducements	52,249	77,915
	<b>52,325,640</b>	<b>55,911,144</b>
<b>Shareholders' Equity</b>		
Capital Stock	6	6.42
Additional Paid-in Capital	23,061,345	21,011,345
Retained Earnings	(22,041,489)	(20,681,901)
Cumulative other comprehensive income	(9,446,958)	(11,065,745)
<b>Total Shareholders' Equity</b>	<b>(8,427,096)</b>	<b>(10,736,295)</b>
<b>TOTAL LIABILITIES &amp; SHAREHOLDERS' EQUITY</b>	<b>43,898,544</b>	<b>45,174,848</b>

**Contract Pharmaceuticals Limited**  
**Consolidated Statement of Income and Comprehensive Income**  
**For the Month Ended 10/31/2023**

(expressed in U.S. dollars)

	<b>CY YTD 2023 Oct</b>	<b>PY YTD 2022 Oct</b>
<b>Sales</b>	60,954,420	48,365,512
<b>Cost of sales</b>	<u>47,339,318</u>	<u>42,941,553</u>
<b>Gross Margin</b>	13,615,102	5,423,959
<b>General and administrative expenses</b>	10,645,321	12,141,697
<b>Foreign exchange</b>	2,325,024	2,171,204
<b>Interest expense</b>	2,969,352	2,635,983
<b>Other income / expense</b>	(1,668,198)	(1,101,265)
<b>Goodwill impairment</b>	-	-
<b>Extraordinary Items- Proprietary Product Development</b>	<u>693,463</u>	<u>967,862</u>
<b>Earnings (loss) before income taxes</b>	(1,349,860)	(11,391,521)
<b>Provision for income taxes</b>	<u>9,731</u>	<u>(9,945)</u>
<b>Net Income (loss) including Proprietary Product Development</b>	<u><b>(1,359,590)</b></u>	<u><b>(11,381,576)</b></u>
<b>Net Income (loss) excluding Proprietary Product Development</b>	<u><b>(666,127)</b></u>	<u><b>(10,413,714)</b></u>

**THIS IS EXHIBIT "C"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

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Commissioner for Taking Affidavits



Royal Bank of Canada  
 Commercial Financial Services  
 6880 Financial Drive 2nd Floor Mezzanine  
 Mississauga, Ontario L5N 7Y5

November 22, 2017

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
 Mississauga, Ontario  
 L5N 6L6

ROYAL BANK OF CANADA (the “**Bank**”) hereby confirms the credit facilities described below (the “**Credit Facilities**”) subject to the terms and conditions set forth below and in the attached Terms & Conditions and Schedules (collectively the “**Agreement**”). This Agreement amends and restates without novation the existing agreement dated August 10, 2015 and any amendments thereto. Any amount owing by the Borrower to the Bank under such previous agreement is deemed to be a Borrowing under this Agreement. Any and all security that has been delivered to the Bank and is set forth as Security below, shall remain in full force and effect, is expressly reserved by the Bank and, unless expressly indicated otherwise, shall apply in respect of all obligations of the Borrower under the Credit Facilities. Unless otherwise provided, all dollar amounts are in Canadian currency.

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or events of default now existing or hereafter arising under this Agreement or any other agreement delivered to the Bank, and whether known or unknown, and this Agreement shall not be construed as a waiver of any such breach, default or event of default.

**BORROWER:** Contract Pharmaceuticals Limited Canada (the “**Borrower**”)

**CREDIT FACILITIES**

**Facility #1:** \$19,500,000.00 revolving demand facility by way of:

a) RBP based loans (“**RBP Loans**”)

Revolve in increments of:	\$5,000.00	Minimum retained balance:	\$0.00
Revolved by:	Bank	Interest rate (per annum):	RBP + 0.50%

b) Libor based loans in US currency (“**Libor Loans**”)

Interest rate (per annum):	Libor + 2.75%
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c) Letters of Guarantee (“**LGs**”)

Fees to be advised on a transaction-by-transaction basis. Fees and drawings to be charged to Borrower’s accounts. Minimum fee of \$100.00.
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**AVAILABILITY**

The Borrower may borrow, convert, repay and reborrow up to the amount of this facility provided this facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict the availability of any unutilized portion at any time and from time to time without notice.

Borrowings outstanding under this facility must not exceed at any time the aggregate of the following, less Potential Prior-Ranking Claims (the "**Borrowing Limit**"):

- a) 80% of Good Canadian/US Accounts Receivable;
- b) to a maximum of \$7,000,000.00, the aggregate of:
  - i. 50% of the lesser of cost or net realizable value of Finished Goods Inventory;
  - ii. 50% of the lesser of cost or net realizable value of Raw Materials Inventory;
  - iii. 50% of the lesser of cost or net realizable value of Work in Progress Inventory; and
  - iv. to a maximum of \$2,000,000.00, 50% of the lesser of cost or net realizable value of Packaging Materials Inventory.

**REPAYMENT**

Notwithstanding compliance with the covenants and all other terms and conditions of this Agreement, and regardless of the maturities of any outstanding instruments or contracts, Borrowings under this facility are repayable on demand.

**GENERAL ACCOUNT**

The Borrower shall establish a current account with the Bank (the "**General Account**") for the conduct of the Borrower's day-to-day banking business. The Borrower authorizes the Bank daily or otherwise as and when determined by the Bank, to ascertain the balance of the General Account and:

- a) if such position is a debit balance the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, make available a Borrowing by way of RBP Loans under this facility;
- b) if such position is a credit balance, where the facility is indicated to be Bank revolved, the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, apply the amount of such credit balance or any part as a repayment of any Borrowings outstanding by way of RBP Loans under this facility.

**OTHER FACILITIES**

The Credit Facilities are in addition to the following facilities (the "**Other Facilities**"). The Other Facilities will be governed by this Agreement and separate agreements between the Borrower and the Bank. In the event of a conflict between this Agreement and any such separate agreement, the terms of the separate agreement will govern.

- a) VISA Business to a maximum amount of \$130,000.00 available in Canadian currency and US currency.

**FEES****One Time Fee:**

Payable upon acceptance of this Agreement or as agreed upon between the Borrower and the Bank.

**Monthly Fee:**

Payable in arrears on the same day of each month.

Review Fee: \$19,500.00

Management Fee: \$200.00

**SECURITY**

Security for the Borrowings and all other obligations of the Borrower to the Bank (collectively, the "Security"), shall include:

- a) General security agreement on the Bank's form 924 signed by the Borrower constituting a first ranking security interest in all accounts receivables and inventory of the Borrower and a second ranking security interest in all equipment of the Borrower, subject to a prior security interest held by Export Development Canada ("EDC"), pursuant to the EDC Inter-creditor agreement (as defined below);
- b) Inter-creditor agreement between the Bank, the Borrower, and EDC, outlining the priority of their respective security interests in the assets of the Borrower;
- c) Postponement and assignment of claim on the Bank's form 918 signed by CPL Canada Holdco Limited;
- d) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$19,630,000.00 signed by CPL Canada Holdco Limited, supported by a general security agreement on the Bank's form 924 constituting a first ranking security interest in all personal property of CPL Canada Holdco Limited; and
- e) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$19,630,000.00 signed by Contract Pharmaceuticals Limited.

**FINANCIAL COVENANTS**

In the event that the Borrower changes accounting standards, accounting principles and/or the application of accounting principles during the term of this Agreement, all financial covenants shall be calculated using the accounting standards and principles applicable at the time this Agreement was entered into.

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower will:

- a) maintain, to be measured as at the end of each fiscal year:
  - i. Debt Service Coverage of not less than 1.25:1; and
  - ii. a ratio of Total Liabilities to Tangible Net Worth of not greater than 2.25:1.

**REPORTING REQUIREMENTS**

The Borrower will provide the following to the Bank:

- a) quarterly Borrowing Limit Certificate, substantially in the form of Schedule "G" signed on behalf of the Borrower by any one of the Chief Executive Officer, the President, the Vice-President Finance, the Treasurer, the Comptroller, the Chief Accountant or any other employee of the Borrower holding equivalent office, within 30 days of each fiscal quarter end;
- b) quarterly company prepared financial statements for the Borrower, within 45 days of each fiscal quarter end;
- c) annually Compliance Certificate, substantially in the form of Schedule "H" signed by an authorized signing officer of the Borrower, within 120 days of each fiscal year end, certifying compliance with this Agreement including the financial covenants set forth in the Agreement;
- d) annual audited financial statements for the Borrower, within 120 days of each fiscal year end;

- e) annual notice to reader financial statements for Glasshouse Pharmaceuticals Limited Canada, within 120 days of each fiscal year end;
- f) annual company prepared financial statements for each of Glasshouse Pharmaceuticals LLC, CPL Canada Holdco Limited and Contract Pharmaceuticals Limited, within 120 days of each fiscal year end; and
- g) such other financial and operating statements and reports as and when the Bank may reasonably require.

**CONDITIONS PRECEDENT**

In no event will the Credit Facilities or any part thereof be available unless the Bank has received:

- a) a duly executed copy of this Agreement;
- b) the Security provided for herein, registered, as required, to the satisfaction of the Bank;
- c) such financial and other information or documents relating to the Borrower or any Guarantor if applicable as the Bank may reasonably require; and
- d) such other authorizations, approvals, opinions and documentation as the Bank may reasonably require.

Additionally;

- e) all documentation to be received by the Bank shall be in form and substance satisfactory to the Bank.

**BUSINESS LOAN INSURANCE PLAN**

The Borrower hereby acknowledges that the Bank has offered it group creditor insurance coverage on the Borrowings under the Business Loan Insurance Plan and the Borrower hereby acknowledges that it is the Borrower's responsibility to apply for any new or increased insurance amount for the Borrowings that may be eligible.

If the Borrower decides to apply for insurance on the Borrowings, the application will be made via the Bank's Business Loan Insurance Plan application (form 3460 ENG or 53460 FRE). If the Borrower has existing uninsured Borrowings and decides not to apply for Business Loan Insurance Plan coverage on any new Borrowings, it hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for Business Loan Insurance Plan coverage on all such Borrowings, and that all such Borrowings are not insured under the Policy as at the date of acceptance of this Agreement.

If the Borrower has Business Loan Insurance Plan coverage on previously approved Borrowings, such coverage will be applied automatically to all new Borrowings eligible for Business Loan Insurance Plan coverage that share the same loan account number, up to the approved amount of Business Loan Insurance Plan coverage. This Agreement cannot be used to waive coverage on new Borrowings eligible for Business Loan Insurance Plan coverage if Business Loan Insurance Plan coverage is in effect on the Borrower's existing Borrowings. If the Borrower does not want Business Loan Insurance Plan coverage to apply to any new Borrowings, a different loan account number will need to be set up and all uninsured loans attached to it.

If the Borrower has existing Borrowings to which Business Loan Insurance Plan coverage applies, and any new Borrowings would exceed the approved amount of Business Loan Insurance Plan coverage already in place, the Borrower must apply for additional Business Loan Insurance Plan coverage (if eligible) in order for Business Loan Insurance Plan coverage to apply to any new Borrowings. If the Borrower decides not to apply for additional Business Loan Insurance Plan coverage in respect of any new Borrowings (if eligible), the Borrower hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for additional Business Loan Insurance Plan coverage on such new Borrowings and that such new Borrowings are not insured under the Policy as at the date the Borrower executes this Agreement.



If there are any discrepancies between the insurance information in this Agreement and the Business Loan Insurance Plan documents regarding the Borrowings, the Business Loan Insurance Plan documents govern.

Business Loan Insurance Plan premiums (plus applicable taxes), will be taken as a separate payment, directly from the bank account associated with the loan, at the same frequency and schedule as your regular loan payments, where applicable. As premiums are based on the outstanding loan balance and the insured person's age at the time the premiums are due, the cost of Business Loan Insurance Plan coverage may increase during the term of the loan. The premium calculation is set out in the Business Loan Insurance Plan terms and conditions provided to the Borrower at the time the application for Business Loan Insurance Plan coverage was completed. Refer to the terms and conditions (form 3460 ENG or 53460 FRE) for further explanation and disclosure.

#### **GOVERNING LAW JURISDICTION**

Province of Ontario.

#### **ACCEPTANCE**

This Agreement is open for acceptance until December 22, 2017, after which date it will be null and void, unless extended in writing by the Bank.

#### **ROYAL BANK OF CANADA**



Per: \_\_\_\_\_  
 Name: Mike Cussen  
 Title: Vice President, Business Credit

/js

We acknowledge and accept the terms and conditions of this Agreement on this 27<sup>th</sup> day of November, 2017.

#### **CONTRACT PHARMACEUTICALS LIMITED CANADA**

Per: \_\_\_\_\_  
 Name: Ken Page  
 Title: CEO

Per: \_\_\_\_\_  
 Name: MARCEL VIENO  
 Title: VICE PRESIDENT FINANCE

I/We have the authority to bind the Borrower

Contract Pharmaceuticals Limited Canada

November 22, 2017

As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this Agreement on this 27<sup>th</sup> day of November, 2017.

**CPL CANADA HOLDCO LIMITED**

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

Name: Ken PajoTitle: CEO

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

Name: MARCEL VIENOTitle: VICE PRESIDENT FINANCE

I/We have the authority to bind the Guarantor

As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this Agreement on this 27<sup>th</sup> day of November, 2017.

**CONTRACT PHARMACEUTICALS LIMITED**

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

Name: Ken PajoTitle: CEO

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

Name: MARCEL VIENOTitle: VICE PRESIDENT FINANCE

I/We have the authority to bind the Guarantor

Attachments:

Terms and Conditions

Schedules:

- Definitions
- Calculation and Payment of Interest and Fees
- Notice Requirements
- Additional Borrowing Conditions
- Borrowing Limit Certificate
- Compliance Certificate
- RBC Covarity Dashboard Terms and Conditions

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## TERMS AND CONDITIONS

The Bank is requested by the Borrower to make the Credit Facilities available to the Borrower in the manner and at the rates and times specified in this Agreement. Terms defined elsewhere in this Agreement and not otherwise defined in the Terms and Conditions below or the Schedules attached hereto have the meaning given to such terms as so defined. In consideration of the Bank making the Credit Facilities available, the Borrower agrees, and if the Borrower is comprised of more than one Person, such Persons jointly and severally agree, or in Quebec solidarily agree, with the Bank as follows:

### REPAYMENT

Amounts outstanding under the Credit Facilities, together with interest, shall become due in the manner and at the rates and times specified in this Agreement and shall be paid in the currency of the Borrowing. Unless the Bank otherwise agrees, any payment hereunder must be made in money which is legal tender at the time of payment. In the case of a demand facility of any kind, the Borrower shall repay all principal sums outstanding under such facility upon demand including, without limitation, an amount equal to the face amount of all LGs which are unmaturing or unexpired, which amount shall be held by the Bank as security for the Borrower's obligations to the Bank in respect of such Borrowings. Where any Borrowings are repayable by scheduled blended payments, such payments shall be applied, firstly, to interest due, and the balance, if any, shall be applied to principal outstanding. If any such payment is insufficient to pay all interest then due, the unpaid balance of such interest will be added to such Borrowing, will bear interest at the same rate, and will be payable on demand or on the date specified herein, as the case may be. Borrowings repayable by way of scheduled payments of principal and interest shall be so repaid with any balance of such Borrowings being due and payable as and when specified in this Agreement. The Borrower shall ensure that the maturities of instruments or contracts selected by the Borrower when making Borrowings will be such so as to enable the Borrower to meet its repayment obligations. For any Borrowings that are repayable by scheduled payments, if the scheduled payment date is changed then the Maturity Date of the applicable Borrowings shall automatically be amended accordingly.

In the case of any reducing term loan and/or reducing term facility ("**Reducing Term Loan/Facility**"), provided that nothing contained in this paragraph shall confer any right of renewal or extension upon the Borrower, the Borrower and the Bank agree that, at the Bank's option, the Bank may provide a letter ("**Renewal Letter**") to the Borrower setting out the terms upon which the Bank is prepared to extend the Reducing Term Loan/Facility. In the event that the Bank provides a Renewal Letter to the Borrower and the Reducing Term Loan/Facility is not repaid on or before the Maturity Date of the applicable Reducing Term Loan/Facility, then at the Bank's option the Reducing Term Loan/Facility shall be automatically renewed on the terms set out in the Renewal Letter and the terms of this Agreement shall be amended accordingly.

### PREPAYMENT

Where Borrowings are by way of RBP Loans, the Borrower may prepay such Borrowings in whole or in part without fee or premium.

The prepayment of any Borrowings under a term facility and/or any term loan will be made in the reverse order of maturity.

### EVIDENCE OF INDEBTEDNESS

The Bank shall maintain accounts and records (the "**Accounts**") evidencing the Borrowings made available to the Borrower by the Bank under this Agreement. The Bank shall record the principal amount of such Borrowings, the payment of principal and interest on account of the Borrowings, and all other amounts becoming due to the Bank under this Agreement. The Accounts constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement. The Borrower authorizes and directs the Bank to automatically debit, by mechanical, electronic or manual means, any bank account of the Borrower for all amounts payable under this Agreement, including, but not limited to, the repayment of principal and the payment of interest, fees and all charges for the keeping of such bank accounts.

**GENERAL COVENANTS**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower:

- a) will pay all sums of money when due under the terms of this Agreement;
- b) will immediately advise the Bank of any event which constitutes or which, with notice, lapse of time or both, would constitute a breach of any covenant or other term or condition of this Agreement or any Security;
- c) will file all material tax returns which are or will be required to be filed by it, pay or make provision for payment of all material taxes (including interest and penalties) and Potential Prior-Ranking Claims, which are or will become due and payable and provide adequate reserves for the payment of any tax, the payment of which is being contested;
- d) will give the Bank 30 days prior notice in writing of any intended change in its ownership structure and it will not make or facilitate any such changes without the prior written consent of the Bank;
- e) will comply with all Applicable Laws, including, without limitation, all Environmental and Health and Safety Laws;
- f) will immediately advise the Bank of any action requests or violation notices received concerning the Borrower and hold the Bank harmless from and against any losses, costs or expenses which the Bank may suffer or incur for any environment related liabilities existent now or in the future with respect to the Borrower;
- g) will deliver to the Bank such financial and other information as the Bank may reasonably request from time to time, including, but not limited to, the reports and other information set out under Reporting Requirements;
- h) will immediately advise the Bank of any unfavourable change in its financial position which may adversely affect its ability to pay or perform its obligations in accordance with the terms of this Agreement;
- i) will keep its assets fully insured against such perils and in such manner as would be customarily insured by Persons carrying on a similar business or owning similar assets and, in addition, for any buildings located in areas prone to flood and/or earthquake, will insure and keep fully insured such buildings against such perils;
- j) except for Permitted Encumbrances, will not, without the prior written consent of the Bank, grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest or other encumbrance affecting any of its properties, assets or other rights;
- k) will not, without the prior written consent of the Bank, sell, transfer, convey, lease or otherwise dispose of any of its properties or assets other than in the ordinary course of business and on commercially reasonable terms;
- l) will not, without the prior written consent of the Bank, guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations by any other Person, except as may be provided for herein;
- m) will not, without the prior written consent of the Bank, merge, amalgamate, or otherwise enter into any other form of business combination with any other Person;
- n) will permit the Bank or its representatives, from time to time, i) to visit and inspect the Borrower's premises, properties and assets and examine and obtain copies of the Borrower's records or other information, ii) to collect information from any entity regarding any Potential Prior-Ranking Claims and iii) to discuss the Borrower's affairs with the auditors, counsel and other professional advisers of the Borrower. The Borrower hereby authorizes and directs any such third party to provide to the Bank or its representatives all such information, records or documentation requested by the Bank; and
- o) will not use the proceeds of any Credit Facility for the benefit or on behalf of any Person other than the Borrower.

**FEES, COSTS AND EXPENSES**

The Borrower agrees to pay the Bank all fees stipulated in this Agreement and all fees charged by the Bank relating to the documentation or registration of this Agreement and the Security. In addition, the Borrower agrees to pay all fees (including legal fees), costs and expenses incurred by the Bank in connection with the preparation, negotiation, documentation and registration of this Agreement and any Security and the administration, operation, termination, enforcement or

protection of its rights in connection with this Agreement and the Security. The Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense incurred by the Bank if any facility under the Credit Facilities is repaid or prepaid other than on its Maturity Date. The determination by the Bank of such loss, cost or expense shall be conclusive and binding for all purposes and shall include, without limitation, any loss incurred by the Bank in liquidating or redeploying deposits acquired to make or maintain any facility.

#### **GENERAL INDEMNITY**

The Borrower hereby agrees to indemnify and hold the Bank and its directors, officers, employees and agents harmless from and against any and all claims, suits, actions, demands, debts, damages, costs, losses, obligations, judgements, charges, expenses and liabilities of any nature which are suffered, incurred or sustained by, imposed on or asserted against any such Person as a result of, in connection with or arising out of i) any breach of any term or condition of this Agreement or any Security or any other agreement delivered to the Bank by the Borrower or any Guarantor if applicable, ii) the Bank acting upon instructions given or agreements made by electronic transmission of any type, iii) the presence of Contaminants at, on or under or the discharge or likely discharge of Contaminants from, any properties now or previously used by the Borrower or any Guarantor and iv) the breach of or non compliance with any Applicable Law by the Borrower or any Guarantor.

#### **AMENDMENTS AND WAIVERS**

No amendment or waiver of any provision of this Agreement will be effective unless it is in writing, signed by the Borrower and the Bank. No failure or delay, on the part of the Bank, in exercising any right or power hereunder or under any Security or any other agreement delivered to the Bank shall operate as a waiver thereof. Each Guarantor, if applicable, agrees that the amendment or waiver of any provision of this Agreement (other than agreements, covenants or representations expressly made by any Guarantor herein, if any) may be made without and does not require the consent or agreement of, or notice to, any Guarantor. Any amendments requested by the Borrower will require review and agreement by the Bank and its counsel. Costs related to this review will be for the Borrower's account.

#### **SUCCESSORS AND ASSIGNS**

This Agreement shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. The Borrower shall not be entitled to assign or transfer any rights or obligations hereunder, without the consent in writing of the Bank. The Bank may assign or transfer all or any part of its rights and obligations under this Agreement to any Person. The Bank may disclose to potential or actual assignees or transferees confidential information regarding the Borrower and any Guarantor if applicable, (including, any such information provided by the Borrower, and any Guarantor if applicable, to the Bank) and shall not be liable for any such disclosure.

#### **GAAP**

Unless otherwise provided, all accounting terms used in this Agreement shall be interpreted in accordance with Canadian Generally Accepted Accounting Principles, as appropriate, for publicly accountable enterprises, private enterprises, not-for-profit organizations, pension plans and in accordance, as appropriate, with Public Sector Accounting Standards for government organizations in effect from time to time, applied on a consistent basis from period to period. All financial statements and/or reports shall be prepared using one of the above bases of presentation, as appropriate. Except for the transition of accounting standards in Canada, any change in accounting principles or the application of accounting principles is only permitted with the prior written consent of the Bank.

#### **SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and such invalid provision shall be deemed to be severable.



**GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the laws of the Province identified in the Governing Law Jurisdiction section of this Agreement and the laws of Canada applicable therein. The Borrower irrevocably submits to the non-exclusive jurisdiction of the courts of such Province and acknowledges the competence of such courts and irrevocably agrees to be bound by a judgment of any such court.

**DEFAULT BY LAPSE OF TIME**

The mere lapse of time fixed for performing an obligation shall have the effect of putting the Borrower, or a Guarantor if applicable, in default thereof.

**SET-OFF**

The Bank is authorized (but not obligated), at any time and without notice, to apply any credit balance (whether or not then due) in any account in the name of the Borrower, or to which the Borrower is beneficially entitled (in any currency) at any branch or agency of the Bank in or towards satisfaction of the indebtedness of the Borrower due to the Bank under the Credit Facilities and the other obligations of the Borrower under this Agreement. For that purpose, the Bank is irrevocably authorized to use all or any part of any such credit balance to buy such other currencies as may be necessary to effect such application.

**NOTICES**

Any notice or demand to be given by the Bank shall be given in writing by way of a letter addressed to the Borrower. If the letter is sent by telecopier, it shall be deemed received on the date of transmission, provided such transmission is sent prior to 5:00 p.m. on a day on which the Borrower's business is open for normal business, and otherwise on the next such day. If the letter is sent by ordinary mail to the address of the Borrower, it shall be deemed received on the date falling five (5) days following the date of the letter, unless the letter is hand-delivered to the Borrower, in which case the letter shall be deemed to be received on the date of delivery. The Borrower must advise the Bank at once about any changes in the Borrower's address.

**CONSENT OF DISCLOSURE**

The Borrower hereby grants permission to any Person having information in such Person's possession relating to any Potential Prior-Ranking Claim, to release such information to the Bank (upon its written request), solely for the purpose of assisting the Bank to evaluate the financial condition of the Borrower.

**NON-MERGER**

The provisions of this Agreement shall not merge with any Security provided to the Bank, but shall continue in full force for the benefit of the parties hereto.

**JOINT AND SEVERAL**

Where more than one Person is liable as Borrower or Guarantor if applicable for any obligation under this Agreement, then the liability of each such Person for such obligation is joint and several (in Quebec, solidarily) with each other such Person.

**COUNTERPART EXECUTION**

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.

**ELECTRONIC MAIL AND FAX TRANSMISSION**

The Bank is entitled to rely on any agreement, document or instrument provided to the Bank by the Borrower or any Guarantor as applicable, by way of electronic mail or fax transmission as though it were an original document. The Bank is further entitled to assume that any communication from the Borrower received by electronic mail or fax transmission is a reliable communication from the Borrower.

**ELECTRONIC IMAGING**

The parties hereto agree that, at any time, the Bank may convert paper records of this Agreement and all other documentation delivered to the Bank (each, a "**Paper Record**") into electronic images (each, an "**Electronic Image**") as part of the Bank's normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

**REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Bank that:

- a) it is duly incorporated, validly existing and duly registered or qualified to carry on business in each jurisdiction in which its business or assets are located;
- b) the execution, delivery and performance by it of this Agreement have been duly authorized by all necessary actions and do not violate its constating documents or any Applicable Laws or agreements to which it is subject or by which it is bound;
- c) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a breach of any covenant or other term or condition of this Agreement or any Security or any other agreement delivered to the Bank;
- d) there is no claim, action, prosecution or other proceeding of any kind pending or threatened against it or any of its assets or properties before any court or administrative agency which relates to any non-compliance with any Environmental and Health and Safety Laws which, if adversely determined, might have a material adverse effect upon its financial condition or operations or its ability to perform its obligations under this Agreement or any Security, and there are no circumstances of which it is aware which might give rise to any such proceeding which it has not fully disclosed to the Bank; and
- e) it has good and marketable title to all of its properties and assets, free and clear of any encumbrances, other than as may be provided for herein.

Representations and warranties are deemed to be repeated as at the time of each Borrowing hereunder.

**LANGUAGE**

The parties hereto have expressly requested that this Agreement and all related documents, including notices, be drawn up in the English language. Les parties ont expressément demandé que la présente convention et tous les documents y afférents, y compris les avis, soient rédigés en langue anglaise.

**WHOLE AGREEMENT**

This Agreement and any documents or instruments referred to in, or delivered pursuant to, or in connection with, this Agreement constitute the whole and entire agreement between the Borrower and the Bank with respect to the Credit Facilities.

**EXCHANGE RATE FLUCTUATIONS**

If, for any reason, the amount of Borrowings outstanding under any facility in a currency other than Canadian currency, when converted to the Equivalent Amount in Canadian currency, exceeds the amount available under such facility, the Borrower shall immediately repay such excess or shall secure such excess to the satisfaction of the Bank.

**JUDGEMENT CURRENCY**

If for the purpose of obtaining judgement in any court in any jurisdiction with respect to this Agreement, it is necessary to convert into the currency of such jurisdiction (the "**Judgement Currency**") any amount due hereunder in any currency other than the Judgement Currency, then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgement is given. For this purpose "rate of exchange" means the rate at which the Bank would, on the relevant date, be prepared to sell a similar amount of such currency in the Toronto foreign exchange market, against the Judgement Currency, in accordance with normal banking procedures.

In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which judgement is given and the date of payment of the amount due, the Borrower will, on the date of payment, pay such additional amounts as may be necessary to ensure that the amount paid on such date is the amount in the Judgement Currency which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due under this Agreement in such other currency together with interest at RBP and expenses (including legal fees on a solicitor and client basis). Any additional amount due from the Borrower under this section will be due as a separate debt and shall not be affected by judgement being obtained for any other sums due under or in respect of this Agreement.



## Schedule "A"

### DEFINITIONS

For the purpose of this Agreement, the following terms and phrases shall have the following meanings:

**"Applicable Laws"** means, with respect to any Person, property, transaction or event, all present or future applicable laws, statutes, regulations, rules, policies, guidelines, rulings, interpretations, directives (whether or not having the force of law), orders, codes, treaties, conventions, judgements, awards, determinations and decrees of any governmental, quasi-governmental, regulatory, fiscal or monetary body or agency or court of competent jurisdiction in any applicable jurisdiction;

**"Banking Day"** means a Business Day on which dealings in US currency deposits may be carried on by and between leading Banks in the London Interbank Market and excludes any day on which banks are required or are authorized to close in New York, New York.;

**"Borrowing"** means each use of a Credit Facility and all such usages outstanding at any time are **"Borrowings"**;

**"Business Day"** means a day, excluding Saturday, Sunday and any other day which shall be a legal holiday or a day on which banking institutions are closed throughout Canada Libor Loan, a **"Business Day"** also excludes any day which shall be a legal holiday or a day on which banking institutions are closed in Toronto, Ontario or in the province where the Borrower's accounts are maintained;

**"Business Loan Insurance Plan"** means the optional group creditor insurance coverage, underwritten by Sun Life Assurance Company of Canada, and offered in connection with eligible loan products offered by the Bank;

**"Canadian/US Accounts Receivable"** means trade accounts receivable of the Borrower owing by Persons whose chief operating activities are located in the US or Canada;

**"Cash Taxes"** means, for any fiscal period, any amounts paid in respect of income taxes;

**"Contaminant"** includes, without limitation, any pollutant, dangerous substance, liquid waste, industrial waste, hazardous material, hazardous substance or contaminant including any of the foregoing as defined in any Environmental and Health and Safety Law;

**"Corporate Distributions"** means any payments to any shareholder, director or officer, or to any associate or holder of subordinated debt, or to any shareholder, director or officer of any associate or holder of subordinated debt, including, without limitation, bonuses, dividends, interest, salaries or repayment of debt or making of loans to any such Person, but excluding salaries to officers or other employees in the ordinary course of business;

**"Debt Service Coverage"** means, for any fiscal period, the ratio of EBITDA, less Cash Taxes and, to the extent not deducted in determining net income, less Corporate Distributions, to the total of Interest Expense and scheduled principal payments in respect of Funded Debt;

**"EBITDA"** means, for any fiscal period, net income from continuing operations (excluding extraordinary gains or losses) plus, to the extent deducted in determining net income, Interest Expense and income taxes accrued during, and depreciation, depletion and amortization expenses deducted for, the period;

**“Environmental Activity”** means any activity, event or circumstance in respect of a Contaminant, including, without limitation, its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation, or its Release into the natural environment, including movement through or in the air, soil, surface water or groundwater;

**“Environmental and Health and Safety Laws”** means all Applicable Laws relating to the environment or occupational health and safety, or any Environmental Activity;

**“Equity”** means the total of share capital, (excluding preferred shares redeemable within one year) contributed surplus and retained earnings plus Postponed Debt;

**“Equivalent Amount”** means, with respect to an amount of any currency, the amount of any other currency required to purchase that amount of the first mentioned currency through the Bank in Toronto, in accordance with normal banking procedures;

**“Finished Goods Inventory”** means the portion of the Borrower's Unencumbered Inventory that is classified as finished goods inventory;

**“Funded Debt”** means, at any time for the fiscal period then ended, all obligations for borrowed money which bears interest or to which interest is imputed plus, without duplication, all obligations for the deferred payment of the purchase of property, all capital lease obligations and all indebtedness secured by purchase money security interests, but excluding Postponed Debt;

**“Good Canadian/US Accounts Receivable”** means Canadian/US Accounts Receivable excluding (i) any portion of such accounts which is outstanding more than 90 days after billing date, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank's security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, (vi) those trade accounts receivable included elsewhere in the Borrowing Limit calculation, or (vii) any accounts which the Bank has previously advised to be ineligible;

**“Guarantor”** means any Person who has guaranteed the obligations of the Borrower under this Agreement;

**“Interest Determination Date”** means, with respect to a Libor Loan, the date which is 2 Banking Days before the first day of the Libor Interest Period applicable to such Libor Loan;

**“Interest Expense”** means, for any fiscal period, the aggregate cost of advances of credit outstanding during that period including, without limitation, interest charges, capitalized interest, the interest component of capital leases, fees payable in respect of letters of credit and letters of guarantee and discounts incurred and fees payable in respect of bankers' acceptances;

**“Letter of Guarantee”** or **“LG”** means a documentary credit issued by the Bank on behalf of the Borrower for the purpose of providing security to a third party that the Borrower or a person designated by the Borrower will perform a contractual obligation owed to such third party;

**“Libor”** means, with respect to each Libor Interest Period applicable to a Libor Loan, the annual rate of interest (rounded upwards, if necessary, to the nearest whole multiple of one sixteenth of one percent (1/16th%)), at which the Bank, in accordance with its normal practice, would be prepared to offer deposits to leading banks in the London Interbank Market for delivery on the first day of each of such Libor Interest Period, for a period equal to each such Libor Interest Period, such deposits being in US currency of comparable amounts to be outstanding during such Libor Interest Period, at or about 10:00 a.m. (Toronto time) on the Interest Determination Date;

**“Libor Interest Date”** means with respect to any Libor Loan, the last day of each Libor Interest Period and, if the Borrower selects a Libor Interest Period for a period longer than 3 months, the Libor Interest Date shall be the date falling every 3 months after the beginning of such Libor Interest Period as well as the last day of such Libor Interest Period;

**“Libor Interest Period”** means, with respect to any Libor Loan, the initial period (subject to availability) of approximately 1 month (or longer whole multiples of 1 month to and including 6 months as selected by the Borrower and notified to the Bank by written notice) or such shorter or longer period as the Bank in its sole discretion shall make available commencing on the date on which such Libor Loan is made or another method of Borrowing is converted to a Libor Loan, as the case may be, and thereafter, while such Libor Loan is outstanding, each successive period (subject to availability) of 1 month (or longer whole multiples of 1 month to and including 6 months, as selected by the Borrower and notified to the Bank by written notice) commencing on the last day of the immediately preceding Libor Interest Period;

**“Maturity Date”** means the date on which a facility is due and payable in full;

**“Packaging Materials Inventory”** means the portion of the Borrower's Unencumbered Inventory that is classified as packaging materials inventory;

**“Permitted Encumbrances”** means, in respect of the Borrower:

- a) liens arising by operation of law for amounts not yet due or delinquent, minor encumbrances on real property such as easements and rights of way which do not materially detract from the value of such property, and security given to municipalities and similar public authorities when required by such authorities in connection with the operations of the Borrower in the ordinary course of business; and
- b) Security granted in favour of the Bank;

**“Person”** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof including Canada Revenue Agency, and any other incorporated or unincorporated entity;

**“Policy”** means the Business Loan Insurance Plan policy 5100, issued by Sun Life Assurance Company of Canada to the Bank;

**“Postponed Debt”** means indebtedness that is fully postponed and subordinated, both as to principal and interest, on terms satisfactory to the Bank, to the obligations owing to the Bank hereunder;

**“Potential Prior-Ranking Claims”** means all amounts owing or required to be paid, where the failure to pay any such amount could give rise to a claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the Security or otherwise in priority to any claim by the Bank for repayment of any amounts owing under this Agreement;

**“Raw Materials Inventory”** means the portion of the Borrower's Unencumbered Inventory that is classified as raw materials inventory;

**“RBP”** and **“Royal Bank Prime”** each means the annual rate of interest announced by the Bank from time to time as being a reference rate then in effect for determining interest rates on commercial loans made in Canadian currency in Canada;

**“RBUSBR”** and **“Royal Bank US Base Rate”** each means the annual rate of interest announced by the Bank from time to time as a reference rate then in effect for determining interest rates on commercial loans made in US currency in Canada;

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**“Release”** includes discharge, spray, inject, inoculate, abandon, deposit, spill, leak, seep, pour, emit, empty, throw, dump, place and exhaust, and when used as a noun has a similar meaning;

**“Tangible Net Worth”** means the total of Equity less intangibles, deferred charges, leasehold improvements, deferred tax credits and unsecured advances to related parties. For the purpose hereof, intangibles are assets lacking physical substance;

**“Total Liabilities”** means all liabilities, exclusive of deferred tax liabilities and Postponed Debt;

**“Unencumbered Inventory”** means inventory of the Borrower which is not subject to any security interest or other encumbrance or any other right or claim which ranks or is capable of ranking in priority to the Bank’s security including, without limitation, rights of unpaid suppliers to repossess inventory within 30 days after delivery and rights of unpaid farmers, fishermen and aquaculturalists in respect of any unpaid amounts for products sold and delivered within the previous 15 days, under the *Bankruptcy and Insolvency Act*, Canada;

**“US”** means United States of America.

**“Work in Progress Inventory”** means the portion of the Borrower’s Unencumbered Inventory that is classified as work-in-progress inventory.

**Schedule "B"****CALCULATION AND PAYMENT OF INTEREST AND FEES****LIMIT ON INTEREST**

The Borrower shall not be obligated to pay any interest, fees or costs under or in connection with this Agreement in excess of what is permitted by Applicable Law.

**OVERDUE PAYMENTS**

Any amount that is not paid when due hereunder shall, unless interest is otherwise payable in respect thereof in accordance with the terms of this Agreement or the instrument or contract governing same, bear interest until paid at the rate of RBP plus 5% per annum or, in the case of an amount in US currency if applicable, RBUSBR plus 5% per annum. Such interest on overdue amounts shall be computed daily, compounded monthly and shall be payable both before and after any or all of default, maturity date, demand and judgement.

**EQUIVALENT YEARLY RATES**

The annual rates of interest or fees to which the rates calculated in accordance with this Agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365 or, in the case of Libor Loans if applicable, divided by 360.

**TIME AND PLACE OF PAYMENT**

Amounts payable by the Borrower hereunder shall be paid at such place as the Bank may advise from time to time in the applicable currency. Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day. Interest and fees payable under this Agreement are payable both before and after any or all of default, maturity date, demand and judgement.

**RBP LOANS**

The Borrower shall pay interest on each RBP Loan, monthly in arrears, on the 26th day of each month or such other day as may be agreed to between the Borrower and the Bank. Such interest will be calculated monthly and will accrue daily on the basis of the actual number of days elapsed and a year of 365 days and shall be paid in the currency of the applicable Borrowing.

**LETTER OF GUARANTEE FEES**

The Borrower shall pay LG fees in advance on a quarterly basis calculated on the face amount of the LG issued and based on the number of days in the upcoming quarter or remaining term thereof and a year of 365 days. LG fees are non-refundable.

**LIBOR LOANS**

The Borrower shall pay interest on each Libor Loan, on each Libor Interest Date, calculated in arrears. Such interest will accrue daily and shall be calculated on the basis of the actual number of days elapsed during the applicable Libor Interest Period divided by 360.

## Schedule "C"

## NOTICE REQUIREMENTS

Notice Requirements for Libor Loans:

Amount	Prior Notice
Under \$10,000,000.00 in US currency and up to 1 year rollovers	By 2 p.m. Eastern Standard Time on the Interest Determination Date
\$10,000,000.00 and over in US currency and up to 1 year rollovers	By 12:00 p.m. Eastern Standard Time, 1 Banking Day prior to the Interest Determination Date

**Schedule "D"****ADDITIONAL BORROWING CONDITIONS****LGs:**

Borrowings made by way of LGs will be subject to the following terms and conditions:

- a) each LG shall expire on a Business Day and shall have a term of not more than 365 days;
- b) at least 2 Business Days prior to the issue of an LG, the Borrower shall execute a duly authorized application with respect to such LG and each LG shall be governed by the terms and conditions of the relevant application for such contract;
- c) an LG may not be revoked prior to its expiry date unless the consent of the beneficiary of the LG has been obtained;
- d) any LG issued under a term facility must have an expiry date on or before the Maturity Date of the term facility, unless otherwise agreed by the Bank; and
- e) if there is any inconsistency at any time between the terms of this Agreement and the terms of the application for LG, the terms of the application for LG shall govern.

**Libor Loans:**

Borrowings made by way of Libor Loans will be subject to the following terms and conditions:

- a) Libor Loans shall be issued and mature on a Banking Day and shall be made in minimum amounts of \$250,000.00 in US currency for terms of not less than 30 days and not more than 360 days;
- b) any Libor Loan issued under a term facility must have a maturity on or before the Maturity Date of the term facility, unless otherwise agreed by the Bank;
- c) if the Borrower fails to select and to notify the Bank of the Libor Interest Period applicable to any Libor Loan, the Borrower shall be deemed to have selected a 3 month Libor Interest Period;
- d) if the Bank so requests, the Borrower shall enter into a Hedge Contract to hedge the principal and interest of each Libor Loan against the risk of currency and exchange rate fluctuations. "Hedge Contract" means any rate swap, rate cap, rate floor, rate collar, currency exchange transaction, forward rate agreement or other exchange, hedging or rate protection transaction, or any combination of such transactions or agreements or any option with respect to any such transaction now existing or hereafter entered into between the Borrower and the Bank;
- e) the Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense (including without limitation, any loss incurred by the Bank in liquidating or redeploying deposits acquired to fund or maintain any Libor Loan) incurred by the Bank as a result of:
  - i) repayments, prepayments, conversions, rollovers or cancellations of a Libor Loan other than on the last day of the Libor Interest Period applicable to such Libor Loan, or
  - ii) failure to draw down a Libor Loan on the first day of the Libor Interest Period selected by the Borrower; and

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- f) if the Bank determines, which determination is final, conclusive and binding upon the Borrower, that:
- i) adequate and fair means do not exist for ascertaining the rate of interest on a Libor Loan,
  - ii) the making or the continuance of a Libor Loan has become impracticable by reason of circumstances which materially and adversely affect the London Interbank Market,
  - iii) deposits in US currency are not available to the Bank in the London Interbank Market in sufficient amounts in the ordinary course of business for the applicable Libor Interest Period to make or maintain a Libor Loan during such Libor Interest Period, or
  - iv) the cost to the Bank of making or maintaining a Libor Loan does not accurately reflect the effective cost to the Bank thereof or the costs to the Bank are increased or the income receivable by the Bank is reduced in respect of a Libor Loan,

then the Bank shall promptly notify the Borrower of such determination and the Borrower shall, prior to the next Interest Determination Date, notify the Bank as to the basis of Borrowing it has selected in substitution for such Libor Loan. If the Borrower does not so notify the Bank, such Libor Loan will automatically be converted into an RBUSBR Loan on the expiry of the then current Libor Interest Period.



## Schedule "G"

## BORROWING LIMIT CERTIFICATE

I, \_\_\_\_\_, representing the Borrower hereby certify as of fiscal quarter \_\_\_\_\_, 20\_\_\_\_:

1. I am familiar with and have examined the provisions of the Agreement dated November 22, 2017 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as Borrower, and Royal Bank of Canada, as the Bank and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower. Terms defined in the Agreement have the same meanings where used in this certificate.

2. The Borrowing Limit is \$ \_\_\_\_\_, calculated as follows:

Total Canadian/US Accounts Receivable			\$ _____
Less:	a)	The portion of such accounts which exceeds 90 days	\$ _____
	b)	Accounts due from affiliates	\$ _____
	c)	Accounts where collection is suspect	\$ _____
	d)	Accounts subject to prior encumbrances	\$ _____
	e)	Holdbacks, contra-accounts or rights of set-off	\$ _____
	f)	Accounts included elsewhere in the Borrowing Limit calculation	\$ _____
	g)	Other ineligible accounts	\$ _____
Good Canadian/US Accounts Receivable			A \$ _____
Marginable Good Canadian/US Accounts Receivable at 80% of A			B \$ _____
Total inventory classified as finished goods inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a)	Inventory subject to prior encumbrances	\$ _____
	b)	Inventory subject to 30 day supplier payables	\$ _____
	c)	Other non qualifying inventory	\$ _____
Finished Goods Inventory			C \$ _____
Marginable Finished Goods Inventory at 50% of C			D \$ _____
Total inventory classified as raw materials inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a)	Inventory subject to prior encumbrances	\$ _____
	b)	Inventory subject to 30 day supplier payables	\$ _____
	c)	Other non qualifying inventory	\$ _____
Raw Materials Inventory			E \$ _____
Marginable Raw Materials Inventory at 50% of E			F \$ _____
Total inventory classified as work-in-progress inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a)	Inventory subject to prior encumbrances	\$ _____
	b)	Inventory subject to 30 day supplier payables	\$ _____
	c)	Other non qualifying inventory	\$ _____
Work in Progress Inventory			G \$ _____
Marginable Work in Progress Inventory at 50% of G			H \$ _____
Total inventory classified as Packaging Materials Inventory (valued at lesser of cost or net realizable value)			\$ _____
Inventory subject to prior encumbrances			\$ _____
Less:	a)	Inventory subject to prior encumbrances	\$ _____

b) Inventory subject to 30 day supplier payables	\$ _____	
c) Other non qualifying inventory	\$ _____	
Packaging Materials Inventory		I \$ _____
Marginable Packaging Materials Inventory at 50% of I (Max \$2,000,000.00)		J \$ _____
Total D+F+H+J (Max \$7,000,000.00)		K \$ _____
Less: Potential Prior-Ranking Claims while not limited to these include:		
Sales tax, Excise & GST	\$ _____	
Employee source deductions such as E.I., CPP, Income Tax	\$ _____	
Workers Compensation Board	\$ _____	
Wages, Commissions, Vacation Pay	\$ _____	
Unpaid Pension Plan Contributions	\$ _____	
Overdue Rent, Property & Business Tax and potential claims from third parties such as subcontractors	\$ _____	
Other	\$ _____	
Total Potential Prior-Ranking Claims		L \$ _____
Borrowing Limit (B+K-L)		\$ _____
Less: Facility #1 Borrowings		\$ _____
Margin Surplus (Deficit)		\$ _____

3. Annexed hereto are the following reports in respect of the Borrower:

- a) aged list of accounts receivable,
- b) aged list of accounts payable,
- c) status of inventory, and
- d) listing of Potential Prior-Ranking Claims.

4. The reports and information provided herewith are accurate and complete in all respects and all amounts certified as Potential Prior-Ranking Claims are current amounts owing and not in arrears.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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

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

Schedule "H"

COMPLIANCE CERTIFICATE

I, \_\_\_\_\_, representing the Borrower hereby certify as of fiscal year ending \_\_\_\_\_, 20\_\_:

1. I am familiar with and have examined the provisions of the Agreement dated November 22, 2017 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as Borrower, and Royal Bank of Canada as the Bank, and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower and any Guarantor if applicable. Terms defined in the Agreement have the same meanings where used in this certificate.
2. The representations and warranties contained in the Agreement are true and correct.
3. No event or circumstance has occurred which constitutes or which, with the giving of notice, lapse of time, or both, would constitute a breach of any covenant or other term or condition of this Agreement and there is no reason to believe that during the next fiscal year of the Borrower, any such event or circumstance will occur.
4. Debt Service Coverage is \_\_\_\_:1, being not less than the minimum required ratio of 1.25:1.
5. The ratio of Total Liabilities to Tangible Net Worth is \_\_\_\_:1, being not greater than the maximum permitted ratio of 2.25:1
6. The detailed calculations of the foregoing ratios and covenants is set forth in the addendum annexed hereto and are true and correct in all respects.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Schedule "J"

**RBC COVARIETY DASHBOARD TERMS AND CONDITIONS**

If the Borrower elects to fulfill the reporting requirements relating to the submission of financial information set out in this Agreement by accessing a secure web based portal ("**RBC Covarity Dashboard**") via the Internet and using RBC Covarity Dashboard to electronically upload the Borrower's financial information and to complete online and electronically submit certificates, reports and/or forms (the "**Service**"), then the following terms and conditions (the "**RBC Covarity Dashboard Terms and Conditions**") apply and are deemed to be included in, and form part of, the Agreement.

**1. Definitions.** For the purpose of the RBC Covarity Dashboard Terms and Conditions:

**"Disabling Code"** means any clock, timer, counter, computer virus, worm, software lock, drop dead device, Trojan horse routine, trap door, time bomb, or any other unauthorized codes, designs, routines or instructions that may be used to access, modify, replicate, distort, delete, damage or disable any Electronic Channel, including any related hardware or software.

**"Designated User"** an individual permitted to act on behalf of and bind the Borrower in all respects, and specifically in the submission of Electronically Uploaded Financial Information and/or Electronically Submitted Certificates.

**"Electronic Channel"** means any telecommunication or electronic transmission method which may be used in connection with the Service, including computer, Internet, telephone, e-mail or facsimile.

**"Electronic Communication"** means any information, disclosure, request or other communication or agreement sent, received or accepted using an Electronic Channel.

**"Electronically Submitted Certificates"** means certificates, reports and/or forms completed online and electronically submitted by any Designated User accessing the Service.

**"Electronically Uploaded Financial Information"** means financial data, reports and/or information of the Borrower electronically uploaded by any Designated User accessing the Service.

**"Internet"** means a decentralized global communications medium and the world-wide network of computer networks, accessible to the public, that are connected to each other using specific protocols, which provides for file transfer, electronic mail, remote log in, news, database access, and other services.

**"Password"** means a combination of numbers and/or letters selected by a Designated User that is used to identify the Designated User. The Password is used in conjunction with a User ID to access the Service.

**"Security Breach"** means any breach in the security of the Service, or any actual or threatened use of the Service, a Security Device, or Electronic Channel in a manner contrary to the Agreement, including, without limitation, the introduction of Disabling Code or a Virus to the Service.

**"Security Device"** means a combination of a User ID and Password.

**"Software"** means any computer program or programming (in any code format, including source code), as modified from time to time, and related documentation.

**"User ID"** means the combination of numbers and/or letters selected by the Borrower used to identify a particular Designated User. The User ID is used in conjunction with a Password to access the Service.

**"Virus"** means an element which is designed to corrupt data or enable access to or adversely impact upon the performance of computer systems, including any virus, worm, logic bomb and Trojan horse.

Terms defined in the Agreement have the same meanings where used in the RBC Covarity Dashboard Terms and Conditions.

**2. Access to the Service.** The Borrower will appoint one or more Designated User(s) to access the Service on behalf of the Borrower. The Borrower acknowledges and agrees that each Designated User appointed by the Borrower may electronically upload the Borrower's financial information and may view all previously uploaded financial information and all calculations in the RBC Covarity Dashboard.

At the time of registration for the Service, the Borrower will advise the Bank of the name and e-mail address of each Designated User. The Borrower will immediately advise the Bank if a Designated User changes or is no longer valid.

The Bank will provide the Borrower with a User ID and temporary password for each Designated User. Each Designated User will receive the User ID and temporary password delivered to their e-mail address. Each Designated User will change the temporary password to a unique Password which may not be easily guessed or obtained by others. If it is suspected or known that the Password has been compromised in any way, the Password must be changed immediately.

On first access to the Service, each Designated User will be required to read and agree to terms of use which will thereafter be accessible from a link located on each web page of the Service.

**3. Security Devices.** The Borrower recognizes that possession of a Security Device by any person may result in that person having access to the Service. The Borrower agrees that the use of a Security Device in connection with the Service, including any information sent, received or accepted using the Service, will be deemed to be conclusive proof that such information is accurate and complete, and the submission of which is authorized by, and enforceable against, the Borrower.

The Borrower is responsible for maintaining the security and confidentiality of Security Devices which may be used in connection with the Service. The Borrower is responsible for ensuring that a Security Device will only be provided to and used by a Designated User. The Borrower agrees to be bound by any actions or omissions resulting from the use of any Security Device in connection with the Service.

**4. Security.** Each party shall at all times have in place appropriate policies and procedures to protect the security and confidentiality of the Service, Electronic Channels and Electronic Communication and to prevent any unauthorized access to and use of the Service and Electronic Channels. The Borrower agrees to comply with any additional procedures, standards or other security requirements that the Bank may require in order to access the Service.

The Borrower will not (i) access or use the Service for an illegal, fraudulent, malicious or defamatory purpose, or (ii) take steps or actions that could or do undermine the security, integrity, effectiveness, goodwill or connectivity of the Service (including illegal, fraudulent, malicious, defamatory or other activities that threaten to harm or cause harm to any other person).

The Borrower agrees not to transmit via the Service any viruses, worms, defects, Trojan horses or any items of a destructive nature. The Borrower shall maintain the security of their computer by using anti-virus scanning, a firewall and installing the latest security patches to provide assurance that no Virus is introduced into the systems or Software while accessing the Service.

**5. Unsecure Electronic Channels.** The Borrower acknowledges and agrees that if it uses, or if it authorizes and directs the Bank to use, any unencrypted Electronic Channel, including unencrypted e-mail or facsimile, any Electronic Communication sent, received and/or accepted

using such Electronic Channel is not secure, reliable, private or confidential. Any such Electronic Communication could be subject to interception, loss or alteration, and may not be received by the intended recipient in a timely manner or at all. The Borrower assumes full responsibility for the risks associated with such Electronic Communication.

**6. Notice of Security Breach.** The Borrower shall notify the Bank by notifying the RBC Account Manager in writing immediately of any Security Breach including: (i) any application vulnerability or if a Virus is contained in or affects transmission of information to the Service; or (ii) if the Borrower knows or reasonably ought to know that an unauthorized person may have access to the Service, Security Device or Electronic Channel.

If a Security Breach occurs the Borrower shall: (i) assist the Bank in the management of any consequences arising from it; (ii) take any reasonable steps necessary for it to take to mitigate any harm resulting from it; and (iii) take appropriate steps to prevent its recurrence.

**7. Binding Effect.** Any Electronic Communication that the Bank receives from or in the name of, or purporting to be from or in the name of, the Borrower or any other person on the Borrower's behalf in connection with the Service, will be considered to be duly authorized by, and enforceable against, the Borrower. The Bank will be authorized to rely and act on any such Electronic Communication, even if the Electronic Communication was not actually from the Borrower or such other person or differs in any way from any previous Electronic Communication sent to the Bank. Any Electronically Uploaded Financial Information will be considered to be financial information submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Uploaded Financial Information accordingly. Any Electronically Submitted Certificates will be considered to be certificates, reports and/or forms completed and submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Submitted Certificates accordingly.

**8. Representations and Warranties.** The Borrower represents and warrants to the Bank that each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted: (i) all financial statements, certificates, forms, reports and all information contained therein will be accurate and complete in all respects; (ii) all amounts certified as Potential Prior-Ranking Claims will be current amounts owing and not in arrears; (iii) all representations and warranties contained in the Agreement will be true and correct; and (iv) no event will have occurred which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default or breach of any covenant or other term or condition of the Agreement. The Borrower will be deemed to repeat these representations and warranties each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted.

**9. Evidence.** Electronic records and other information obtained by the Bank in an Electronic Communication will be admissible in any legal, administrative or other proceedings as conclusive evidence of the contents of those communications in the same manner as an original paper document, and the Borrower waives any right to object to the introduction of any such record or other information into evidence on that basis.

**10. Limitation of Liability.** The Bank is not responsible or liable for any damages arising from: (i) inaccurate, incomplete, false, misleading, or fraudulent information provided to the Bank; (ii) losses incurred as a result of an actual or potential Security Breach; or (iii) losses incurred as a result of application vulnerability or Virus that is contained in or affects any Software or systems used by or on behalf of the Borrower in connection with the Service.

Although every effort is made to provide secure transmission of information, timely communication and confidentiality cannot be guaranteed. In no event shall the Bank be liable for any loss or harm resulting from the use of the Service, or from a breach of confidentiality in respect of use of the Service.

**11. Termination.** The ability of the Borrower to fulfill the reporting requirements relating to the submission of financial information set out in the Agreement using RBC Covarity Dashboard shall terminate upon revocation of access to the Service. In addition, the Bank may suspend or terminate access to or discontinue the Service immediately for any reason at any time without prior notice. The Bank will not be responsible for any loss or inconvenience that may result from such suspension or termination. The Borrower, upon giving notice to the Bank by notifying the RBC Account Manager in writing, may terminate use of the Service at any time.

**12. Amendment.** The Bank may amend these RBC Covarity Dashboard Terms and Conditions upon 30 days notice (which may be given electronically by way of e-mail or in writing) to the Borrower. The Borrower agrees that the continued use of the Service after the effective date of a change will constitute conclusive evidence of consent to all such amendments and the Borrower shall be bound by the amendments.

**Amendment No.1 to the RBC Loan Agreement**

[Amendment Follows]



*Execution Copy*

**Jim Glassford**  
Senior Account Manager

**Royal Bank of Canada**  
Commercial Financial Services  
6880 Financial Drive, 2nd Floor Link  
Mississauga, ON L5N 7Y5  
Telephone: 905.286.7473  
Facsimile: 905.286.7262

December 6, 2018

**Private and Confidential**

Contract Pharmaceuticals Limited Canada  
7600 Danbro Crescent  
Mississauga, Ontario  
L5N 6L6

**RE: AMENDMENT NO. 1 TO LOAN AGREEMENT**

Dear Sirs/Mesdames:

We refer to the loan agreement issued on November 22, 2017 by Royal Bank of Canada (the "**Bank**") and accepted by Contract Pharmaceuticals Limited Canada, as borrower (the "**Borrower**"), CPL Canada Holdco Limited ("**CPL Holdco**") and Contract Pharmaceuticals Limited ("**CPL USA**"), as guarantors (collectively, the "**Guarantors**") on November 27, 2017 (as may be amended, restated, supplemented, replaced or otherwise modified from time to time, the "**Loan Agreement**"). Each capitalized term used and not otherwise defined herein shall have the meaning given to such term in the Loan Agreement.

The purpose of this amending agreement is to set out the amendments to the Loan Agreement to which we have mutually agreed.

1. **Amendment to Credit Facilities – Facility #1.**

- (a) The "**CREDIT FACILITIES**" section of the Loan Agreement is amended by deleting the first sentence in its entirety and replacing it with the following:

"**Facility #1:** \$18,500,000 revolving demand facility by way of:".

- (b) The "**CREDIT FACILITIES**" section of the Loan Agreement is amended by deleting subsection (c) in its entirety and replacing it with the following:

"c) Letters of Guarantee ("LGs") to a maximum amount of \$2,000,000.

Fees to be advised on a transaction-by-transaction basis. Fees and drawings to be charged to Borrower's accounts. Minimum fee of \$100.00."

- (c) The “**AVAILABILITY**” section of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

**“AVAILABILITY**

The Borrower may borrow, convert, repay and reborrow up to the amount of this facility provided this facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict the availability of any utilized portion at any time and from time to time without notice.

Borrowings outstanding under this facility must not exceed at any time the aggregate of the following, less Potential Prior-Ranking Claims (the “**Borrowing Limit**”):

- a) 80% of Good Canadian/US Accounts Receivable; plus
  - b) to a maximum of \$4,000,000, the aggregate of:
    - i. 50% of the lesser of cost or net realizable value of Finished Goods Inventory; and
    - ii. 50% of the lesser of cost or net realizable value of Raw Materials Inventory.”.
- (d) The “**OTHER FACILITIES**” section of the Loan Agreement is hereby amended by deleting subsection a) in its entirety. For greater certainty, the VISA Business credit facility to a maximum amount of \$130,000 available in Canadian currency and US currency is cancelled and terminated with no borrowings and accommodation available thereunder.
- (e) The “**SECURITY**” section of the Loan Agreement is hereby amended by deleting subsection (b) in its entirety and replacing it with the following:
- “b) an amended and restated intercreditor agreement between the Bank, the Borrower, EDC and Deerfield Private Design Fund IV, L.P., outlining the priority of their respective security interests in the assets of the Borrower;”.
- (f) The “**SECURITY**” section of the Loan Agreement is hereby amended by deleting the word “and” at the end of subsection (d), deleting the period at the end of subsection (e) and replacing it with a semi-colon and adding the following new subsections:
- “f) an intercreditor agreement between the Bank, the Borrower, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited, Glasshouse Pharmaceuticals Limited Canada, Deerfield Private Design Fund IV, L.P., as agent for itself and certain lenders, and others; and
  - g) an investment property pledge agreement executed by CPL Canada Holdco Limited in favour of the Bank in respect of all present and after-acquired equity securities of the Borrower accompanied by the original certificate(s), duly executed power of attorney in respect thereof and a certified share transfer authorizing resolution of the directors of the Borrower in connection with any enforcement of the pledge (each in form and substance satisfactory to the Bank) all of which collectively provide the Bank a first ranking Lien in all such equity securities.”.
- (g) The “**GENERAL COVENANTS**” section of the Loan Agreement is hereby amended by deleting the first sentence in its entirety and replacing it with the following:

“Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, each of the Borrower and the Guarantors (which, for greater certainty, includes CPL Canada Holdco Limited and Contract Pharmaceuticals Limited) covenants and agrees with the Bank that each of the Borrower and the Guarantors:”.

- (h) The “**GENERAL COVENANTS**” section of the Loan Agreement is hereby amended by deleting subsection (d) in its entirety and replacing it with the following:
- “d) will give the Bank 30 days prior written notice of any intended change in their respective ownership structure and each will not make, effect, permit or facilitate any such changes without the prior written consent of the Bank. For greater certainty, neither the Borrower nor CPL Canada Holdco Limited shall, without the prior written consent of the Bank, effect, permit, facilitate or allow a change in the effective control of the Borrower or CPL Canada Holdco Limited (as determined by the Bank);”.
- (i) The “**GENERAL COVENANTS**” section of the Loan Agreement is hereby amended by deleting the word “and” at the end of subsection (n), deleting the period at the end of subsection (o) and replacing it with a semi-colon and adding the following new subsections:
- “p) in the case of the Borrower and CPL Canada Holdco Limited only, shall not, without the prior written consent of the Bank, create or acquire a subsidiary now or in the future; and
- q) shall provide the Bank with prompt written notice (for greater clarity within 5 business days) of any default or event of default which has occurred under and as defined in the facility agreement dated as of December 6, 2018 between Glasshouse Pharmaceuticals Limited Canada, as borrower, Deerfield Private Design Fund IV, L.P., as agent for itself and certain lenders, and others, and any security or other loan documents related thereto, as amended from time to time.”.
- (j) The “**REPRESENTATIONS AND WARRANTIES**” section of the Loan Agreement is hereby amended by deleting the first sentence in its entirety and replacing it with the following:
- “Each of the Borrower and the Guarantors (which, for greater certainty, includes CPL Canada Holdco Limited and Contract Pharmaceuticals Limited) represents and warrants to the Bank that:”.
- (k) The Schedule “**Terms and Conditions**” of the Loan Agreement is hereby amended by adding the following new section immediately at the end of such Schedule:

**“CROSS DEFAULT**

The occurrence of a default or event of default under and as defined the facility agreement dated as of December 6, 2018 between Glasshouse Pharmaceuticals Limited Canada, as borrower, Deerfield Private Design Fund IV, L.P., as agent for itself and certain lenders, and others, or any security or other loan documents related thereto, as amended from time to time, shall constitute a default and breach of the terms and conditions of this Loan Agreement upon which the Bank shall be entitled to make demand against the Borrower and the Guarantors for payment of all indebtedness, liabilities and obligations owing under this Loan Agreement and all security and other loan documents related thereto.”.

- (l) **Schedule “A” (DEFINITIONS)** of the Loan Agreement is hereby amended by deleting the defined terms “Packaging Materials Inventory” and “Work in Progress Inventory” in their entirety.
  - (m) **Schedule “G” (BORROWING LIMIT CERTIFICATE)** of the Loan Agreement is hereby deleted in its entirety and replaced with Schedule 1 attached hereto.
2. **No Other Amendments.** All other terms and conditions of the Loan Agreement remain unamended and the Loan Agreement remains in full force and effect.
3. **Representations and Warranties.** To induce the Bank to enter into this amending agreement the Borrower and each Guarantor represents and warrants to the Bank that:
- (a) the representations and warranties set out in the Loan Agreement are true, complete and correct in every material respect as at the date of this amending agreement, except to the extent made as of a specific date in which case such representations and warranties shall be true, complete and correct in every material respect as of such specific date; and
  - (b) there is no default or breach of any term, provision or condition of the Loan Agreement or Security which has occurred and is continuing as at the date of this amending agreement.
- The representations and warranties to the Bank contained herein shall survive the execution and delivery of this amending agreement (as well as any investigation by or on behalf of the Bank) and shall remain in full force and effect until such time as all Borrowings and outstanding obligations under the Loan Agreement have been paid in full and the commitments of the Bank under the Loan Agreement have been terminated.
4. **Conditions Precedent to this Amending Agreement.** This amending agreement shall not come into effect and the Loan Agreement shall not be amended to reflect the amendments contained herein, until the Bank has received the following documents (each in form and substance satisfactory to the Bank) and upon each of the following events having occurred to the satisfaction of the Bank:
- (a) a duly executed copy of this amending agreement from the Borrower and each Guarantor;
  - (b) the Bank being satisfied that no default or breach of any term, covenant or condition of the Loan Agreement or Security has occurred and is continuing;
  - (c) no development, event or circumstance has occurred since December 31, 2017 which in the opinion of the Bank has had, or would be reasonably likely to have, a material adverse effect;
  - (d) the payment by the Borrower to the Bank of a non-refundable amendment fee in an amount of \$20,000 which fee shall be fully earned upon execution of this amending agreement;
  - (e) the payment of all reasonable and documented legal fees and disbursements of legal counsel to Bank;
  - (f) a duly executed copy of the amended and restated intercreditor agreement between the Bank, the Borrower, Export Development Canada and Deerfield Private Design Fund IV, L.P. (as agent for itself and certain other lenders), in form and substance satisfactory to the Bank;
  - (g) a duly executed copy of the intercreditor agreement between the Bank, the Borrower, CPL Holdco, CPL USA, Glasshouse Pharmaceuticals Limited Canada, Deerfield Private

Design Fund IV, L.P. (as agent for itself and certain other lenders), and others, in form and substance satisfactory to the Bank;

- (h) a duly executed copy of the investment property pledge agreement from CPL Holdco in favour of the Bank accompanied by the original share certificate for the Borrower and duly executed power of attorney in respect thereof;
  - (i) an executed officer's certificate for each of the Borrower and CPL Holdco as to general corporate matters including certified copies of its constating documents, specimen signatures of officers, share register and a certified copy of a resolution of the board of directors authorizing the entry into, execution, delivery and performance of this amending agreement, the new Security and, in the case of the Borrower, the pledge and subsequent transfer of its shares pursuant to the investment property pledge agreement from CPL Holdco;
  - (j) an opinion of counsel for the Borrower and CPL Holdco in connection with the authorization, execution, delivery, enforceability and validity of this amending agreement, the new Security, perfection by control in respect of the shares of the Borrower and such other matters as the Bank may reasonably request, in form and substance reasonably satisfactory to the Bank and its counsel;
  - (k) a certified copy of the facility agreement between Glasshouse Pharmaceuticals Limited Canada, Deerfield Private Design Fund IV, L.P. (as agent for itself and certain other lenders), and others; and
  - (l) the execution and/or delivery of all such other agreements, instruments, consents, approvals and other documents as the Bank may reasonably require to effect the amendments and transactions contemplated in this amending agreement.
5. **Effect of this Amending Agreement.** It is acknowledged and agreed that the terms of this amending agreement are in addition to and, unless specifically provided for, shall not limit, restrict, modify, amend or release any of the understandings, agreements or covenants as set out in the Loan Agreement. This amending agreement supersedes all prior agreements, understandings, drafts, negotiations and discussions, whether oral or written, with respect to the subject matter specifically provided for herein. The Loan Agreement shall henceforth be read and construed in conjunction with this amending agreement, and the Loan Agreement together with all of the powers, provisions, conditions, covenants and agreements contained or implied in the Loan Agreement shall be and shall continue to be in full force and effect (as amended hereby). References to the "**Loan Agreement**" or the "**Agreement**" in the Loan Agreement or in any other document delivered in connection with, or pursuant to, the Loan Agreement shall mean the Loan Agreement, as amended hereby.
6. **Successors and Assigns.** This amending agreement shall be binding upon and enure to the benefit of the parties to this amending agreement and their respective successors and permitted assigns.
7. **Severability.** If any provision of this amending agreement is or becomes prohibited or unenforceable in any jurisdiction, such prohibition or unenforceability shall not invalidate or render unenforceable the provision concerned in any other jurisdiction nor invalidate, affect or impair any of the remaining provisions of this amending agreement.
8. **Governing Law.** This amending agreement shall be construed in accordance with and governed by the laws of the Province of Ontario and of Canada applicable therein.
9. **Whole Agreement.** The Loan Agreement, this amending agreement, the security and any other written agreement delivered pursuant to or referred to in the Loan Agreement or this amending agreement constitute the whole and entire agreement between the parties in respect of the Credit

Facilities. There are no verbal agreements, undertakings or representations in connection with the Credit Facilities.

10. **Counterpart Execution**. This amending agreement may be executed in any number of counterparts and by different parties in separate counterparts, and by facsimile or electronic PDF counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.
11. **Time**. Time shall be of the essence in all provisions of this amending agreement.
12. **Continuing Effect of Guarantees and Security Documents**. The Borrower and each Guarantor acknowledges, confirms and agrees: (i) to the amendments and provisions of this amending agreement, and (ii) that the respective guarantees and other security documents executed by it shall remain in full force and effect as binding obligations enforceable against it notwithstanding the execution and delivery of this amending agreement and continue to secure all present and future indebtedness, liabilities and obligations of the Borrower to the Bank.
13. **No Novation**. Nothing in this amending agreement, nor in the Loan Agreement when read together with this amending agreement, shall constitute novation, payment, re-advance, or otherwise of any existing indebtedness, liabilities and obligations of the Borrower to the Bank.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]**

**ACCEPTANCE**

This offer is open for acceptance until December 31, 2018 after which date it will be null and void, unless extended in writing by the Bank.

Please confirm your acceptance of this amending agreement by signing the attached copy of this letter in the space provided below and returning it to the undersigned.

Yours truly,

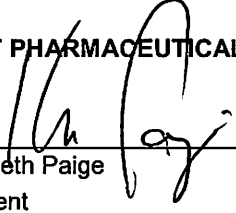
**ROYAL BANK OF CANADA**

Per:

A handwritten signature in black ink, appearing to read "J. Glassford", written over a horizontal line.

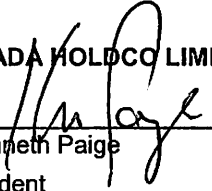
Jim Glassford  
Senior Account Manager

**EACH OF THE UNDERSIGNED** accepts this amending agreement and agrees with Royal Bank of Canada to be bound by the terms and conditions of this amending agreement as of December 6, 2018.

**CONTRACT PHARMACEUTICALS LIMITED CANADA,**  
as Borrower  
Per:   
\_\_\_\_\_  
Name: Kenneth Paige  
Title: President

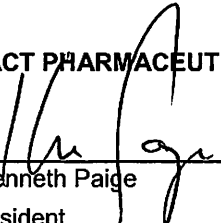
\_\_\_\_\_  
Name:  
Title:

I/We have the authority to bind the corporation

**CPL CANADA HOLDCO LIMITED,** as a Guarantor  
Per:   
\_\_\_\_\_  
Name: Kenneth Paige  
Title: President

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

I/We have the authority to bind the corporation

**CONTRACT PHARMACEUTICALS LIMITED,** as a Guarantor  
Per:   
\_\_\_\_\_  
Name: Kenneth Paige  
Title: President

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

I/We have the authority to bind the corporation



**SCHEDULE 1**

**Schedule "G"**

**BORROWING LIMIT CERTIFICATE**

I, \_\_\_\_\_, representing the Borrower hereby certify as of month ending/fiscal quarter ending \_\_\_\_\_, 20 \_\_:

1. I am familiar with and have examined the provisions of the Agreement dated November 22, 2017 and any amendments thereto, between Contract Pharmaceuticals Limited, as Borrower, and Royal Bank of Canada, as the Bank and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower. Terms defined in the Agreement have the same meanings where used in this certificate.

2. The Borrowing Limit is \$ \_\_\_\_\_, calculated as follows:

Total Canadian/US Accounts Receivable		\$ _____	
Less:	a) The portion of such accounts which exceeds 90 days	\$ _____	
	b) Accounts due from affiliates	\$ _____	
	c) Accounts where collection is suspect	\$ _____	
	d) Accounts subject to prior encumbrances	\$ _____	
	e) Holdbacks, contra-accounts or rights of set-off	\$ _____	
	f) Accounts included elsewhere in the Borrowing Limit calculation	\$ _____	
	g) Other ineligible accounts	\$ _____	
Good Canadian/US Accounts Receivable			A \$ _____
Marginable Good Canadian/US Accounts Receivable at 80% of A			B \$ _____
Total inventory classified as Finished Goods Inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a) Inventory subject to prior encumbrances	\$ _____	
	b) Inventory subject to 30 day supplier payables	\$ _____	
	c) Other non qualifying inventory	\$ _____	
Finished Goods Inventory			C \$ _____
Marginable Finished Goods Inventory at 50% of C			D \$ _____
Total inventory classified as Raw Materials Inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a) Inventory subject to prior encumbrances	\$ _____	
	b) Inventory subject to 30 day supplier payables	\$ _____	
	c) Other non qualifying inventory	\$ _____	
Raw Materials Inventory			E \$ _____
Marginable Raw Materials Inventory at 50% of E			F \$ _____

Total D+F(Max \$4,000,000.00)		G	\$ _____
Less: Potential Prior-Ranking Claims while not limited to these include:			
Sales tax, Excise & GST	\$ _____		
Employee source deductions such as E.I., CPP, Income Tax	\$ _____		
Workers Compensation Board	\$ _____		
Wages, Commissions, Vacation Pay	\$ _____		
Unpaid Pension Plan Contributions	\$ _____		
Overdue Rent, Property & Business Tax and potential claims from third parties such as subcontractors	\$ _____		
Other	\$ _____		
Total Potential Prior-Ranking Claims		H	\$ _____
Borrowing Limit (B+G-H)			\$ _____
Less: Facility #1 Borrowings			\$ _____
Margin Surplus (Deficit)			\$ _____

3. Annexed hereto are the following reports in respect of the Borrower:

- a) aged list of accounts receivable,
- b) aged list of accounts payable,
- c) status of inventory, and
- d) listing of Potential Prior-Ranking Claims.

4. The reports and information provided herewith are accurate and complete in all respects and all amounts certified as Potential Prior-Ranking Claims are current amounts owing and not in arrears.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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

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

**Amendment No.2 to the RBC Loan Agreement**

[Amendment Follows]



**Royal Bank of Canada**  
 Commercial Financial Services  
 2nd Flr Mezzanine, 6880 Financial Dr.  
 Mississauga, ON, L5N 7Y5

September 12, 2019

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Cres.  
 Mississauga, ON  
 L5N 6L6

ROYAL BANK OF CANADA (the “**Bank**”) hereby confirms the credit facilities described below (the “**Credit Facilities**”) subject to the terms and conditions set forth below and in the attached Terms & Conditions and Schedules (collectively the “**Agreement**”). This Agreement amends and restates without novation the existing agreement dated November 22, 2017 and any amendments thereto. Any amount owing by the Borrower to the Bank under such previous agreement is deemed to be a Borrowing under this Agreement. Any and all security that has been delivered to the Bank and is set forth as Security below, shall remain in full force and effect, is expressly reserved by the Bank and, unless expressly indicated otherwise, shall apply in respect of all obligations of the Borrower under the Credit Facilities. Unless otherwise provided, all dollar amounts are in Canadian currency.

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or Events of Default now existing or hereafter arising under this Agreement or any other agreement delivered to the Bank, and whether known or unknown, and this Agreement shall not be construed as a waiver of any such breach, default or Event of Default.

**BORROWER: Contract Pharmaceuticals Limited Canada (the “Borrower”)**

**CREDIT FACILITIES**

**Facility #1:** \$18,500,000.00 revolving demand facility by way of:

a) RBP based loans (“**RBP Loans**”)

Revolve in increments of:	\$5,000.00	Minimum retained balance:	\$0.00
Revolved by:	Bank	Interest rate (per annum):	RBP + 0.50%

b) Libor based loans in US currency (“**Libor Loans**”)

Interest rate (per annum):	Libor + 2.75%
----------------------------	---------------

c) Letters of Guarantee (“**LGs**”)

Fees to be advised on a transaction-by-transaction basis. Fees and drawings to be charged to Borrower’s accounts. Minimum fee of \$100.00.
--

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**AVAILABILITY**

The Borrower may borrow, convert, repay and reborrow up to the amount of this facility provided this facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict the availability of any unutilized portion at any time and from time to time without notice.

Borrowings outstanding under this facility must not exceed at any time the aggregate of the following, less Potential Prior-Ranking Claims (the "**Borrowing Limit**"):

- a) 80% of Good Canadian/US Accounts Receivable;
- b) 90% of Good EDC Accounts Receivable;
- c) 65% of Good Foreign Accounts Receivable;
- d) to a maximum of \$4,000,000.00, the aggregate of:
  - i) 50% of the lesser of cost or net realizable value of Finished Goods Inventory;
  - ii) 50% of the lesser of cost or net realizable value of Raw Materials Inventory.

**REPAYMENT**

Notwithstanding compliance with the covenants and all other terms and conditions of this Agreement, and regardless of the maturities of any outstanding instruments or contracts, Borrowings under this facility are repayable on demand.

**GENERAL ACCOUNT**

The Borrower shall establish a current account with the Bank (the "**General Account**") for the conduct of the Borrower's day-to-day banking business. The Borrower authorizes the Bank daily or otherwise as and when determined by the Bank, to ascertain the balance of the General Account and:

- a) if such position is a debit balance the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, make available a Borrowing by way of RBP Loans under this facility;
- b) if such position is a credit balance, where the facility is indicated to be Bank revolved, the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, apply the amount of such credit balance or any part as a repayment of any Borrowings outstanding by way of RBP Loans under this facility.

**FEES****Monthly Fee:**

Payable in arrears on the same day of each month.

Management Fee: \$200.00

**SECURITY**

Security for the Borrowings and all other obligations of the Borrower to the Bank, including, without limitation, any amounts outstanding under any Leases, if applicable, (collectively, the "**Security**"), shall include:

- a) General security agreement on the Bank's form 924 signed by the Borrower constituting a first ranking security interest in all accounts receivables and inventory of the Borrower and a second ranking security interest in all equipment of the Borrower, subject to a prior security interest held by Export Development Canada ("**EDC**"), pursuant to the EDC Inter-creditor agreement (as defined below);
- b) Inter-creditor agreement between the Bank, the Borrower, and EDC, outlining the priority of their respective security interests in the assets of the Borrower;
- c) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$19,630,000.00 signed by Contract Pharmaceuticals Limited;

- d) Guarantee and postponement of claim on the Bank's form 812 in the amount of \$19,630,000.00 signed by CPL Canada Holdco Limited, supported by a general security agreement on the Bank's form 924 constituting a first ranking security interest in all personal property of CPL Canada Holdco Limited;
- e) Postponement and assignment of claim on the Bank's form 918 signed by CPL Canada Holdco Limited;
- f) Inter-creditor Agreement, between the Bank, the Borrower, and Deerfield Private Design Fund IV L.P.

#### **FINANCIAL COVENANTS**

In the event that the Borrower, changes accounting standards, accounting principles and/or the application of accounting principles during the term of this Agreement, all financial covenants shall be calculated using the accounting standards and principles applicable at the time this Agreement was entered into.

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of any demand or other discretionary facility the Borrower covenants and agrees with the Bank that the Borrower will:

- a) maintain, to be measured as at the end of each fiscal year:
  - i. Debt Service Coverage, of not less than 1.25:1;
  - ii. a ratio of Total Liabilities to Tangible Net Worth of not greater than 2.25:1.

#### **REPORTING REQUIREMENTS**

The Borrower will provide the following to the Bank:

- a) quarterly Borrowing Limit Certificate, substantially in the form of Schedule "F" signed on behalf of the Borrower by any one of the Chief Executive Officer, the President, the Vice-President Finance, the Treasurer, the Comptroller, the Chief Accountant or any other employee of the Borrower holding equivalent office, within 30 days of each quarter end;
- b) quarterly company prepared financial statements for the Borrower, within 45 days of each fiscal quarter end;
- c) annual review engagement financial statements for Glasshouse Pharmaceuticals Limited Canada, within 120 days of each fiscal year end;
- d) annual Compliance Certificate, substantially in the form of Schedule "G" signed by an authorized signing officer of the Borrower, within 120 days of each fiscal year end, certifying compliance with this Agreement including the financial covenants set forth in the Agreement;
- e) annual audited financial statements for the Borrower, within 120 days of each fiscal year end;
- f) annual notice to reader financial statements for Glasshouse Pharmaceuticals Limited Canada, CPL Canada Holdco Limited, Glasshouse Pharmaceuticals LLC, and Contract Pharmaceuticals Limited, within 120 days of each fiscal year end;
- g) annual consolidated audited financial statements for Contract Pharmaceuticals Limited, within 120 days of each fiscal year end;
- h) such other financial and operating statements and reports as and when the Bank may reasonably require.

**CONDITIONS PRECEDENT**

In no event will the Credit Facilities or any part thereof be available unless the Bank has received:

- a) a duly executed copy of this Agreement;
- b) the Security provided for herein, registered, as required, to the satisfaction of the Bank;
- c) such financial and other information or documents relating to the Borrower or any Guarantor if applicable as the Bank may reasonably require;
- d) an environmental questionnaire in respect of the Borrower and/or site checklist(s) in respect of all applicable real property on which the Borrower has granted Security to the Bank, on the Bank's standard form(s) and containing findings acceptable to the Bank; and
- e) such other authorizations, approvals, opinions and documentation as the Bank may reasonably require.

Additionally:

- f) all documentation to be received by the Bank shall be in form and substance satisfactory to the Bank.

**BUSINESS LOAN INSURANCE PLAN**

The Borrower hereby acknowledges that the Bank has offered it group creditor insurance coverage on the Borrowings under the Business Loan Insurance Plan and the Borrower hereby acknowledges that it is the Borrower's responsibility to apply for any new or increased insurance amount for the Borrowings that may be eligible.

If the Borrower decides to apply for insurance on the Borrowings, the application will be made via the Bank's Business Loan Insurance Plan application (form 3460 ENG or 53460 FRE). If the Borrower has existing uninsured Borrowings and decides not to apply for Business Loan Insurance Plan coverage on any new Borrowings, it hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for Business Loan Insurance Plan coverage on all such Borrowings, and that all such Borrowings are not insured under the Policy as at the date of acceptance of this Agreement.

If the Borrower has Business Loan Insurance Plan coverage on previously approved Borrowings, such coverage will be applied automatically to all new Borrowings eligible for Business Loan Insurance Plan coverage that share the same loan account number, up to the approved amount of Business Loan Insurance Plan coverage. This Agreement cannot be used to waive coverage on new Borrowings eligible for Business Loan Insurance Plan coverage if Business Loan Insurance Plan coverage is in effect on the Borrower's existing Borrowings. If the Borrower does not want Business Loan Insurance Plan coverage to apply to any new Borrowings, a different loan account number will need to be set up and all uninsured loans attached to it.

If the Borrower has existing Borrowings to which Business Loan Insurance Plan coverage applies, and any new Borrowings would exceed the approved amount of Business Loan Insurance Plan coverage already in place, the Borrower must apply for additional Business Loan Insurance Plan coverage (if eligible) in order for Business Loan Insurance Plan coverage to apply to any new Borrowings. If the Borrower decides not to apply for additional Business Loan Insurance Plan coverage in respect of any new Borrowings (if eligible), the Borrower hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for additional Business Loan Insurance Plan coverage on such new Borrowings and that such new Borrowings are not insured under the Policy as at the date the Borrower executes this Agreement.

If there are any discrepancies between the insurance information in this Agreement and the Business Loan Insurance Plan documents regarding the Borrowings, the Business Loan Insurance Plan documents govern.

Business Loan Insurance Plan premiums (plus applicable taxes), will be taken as a separate payment, directly from the bank account associated with the loan, at the same frequency and

schedule as your regular loan payments, where applicable. As premiums are based on the outstanding loan balance and the insured person's age at the time the premiums are due, the cost of Business Loan Insurance Plan coverage may increase during the term of the loan. The premium calculation is set out in the Business Loan Insurance Plan terms and conditions provided to the Borrower at the time the application for Business Loan Insurance Plan coverage was completed. Refer to the terms and conditions (form 3460 ENG or 53460 FRE) for further explanation and disclosure.

**GOVERNING LAW JURISDICTION**

Province of Ontario.

**ACCEPTANCE**

This Agreement is open for acceptance until October 14, 2019, after which date it will be null and void, unless extended by the Bank in its sole discretion.

**ROYAL BANK OF CANADA**



Per: \_\_\_\_\_  
Title: Vice President

**RBC Contact: Jim Glassford**

/Im

We acknowledge and accept the terms and conditions of this Agreement on this 17 day of SEPTEMBER, 2019.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

Per: \_\_\_\_\_  
Name: JOHN WILKENING  
Title: VP FINANCE

Per: \_\_\_\_\_  
Name: PREETI BATTI  
Title: DIRECTOR FINANCE

I/We have the authority to bind the Borrower

As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this Agreement on this 17 day of SEPTEMBER, 2019.

**CONTRACT PHARMACEUTICALS LIMITED**

Per: \_\_\_\_\_  
Name: JOHN WILKENING  
Title: VP FINANCE

Per: \_\_\_\_\_  
Name: PREETI BATTI  
Title: DIRECTOR FINANCE

I/We have the authority to bind the Guarantor



As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this Agreement on this 17 day of SEPTEMBER 2019.

**CPL CANADA HOLDCO LIMITED**Per:  \_\_\_\_\_Name: JOHN WILKENINTitle: VP FINANCEPer:  \_\_\_\_\_Name: PREETI BATHTitle: DIRECTOR FINANCE

I/We have the authority to bind the Guarantor

## Attachments:

Terms and Conditions

## Schedules:

- Definitions
- Calculation and Payment of Interest and Fees
- Additional Borrowing Conditions
- Borrowing Limit Certificate
- Compliance Certificate
- RBC Covarity Dashboard Terms and Conditions

## TERMS AND CONDITIONS

The Bank is requested by the Borrower to make the Credit Facilities available to the Borrower in the manner and at the rates and times specified in this Agreement. Terms defined elsewhere in this Agreement and not otherwise defined in the Terms and Conditions below or the Schedules attached hereto have the meaning given to such terms as so defined. In consideration of the Bank making the Credit Facilities available, the Borrower agrees, and if the Borrower is comprised of more than one Person, such Persons jointly and severally agree, or in Quebec solidarily agree, with the Bank as follows:

### REPAYMENT

Amounts outstanding under the Credit Facilities, together with interest, shall become due in the manner and at the rates and times specified in this Agreement and shall be paid in the currency of the Borrowing. Unless the Bank otherwise agrees, any payment hereunder must be made in money which is legal tender at the time of payment. In the case of a demand facility of any kind, the Borrower shall repay all principal sums outstanding under such facility upon demand including, without limitation, an amount equal to the face amount of all LGs which are unmatured or unexpired, which amount shall be held by the Bank as security for the Borrower's obligations to the Bank in respect of such Borrowings. Where any Borrowings are repayable by scheduled blended payments, such payments shall be applied, firstly, to interest due, and the balance, if any, shall be applied to principal outstanding. If any such payment is insufficient to pay all interest then due, the unpaid balance of such interest will be added to such Borrowing, will bear interest at the same rate, and will be payable on demand or on the date specified herein, as the case may be. Borrowings repayable by way of scheduled payments of principal and interest shall be so repaid with any balance of such Borrowings being due and payable as and when specified in this Agreement. The Borrower shall ensure that the maturities of instruments or contracts selected by the Borrower when making Borrowings will be such so as to enable the Borrower to meet its repayment obligations. For any Borrowings that are repayable by scheduled payments, if the scheduled payment date is changed then the Maturity Date of the applicable Borrowings shall automatically be amended accordingly.

In the case of any reducing term loan and/or reducing term facility ("**Reducing Term Loan/Facility**"), provided that nothing contained in this paragraph shall confer any right of renewal or extension upon the Borrower, the Borrower and the Bank agree that, at the Bank's option, the Bank may provide a letter ("**Renewal Letter**") to the Borrower setting out the terms upon which the Bank is prepared to extend the Reducing Term Loan/Facility. In the event that the Bank provides a Renewal Letter to the Borrower and the Reducing Term Loan/Facility is not repaid on or before the Maturity Date of the applicable Reducing Term Loan/Facility, then at the Bank's option the Reducing Term Loan/Facility shall be automatically renewed on the terms set out in the Renewal Letter and the terms of this Agreement shall be amended accordingly.

### PREPAYMENT

Where Borrowings are by way of RBP Loans, the Borrower may prepay such Borrowings in whole or in part without fee or premium.

The prepayment of any Borrowings under a term facility and/or any term loan will be made in the reverse order of maturity.

### EVIDENCE OF INDEBTEDNESS

The Bank shall maintain accounts and records (the "**Accounts**") evidencing the Borrowings made available to the Borrower by the Bank under this Agreement. The Bank shall record the principal amount of such Borrowings, the payment of principal and interest on account of the Borrowings, and all other amounts becoming due to the Bank under this Agreement. The Accounts constitute, in the absence of manifest error, conclusive evidence of the indebtedness of the Borrower to the Bank pursuant to this Agreement. The Borrower authorizes and directs the Bank to automatically debit, by mechanical, electronic or manual means, any bank account of the Borrower for all amounts payable under this Agreement, including, but not limited to, the

repayment of principal and the payment of interest, fees and all charges for the keeping of such bank accounts.

#### **GENERAL COVENANTS**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, the Borrower covenants and agrees with the Bank that the Borrower:

- a) will pay all sums of money when due under the terms of this Agreement;
- b) will immediately advise the Bank of any event which constitutes or which, with notice, lapse of time or both, would constitute a breach of any covenant or other term or condition of this Agreement or any Security or an Event of Default;
- c) will file all material tax returns which are or will be required to be filed by it, pay or make provision for payment of all material taxes (including interest and penalties) and Potential Prior-Ranking Claims, which are or will become due and payable and provide adequate reserves for the payment of any tax, the payment of which is being contested;
- d) will give the Bank 30 days prior notice in writing of any intended change in its ownership structure or composition and will not make or facilitate any such changes without the prior written consent of the Bank;
- e) will comply with all Applicable Laws, including, without limitation, all Environmental and Health and Safety Laws;
- f) will immediately advise the Bank of any action requests or violation notices received concerning the Borrower and hold the Bank harmless from and against any losses, costs or expenses which the Bank may suffer or incur for any environment related liabilities existent now or in the future with respect to the Borrower;
- g) will deliver to the Bank such financial and other information as the Bank may reasonably request from time to time, including, but not limited to, the reports and other information set out under Reporting Requirements;
- h) will immediately advise the Bank of any unfavourable change in its financial position which may adversely affect its ability to pay or perform its obligations in accordance with the terms of this Agreement;
- i) will keep its assets fully insured against such perils and in such manner as would be customarily insured by Persons carrying on a similar business or owning similar assets and, in addition, for any buildings located in areas prone to flood and/or earthquake, will insure and keep fully insured such buildings against such perils;
- j) except for Permitted Encumbrances, will not, without the prior written consent of the Bank, grant, create, assume or suffer to exist any mortgage, charge, lien, pledge, security interest or other encumbrance affecting any of its properties, assets or other rights;
- k) will not, without the prior written consent of the Bank, sell, transfer, convey, lease or otherwise dispose of any of its properties or assets other than in the ordinary course of business and on commercially reasonable terms;
- l) will not, without the prior written consent of the Bank, guarantee or otherwise provide for, on a direct, indirect or contingent basis, the payment of any monies or performance of any obligations by any other Person, except as may be provided for herein;
- m) will not, without the prior written consent of the Bank, merge, amalgamate, or otherwise enter into any other form of combination with any other Person;
- n) will permit the Bank or its representatives, from time to time, i) to visit and inspect the Borrower's premises, properties and assets and examine and obtain copies of the Borrower's records or other information, ii) to collect information from any entity regarding any Potential Prior-Ranking Claims and iii) to discuss the Borrower's affairs with the auditors, counsel and other professional advisers of the Borrower. The Borrower hereby authorizes and directs any such third party to provide to the Bank or its representatives all such information, records or documentation requested by the Bank; and
- o) will not use the proceeds of any Credit Facility for the benefit or on behalf of any Person other than the Borrower.

#### **FEEES, COSTS AND EXPENSES**

The Borrower agrees to pay the Bank all fees stipulated in this Agreement and all fees charged by the Bank relating to the documentation or registration of this Agreement and the Security. In

addition, the Borrower agrees to pay all fees (including legal fees), costs and expenses incurred by the Bank in connection with the preparation, negotiation, documentation and registration of this Agreement and any Security and the administration, operation, termination, enforcement or protection of its rights in connection with this Agreement and the Security. The Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense incurred by the Bank if any facility under the Credit Facilities is repaid or prepaid other than on its Maturity Date. The determination by the Bank of such loss, cost or expense shall be conclusive and binding for all purposes and shall include, without limitation, any loss incurred by the Bank in liquidating or redepositing deposits acquired to make or maintain any facility.

#### **GENERAL INDEMNITY**

The Borrower hereby agrees to indemnify and hold the Bank and its directors, officers, employees and agents harmless from and against any and all claims, suits, actions, demands, debts, damages, costs, losses, obligations, judgements, charges, expenses and liabilities of any nature which are suffered, incurred or sustained by, imposed on or asserted against any such Person as a result of, in connection with or arising out of i) any breach of any term or condition of this Agreement or any Security or any other agreement delivered to the Bank by the Borrower or any Guarantor if applicable, or any Event of Default, ii) the Bank acting upon instructions given or agreements made by electronic transmission of any type, iii) the presence of Contaminants at, on or under or the discharge or likely discharge of Contaminants from, any properties now or previously used by the Borrower or any Guarantor and iv) the breach of or non compliance with any Applicable Law by the Borrower or any Guarantor.

#### **AMENDMENTS AND WAIVERS**

Save and except for any waiver or extension of the deadline for acceptance of this Agreement at the Bank's sole discretion, which may be communicated in writing, verbally, or by conduct, no amendment or waiver of any provision of this Agreement will be effective unless it is in writing, signed by the Borrower and the Bank. No failure or delay, on the part of the Bank, in exercising any right or power hereunder or under any Security or any other agreement delivered to the Bank shall operate as a waiver thereof. Each Guarantor, if applicable, agrees that the amendment or waiver of any provision of this Agreement (other than agreements, covenants or representations expressly made by any Guarantor herein, if any) may be made without and does not require the consent or agreement of, or notice to, any Guarantor. Any amendments requested by the Borrower will require review and agreement by the Bank and its counsel. Costs related to this review will be for the Borrower's account.

#### **SUCCESSORS AND ASSIGNS**

This Agreement shall extend to and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. The Borrower shall not be entitled to assign or transfer any rights or obligations hereunder, without the consent in writing of the Bank. The Bank may assign or transfer all or any part of its rights and obligations under this Agreement to any Person. The Bank may disclose to potential or actual assignees or transferees confidential information regarding the Borrower and any Guarantor if applicable, (including, any such information provided by the Borrower, and any Guarantor if applicable, to the Bank) and shall not be liable for any such disclosure.

#### **GAAP**

Unless otherwise provided, all accounting terms used in this Agreement shall be interpreted in accordance with Canadian Generally Accepted Accounting Principles, as appropriate, for publicly accountable enterprises, private enterprises, not-for-profit organizations, pension plans and in accordance, as appropriate, with Public Sector Accounting Standards for government organizations in effect from time to time, applied on a consistent basis from period to period. All financial statements and/or reports shall be prepared using one of the above bases of presentation, as appropriate. Except for the transition of accounting standards in Canada, any change in accounting principles or the application of accounting principles is only permitted with the prior written consent of the Bank.

**SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and such invalid provision shall be deemed to be severable.

**GOVERNING LAW**

This Agreement shall be construed in accordance with and governed by the laws of the Province identified in the Governing Law Jurisdiction section of this Agreement and the laws of Canada applicable therein. The Borrower irrevocably submits to the non-exclusive jurisdiction of the courts of such Province and acknowledges the competence of such courts and irrevocably agrees to be bound by a judgment of any such court.

**DEFAULT BY LAPSE OF TIME**

The mere lapse of time fixed for performing an obligation shall have the effect of putting the Borrower, or a Guarantor if applicable, in default thereof.

**SET-OFF**

The Bank is authorized (but not obligated), at any time and without notice, to apply any credit balance (whether or not then due) in any account in the name of the Borrower, or to which the Borrower is beneficially entitled (in any currency) at any branch or agency of the Bank in or towards satisfaction of the indebtedness of the Borrower due to the Bank under the Credit Facilities and the other obligations of the Borrower under this Agreement. For that purpose, the Bank is irrevocably authorized to use all or any part of any such credit balance to buy such other currencies as may be necessary to effect such application.

**NOTICES**

Any notice or demand to be given by the Bank shall be given in writing by way of a letter addressed to the Borrower. If the letter is sent by telecopier, it shall be deemed received on the date of transmission, provided such transmission is sent prior to 5:00 p.m. on a day on which the Borrower's business is open for normal business, and otherwise on the next such day. If the letter is sent by ordinary mail to the address of the Borrower, it shall be deemed received on the date falling five (5) days following the date of the letter, unless the letter is hand-delivered to the Borrower, in which case the letter shall be deemed to be received on the date of delivery. The Borrower must advise the Bank at once about any changes in the Borrower's address.

**CONSENT OF DISCLOSURE**

The Borrower hereby grants permission to any Person having information in such Person's possession relating to any Potential Prior-Ranking Claim, to release such information to the Bank (upon its written request), solely for the purpose of assisting the Bank to evaluate the financial condition of the Borrower.

**NON-MERGER**

The provisions of this Agreement shall not merge with any Security provided to the Bank, but shall continue in full force for the benefit of the parties hereto.

**JOINT AND SEVERAL**

Where more than one Person is liable as Borrower or Guarantor if applicable for any obligation under this Agreement, then the liability of each such Person for such obligation is joint and several (in Quebec, solidarily) with each other such Person.

**COUNTERPART EXECUTION**

This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.

**ELECTRONIC MAIL AND FAX TRANSMISSION**

The Bank is entitled to rely on any agreement, document or instrument provided to the Bank by the Borrower or any Guarantor as applicable, by way of electronic mail or fax transmission as though it were an original document. The Bank is further entitled to assume that any communication from the Borrower received by electronic mail or fax transmission is a reliable communication from the Borrower.

**ELECTRONIC IMAGING**

The parties hereto agree that, at any time, the Bank may convert paper records of this Agreement and all other documentation delivered to the Bank (each, a "**Paper Record**") into electronic images (each, an "**Electronic Image**") as part of the Bank's normal business practices. The parties agree that each such Electronic Image shall be considered as an authoritative copy of the Paper Record and shall be legally binding on the parties and admissible in any legal, administrative or other proceeding as conclusive evidence of the contents of such document in the same manner as the original Paper Record.

**REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Bank that:

- a) if applicable, it is duly constituted, validly existing and duly registered or qualified to carry on business or its operations in all jurisdictions where the nature of its properties, assets, business or operations make such registration or qualification necessary or desirable;
- b) the execution, delivery and performance by it of this Agreement do not violate any Applicable Laws or agreements to which it is subject or by which it is bound, and where applicable, have been duly authorized by all necessary actions and do not violate its constating documents;
- c) no event has occurred which constitutes, or which, with notice, lapse of time, or both, would constitute, a breach of any covenant or other term or condition of this Agreement or any Security or any other agreement delivered to the Bank or an Event of Default;
- d) there is no claim, action, prosecution or other proceeding of any kind pending or threatened against it or any of its assets or properties before any court or administrative agency which relates to any non-compliance with any Environmental and Health and Safety Laws which, if adversely determined, might have a material adverse effect upon its financial condition or operations or its ability to perform its obligations under this Agreement or any Security, and there are no circumstances of which it is aware which might give rise to any such proceeding which it has not fully disclosed to the Bank; and
- e) it has good and marketable title to all of its properties and assets, free and clear of any encumbrances, other than as may be provided for herein.

Representations and warranties are deemed to be repeated as at the time of each Borrowing and/or the entering into each Lease, if applicable, hereunder.

**LANGUAGE**

The parties hereto have expressly requested that this Agreement and all related documents, including notices, be drawn up in the English language. Les parties ont expressément demandé que la présente convention et tous les documents y afférents, y compris les avis, soient rédigés en langue anglaise.

**WHOLE AGREEMENT**

This Agreement and any documents or instruments referred to in, or delivered pursuant to, or in connection with, this Agreement constitute the whole and entire agreement between the Borrower and the Bank with respect to the Credit Facilities.

**EXCHANGE RATE FLUCTUATIONS**

If, for any reason, the amount of Borrowings and/or Leases, if applicable, outstanding under any facility in a currency other than Canadian currency, when converted to the Equivalent Amount in Canadian currency, exceeds the amount available under such facility, the Borrower shall immediately repay such excess or shall secure such excess to the satisfaction of the Bank.

**JUDGEMENT CURRENCY**

If for the purpose of obtaining judgement in any court in any jurisdiction with respect to this Agreement, it is necessary to convert into the currency of such jurisdiction (the "**Judgement Currency**") any amount due hereunder in any currency other than the Judgement Currency, then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgement is given. For this purpose "rate of exchange" means the rate at which the Bank would, on the relevant date, be prepared to sell a similar amount of such currency in the Toronto foreign exchange market, against the Judgement Currency, in accordance with normal banking procedures.

In the event that there is a change in the rate of exchange prevailing between the Business Day before the day on which judgement is given and the date of payment of the amount due, the Borrower will, on the date of payment, pay such additional amounts as may be necessary to ensure that the amount paid on such date is the amount in the Judgement Currency which, when converted at the rate of exchange prevailing on the date of payment, is the amount then due under this Agreement in such other currency together with interest at RBP and expenses (including legal fees on a solicitor and client basis). Any additional amount due from the Borrower under this section will be due as a separate debt and shall not be affected by judgement being obtained for any other sums due under or in respect of this Agreement.

**EVENTS OF DEFAULT**

Without affecting or limiting the right of the Bank to terminate or demand payment of, or to cancel or restrict availability of any unutilized portion of, any demand or other discretionary facility, each of the following shall constitute an "**Event of Default**" which shall entitle the Bank, in its sole discretion, to cancel any Credit Facilities, demand immediate repayment in full of any amounts outstanding under any term facility, together with outstanding accrued interest and any other indebtedness under or with respect to any term facility, and to realize on all or any portion of any Security:

- a) failure of the Borrower to pay any principal, interest or other amount when due pursuant to this Agreement;
- b) failure of the Borrower, or any Guarantor if applicable, to observe any covenant, term or condition contained in this Agreement, the Security, or any other agreement delivered to the Bank or in any documentation relating hereto or thereto;
- c) the Borrower, or any Guarantor if applicable, is unable to pay its debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, bankrupt or insolvent;
- d) if any proceeding is taken to effect a compromise or arrangement with the creditors of the Borrower, or any Guarantor if applicable, or to have the Borrower, or any Guarantor if applicable, declared bankrupt or wound up, or to have a receiver appointed for any part of the assets or operations of the Borrower, or any Guarantor if applicable, or if any encumbrancer takes possession of any part thereof;
- e) if in the opinion of the Bank there is a material adverse change in the financial condition, ownership or operation of the Borrower, or any Guarantor if applicable;
- f) if any representation or warranty made by the Borrower, or any Guarantor if applicable, under this Agreement or in any other document relating hereto or under any Security shall be false in any material respect; or
- g) if the Borrower, or any Guarantor if applicable, defaults in the payment of any other indebtedness, whether owing to the Bank or to any other Person, or defaults in the performance or observance of any agreement in respect of such indebtedness where, as a result of such default, the maturity of such indebtedness is or may be accelerated.

Should the Bank demand immediate repayment in full of any amounts outstanding under any term facility due to an Event of Default, the Borrower shall immediately repay all principal sums outstanding under such facility and all other obligations in connection with any such term facility.

**INCREASED COSTS**

If any change in Applicable Laws or the interpretation thereof after the date hereof (i) imposes or increases taxes on payments due to the Bank hereunder (other than taxes on the overall net income of the Bank), (ii) imposes or increases any reserve or other similar requirement or (iii) imposes or changes any other condition affecting the Credit Facilities, and the result of any of the foregoing results in any additional cost to the Bank of making available, continuing or maintaining any of the Credit Facilities hereunder (or maintaining any obligations to make any such Credit Facilities available hereunder) or results in any reduction in the amount of any sum received or receivable by the Bank in connection with this Agreement or the Credit Facilities made available hereunder, then from time to time, upon written request of the Bank, the Borrower shall promptly pay to the Bank, such additional amount or amounts as will compensate the Bank for any such additional costs incurred or reduction suffered.

**CONFIDENTIALITY**

This Agreement and all of its terms are confidential ("**Confidential Information**"). The Borrower shall keep the Confidential Information confidential and will not disclose the Confidential Information, or any part thereof, to any Person. Without limiting the generality of the foregoing, the Borrower shall not issue any press release or make any other public announcement or filing with respect to the Confidential Information without the Bank's prior written consent.



**Schedule "A"****DEFINITIONS**

For the purpose of this Agreement, if applicable, the following terms and phrases shall have the following meanings:

**"Applicable Laws"** means, with respect to any Person, property, transaction or event, all present or future applicable laws, statutes, regulations, rules, policies, guidelines, rulings, interpretations, directives (whether or not having the force of law), orders, codes, treaties, conventions, judgements, awards, determinations and decrees of any governmental, quasi-governmental, regulatory, fiscal or monetary body or agency or court of competent jurisdiction in any applicable jurisdiction;

**"Banking Day"** means a Business Day on which dealings in US currency deposits may be carried on by and between leading Banks in the London Interbank Market and excludes any day on which banks are required or are authorized to close in New York, New York.;

**"Borrowing"** means each use of a Credit Facility, excluding Leases, and all such usages outstanding at any time are **"Borrowings"**;

**"Business Day"** means a day, excluding Saturday, Sunday and any other day which shall be a legal holiday or a day on which banking institutions are closed throughout Canada, and when used in connection with Libor Loan, +;

**"Business Loan Insurance Plan"** means the optional group creditor insurance coverage, underwritten by Sun Life Assurance Company of Canada, and offered in connection with eligible loan products offered by the Bank;

**"Canadian/US Accounts Receivable"** means trade accounts receivable of the Borrower owing by Persons whose chief operating activities are located in the US or Canada;

**"Capital Expenditures"** means, for any fiscal period, any amounts accrued or paid in respect of any purchase or other acquisition for value of capital assets and, for greater certainty, excludes amounts expended in respect of the normal repair and maintenance of capital assets utilized in the ordinary course of business;

**"Cash Taxes"** means, for any fiscal period, any amounts paid in respect of income taxes;

**"Contaminant"** includes, without limitation, any pollutant, dangerous substance, liquid waste, industrial waste, hazardous material, hazardous substance or contaminant including any of the foregoing as defined in any Environmental and Health and Safety Law;

**"Corporate Distributions"** means any payments to any shareholder, director or officer, or to any associate or holder of subordinated debt, or to any shareholder, director or officer of any associate or holder of subordinated debt, including, without limitation, bonuses, dividends, interest, salaries or repayment of debt or making of loans to any such Person, but excluding salaries to officers or other employees in the ordinary course of business;

**"Current Liabilities"** means, at any time, amounts payable within one year from the date of determination or within the normal operating cycle, where such cycle is longer than a year (the operating cycle must correspond with that used for current assets);

**"Customer Prepaid Inventory"** means inventory that the Borrower purchased to support a customer purchase order, which the Borrower has invoiced the customer for;

**“Debt Service Coverage”** means, for any fiscal period, the ratio of EBITDA, less Cash Taxes and, to the extent not deducted in determining net income, less Corporate Distributions, to the total of Interest Expense and scheduled principal payments in respect of Funded Debt;

**“EBITDA”** means, for any fiscal period, net income from continuing operations (excluding extraordinary gains or losses) plus, to the extent deducted in determining net income, Interest Expense and income taxes accrued during, and depreciation, depletion and amortization expenses deducted for, the period;

**“EDC Accounts Receivable”** means trade accounts receivable of the Borrower, where the payment has been insured by Export Development Canada (“EDC”), and the Bank has been provided with a duly executed Direction to Pay supported by a copy of the applicable insurance policy and any renewals thereof;

**“Environmental Activity”** means any activity, event or circumstance in respect of a Contaminant, including, without limitation, its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation, or its Release into the natural environment, including movement through or in the air, soil, surface water or groundwater;

**“Environmental and Health and Safety Laws”** means all Applicable Laws relating to the environment or occupational health and safety, or any Environmental Activity;

**“Equity”** means the total of share capital, (excluding preferred shares redeemable within one year) contributed surplus and retained earnings plus Postponed Debt;

**“Equivalent Amount”** means, with respect to an amount of any currency, the amount of any other currency required to purchase that amount of the first mentioned currency through the Bank in Toronto, in accordance with normal banking procedures;

**“Finished Goods Inventory”** means the portion of the Borrower’s Unencumbered Inventory that is classified as finished goods inventory;

**“Foreign Accounts Receivable”** means trade accounts receivable of the Borrower owing by Persons whose chief operating activities are located in Australia, Belgium, Germany, Italy, the United Kingdom or the Hong Kong Special Administrative Region of the People's Republic of China;

**“Funded Debt”** means, at any time for the fiscal period then ended, all obligations for borrowed money which bears interest or to which interest is imputed plus, without duplication, all obligations for the deferred payment of the purchase of property, all capital lease obligations and all indebtedness secured by purchase money security interests, but excluding Postponed Debt;

**“Good Canadian/US Accounts Receivable”** means Canadian/US Accounts Receivable excluding (i) any portion of such accounts which is outstanding more than 90 days after billing date, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank’s security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, (vi) those trade accounts receivable included elsewhere in the Borrowing Limit calculation, or (vii) any accounts which the Bank has previously advised to be ineligible;

**“Good EDC Accounts Receivable”** means EDC Accounts Receivable, excluding (i) any portion of such accounts which is outstanding more than 90 days after billing date, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank’s security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, or (vi) any accounts which the Bank has previously advised to be ineligible;

**“Good Foreign Accounts Receivable”** means Foreign Accounts Receivable excluding (i) any portion of such accounts which is outstanding more than 90 days after billing date, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank’s security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, (vi) those trade accounts receivable included elsewhere in the Borrowing Limit calculation, or (vii) any accounts which the Bank has previously advised to be ineligible;

**“Guarantor”** means any Person who has guaranteed the obligations of the Borrower under this Agreement;

**“Interest Determination Date”** means, with respect to a Libor Loan, the date which is 2 Banking Days before the first day of the Libor Interest Period applicable to such Libor Loan;

**“Interest Expense”** means, for any fiscal period, the aggregate cost of advances of credit outstanding during that period including, without limitation, interest charges, capitalized interest, the interest component of capital leases, fees payable in respect of letters of credit and letters of guarantee and discounts incurred and fees payable in respect of bankers’ acceptances;

**“Lease”** means an advance of credit by the Bank to the Borrower by way of a Master Lease Agreement, Master Leasing Agreement, Leasing Schedule, Equipment Lease, Conditional Sales Contract, or pursuant to an Interim Funding Agreement or an Agency Agreement, in each case issued to the Borrower;

**“Letter of Guarantee”** or **“LG”** means a documentary credit issued by the Bank on behalf of the Borrower for the purpose of providing security to a third party that the Borrower or a person designated by the Borrower will perform a contractual obligation owed to such third party;

**“Libor”** means, with respect to each Libor Interest Period applicable to a Libor Loan, the annual rate of interest (rounded upwards, if necessary, to the nearest whole multiple of one sixteenth of one percent (1/16th%)), at which the Bank, in accordance with its normal practice, would be prepared to offer deposits to leading banks in the London Interbank Market for delivery on the first day of each of such Libor Interest Period, for a period equal to each such Libor Interest Period, such deposits being in US currency of comparable amounts to be outstanding during such Libor Interest Period, at or about 10:00 a.m. (Toronto time) on the Interest Determination Date;

**“Libor Interest Date”** means with respect to any Libor Loan, the last day of each Libor Interest Period and, if the Borrower selects a Libor Interest Period for a period longer than 3 months, the Libor Interest Date shall be the date falling every 3 months after the beginning of such Libor Interest Period as well as the last day of such Libor Interest Period;

**“Libor Interest Period”** means, with respect to any Libor Loan, the initial period (subject to availability) of approximately 1 month (or longer whole multiples of 1 month to and including 6 months as selected by the Borrower and notified to the Bank by written notice) or such shorter or longer period as the Bank in its sole discretion shall make available commencing on the date on which such Libor Loan is made or another method of Borrowing is converted to a Libor Loan, as the case may be, and thereafter, while such Libor Loan is outstanding, each successive period (subject to availability) of 1 month (or longer whole multiples of 1 month to and including 6 months, as selected by the Borrower and notified to the Bank by written notice) commencing on the last day of the immediately preceding Libor Interest Period;

**“Maturity Date”** means the date on which a facility is due and payable in full;

**“Permitted Encumbrances”** means, in respect of the Borrower:

- a) liens arising by operation of law for amounts not yet due or delinquent, minor encumbrances on real property such as easements and rights of way which do not materially detract from the value of such property, and security given to municipalities and similar public authorities when required by such authorities in connection with the operations of the Borrower in the ordinary course of business; and
- b) Security granted in favour of the Bank;

**“Person”** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof, and any other incorporated or unincorporated entity;

**“Policy”** means the Business Loan Insurance Plan policy 5100, issued by Sun Life Assurance Company of Canada to the Bank;

**“Postponed Debt”** means indebtedness that is fully postponed and subordinated, both as to principal and interest, on terms satisfactory to the Bank, to the obligations owing to the Bank hereunder;

**“Potential Prior-Ranking Claims”** means all amounts owing or required to be paid, where the failure to pay any such amount could give rise to a claim pursuant to any law, statute, regulation or otherwise, which ranks or is capable of ranking in priority to the Security or otherwise in priority to any claim by the Bank for repayment of any amounts owing under this Agreement;

**“Raw Materials Inventory”** means the portion of the Borrower’s Unencumbered Inventory that is classified as raw materials inventory;

**“RBP”** and **“Royal Bank Prime”** each means the annual rate of interest announced by the Bank from time to time as being a reference rate then in effect for determining interest rates on commercial loans made in Canadian currency in Canada;

**“Release”** includes discharge, spray, inject, inoculate, abandon, deposit, spill, leak, seep, pour, emit, empty, throw, dump, place and exhaust, and when used as a noun has a similar meaning;

**“Tangible Net Worth”** means the total of Equity less intangibles, deferred charges, leasehold improvements, deferred tax credits and unsecured advances to related parties. For the purpose hereof, intangibles are assets lacking physical substance;

**“Total Liabilities”** means all liabilities, exclusive of deferred tax liabilities and Postponed Debt;

**“Unencumbered Inventory”** means inventory of the Borrower excluding Customer Prepaid Inventory which is not subject to any security interest or other encumbrance or any other right or claim which ranks or is capable of ranking in priority to the Bank’s security including, without limitation, rights of unpaid suppliers to repossess inventory within 30 days after delivery and rights of unpaid farmers, fishermen and aquaculturalists in respect of any unpaid amounts for products sold and delivered within the previous 15 days, under the Bankruptcy and Insolvency Act, Canada;

**“US”** means United States of America.

**Schedule "B"****CALCULATION AND PAYMENT OF INTEREST AND FEES****LIMIT ON INTEREST**

The Borrower shall not be obligated to pay any interest, fees or costs under or in connection with this Agreement in excess of what is permitted by Applicable Law.

**OVERDUE PAYMENTS**

Any amount that is not paid when due hereunder shall, unless interest is otherwise payable in respect thereof in accordance with the terms of this Agreement or the instrument or contract governing same, bear interest until paid at the rate of RBP plus 5% per annum or the highest premium indicated for any of the Borrower's facilities when in excess of 5%. Such interest on overdue amounts shall be computed daily, compounded monthly and shall be payable both before and after any or all of default, maturity date, demand and judgement.

**EQUIVALENT YEARLY RATES**

The annual rates of interest or fees to which the rates calculated in accordance with this Agreement are equivalent, are the rates so calculated multiplied by the actual number of days in the calendar year in which such calculation is made and divided by 365 or, in the case of Libor Loans if applicable, divided by 360.

**TIME AND PLACE OF PAYMENT**

Amounts payable by the Borrower hereunder shall be paid at such place as the Bank may advise from time to time in the applicable currency. Amounts due on a day other than a Business Day shall be deemed to be due on the Business Day next following such day. Interest and fees payable under this Agreement are payable both before and after any or all of default, maturity date, demand and judgement.

**LETTER OF GUARANTEE FEES**

The Borrower shall pay LG fees in advance on a quarterly basis calculated on the face amount of the LG issued and based on the number of days in the upcoming quarter or remaining term thereof and a year of 365 days. LG fees are non-refundable.

**LIBOR LOANS**

The Borrower shall pay interest on each Libor Loan, on each Libor Interest Date, calculated in arrears. Such interest will accrue daily and shall be calculated on the basis of the actual number of days elapsed during the applicable Libor Interest Period divided by 360.

**Schedule "C"**  
**NOTICE REQUIREMENTS**

Notice Requirements for Libor Loans:

<b>Amount</b>	<b>Prior Notice</b>
Under \$10,000,000.00 in US currency and up to 1 year rollovers	By 2 p.m. Eastern Standard Time on the Interest Determination Date
\$10,000,000.00 and over in US currency and up to 1 year rollovers	By 12:00 p.m. Eastern Standard Time, 1 Banking Day prior to the Interest Determination Date

**Schedule "D"****ADDITIONAL BORROWING CONDITIONS****LGs:**

Borrowings made by way of LGs will be subject to the following terms and conditions:

- a) each LG shall expire on a Business Day and shall have a term of not more than 365 days;
- b) at least 2 Business Days prior to the issue of an LG, the Borrower shall execute a duly authorized application with respect to such LG and each LG shall be governed by the terms and conditions of the relevant application for such contract;
- c) an LG may not be revoked prior to its expiry date unless the consent of the beneficiary of the LG has been obtained;
- d) any LG issued under a term facility must have an expiry date on or before the Maturity Date of the term facility, unless otherwise agreed by the Bank; and
- e) if there is any inconsistency at any time between the terms of this Agreement and the terms of the application for LG, the terms of the application for LG shall govern.

**Libor Loans:**

Borrowings made by way of Libor Loans will be subject to the following terms and conditions:

- a) Libor Loans shall be issued and mature on a Banking Day and shall be made in minimum amounts of \$250,000.00 in US currency for terms of not less than 30 days and not more than 180 days;
- b) any Libor Loan issued under a term facility must have a maturity on or before the Maturity Date of the term facility, unless otherwise agreed by the Bank;
- c) if the Borrower fails to select and to notify the Bank of the Libor Interest Period applicable to any Libor Loan, the Borrower shall be deemed to have selected a 3 month Libor Interest Period;
- d) if the Bank so requests, the Borrower shall enter into a Hedge Contract to hedge the principal and interest of each Libor Loan against the risk of currency and exchange rate fluctuations. "Hedge Contract" means any rate swap, rate cap, rate floor, rate collar, currency exchange transaction, forward rate agreement or other exchange, hedging or rate protection transaction, or any combination of such transactions or agreements or any option with respect to any such transaction now existing or hereafter entered into between the Borrower and the Bank;
- e) the Borrower shall indemnify and hold the Bank harmless against any loss, cost or expense (including without limitation, any loss incurred by the Bank in liquidating or redeploying deposits acquired to fund or maintain any Libor Loan) incurred by the Bank as a result of:
  - i) repayments, prepayments, conversions, rollovers or cancellations of a Libor Loan other than on the last day of the Libor Interest Period applicable to such Libor Loan, or
  - ii) failure to draw down a Libor Loan on the first day of the Libor Interest Period selected by the Borrower; and

- 
- f) if the Bank determines, which determination is final, conclusive and binding upon the Borrower, that:
- i) adequate and fair means do not exist for ascertaining the rate of interest on a Libor Loan,
  - ii) the making or the continuance of a Libor Loan has become impracticable by reason of circumstances which materially and adversely affect the London Interbank Market,
  - iii) deposits in US currency are not available to the Bank in the London Interbank Market in sufficient amounts in the ordinary course of business for the applicable Libor Interest Period to make or maintain a Libor Loan during such Libor Interest Period, or
  - iv) the cost to the Bank of making or maintaining a Libor Loan does not accurately reflect the effective cost to the Bank thereof or the costs to the Bank are increased or the income receivable by the Bank is reduced in respect of a Libor Loan,

then the Bank shall promptly notify the Borrower of such determination and the Borrower shall, prior to the next Interest Determination Date, notify the Bank as to the basis of Borrowing it has selected in substitution for such Libor Loan. If the Borrower does not so notify the Bank, such Libor Loan will automatically be converted into an RBUSBR Loan on the expiry of the then current Libor Interest Period.



Schedule "F"

**BORROWING LIMIT CERTIFICATE**

I, \_\_\_\_\_, representing the Borrower hereby certify as of fiscal quarter ending \_\_\_\_\_:

1. I am familiar with and have examined the provisions of the Agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as Borrower, and Royal Bank of Canada, as the Bank and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower. Terms defined in the Agreement have the same meanings where used in this certificate.

2. The Borrowing Limit is \$ \_\_\_\_\_, calculated as follows:

Total Canadian/US Accounts Receivable		\$ _____	
Less:	a) The portion of such accounts which exceeds 90 days	\$ _____	
	b) Accounts due from affiliates	\$ _____	
	c) Accounts where collection is suspect	\$ _____	
	d) Accounts subject to prior encumbrances	\$ _____	
	e) Holdbacks, contra-accounts or rights of set-off	\$ _____	
	f) Accounts included elsewhere in the Borrowing Limit calculation	\$ _____	
	g) Other ineligible accounts	\$ _____	
Good Canadian/US Accounts Receivable			A \$ _____
Marginable Good Canadian/US Accounts Receivable at 80% of A			B \$ _____
Total EDC Accounts Receivable			\$ _____
Less:	a) The portion of such accounts, which exceeds 90 days	\$ _____	
	b) Accounts due from affiliates	\$ _____	
	c) Accounts where collection is suspect	\$ _____	
	d) Accounts subject to prior encumbrances	\$ _____	
	e) Holdbacks, contra-accounts or rights of set-off	\$ _____	
	f) Other ineligible accounts	\$ _____	
Good EDC Accounts Receivable			C \$ _____
Marginable Good EDC Accounts Receivable at 90% of C			D \$ _____
Total Foreign Accounts Receivable			\$ _____
Less:	a) The portion of such accounts which exceeds 90 days	\$ _____	
	b) Accounts due from affiliates	\$ _____	
	c) "Accounts where collection is suspect	\$ _____	
	d) Accounts subject to prior encumbrances	\$ _____	
	e) Holdbacks, contra-accounts or rights of set-off	\$ _____	
	f) Accounts included elsewhere in the Borrowing Limit calculation	\$ _____	
	g) Other ineligible accounts	\$ _____	
Good Foreign Accounts Receivable			E \$ _____
Marginable Good Foreign Accounts Receivable at 65% of E			F \$ _____
Total inventory classified as finished goods inventory (valued at lesser of cost or net realizable value)			\$ _____
Less:	a) Inventory subject to prior encumbrances	\$ _____	
	b) Inventory subject to 30 day supplier payables	\$ _____	
	c) Other non qualifying inventory	\$ _____	
Finished Goods Inventory			H \$ _____
Marginable Finished Goods Inventory at 50% of H			I \$ _____

Total inventory classified as raw materials inventory (valued at lesser of cost or net realizable value)		\$ _____	
Less:			
a) Inventory subject to prior encumbrances	\$ _____		
b) Inventory subject to 30 day supplier payables	\$ _____		
c) Other non qualifying inventory	\$ _____		
Raw Materials Inventory		J	\$ _____
Marginable Raw Materials Inventory at 50% of J		K	\$ _____
Total I+K (Max \$4,000,000.00)		L	\$ _____
Less:	Potential Prior-Ranking Claims while not limited to these include:		
Sales tax, Excise & GST	\$ _____		
Employee source deductions such as E.I., CPP, Income Tax	\$ _____		
Workers Compensation Board	\$ _____		
Wages, Commissions, Vacation Pay	\$ _____		
Unpaid Pension Plan Contributions	\$ _____		
Overdue Rent, Property & Business Tax and potential claims from third parties such as subcontractors	\$ _____		
Other	\$ _____		
Total Potential Prior-Ranking Claims		M	\$ _____
Borrowing Limit (B+D+F+L-M)			\$ _____
Less:	Facility #1 Borrowings		\$ _____
Margin Surplus (Deficit)			\$ _____

3. Annexed hereto are the following reports in respect of the Borrower:
  - a) aged list of accounts receivable,
  - b) aged list of accounts payable,
  - c) aged list of EDC Accounts Receivable indicating country of origin for each receivable and most recent credit approval listing from EDC supported by Direction to Pay,
  - d) status of inventory, and
  - e) listing of Potential Prior-Ranking Claims.
  
4. The reports and information provided herewith are accurate and complete in all respects and all amounts certified as Potential Prior-Ranking Claims are current amounts owing and not in arrears.
  
5. The Borrower has no creditors in Australia, Belgium, Germany, Italy, the United Kingdom or the Hong Kong Special Administrative Region of the People's Republic of China.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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

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

## Schedule "G"

## COMPLIANCE CERTIFICATE

I, \_\_\_\_\_, representing the Borrower hereby certify as of fiscal year ending \_\_\_\_\_ :

1. I am familiar with and have examined the provisions of the Agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as Borrower, and Royal Bank of Canada as the Bank, and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower and any Guarantor if applicable. Terms defined in the Agreement have the same meanings where used in this certificate.
2. The representations and warranties contained in the Agreement are true and correct.
3. No event or circumstance has occurred which constitutes or which, with the giving of notice, lapse of time, or both, would constitute a breach of any covenant or other term or condition of this Agreement or an Event of Default and there is no reason to believe that during the next fiscal year of the Borrower, any such event or circumstance will occur.
4. The ratio of Debt Service Coverage is \_\_\_\_:1, being not less than the minimum required ratio of 1.25:1.
5. The ratio of Total Liabilities to Tangible Net Worth is \_\_\_\_:1, being not greater than the maximum permitted ratio of 2.25:1
6. The detailed calculations of the foregoing ratios and covenants is set forth in the addendum annexed hereto and are true and correct in all respects.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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

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

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

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

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

## Schedule "H"

## RBC COVARIETY DASHBOARD TERMS AND CONDITIONS

If the Borrower elects to fulfill the reporting requirements relating to the submission of financial information set out in this Agreement by accessing a secure web based portal ("**RBC Covarity Dashboard**") via the Internet and using RBC Covarity Dashboard to electronically upload the Borrower's financial information and to complete online and electronically submit certificates, reports and/or forms (the "**Service**"), then the following terms and conditions (the "**RBC Covarity Dashboard Terms and Conditions**") apply and are deemed to be included in, and form part of, the Agreement.

**1. Definitions.** For the purpose of the RBC Covarity Dashboard Terms and Conditions:

**"Disabling Code"** means any clock, timer, counter, computer virus, worm, software lock, drop dead device, Trojan horse routine, trap door, time bomb, or any other unauthorized codes, designs, routines or instructions that may be used to access, modify, replicate, distort, delete, damage or disable any Electronic Channel, including any related hardware or software.

**"Designated User"** an individual permitted to act on behalf of and bind the Borrower in all respects, and specifically in the submission of Electronically Uploaded Financial Information and/or Electronically Submitted Certificates.

**"Electronic Channel"** means any telecommunication or electronic transmission method which may be used in connection with the Service, including computer, Internet, telephone, e-mail or facsimile.

**"Electronic Communication"** means any information, disclosure, request or other communication or agreement sent, received or accepted using an Electronic Channel.

**"Electronically Submitted Certificates"** means certificates, reports and/or forms completed online and electronically submitted by any Designated User accessing the Service.

**"Electronically Uploaded Financial Information"** means financial data, reports and/or information of the Borrower electronically uploaded by any Designated User accessing the Service.

**"Internet"** means a decentralized global communications medium and the world-wide network of computer networks, accessible to the public, that are connected to each other using specific protocols, which provides for file transfer, electronic mail, remote log in, news, database access, and other services.

**"Password"** means a combination of numbers and/or letters selected by a Designated User that is used to identify the Designated User. The Password is used in conjunction with a User ID to access the Service.

**"Security Breach"** means any breach in the security of the Service, or any actual or threatened use of the Service, a Security Device, or Electronic Channel in a manner contrary to the Agreement, including, without limitation, the introduction of Disabling Code or a Virus to the Service.

**"Security Device"** means a combination of a User ID and Password.

**"Software"** means any computer program or programming (in any code format, including source code), as modified from time to time, and related documentation.

**"User ID"** means the combination of numbers and/or letters selected by the Borrower used to identify a particular Designated User. The User ID is used in conjunction with a Password to access the Service.

**"Virus"** means an element which is designed to corrupt data or enable access to or adversely impact upon the performance of computer systems, including any virus, worm, logic bomb and Trojan horse.

Terms defined in the Agreement have the same meanings where used in the RBC Covarity Dashboard Terms and Conditions.

**2. Access to the Service.** The Borrower will appoint one or more Designated User(s) to access the Service on behalf of the Borrower. The Borrower acknowledges and agrees that each Designated User appointed by the Borrower may electronically upload the Borrower's financial information and may view all previously uploaded financial information and all calculations in the RBC Covarity Dashboard.

At the time of registration for the Service, the Borrower will advise the Bank of the name and e-mail address of each Designated User. The Borrower will immediately advise the Bank if a Designated User changes or is no longer valid.

The Bank will provide the Borrower with a User ID and temporary password for each Designated User. Each Designated User will receive the User ID and temporary password delivered to their e-mail address. Each Designated User will change the temporary password to a unique Password which may not be easily guessed or obtained by others. If it is suspected or known that the Password has been compromised in any way, the Password must be changed immediately.

On first access to the Service, each Designated User will be required to read and agree to terms of use which will thereafter be accessible from a link located on each web page of the Service.

**3. Security Devices.** The Borrower recognizes that possession of a Security Device by any person may result in that person having access to the Service. The Borrower agrees that the use of a Security Device in connection with the Service, including any information sent, received or accepted using the Service, will be deemed to be conclusive proof that such information is accurate and complete, and the submission of which is authorized by, and enforceable against, the Borrower.

The Borrower is responsible for maintaining the security and confidentiality of Security Devices which may be used in connection with the Service. The Borrower is responsible for ensuring that a Security Device will only be provided to and used by a Designated User. The Borrower agrees to be bound by any actions or omissions resulting from the use of any Security Device in connection with the Service.

**4. Security.** Each party shall at all times have in place appropriate policies and procedures to protect the security and confidentiality of the Service, Electronic Channels and Electronic Communication and to prevent any unauthorized access to and use of the Service and Electronic Channels. The Borrower agrees to comply with any additional procedures, standards or other security requirements that the Bank may require in order to access the Service.

The Borrower will not (i) access or use the Service for an illegal, fraudulent, malicious or defamatory purpose, or (ii) take steps or actions that could or do undermine the security, integrity, effectiveness, goodwill or connectivity of the Service (including illegal, fraudulent, malicious, defamatory or other activities that threaten to harm or cause harm to any other person).

The Borrower agrees not to transmit via the Service any viruses, worms, defects, Trojan horses or any items of a destructive nature. The Borrower shall maintain the security of their computer by using anti-virus scanning, a firewall and installing the latest security patches to provide assurance that no Virus is introduced into the systems or Software while accessing the Service.

**5. Unsecure Electronic Channels.** The Borrower acknowledges and agrees that if it uses, or if it authorizes and directs the Bank to use, any unencrypted Electronic Channel, including unencrypted e-mail or facsimile, any Electronic Communication sent, received and/or accepted using such Electronic Channel is not secure, reliable, private or confidential. Any such Electronic Communication could be subject to interception, loss or alteration, and may not be received by the intended recipient in a timely manner or at all. The Borrower assumes full responsibility for the risks associated with such Electronic Communication.

**6. Notice of Security Breach.** The Borrower shall notify the Bank by notifying the RBC Account Manager in writing immediately of any Security Breach including: (i) any application vulnerability or if a Virus is contained in or affects transmission of information to the Service; or (ii) if the Borrower knows or reasonably ought to know that an unauthorized person may have access to the Service, Security Device or Electronic Channel.

If a Security Breach occurs the Borrower shall: (i) assist the Bank in the management of any consequences arising from it; (ii) take any reasonable steps necessary for it to take to mitigate any harm resulting from it; and (iii) take appropriate steps to prevent its recurrence.

**7. Binding Effect.** Any Electronic Communication that the Bank receives from or in the name of, or purporting to be from or in the name of, the Borrower or any other person on the Borrower's behalf in connection with the Service, will be considered to be duly authorized by, and enforceable against, the Borrower. The Bank will be authorized to rely and act on any such Electronic Communication, even if the Electronic Communication was not actually from the Borrower or such other person or differs in any way from any previous Electronic Communication sent to the Bank. Any Electronically Uploaded Financial Information will be considered to be financial information submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Uploaded Financial Information accordingly. Any Electronically Submitted Certificates will be considered to be certificates, reports and/or forms completed and submitted to the Bank by an individual permitted to act on behalf of and bind the Borrower in all respects, and the Bank will be authorized to rely and act on any such Electronically Submitted Certificates accordingly.

**8. Representations and Warranties.** The Borrower represents and warrants to the Bank that each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted: (i) all financial statements, certificates, forms, reports and all information contained therein will be accurate and complete in all respects; (ii) all amounts certified as Potential Prior-Ranking Claims will be current amounts owing and not in arrears; (iii) all representations and warranties contained in the Agreement will be true and correct; and (iv) no event will have occurred which constitutes, or which, with notice, lapse of time, or both, would constitute an Event of Default or breach of any covenant or other term or condition of the Agreement. The Borrower will be deemed to repeat these representations and warranties each time Electronically Uploaded Financial Information and/or Electronically Submitted Certificates are submitted.

**9. Evidence.** Electronic records and other information obtained by the Bank in an Electronic Communication will be admissible in any legal, administrative or other proceedings as conclusive evidence of the contents of those communications in the same manner as an original paper document, and the Borrower waives any right to object to the introduction of any such record or other information into evidence on that basis.

**10. Limitation of Liability.** The Bank is not responsible or liable for any damages arising from: (i) inaccurate, incomplete, false, misleading, or fraudulent information provided to the Bank; (ii) losses incurred as a result of an actual or potential Security Breach; or (iii) losses incurred as a result of application vulnerability or Virus that is contained in or affects any Software or systems used by or on behalf of the Borrower in connection with the Service.

Although every effort is made to provide secure transmission of information, timely communication and confidentiality cannot be guaranteed. In no event shall the Bank be liable for

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any loss or harm resulting from the use of the Service, or from a breach of confidentiality in respect of use of the Service.

**11. Termination.** The ability of the Borrower to fulfill the reporting requirements relating to the submission of financial information set out in the Agreement using RBC Covarity Dashboard shall terminate upon revocation of access to the Service. In addition, the Bank may suspend or terminate access to or discontinue the Service immediately for any reason at any time without prior notice. The Bank will not be responsible for any loss or inconvenience that may result from such suspension or termination. The Borrower, upon giving notice to the Bank by notifying the RBC Account Manager in writing, may terminate use of the Service at any time.

**12. Amendment.** The Bank may amend these RBC Covarity Dashboard Terms and Conditions upon 30 days notice (which may be given electronically by way of e-mail or in writing) to the Borrower. The Borrower agrees that the continued use of the Service after the effective date of a change will constitute conclusive evidence of consent to all such amendments and the Borrower shall be bound by the amendments.

**Amendment No.3 to the RBC Loan Agreement**

[Amendment Follows]





Royal Bank of Canada  
 Commercial Financial Services  
 6880 Financial Drive – 2<sup>nd</sup> Floor  
 Mississauga Ontario L5N 7Y5

June 7, 2021

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
 Mississauga, Ontario  
 L5N 6L6

We refer to the agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as the Borrower, and Royal Bank of Canada, as the Bank, (the “**Agreement**”).

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or Events of Default now existing or hereafter arising under any Bank document, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or Events of Default.

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

The Agreement is amended as follows:

1. Under the Credit Facilities section, Facility #1 is amended and restated as follows:

**Facility #1:** \$18,500,000.00 revolving demand facility by way of:

- a) RBP based loans (“**RBP Loans**”)

Revolve in increments of:	\$5,000.00	Minimum retained balance:	\$0.00
Revolved by:	Bank	Interest rate (per annum):	RBP + 0.50%

- b) Letters of Guarantee (“**LGs**”)

Fees to be advised on a transaction-by-transaction basis. Fees and drawings to be charged to Borrower's accounts. Minimum fee of \$100.00.
--

**AVAILABILITY**

The Borrower may borrow, convert, repay and reborrow up to the amount of this facility provided this facility is made available at the sole discretion of the Bank and the Bank may cancel or restrict the availability of any unutilized portion at any time and from time to time without notice.

Borrowings outstanding under this facility must not exceed at any time the aggregate of the following, less Potential Prior-Ranking Claims (the “**Borrowing Limit**”):

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- 
- a) 80% of Good Canadian/US Accounts Receivable;
  - b) 90% of Good EDC Accounts Receivable;
  - c) 65% of Good Foreign Accounts Receivable;
  - d) to a maximum of \$4,000,000.00, the aggregate of:
    - i) 50% of the lesser of cost or net realizable value of Finished Goods Inventory;
    - ii) 50% of the lesser of cost or net realizable value of Raw Materials Inventory.

#### **REPAYMENT**

Notwithstanding compliance with the covenants and all other terms and conditions of this Agreement, and regardless of the maturities of any outstanding instruments or contracts, Borrowings under this facility are repayable on demand.

#### **GENERAL ACCOUNT**

The Borrower shall establish a current account with the Bank (the "General Account") for the conduct of the Borrower's day-to-day banking business. The Borrower authorizes the Bank daily or otherwise as and when determined by the Bank, to ascertain the balance of the General Account and:

- a) if such position is a debit balance the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, make available a Borrowing by way of RBP Loans under this facility;
- b) if such position is a credit balance, where the facility is indicated to be Bank revolved, the Bank may, subject to the revolving increment amount and minimum retained balance specified in this Agreement, apply the amount of such credit balance or any part as a repayment of any Borrowings outstanding by way of RBP Loans.

2. A section entitled "Other Facilities" is added as follows and is inserted immediately following the Credit Facilities section:

#### **OTHER FACILITIES**

The Credit Facilities are in addition to the following facilities (the "Other Facilities"). The Other Facilities will be governed by this Agreement and separate agreements between the Borrower and the Bank. In the event of a conflict between this Agreement and any such separate agreement, the terms of the separate agreement will govern.

- a) Credit Card to a maximum amount of \$25,000.00.

#### **BUSINESS LOAN INSURANCE PLAN**

The Borrower hereby acknowledges that the Bank has offered it group creditor insurance coverage on the Borrowings under the Business Loan Insurance Plan and the Borrower hereby acknowledges that it is the Borrower's responsibility to apply for any new or increased insurance amount for the Borrowings that may be eligible.

If the Borrower decides to apply for insurance on the Borrowings, the application will be made via the Bank's Business Loan Insurance Plan application (form 3460 ENG or 53460 FRE). If the Borrower has existing uninsured Borrowings and decides not to apply for Business Loan Insurance Plan coverage on any new Borrowings, it hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for Business Loan Insurance Plan coverage on all such Borrowings, and that all such Borrowings are not insured under the Policy as at the date of acceptance of this Agreement.

If the Borrower has Business Loan Insurance Plan coverage on previously approved Borrowings, such coverage will be applied automatically to all new Borrowings eligible for Business Loan Insurance Plan coverage that share the same loan account number, up to the approved amount of Business Loan Insurance Plan coverage. This Agreement cannot be used to waive coverage on new Borrowings eligible for Business Loan Insurance Plan coverage if Business Loan Insurance Plan coverage is in effect on the Borrower's existing

**Borrowings.** If the Borrower does not want Business Loan Insurance Plan coverage to apply to any new Borrowings, a different loan account number will need to be set up and all uninsured loans attached to it.

If the Borrower has existing Borrowings to which Business Loan Insurance Plan coverage applies, and any new Borrowings would exceed the approved amount of Business Loan Insurance Plan coverage already in place, the Borrower must apply for additional Business Loan Insurance Plan coverage (if eligible) in order for Business Loan Insurance Plan coverage to apply to any new Borrowings. If the Borrower decides not to apply for additional Business Loan Insurance Plan coverage in respect of any new Borrowings (if eligible), the Borrower hereby acknowledges that the Bank may accept the Borrower's signature below as the Borrower's waiver of the Bank's offer to apply for additional Business Loan Insurance Plan coverage on such new Borrowings and that such new Borrowings are not insured under the Policy as at the date the Borrower executes this Agreement.

If there are any discrepancies between the insurance information in this Agreement and the Business Loan Insurance Plan documents regarding the Borrowings, the Business Loan Insurance Plan documents govern.

Business Loan Insurance Plan premiums (plus applicable taxes), will be taken as a separate payment, directly from the bank account associated with the loan, at the same frequency and schedule as your regular loan payments, where applicable.

As premiums are based on the outstanding loan balance and the insured person's age at the time the premiums are due, the cost of Business Loan Insurance Plan coverage may increase during the term of the loan. The premium calculation is set out in the Business Loan Insurance Plan terms and conditions provided to the Borrower at the time the application for Business Loan Insurance Plan coverage was completed. Refer to the terms and conditions (form 3460 ENG or 53460 FRE) for further explanation and disclosure.

#### **CONDITIONS PRECEDENT**

The effectiveness of this amending agreement is conditional upon receipt of:

- a) a duly executed copy of this amending agreement;
- b) the Security provided for herein, registered, as required, to the satisfaction of the Bank;
- c) an environmental questionnaire in respect of the Borrower and site checklist(s) in respect of all applicable real property on which the Borrower has granted Security to the Bank, on the Bank's standard forms and containing findings acceptable to the Bank;
- d) such financial and other information or documents relating to the Borrower or any Guarantor if applicable as the Bank may reasonably require; and
- e) such other authorizations, approvals, opinions and documentation as the Bank may reasonably require.

Additionally;

- f) all documentation to be received by the Bank shall be in form and substance satisfactory to the Bank.

#### **REVIEW FEE**

A non-refundable review fee of \$18,500.00 is payable by the Borrower upon acceptance of this amending agreement.

#### **COUNTERPART EXECUTION**

This amending agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together constitute one and the same instrument.

All other terms and conditions outlined in the Agreement remain unchanged and in full force and effect.

This amending agreement is open for acceptance until July 7, 2021 after which date it will be null and void, unless extended by the Bank in its sole discretion.

**ROYAL BANK OF CANADA**



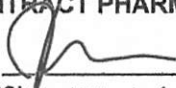
Per: \_\_\_\_\_  
Title: Vice President

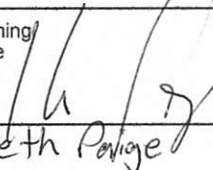
**RBC Contact: Faraz Siddiqui**

/s/

Agreed to and accepted this 21 day of July, 2021.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

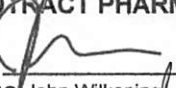
Per:  \_\_\_\_\_  
Name: John Wilkening  
Title: VP, Finance

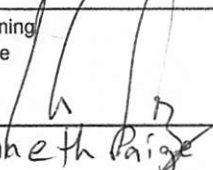
Per:  \_\_\_\_\_  
Name: Kenneth Paige  
Title: CEO

I/We have the authority to bind the Borrower

We acknowledge and confirm our agreement with the foregoing terms and conditions, as Guarantor, as of July 21, 2021.

**CONTRACT PHARMACEUTICALS LIMITED**

Per:  \_\_\_\_\_  
Name: John Wilkening  
Title: VP, Finance


Per:  \_\_\_\_\_  
Name: Kenneth Paige  
Title: CEO

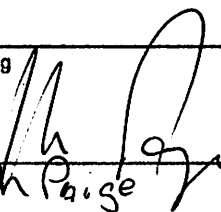
I/We have the authority to bind the Guarantor

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We acknowledge and confirm our agreement with the foregoing terms and conditions, as Guarantor, as of July 21, 2021.

**CPL CANADA HOLDCO LIMITED**

Per:   
Name: John Wilkening  
Title: VP, Finance

Per:   
Name: Kenneth Paize  
Title: CEO

I/We have the authority to bind the Guarantor

**Amendment No.4 to the RBC Loan Agreement**

[Amendment Follows]



**Royal Bank of Canada**  
 Commercial Financial Services  
 6880 Financial Dr 2nd Flr MezzaninE  
 Mississauga, ON L5N 7Y5

April 14, 2022

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
 Mississauga, ON  
 L5N 6L6

We refer to the agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as the Borrower, and Royal Bank of Canada, as the Bank, (the “**Agreement**”).

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or events of default now existing or hereafter arising under any Bank document, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or events of default.

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

The Agreement is amended as follows:

1. Under the Credit Facilities section, the amount available under Facility #1 is decreased from \$18,500,000 to \$9,000,000.
2. The Reporting Requirements section of the Agreement is amended and restated as follows:

**REPORTING REQUIREMENTS**

The Borrower will provide the following to the Bank:

- a) monthly Borrowing Limit Certificate, substantially in the form of Schedule “F” signed on behalf of the Borrower by any one of the Chief Executive Officer, the President, the Vice-President Finance, the Treasurer, the Comptroller, the Chief Accountant or any other employee of the Borrower holding equivalent office, within 30 days of each month end;
- b) monthly annual aged list of accounts receivable, aged list of accounts payable and listing of inventory, for the Borrower, within 30 days of each month end;
- c) monthly company prepared for the Borrower, within 30 days of each month end;
- d) annual Compliance Certificate, substantially in the form of Schedule “G” signed by an authorized signing officer of the Borrower, within 90 days of each fiscal year end,

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<sup>®</sup> Registered Trademark of Royal Bank of Canada

- certifying compliance with this Agreement including the financial covenants set forth in the Agreement;
- e) annual audited financial statements for the Borrower, within 90 days of each fiscal year end;
  - f) annual notice to reader/ compilation engagement (as applicable) financial statements for Glasshouse Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals LLC, and Contract Pharmaceuticals Limited and CPL Canada Holdco Limited, within 90 days of each fiscal year end;
  - g) annual audited consolidated financial statements for Contract Pharmaceuticals Limited, within 900 days of each fiscal year end;
  - h) such other financial and operating statements and reports as and when the Bank may reasonably require.
3. On Schedule "A" – Definitions, the definitions for **"Good Canadian/US Accounts Receivable"**, **"Good EDC Accounts Receivable"** and **"Good Foreign Accounts Receivable"** are amended and restated as follows:
- "Good Canadian/US Accounts Receivable"** means Canadian/US Accounts Receivable excluding (i) the entire amount of accounts, any portion of which is outstanding more than 90 days after billing date, provided that the under 90 day portion may be included where the over 90 day portion is less than 10% of the amount of accounts, or where the Bank has designated such portion as nevertheless good, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank's security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, (vi) those trade accounts receivable included elsewhere in the Borrowing Limit calculation, or (vii) any accounts which the Bank has previously advised to be ineligible;
- "Good EDC Accounts Receivable"** means EDC Accounts Receivable, excluding (i) the entire amount of accounts, any portion of which is outstanding more than 90 days after billing date, provided that the under 90 day portion may be included where the over 90 day portion is less than 10% of the amount of accounts, or where the Bank has designated such portion as nevertheless good, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank's security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, or (vi) any accounts which the Bank has previously advised to be ineligible;
- "Good Foreign Accounts Receivable"** means Foreign Accounts Receivable excluding (i) the entire amount of accounts, any portion of which is outstanding more than 90 days after billing date, provided that the under 90 day portion may be included where the over 90 day portion is less than 10% of the amount of accounts, or where the Bank has designated such portion as nevertheless good, (ii) all amounts due from any affiliate, (iii) bad or doubtful accounts, (iv) accounts subject to any security interest or other encumbrance ranking or capable of ranking in priority to the Bank's security, (v) the amount of all holdbacks, contra accounts or rights of set-off on the part of any account debtor, (vi) those trade accounts receivable included elsewhere in the Borrowing Limit calculation, or (vii) any accounts which the Bank has previously advised to be ineligible;
4. Schedule "F" – Borrowing Limit Certificate is added as attached to this amending agreement.



**ANNUAL REVIEW FEE**

A non-refundable annual review fee of \$9,000.00 is payable by the Borrower when the amendments set out in this letter become effective.

**ACCEPTANCE**

The Borrower and the Bank waive any requirement for the amendments set out above to be signed by the Borrower. The Borrower is deemed to agree to the amendments set out above and to the new or amended standard terms, if provided, so taking effect by accessing credit, borrowing or continuing to borrow under the Credit Facilities. The above amendments and the new or amended standard terms, if applicable, take effect as of the date of this amending agreement. All other terms and conditions outlined in the Agreement remain unchanged and in full force and effect.

**ROYAL BANK OF CANADA**

Per: \_\_\_\_\_  
Title: Vice President

**RBC Contact: FARAZ SIDDIQUI**

/cs

Cc:  
CPL CANADA HOLDCO LIMITED

CONTRACT PHARMACEUTICALS LIMITED

Schedule "F"

BORROWING LIMIT CERTIFICATE

I, \_\_\_\_\_, representing the Borrower hereby certify as of last day of month ending \_\_\_\_\_:

1. I am familiar with and have examined the provisions of the Agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as Borrower, and Royal Bank of Canada, as the Bank and have made reasonable investigations of corporate records and inquiries of other officers and senior personnel of the Borrower. Terms defined in the Agreement have the same meanings where used in this certificate.

2. The Borrowing Limit is \$ \_\_\_\_\_, calculated as follows:

Table with columns for account types (Total Canadian/US Accounts Receivable, Good Canadian/US Accounts Receivable, etc.), sub-items (a-f), and dollar amounts. Includes labels A, B, C, D for specific calculations.

	c) "Under 90 days" accounts where collection is suspect	\$ _____	
	d) Accounts subject to prior encumbrances	\$ _____	
	e) Holdbacks, contra-accounts or rights of set-off	\$ _____	
	f) Accounts included elsewhere in the Borrowing Limit calculation	\$ _____	
	g) Other ineligible accounts	\$ _____	
Plus:	h) Under 90 day portion of accounts included in a) above, where the over 90 day portion is less than 10% of the amount of accounts, or which the Bank has designated as nevertheless good	\$ _____	
	Good Foreign Accounts Receivable	E	\$ _____
	Marginable Good Foreign Accounts Receivable at 65% of E	F	\$ _____
	Total inventory classified as finished goods inventory (valued at lesser of cost or net realizable value)		\$ _____
Less:	a) Inventory subject to prior encumbrances	\$ _____	
	b) Inventory subject to 30 day supplier payables	\$ _____	
	c) Other non qualifying inventory	\$ _____	
	Finished Goods Inventory		G \$ _____
	Marginable Finished Goods Inventory at 50% of G (Max \$4,000,000.00)		H \$ _____
	Total inventory classified as raw materials inventory (valued at lesser of cost or net realizable value)		\$ _____
Less:	a) Inventory subject to prior encumbrances	\$ _____	
	b) Inventory subject to 30 day supplier payables	\$ _____	
	c) Other non qualifying inventory	\$ _____	
	Raw Materials Inventory		I \$ _____
	Marginable Raw Materials Inventory at 50% of I (Max \$4,000,000.00)		J \$ _____
Less:	Potential Prior-Ranking Claims while not limited to these include:		
	Sales tax, Excise & GST	\$ _____	
	Employee source deductions such as E.I., CPP, Income Tax	\$ _____	
	Workers Compensation Board	\$ _____	
	Wages, Commissions, Vacation Pay	\$ _____	
	Unpaid Pension Plan Contributions	\$ _____	
	Overdue Rent, Property & Business Tax and potential claims from third parties such as subcontractors	\$ _____	
	Other	\$ _____	
	Total Potential Prior-Ranking Claims		K \$ _____
	Borrowing Limit (B+D+F+H+J-K)		\$ _____
Less:	Facility #1 Borrowings		\$ _____
	Margin Surplus (Deficit)		\$ _____

3. The reports (if required as per the Reporting Requirements section of the Agreement) and information provided herewith are accurate and complete in all respects and all amounts certified as Potential Prior-Ranking Claims are current amounts owing and not in arrears.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

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

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

**Amendment No.5 to the RBC Loan Agreement**

[Amendment Follows]



**Royal Bank of Canada**  
 Commercial Financial Services  
 6880 Financial Dr 2nd Flr MezzaninE  
 Mississauga, ON L5N 7Y5

May 5, 2022

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
 Mississauga, ON  
 L5N 6L6

We refer to the agreement dated September 12, 2019 and any amendments thereto, between Contract Pharmaceuticals Limited Canada, as the Borrower, and Royal Bank of Canada, as the Bank, (the “**Agreement**”).

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or events of default now existing or hereafter arising under any Bank document, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or events of default.

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

The Agreement is amended as follows:

1. Under the Reporting Requirements section of the Agreement, paragraph c) is amended and restated as follows:
  - c) monthly company prepared financial statements for the Borrower, within 30 days of each month end.
2. Under the Reporting Requirements section, paragraph g) is amended by deleting “900 days” and substituting “90 days”.

**ACCEPTANCE**

The Borrower and the Bank waive any requirement for the amendments set out above to be signed by the Borrower. The Borrower is deemed to agree to the amendments set out above and to the new or amended standard terms, if provided, so taking effect by accessing credit, borrowing or continuing to borrow under the Credit Facilities. The above amendments and the new or amended standard terms, if applicable, take effect as of the date of this amending agreement. All other terms and conditions outlined in the Agreement remain unchanged and in full force and effect.

---

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**ROYAL BANK OF CANADA**

Per: \_\_\_\_\_  
Title: Vice President

**RBC Contact: FARAZ SIDDIQUI**

/cs

Cc:  
CPL CANADA HOLDCO LIMITED

CONTRACT PHARMACEUTICALS LIMITED

**Amendment No.6 to the RBC Loan Agreement**

[Amendment Follows]



Royal Bank of Canada  
 Jan Oros  
 Special Loans & Advisory Services  
 20 King Street West,  
 2<sup>nd</sup> Floor  
 Toronto, Ontario M5H 1C4  
 T.416-974-5137

January 13, 2023

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
 Mississauga, ON  
 L5N 6L6

We refer to the agreement dated September 12, 2019, as amended by letter agreements dated June 7, 2021, April 14, 2022 and May 5, 2022 between Contract Pharmaceuticals Limited Canada, as the Borrower, and Royal Bank of Canada, as the Bank (collectively, the “**Agreement**”).

The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or events of default now existing or hereafter arising under any Bank document, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or events of default.

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

The Agreement is amended as follows:

1. The General Covenants are amended to add the following paragraph p):
  - p) commencing the first fiscal quarter ending January 31, 2023, without amendment of the financial covenants contained in the Credit Agreement, the Borrower shall arrange for non debt capital injections within thirty calendar days of each fiscal quarter end to ensure that the Borrower maintains a Debt Service Coverage ratio of no less than 1:1.
2. Under the Security section of the Agreement, paragraph f) is amended by adding a “,” following “Fund IV L.P.”
3. Under the Reporting Requirements section of the Agreement, paragraph h) is deleted and the following paragraphs h) and i) are added as follows and is inserted immediately following paragraph g):



- h) the Borrower's calculation of its Debt Service Coverage ratio together with financial information of the Borrower to permit the Bank to review, calculate and verify the Borrower's calculation of its Debt Service Coverage financial covenant ratio, within 15 days of each fiscal quarter end;
- i) such other financial and operating statements and reports as and when the Bank may reasonably require.

**ACCEPTANCE**

This Agreement is open for acceptance until January 20, 2022, after which date it will be null and void, unless extended by the Bank in its sole discretion.

**ROYAL BANK OF CANADA**

Per: Jan Oroz  
Title: Senior Manager, SLAS

The undersigned agree to be bound by the terms of this amending agreement this <sup>16<sup>th</sup></sup> day of ~~November, 2022.~~ JANUARY, 2023.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

Per:   
Name: John Wilkening  
Title: VP Finance

Per: *P Batth*  
Name: Preeti Batth  
Title: Director Finance

I/We have the authority to bind the Borrower

As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this amending agreement this <sup>18<sup>th</sup></sup> day of ~~November, 2022.~~ JANUARY, 2023

**CONTRACT PHARMACEUTICALS LIMITED**

Per:   
Name: John Wilkening  
Title: VP Finance

Per: *P Batth*  
Name: Preeti Batth  
Title: Director Finance

I/We have the authority to bind the Guarantor

**Amendment No.7 to the RBC Loan Agreement**

[Amendment Follows]



Royal Bank of Canada  
Jan Oros  
Special Loans & Advisory Services  
20 King Street West,  
2<sup>nd</sup> Floor  
Toronto, Ontario M5H 1C4  
T.416-974-5137

May 30, 2023

**Private and Confidential**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

7600 Danbro Crescent  
Mississauga, ON  
L5N 6L6

We refer to the agreement dated September 12, 2019, as amended by letter agreements dated June 7, 2021, April 14, 2022, May 5, 2022 and January 13, 2023 between Contract Pharmaceuticals Limited Canada (“**Borrower**”), as the Borrower, and Royal Bank of Canada, as the Bank (collectively, the “**Agreement**”).

Pursuant to the terms of the Agreement, the financial performance of the Borrower is to achieve a Debt Service Coverage ratio of no less than 1.25:1 (“**DSC Covenant**”). Based on the information provided by the Borrower to the Bank, the financial performance of the Borrower has not met its Debt Service Coverage financial covenant for fiscal years 2021 and 2022. Based on the latest financial information received from the Borrower, it is expected that the Borrower will again fail to meet the DSC Covenant for the current fiscal year.

The Borrower has advised that it is seeking a strategic partner to, amongst other things, inject capital into the business that is anticipated to be finalized in the coming months. The Borrower is also planning a head count reduction commencing June 2023. The Bank will be monitoring the progress of these initiatives and will need to see improvement in the financial performance of the Borrower if it is going to continue to provide support to the Borrower.

At the present time, the Bank is prepared to continue to support the Borrower pursuant to the terms of the Agreement subject to the following amendment which will reduce the maximum credit available to the Borrower as described. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

The Credit Agreement is amended as follows:

1. The Credit Facilities section is amended as follows:
  - a) the description of Facility # 1 is amended and restated as follows:

**Facility # 1:** \$9,000,000 revolving demand facility, by way of:

Reducing to \$8,500,000 on June 1, 2023; and then to  
\$8,000,000 on June 30, 2023; and then to  
\$7,500,000 on July 31, 2023.

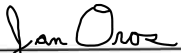
The Bank reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or events of default now existing or hereafter arising under any Bank document, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or events of default.

**ACKNOWLEDGE AND ACCEPTANCE**

This Agreement is open for acceptance until June 1, 2023, after which date it will be null and void, unless extended by the Bank in its sole discretion.


**ROYAL BANK OF CANADA**

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

  
Title: Jan Oros, Senior Manager, SLAS

The undersigned agree to be bound by the terms of this amending agreement this <sup>31<sup>st</sup></sup> day of May, 2023.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

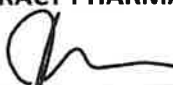
Per:   
\_\_\_\_\_  
Name: John Wilkening  
Title: VP Finance

Per:   
\_\_\_\_\_  
Name: Preeti Batth  
Title: Director Finance

I/We have the authority to bind the Borrower

As Guarantor, we acknowledge and confirm our agreement with the terms and conditions of this amending agreement this <sup>31<sup>st</sup></sup> day of May, 2023.

**CONTRACT PHARMACEUTICALS LIMITED**

Per:   
\_\_\_\_\_  
Name: John Wilkening  
Title: VP Finance

Per:   
\_\_\_\_\_  
Name: Preeti Batth  
Title: Director Finance

I/We have the authority to bind the Guarantor

**THIS IS EXHIBIT "D"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits

1. **PERSONAL PROPERTY SECURITY ACT (Ontario) - File Currency: December 11, 2023**

(a) **CPL Canada Holdco Limited**

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. DEERFIELD PRIVATE DESIGN FUND IV, L.P., AS AGENT	CPL CANADA HOLDCO LIMITED CONTRACT PHARMACEUTICALS LIMITED CANADA GLASS HOUSE PHARMACEUTICALS LIMITED CANADA CONTRACT PHARMACEUTICALS LIMITED GLASSHOUSE PHARMACEUTICALS LLC	740261979 – 20180607 1452 9234 3269 (6 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		
2. ROYAL BANK OF CANADA	CPL CANADA HOLDCO LIMITED	711489168 – 20151104 1515 1862 1802 (7 YEARS)	ACCOUNTS, OTHER		<u>RENEWED BY 20221018 1250 1532 4299</u> 5 YEARS
3. ROYAL BANK OF CANADA	CPL CANADA HOLDCO LIMITED	708592932 – 20150731 1442 1530 2969 (5 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		<u>RENEWED BY 20200630 1939 1531 2803</u> 5 YEARS



## 2. COMMERCIAL SEARCHES

### (a) CPL Canada Holdco Limited

Search Conducted	Location	Results
1. <i>Bankruptcy and Insolvency Act</i> (Canada)	(a) Canada Wide Search (Official Receiver Search) (b) <i>Companies' Creditors Arrangement Act</i>	(a) Clear as of December 8, 2023 (b) Clear as of December 8, 2023
2. Section 427 <i>Bank Act</i> (Canada)	Ontario Registrations only	Clear as of December 12, 2023
3. <i>Executions Act</i> (Ontario)	Regional Municipality of Peel	Clear as of December 12, 2023
4. Litigation	Regional Municipality of Peel	Clear as of November 28, 2023

1400-8239-1560

1. **PERSONAL PROPERTY SECURITY ACT (Ontario) - File Currency: December 12, 2023**

(a) **Contract Pharmaceuticals Limited Canada**

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.	CONTRACT PHARMACEUTICALS LIMITED CANADA	790037181 – 20230117 1934 1531 6298 (5 YEARS)	EQUIPMENT, ACCOUNTS, OTHER	ALL PERSONAL PROPERTY OF THE DEBTOR FINANCED BY THE SECURED PARTY, WHEREVER SITUATED, CONSISTING OF TWELVE (12) CANON COPIERS, TOGETHER WITH ALL PARTS AND ACCESSORIES RELATING THERETO, ALL ATTACHMENTS, ACCESSORIES AND ACCESSIONS THERETO OR THEREON, ALL REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS OF ALL OR ANY PART OF THE FOREGOING AND ALL PROCEEDS IN ANY FORM DERIVED THEREFROM.	
2. WELLS FARGO EQUIPMENT FINANCE COMPANY	CONTRACT PHARMACEUTICALS LIMITED CANADA	788438691 – 20221114 1444 5064 0648 (6 YEARS)	EQUIPMENT	ALL GOODS WHICH ARE PHOTOCOPIERS, MULTIFUNCTION DEVICES, PRINTERS, 3D PRINTERS, PRODUCTION PRINTERS, INDUSTRIAL INKJETS, DIGITAL PRESSES, DIGITAL SIGNAGE, FAX MACHINES, PROJECTORS, VIDEO CONFERENCING, INTERACTIVE	

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				WHITEBOARDS, SERVERS, AND SOFTWARE, OFFICE FURNITURE (CHAIRS, TABLES, ACCESSORIES), TELEPHONY, PHONE SYSTEMS, COMPUTERS, TELECONFERENCING EQUIPMENT, MAILING SYSTEMS, FOLDER INSERTERS. THE GOODS DESCRIBED HEREIN TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS THERETO, AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE COLLATERAL OR PROCEEDS THEREOF, AND WITHOUT LIMITATION, MONEY, CHEQUES, DEPOSITS IN DEPOSIT-TAKING INSTITUTIONS, GOODS, ACCOUNTS RECEIVABLE, RENTS OR OTHER PAYMENTS ARISING FROM THE LEASE OF THE COLLATERAL, CHATTEL PAPER, INSTRUMENTS, INTANGIBLES, DOCUMENTS OF TITLE, SECURITIES, AND RIGHTS OF INSURANCE PAYMENTS OR ANY OTHER	

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
				PAYMENTS AS INDEMNITY OR COMPENSATION FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL. (REFERENCE NO. 1527705-001) (FOR INTERNAL USE ONLY) (AS MAY BE AMENDED OR UPDATED FROM TIME TO TIME)	
3. DEERFIELD PRIVATE DESIGN FUND IV, L.P., AS AGENT	CPL CANADA HOLDCO LIMITED CONTRACT PHARMACEUTICALS LIMITED CANADA GLASS HOUSE PHARMACEUTICALS LIMITED CANADA CONTRACT PHARMACEUTICALS LIMITED GLASSHOUSE PHARMACEUTICALS LLC	740261979 – 20180607 1452 9234 3269 (6 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		
4. EXPORT DEVELOPMENT CANADA	CONTRACT PHARMACEUTICALS LIMITED CANADA	737285661 – 20180315 1400 1862 8616 (10 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		
5. ROYAL BANK OF CANADA	CONTRACT PHARMACEUTICALS LIMITED CANADA	708592194 – 20150731 1442 1530 2895 (5 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		<u>RENEWED BY 20200630 1939 1531 2802</u> 5 YEARS

## 2. COMMERCIAL SEARCHES

### (a) Contract Pharmaceuticals Limited Canada

Search Conducted	Location	Results
1. <i>Bankruptcy and Insolvency Act</i> (Canada)	(a) Canada Wide Search (Official Receiver Search) (b) <i>Companies' Creditors Arrangement Act</i>	(a) Clear as of December 11, 2023 (b) Clear as of December 11, 2023
2. Section 427 <i>Bank Act</i> (Canada)	Ontario Registrations only	Clear as of December 13, 2023
3. <i>Executions Act</i> (Ontario)	Regional Municipality of Peel	Clear as of December 13, 2023
4. Litigation	Regional Municipality of Peel	Clear as of November 29, 2023

1414-2076-7752

1. **PERSONAL PROPERTY SECURITY ACT (Ontario) - File Currency: December 12, 2023**

(a) **Glasshouse Pharmaceuticals Limited Canada**

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number (Registration Period)	Collateral Classification	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. THE TORONTO-DOMINION BANK – 12712	GLASSHOUSE PHARMACEUTICALS LIMITED CANADA	761472675 – 20200414 1443 1530 1159 (1 YEAR)	ACCOUNTS, OTHER		<u>RENEWED BY 20210216 1442 1530 5092</u> 5 YEARS
2. DEERFIELD PRIVATE DESIGN FUND IV, L.P., AS AGENT	CPL CANADA HOLDCO LIMITED CONTRACT PHARMACEUTICALS LIMITED CANADA GLASS HOUSE PHARMACEUTICALS LIMITED CANADA CONTRACT PHARMACEUTICALS LIMITED GLASSHOUSE PHARMACEUTICALS LLC	740261979 – 20180607 1452 9234 3269 (6 YEARS)	INVENTORY, EQUIPMENT, ACCOUNTS, OTHER, MOTOR VEHICLES		

2. **COMMERCIAL SEARCHES**

(a) **Glasshouse Pharmaceuticals Limited Canada**

Search Conducted	Location	Results
1. <i>Bankruptcy and Insolvency Act</i> (Canada)	(a) Canada Wide Search (Official Receiver Search) (b) <i>Companies' Creditors Arrangement Act</i>	(a) Clear as of December 11, 2023 (b) Clear as of December 11, 2023
2. Section 427 <i>Bank Act</i> (Canada)	Ontario Registrations only	Clear as of December 13, 2023
3. <i>Executions Act</i> (Ontario)	Regional Municipality of Peel	Clear as of December 13, 2023

Search Conducted	Location	Results
4. Litigation	Regional Municipality of Peel	Clear as of November 29, 2023

1379-1944-1416

**THIS IS EXHIBIT "E"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

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Commissioner for Taking Affidavits





## LOAN AGREEMENT

March 6, 2018

Contract Pharmaceuticals Limited Canada  
7600 Danbro Crescent  
Mississauga, ON L5N 6L6

Attention: **Mr. Marcel Vieno**

RE: Loan from Export Development Canada to Contract Pharmaceuticals Limited Canada  
EDC Loan No. 880-65706

Capitalized words or phrases not otherwise defined herein have the meanings set out in Schedule A.

Export Development Canada ("**EDC**") agrees to establish a credit facility in favour of the Borrower for the Purpose, on the following terms and conditions:

1. **Borrower** Contract Pharmaceuticals Limited Canada  
  
"**Jurisdiction of Incorporation**" means Ontario
2. **Guarantor(s)** CPL Canada Holdco Limited  
  
"**Jurisdiction of Incorporation**" means Ontario
3. **Facility Amount** Up to USD15,000,000 term facility. Amounts repaid or prepaid may be re-borrowed, provided that the aggregate of all amounts outstanding hereunder shall at no time exceed USD15,000,000.  
  
The currency of account and payment is the currency of the Facility Amount.
4. **Purpose** To assist in financing planned capital expenditure needs of the Borrower including the purchase of eligible Goods and Services and to provide funds to payout the loan agreement among the Borrower, CPL Canada Holdco Limited and EDC dated October 28, 2015 (the "**Prior Loan Agreement**").  
  
For clarity, notwithstanding the execution by the parties of this Loan Agreement, the terms and conditions of the Prior Loan Agreement shall continue to be in effect until all amounts owing under the Prior Loan Agreement have been fully repaid.
5. **Availability** In up to 8 advances in USD, provided that there shall be no more than 1 advance per quarter, each in increments of no less than USD1,000,000, or the remaining available funds, should the available funds at the time of a given Request for Advance be less than USD1,000,000, on a revolving basis for an aggregate principal amount up to but not exceeding USD15,000,000, no later than the date which falls 24 months after the date hereof (the "**Termination Date**").  
  
No advance made hereunder shall exceed 80% of the purchase price of the Goods and Services in respect of which the advance has been requested.

6. **Principal Repayment** The Borrower will repay to EDC the outstanding advances in equal, consecutive monthly installments on each Interest Payment Date commencing on the date which is the 10<sup>th</sup> day of the 6<sup>th</sup> month following the date of the advance. Each advance shall be repaid in full 5 years from the date of such advance.
7. **Interest** Interest on the outstanding principal will be calculated and payable in arrears by the Borrower on each Interest Payment Date at the rate of US Prime Rate plus 2.5% per annum.
- "**Interest Payment Date**" means the date which falls every 10<sup>th</sup> day of every calendar month following the date of the initial advance and each anniversary of these dates.
8. **Fees** **Set-Up Fee:** A one-time non-refundable set-up fee of USD15,000 to be paid within five (5) days of the date of this Agreement.
- Administration Fee:** A one-time non-refundable administration fee of USD60,000 to be retained from the first advance.
- Commitment Fee:** The Borrower will pay to EDC a commitment fee equal to 0.25% per annum calculated on the undisbursed portion of the Facility Amount, commencing ninety (90) days from the date of this Agreement up to and including the earlier of the date the Facility Amount has been fully advanced or the date after the Termination Date. The Commitment Fee is payable monthly in arrears on an Interest Payment Date and is calculated on the basis of the actual number of days elapsed divided by 365.
9. **Security** To secure performance of the Borrower's obligations hereunder, the following (each in form and substance satisfactory to EDC) will be delivered to EDC:
- (a) from the Borrower, a general security agreement providing EDC with a:
    - (i) 1<sup>st</sup> ranking security interest over all of the Borrower's present and after-acquired equipment (as such term is defined in the *Personal Property Security Act* (Ontario)) including, without limitation equipment financed hereunder and all accessories attached thereto and in the rights and benefits under the manufacturer's warranties in relation to such equipment, in all accounts and proceeds arising or derived therefrom, and in all contracts, bills, notes, books, records and documents of title relating thereto; and
    - (ii) a security interest on all of the Borrower's other present and after-acquired personal and movable property, which security interest shall rank only behind a Lien in favour of Royal Bank of Canada over the Borrower's present and after-acquired personal and moveable property, it being agreed that such security interest in favour of EDC shall also be subject to Permitted Liens.
  - (b) from CPL Canada Holdco Limited:
    - (i) an unconditional and irrevocable guarantee.

Each guarantee referred to in this subsection (b) shall be referred to as a "**Guarantee**", and collectively the "**Guarantees**".

The above document(s) shall be referred to herein as the "**Security Documents**".
11. **Conditions Precedent** EDC will have no obligation to make any advance hereunder until the conditions precedent set out in Exhibit 2 have been fulfilled to EDC's satisfaction.
12. **Representations and Warranties** All representations and warranties in this Agreement will be deemed to be continually repeated so long as any amounts remain outstanding and unpaid or the Borrower can request advances under this Agreement, except where expressed to be made as of a specific date, in which case such representations and warranties will be deemed to be made on such specific date. Each Transaction Party (unless otherwise indicated) makes all representations and warranties set out in Schedule B.

13. **Covenants**

Until all amounts owing hereunder are indefeasibly paid in full and EDC no longer has any obligation to make any further advances, each Transaction Party (unless otherwise indicated) agrees to comply with all covenants set out in Schedule C and further agrees that:

- (a) **Borrower Financial Statements.** If requested by EDC, the Borrower will deliver to EDC the following:
- (i) within 120 days after the end of each of its fiscal years, a copy of its audited consolidated financial statements for such fiscal year;
  - (ii) within 120 days after the end of each of its fiscal years, a copy of its audited financial statements for such fiscal year;
  - (iii) within 45 days of each of its fiscal years, a copy of its quarterly company prepared financial statements; and
  - (iv) within 120 day after the end of each of its fiscal years, a compliance certificate, satisfactory to EDC and substantially in the form attached as Exhibit 4, from a financial officer of the Borrower evidencing compliance with the financial covenants referred to in Section 13(f).
- (b) **Guarantor Financial Statements.** If requested by EDC, the Borrower will or will cause each Guarantor to deliver to EDC within 120 days after the end of each of such Guarantor's fiscal years, a copy of such Guarantor's company prepared financial statements for such fiscal year.
- (c) **Other Financial Statements.** If requested by EDC, the Borrower will or will cause each of the following entities to deliver to EDC within 120 days after the end of each of their respective fiscal years:
- (i) from Glasshouse Pharmaceutical Limited Canada, a copy of its annual notice to reader financial statements;
  - (ii) from Glasshouse Pharmaceuticals LLC, a copy of its annual company prepared financial statements; and
  - (iii) from Contract Pharmaceuticals Limited, a copy of its annual company prepared financial statements.
- (d) **Location of Collateral.** It will not permit the collateral described in the Security Documents to which it is a party to be located at any location other than the locations set out in this Agreement (except inventory sold in the ordinary course of business).
- (e) **Insurance.** It will, on or prior to the date when it takes title to the collateral described in the Security Documents to which it is a party or any portion thereof, maintain or cause to be maintained in effect, at its own expense (i) property insurance covering such collateral in an amount not less than the cost of acquisition of the collateral; and (ii) third-party liability insurance in respect thereof of such amount and scope as may be customary in the jurisdiction where such collateral is located. All property insurance policies will name EDC as lender loss payee with the ranking of security set out in Section 9 and provide that all losses in respect of claims will be paid to EDC and all such policies and subsequent policies will provide that the insurer's rights of subrogation be subordinate to EDC's right of full recovery in respect of the insured. All liability insurance policies will name EDC as additional insured. In the event that any insurance required under this Subsection will not have been renewed prior to the date on which such insurance is scheduled to lapse, EDC or its assignee may (but will not be obligated to) pay any premium necessary to renew such insurance, and in such event it will be obligated to indemnify EDC or its assignee immediately, as the case may be, for the payment of such premium.
- (f) **Financial Covenants.**

The Borrower will not permit:

- (i) Debt Service Coverage Ratio. The Debt Service Ratio to be less than 1.25 to 1:00;
- (ii) Total Liabilities to Tangible Net Worth Ratio. The Total Liabilities to Tangible Net Worth Ratio to be greater than 2.25 to 1:00.

For purposes of this Section 13(f) and Exhibit 4, and notwithstanding any definitions set out in this Agreement, the terms "Debt Service Coverage", "Total Liabilities" and "Total Net Worth" shall have the meanings ascribed to them in the credit agreement between the Borrower and the Royal Bank of Canada dated November 22, 2017 (as amended, restated or otherwise modified from time to time or any other bank agreement which refinances the indebtedness under such bank agreement or otherwise renews or replaces such bank agreement whether with the Royal Bank of Canada or any other financial institution) (the "**Bank Credit Agreement**"). The Borrower undertakes to promptly, but in any event, within 10 Business Days from the effective date of any change to the foregoing definitions, notify EDC in writing of such change.

- 14. Events of Default The occurrence of any one or more of the following events constitutes an event of default (each an "Event of Default"):
  - (a) Disposal of Collateral. If any Transaction Party sells or otherwise disposes of all or, except in the ordinary course of its business, any part of the collateral described in the Security Documents, if any, without the prior written consent of EDC or if all or any part of such collateral is seized.
  - (b) Schedule D Events. Those events set out in Schedule D.
- 15. Voluntary / Mandatory Prepayment Subject to 3 Business Days' prior notice, prepayment will be permitted at any time. Amounts prepaid must be on the basis of one installment of principal or whole multiples thereof.  
Amounts prepaid voluntarily will be available for re-borrowing.
- 16. Waiver of Immunity Each Transaction Party represent and warrants that it is not entitled to claim for itself or its assets immunity from jurisdiction, judgment, set-off, compensation, execution, attachment or other legal process in respect of its obligations under the Transaction Documents. Each Transaction Party irrevocably waives, for each relevant jurisdiction, any right of immunity which it or any of its property has or may acquire in respect of its obligations under the Transaction Documents. Each Transaction Party agrees that the Transaction Documents to which it is a party and the transactions contemplated therein constitute commercial activity within the meaning of the *State Immunity Act of Canada*.
- 17. Governing Law This Agreement is made under and will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in such Province.
- 18. Jurisdiction Each Transaction Party irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario (and applicable federal courts), the courts of its Jurisdiction of Incorporation, the courts of any jurisdiction where it may have assets or carries on business and the courts where payments are to be made under the Transaction Documents to which it is a party. Each Transaction Party agrees that a final judgment against it in any such legal proceeding will be conclusive and may be enforced in any other jurisdiction by suit on the judgment (a certified or exemplified copy of which judgment will be conclusive evidence of the fact and of the amount of its indebtedness) or by such other means provided by law.
- 19. Additional Terms and Conditions Schedules A (SFLA (0-10M)-001-SCHA), B (SFLA (0-10M)-001-SCHB), C (SFLA (0-10M)-001-SCHC), D (SFLA (0-10M)-001-SCHD) and E (SFLA (0-10M)-001-SCHE) to this Agreement each form an integral part of this Agreement as well as any Exhibits to this Agreement.

[The remainder of this page is intentionally left blank.]

If this Agreement is acceptable, kindly sign and return the attached copy to EDC. In the event that EDC has not received an executed copy of this Agreement by April 6, 2018 it will be considered null and void.

**EXPORT DEVELOPMENT CANADA**

By: \_\_\_\_\_  
Name: Susan Cherry  
Position: Sr. Financing Manager



By: \_\_\_\_\_  
Name: Stephen Hebert  
Position: Sr. Financing Manager

We have authority to bind EDC.

Address for notice:

150 Slater Street, Ottawa, Ontario, Canada, K1A 1K3,

Disbursement and repayment matters:

Attention: Loans Services  
Fax: (613) 598-2514  
Email: [LS-directlending@edc.ca](mailto:LS-directlending@edc.ca)

Financial and covenant reporting matters:

Attention: Covenants Officer  
Fax: (613) 288-3919  
Email: [covenantsofficer@edc.ca](mailto:covenantsofficer@edc.ca)

All other matters, including amendments, waivers and consents:

Attention: Susan Cherry – International Financing Direct  
Fax: (613) 598-3832

We accept and agree to be bound by the above terms and conditions and those set out in the attached Schedules and Exhibits.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

By: M. Vieno  
Name: Marcel Vieno  
Position: Vice President Finance

I have authority to bind the Borrower.

Address for notice:

2145 Meadowpine Blvd., Mississauga, Ontario, Canada, L5N 6R8

Attention: Marcel Vieno, Vice President Finance  
Fax: (905) 821-7602  
Email: [mvieno@cplltd.com](mailto:mvieno@cplltd.com)

**CPL CANADA HOLDCO LIMITED**

By:   
Name: Marcel Vieno  
Position: Vice President Finance

I have authority to bind the Borrower.

Address for notice:

2145 Meadowpine Blvd., Mississauga, Ontario, Canada, L5N 6R8

Attention: Marcel Vieno, Vice President Finance  
Fax: (905) 821-7602  
Email: [mvieno@cplltd.com](mailto:mvieno@cplltd.com)

## SCHEDULE A - DEFINITIONS

If used in this Agreement, the following terms mean:

**"Agreement"** means this agreement, including any and all Schedules, Exhibits and any agreement, schedule or exhibit supplementing or amending this Agreement.

**"Affiliate"** means any person which directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, a Transaction Party.

**"Authorization"** means any consent, registration, filing, agreement, certificate, license, approval, permit, authority or exemption and all corporate, creditors' and shareholders' approvals or consents.

**"Business Day"** means a day on which banks are open for business in Ottawa, Canada and, in the case of USD loans, New York, United States of America.

**"CAD"** means the currency of Canada.

**"Capitalized Lease Obligation"** means with respect to a person, at any time, the obligations of a person to pay rent or other amounts under a lease (or agreement conveying the right to use) of property which would be required to be classified and accounted for as a capital lease on a balance sheet of such person.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time.

**"Control"** means with respect to a legal entity, the ownership, directly or indirectly, of more than 50% of its voting securities, the control over the composition of its board of directors, whether by contract or otherwise, or the power to direct its management and policies, whether through the ownership of voting capital, by contract or otherwise and **"Controlled"** has a correlative meaning.

**"Current Ratio"** means, the ratio at such time of (a) Current Assets, to (b) Current Liabilities.

**"Current Assets"** means, as of the close of any relevant period, all amounts (including cash and temporary cash investments) which would be included as current assets on a balance sheet of a person at such time.

**"Current Liabilities"** means, as of the close of any relevant period, all amounts which would be included as current liabilities on a balance sheet of a person at such time (including current maturities of long-term Debt).

**"Debt"** means, all funded debt for the relevant period, including the sum of (a) all outstanding short term credit facilities plus (b) the current portion of long term debt plus (c) the current portion of capital lease obligations plus (d) all outstanding long term loan facilities plus (e) the long term portion of capital lease obligations on a balance sheet at such time.

**"Debt Service"** means, for a person for any period, the sum of (a) all regularly scheduled payments or prepayments of principal of indebtedness (including, without limitation, the principal component of any payments in respect of Capitalized Lease Obligations) made during such period; plus (b) all Interest Expense for such period.

**"Debt Service Coverage Ratio"** means the ratio of (a) EBITDA for the prior four (4) consecutive fiscal quarters ending to (b) Debt Service for the same period.

**"Debt to EBITDA Ratio"** means the ratio of (a) Debt for the prior four (4) consecutive fiscal quarters ending to (b) EBITDA for the same period.

**"EBITDA"** means, for a person for any period, net income (before extraordinary or other non-recurring items) for such period (a) plus, to the extent deducted in determining net income for such period, the sum of (i) Interest Expense; (ii) tax expense; and (iii) depreciation, amortization and other non-cash charges; (b) minus any non-cash credits for such period.

**"Environmental Laws"** means all requirements under any law, rule, regulation, order, or judgment, decree, license, agreement or other restriction of any governmental authority relating to the environment, pollution, contamination, or the disposal, storage, and discharge of hazardous or toxic substances into the environment.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

**"ERISA Affiliate"** means any trade or business (whether or not incorporated) that, together with any Transaction Party, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Sections 414 and 430 of the Code.

**"ERISA Event"** means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder



with respect to a Plan (other than an event for which the notice period is waived, whether or not such automatic waiver is hereafter eliminated); (b) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA); (c) the incurrence by a Transaction Party or any of their ERISA Affiliates of any liability under Title IV of ERISA other than PBGC premiums due but not delinquent under Section 4007 of ERISA; (d) a determination that any Plan is, or is expected to be, in "at risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (e) the receipt by a Transaction Party or any of their ERISA Affiliates from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Multiemployer Plan or to appoint a trustee to administer any such plan; (f) a withdrawal or partial withdrawal by a Transaction Party or any of their ERISA Affiliates from any Plan or Multiemployer Plan; (g) the receipt by a Transaction Party or any of their ERISA Affiliates of any notice that a Multiemployer Plan is, or is expected to be, "insolvent" (within the meaning of Section 4245 of ERISA), in "reorganization" (within the meaning of Section 4241 of ERISA), or in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (h) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a variance from the minimum funding standards with respect to any Plan; (i) the receipt by any Transaction Party or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans if such termination would require additional contributions or to appoint a trustee to administer any Plan; (j) the requirement that a Plan provide a security pursuant to Section 436(f) of the Code; (k) any Transaction Party or any ERISA Affiliate engages in a "prohibited transaction" within the meaning of Section 406 of ERISA and Section 4975 of the Code for which such Transaction Party or ERISA Affiliate is a "disqualified person" (within the meaning of Section 4975 of the Code) or with respect to which any Transaction Party or any ERISA Affiliate could otherwise be liable; (l) the institution of proceedings under Section 4042 of ERISA by the PBGC for the termination of, or the appointment of a trustee to administer, any Plan; (m) the receipt by any Transaction Party or any ERISA Affiliate of any notice that a Multiemployer Plan is insolvent, within the meaning of Title IV of ERISA; or (n) the institution of a proceeding by a fiduciary of any Multiemployer Plan to enforce Section 515 of ERISA which proceeding is not dismissed within 30 days.

**"Goods and Services"** Capital equipment, machinery and related capital expenditures.

**"Interest Expense"** means, for the relevant period, the aggregate expense for interest, commissions, discounts and

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other fees and charges incurred in connection with commitment fees, net costs or net benefits under rate swap agreements and the portion of any interest expense payable with respect to Capitalized Lease Obligations.

**"Lien"** means any mortgage, lien, claim, pledge, hypothecation, encumbrance, charge or other security interest granted or arising by operation of law with respect to the property of any person or any preferential arrangement that has the effect of security for any debt, liability or other obligations.

**"Minimum Actionable Amount"** means USD100,000.

**"Multiemployer Plan"** means a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which a Transaction Party or any ERISA Affiliate makes or is obligated to make contributions or during the preceding six (6) years, has made or been obligated to make contributions.

**"PBGC"** means the United States Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

**"Permitted Liens"** means:

- (i) carrier's, warehousemen's, mechanic's, materialmen's, repairmen's and general rights of retention and other like Liens, arising both by operation of law and in the ordinary course of business;
- (ii) capital leases otherwise permitted pursuant to this Agreement, so long as such capital leases attach only to the assets which are the subject of such capital leases;
- (iii) Liens created on property at the time of its purchase solely as security for the purchase price of such property, and any renewal thereof which is limited to the original property and to a renewal of the indebtedness incurred to finance the purchase price thereof;
- (iv) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not detract from the value of the affected property or interfere with the ordinary conduct of the business of any Transaction Party;

- (v) banker's liens, rights of set-off or compensation or similar rights to deposit accounts or the funds maintained with a creditor depository institution;
- (vi) Liens in favour of EDC;
- (vii) Liens existing on the date hereof and which have been subordinated to the satisfaction of EDC prior to the initial advance; and
- (viii) if applicable, Liens set out in the "Security" Section of this Agreement.

"**Plan**" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**Prime Rate**" means, on any day on which such rate is determined, the variable annual rate of interest established and adjusted by Royal Bank of Canada from time to time as a reference rate for the purposes of determining rates of interest it will charge on commercial loans denominated in CAD and made in Canada.

"**Sanctions**" means economic or financial sanctions administered, enacted or enforced by any Sanctions Authority including without limitation, any restriction on EDC's or its affiliates' ability to conduct business with any person in any country relevant to the transaction, pursuant to all applicable Canadian laws regarding sanctions and export controls (all such applicable laws currently in effect, all such new applicable laws in effect in the future or each as amended from time to time), such as the *United Nations Act*, *Special Economic Measures Act*, *Export and Import Permits Act*, *Freezing Assets of Foreign Corrupt Officials Act*, *Criminal Code*, *Defense Production Act*, *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, *Anti-Terrorism Act* or any other similar Canadian statute or regulation.

"**Sanctions Authority**" means (a) Canada, (b) United Nations, (c) United States, or the respective governmental institutions, agencies and subdivisions of any of the foregoing.

"**Transaction Documents**" means this Agreement and each of the Security Documents (including each Guarantee), the Payments Postponement and Subordination Agreements, if any, and all agreements, instruments and documents, including without limitation any powers of attorney, consents, certificates, assignments, financing statements and all other writings now or from time to time hereafter executed by or on

behalf of the Transaction Parties or any other person and delivered to EDC in connection with the transactions contemplated in this Agreement or any other Transaction Documents.

"**Transaction Parties**" means the Borrower and, if any, each Guarantor and "**Transaction Party**" means any one of them.

"**USD**" means the currency of the United States of America.

"**US Prime Rate**" means, on any day on which such rate is determined, the variable annual rate of interest established and adjusted by Citibank N.A. from time to time as a reference rate for the purposes of determining rates of interest it will charge on commercial loans denominated in USD and made in Canada.

"**WTO**" means the World Trade Organization.

## SCHEDULE B – STANDARD REPRESENTATIONS AND WARRANTIES

Each Transaction Party (unless otherwise indicated) represents and warrants that:

- (a) **Existence.** It is a corporation, limited partnership, limited liability partnership or partnership, as the case may be, duly incorporated or organized and validly existing under the laws of its Jurisdiction of Incorporation.
- (b) **Corporate Power; No Violation.** The entering into, delivery and performance by it of the terms of the Transaction Documents to which it is a party and of each document to be delivered by it with respect thereto:
- (i) are within its powers and have been duly authorized by all necessary action;
  - (ii) are not in violation of any law, statute, regulation, ordinance or decree applicable to it and are not contrary to public policy or public order in its Jurisdiction of Incorporation or any other jurisdiction where it operates;
  - (iii) are not in violation of, will not result in a violation of, or constitute a default under, or be in conflict with, any term of its constating documents or of any agreement to which it or its business or assets are subject; and
  - (iv) will not result in the creation of any Lien upon any of its assets, other than Liens in favour of EDC.
- (c) **Execution; Enforceability.** The Transaction Documents to which it is a party:
- (i) have been duly executed and delivered by it or on its behalf; and
  - (ii) constitute direct, legal, valid and binding obligations of it, enforceable against it in accordance with their respective terms subject only to bankruptcy, insolvency, and other laws relating to creditors' rights generally and to general principles of equity.
- (d) **Financial Information.** The financial statements delivered to EDC pursuant to this Agreement present fairly in all material respects the financial condition and the results of operations of the relevant Transaction Party(ies) for the period covered and there has been no material adverse change in the financial condition or operations of such Transaction Party(ies) since that date or any event which could reasonably be expected to constitute a material adverse change.
- (e) **Authorization.** All Authorizations required in connection with the execution and delivery by it of the Transaction Documents to which it is a party, the performance by it of the terms thereof and the validity, enforceability and admissibility in evidence thereof, have been, or will be prior to the initial advance hereunder, effected or obtained and are, or
- (f) **No Material Litigation.** Other than as disclosed to EDC in writing prior to the date of this Agreement, there are no legal proceedings pending or, so far as is known to it, threatened, which could or would materially adversely affect its condition, financial or otherwise, its operations or its ability to perform its obligations under any of the Transaction Documents.
- (g) **Compliance with Laws.** It is in compliance with all applicable laws, regulations and requirements of governmental authorities (including Environmental Laws and laws relating to corruption and bribery) except to the extent the failure to so comply (other than in the case of laws relating to corruption and bribery) would not reasonably be expected to have a material adverse change in or effect on: (i) its condition, financial or otherwise; (ii) its ability to perform its obligations under the Transaction Documents; or (iii) the legality, validity or enforceability of the Transaction Documents to which it is a party or the rights and remedies available to EDC thereunder.
- (h) **Solvent.** It is, after giving effect to the transactions contemplated hereby, and the other Transaction Documents to which it is a party, solvent and able to pay its debts as they become due, it has capital sufficient to carry on its business, it now owns property having a value both at fair valuation and at present fair saleable value greater than the amount required to pay its debts, and it will not be rendered insolvent by the execution and delivery of the Transaction Documents or by completion of the transactions contemplated hereby and thereby.
- (i) **Sanctions Laws.** Neither it nor any of its directors, officers, or, to the best of its knowledge, any of its Affiliates, is engaged, directly or indirectly, in any activity which is prohibited under the Sanctions, including without limitation, (A) any direct or indirect dealings involving or benefitting (i) a person that is listed on, or owned or Controlled by, or acting on behalf of a person listed on, any list administered by a Sanctions Authority or otherwise the target of Sanctions; (ii) a person located in, organized under, or owned or Controlled by, or acting on behalf of, a person located in or organized under the laws of Iran, Syria or North Korea; (iii) a person that is owned or Controlled by, or acting for or on behalf of, or providing assistance, support or services of any kind to, or otherwise associated with any person in (i) or (ii); (B) any business or making or receiving any contribution of funds, goods or services to or for the benefit of any person described in (A) (i)-(iii); (C)

any dealing in, or otherwise engaging in any transaction relating to any property or interests in property subject to prohibitions under Sanctions; and (D) any transaction that evades, avoids or attempts to violate any of the prohibitions set forth in the Sanctions or has such a purpose.

(j) **Sanctions. Not a Target.** Neither it nor any of its subsidiaries nor, to its knowledge, any of its directors, officers, employees, agents, Affiliates or representatives or any of its Affiliates, is an individual or entity that is, or is owned or Controlled by, or is acting on behalf of a person that is (i) the subject of any Sanctions, (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of territorial Sanctions, unless otherwise notified to EDC in writing.

(k) **ERISA and other U.S.-Specific Representations and Warranties.** Each Transaction Party further represents and warrants that:

(i) no ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in liabilities to any Transaction Party or any ERISA Affiliate exceeding the Minimum Actionable Amount or otherwise have a material adverse effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan by an amount exceeding the Minimum Actionable Amount;

(ii) no Transaction Party or subsidiary of a Transaction Party is an "investment company" or a company "controlled" by an "investment company" or a "subsidiary" of an "investment company," within the meaning of the Investment Company Act of

1940, as amended, and the applicable regulations thereunder;

(iii) no Transaction Party or subsidiary of a Transaction Party owns any margin securities, and none of the proceeds of the advances shall be used for the purpose of purchasing or carrying any margin securities or for the purpose of reducing or retiring any indebtedness that was originally incurred to purchase any margin securities or for any other purpose not permitted by Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time; and

(iv) the successful operation and financial condition of each of the Transaction Parties and their ERISA Affiliates is dependent on the continued successful performance of the functions of the group of the Transaction Parties and their ERISA Affiliates as a whole and the successful operation of each of the Transaction Parties and their ERISA Affiliates is dependent on the successful performance and operation of each other Transaction Party. Each Transaction Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (A) successful operations of each of the other Transaction Parties and (B) the credit extended by EDC to the Borrower hereunder, both in their separate capacities and as members of the group of companies and their ERISA Affiliates. Each Transaction Party has determined that execution, delivery, and performance of this Agreement and any other Transaction Documents to be executed by such Transaction Party is within its purpose, will be of direct and indirect benefit to such Transaction Party, and is in its best interest.

## SCHEDULE C – STANDARD COVENANTS

Each Transaction Party (unless otherwise indicated) covenants and agrees to:

- (a) **Notices.** Promptly notify EDC of the occurrence of any Event of Default or of any event that with notice, lapse of time or a determination hereunder or any combination thereof would constitute an Event of Default.
- (b) **Authorizations.** Obtain and maintain in force all Authorizations necessary for carrying out its business generally or required in connection with the execution and delivery of the Transaction Documents to which it is a party, the performance by it of the terms thereof and the validity and enforceability and admissibility in evidence thereof.
- (c) **Taxes.** Pay when due all taxes payable by it.
- (d) **Compliance with Laws.** Comply with all applicable laws and regulations relating to it and its business, including without limitation, any Environmental Laws, any laws relating to corruption and bribery and laws relating to pension funds and pension plans maintained by it except to the extent the failure to so comply (other than in the case of laws relating to corruption and bribery) would not reasonably be expected to have a material adverse change in or effect on: (i) its condition, financial or otherwise; (ii) its ability to perform its obligations under the Transaction Documents; or (iii) the legality, validity or enforceability of the Transaction Documents to which it is a party or the rights and remedies available to EDC thereunder.
- (e) **Location of Records/Operations.** Maintain its operations and records at the locations set out in this Agreement and, at any reasonable time and from time to time, upon reasonable prior notice, permit EDC or any representative thereof to examine and make copies of and abstracts from its records and books (including, without limitation, electronic records).
- (f) **Insurance.** Maintain, with financially sound and reputable insurance companies, insurance in such amounts and with such deductibles and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.
- (g) **Further Assurances.** At its own cost and expense, execute and deliver to EDC all such documents and do all such other acts as EDC may reasonably require to carry out the purpose of this Agreement or to enable EDC to exercise and enforce its rights under any Transaction Document.
- (h) **Use of Proceeds.** Use the advances made under this Agreement solely for the Purpose. It will not use the proceeds, contribute or otherwise make available the proceeds for any purpose which is prohibited under the Sanctions including without limitation, to any person for the purpose of financing directly or indirectly the activities of any person that (i) is listed on, or owned or Controlled by a person that is listed on, or acting on behalf of a person listed on, any list administered by a Sanctions Authority or (ii) is in a country which is subject to Sanctions, to the extent such financing would be prohibited by the Sanctions..
- (i) **Collateral.** In respect of the collateral described in the Security Documents to which it is a party, if any, from time to time, upon reasonable prior notice, it will permit EDC or any representative thereof to verify the existence and state of the collateral described in the Security Documents, in any manner EDC may consider appropriate; and it agrees to furnish all assistance and information and to perform all such acts as EDC may reasonably request in connection thereto and for such purpose to grant to EDC or its representative access to all places where the collateral described in the Security Documents may be located and to all premises occupied by it to examine and inspect such collateral.
- (j) **Fundamental Changes.** Not amalgamate, merge or consolidate with any other person (each a "**Merger**") without the prior written consent of EDC, provided that it may enter a Merger where all of the following conditions have been met: (i) it is the surviving entity or the surviving entity assumes all of its obligations under the Transaction Documents, as confirmed in legal opinions satisfactory to EDC; (ii) immediately after giving effect to such Merger, no Event of Default or event that with notice, lapse of time or a determination hereunder or any combination thereof would constitute an Event of Default will exist; and (iii) such Merger would not have a material adverse effect on: (A) its condition, financial or otherwise; (B) its ability to perform its obligations under the Transaction Documents; or (C) the legality, validity or enforceability of the Transaction Documents to which it is a party or the rights and remedies available to EDC thereunder.
- (k) **Sanctions.** It, its directors, and officers will not, and it will take all reasonable steps to ensure that its Affiliates will not, engage, directly or indirectly, in any activity which is prohibited under the Sanctions (unless any such activity is conducted in compliance with a permit, certificate or other approval issued under the Sanctions), including without limitation, (A) any direct or indirect dealings involving or benefitting (i) a person that is listed on, or owned or Controlled by, or acting on behalf of a person listed on, any list administered by a Sanctions Authority or otherwise the target of Sanctions; (ii) a person located in, organized under, or owned or Controlled by, or acting on behalf of, a person located in or

organized under the laws of Iran, Syria or North Korea; (iii) a person that is owned or Controlled by, or acting for or on behalf of, or providing assistance, support or services of any kind to, or otherwise associated with any person in (i) or (ii); (B) any business or making or receiving any contribution of funds, goods or services to or for the benefit of any person described in (A)(i)-(iii); (C) any dealing in, or otherwise engaging in any transaction relating to any property or interests in property subject to prohibitions under Sanctions; and (D) any transaction that evades, avoids or attempts to violate any of the

prohibitions set forth in the Sanctions or has such a purpose.

- (l) **ERISA.** Each Transaction Party further covenants and agrees to furnish to EDC prompt written notice of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liabilities owed by any Transaction Party or any ERISA Affiliate exceeding the Minimum Actionable Amount.

## SCHEDULE D – STANDARD EVENTS OF DEFAULT

The occurrence of any one or more of the following events constitutes an Event of Default:

- (a) **Payment.** The non-payment when due of any sum payable hereunder.
- (b) **Insolvency.** If any Transaction Party fails to pay its debts generally as they fall due or suspends making payments on all or any class of its debts or announces an intention to do so or begins negotiations with one or more creditors with a view to rescheduling any of its indebtedness.
- (c) **Bankruptcy or Similar Proceedings.** If a proceeding is commenced, by or against any Transaction Party, in any court of competent jurisdiction, seeking its bankruptcy reorganization, liquidation, dissolution, arrangement or winding-up, the composition or readjustment of its debts or any other relief under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, or for the appointment of a receiver, receiver and manager, custodian, trustee, monitor, liquidator or other person with similar powers with respect to any Transaction Party or all or part of its assets, or if any such person is privately appointed pursuant to any agreement or instrument, or if any person takes possession of all or any substantial portion of its assets, however, if any proceeding is taken against a Transaction Party, such proceeding will not constitute an Event of Default if such proceeding is dismissed, stayed or withdrawn within 45 days of the commencement of such proceeding.
- (d) **Disposal of Assets.** If any Transaction Party sells or otherwise disposes of all or a substantial part of its assets or ceases all or a substantial part of its business operations without the prior written consent of EDC.
- (e) **Cross Default.** If any Transaction Party fails to pay any amount due, under any one or more loans or guarantees to which it is a party, on the due date or within any applicable grace period or is otherwise in default under any one or more agreements evidencing its indebtedness or guaranty to which it is a party.
- (f) **Representations and Warranties.** If any representation or warranty made or deemed to be made by or on behalf of any Transaction Party in any Transaction Document or in any related document or opinion will have been materially incorrect when made or deemed to have been made.
- (g) **Authorizations.** If any Transaction Party fails to obtain or maintain in force any Authorization which is or may be necessary for such Transaction Party to fulfill its obligations under the Transaction Documents.
- (h) **Invalidity/Unenforceability.** If any Transaction Document or any material provision thereof or any obligations thereunder cease to be valid, binding or enforceable against any Transaction Party.
- (i) **Material Adverse Effect.** If any other event or circumstance occurs which would reasonably be expected to materially and adversely affect any Transaction Party's ability to perform all or any of its obligations under the Transaction Documents.
- (j) **Failure to Perform.** If any Transaction Party defaults in the due performance or observance of any term of any of the Transaction Documents to which it is a party other than those specifically constituting an Event of Default hereunder which, if it can be remedied, is not remedied within 30 days after notice by EDC to do so.
- (k) **Loss of Priority.** If EDC ceases to have a valid and perfected security interest in the collateral described under the Security Documents, if any, at the rank required by this Agreement, or any Lien other than a Permitted Lien, is created over the collateral described in the Security Documents, if any.
- (l) **Change in Control.** If there is any change in Control of any Transaction Party.
- (m) **Guarantee Termination.** If, pursuant to article 2362 of the *Civil Code of Quebec*, any Guarantor delivers notice to EDC invoking its right to terminate its Guarantee prior to repayment in full of the indebtedness hereunder, or any Guarantor takes any action to seek to invalidate its obligations under its Guarantee.
- (n) **ERISA.** If an ERISA Event shall have occurred, in respect of any Transaction Party or their ERISA Affiliates, that, in the opinion of EDC, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of the Transaction Parties or their ERISA Affiliates in an aggregate amount exceeding the Minimum Actionable Amount.

## SCHEDULE E – STANDARD GENERAL TERMS AND CONDITIONS

Each Transaction Party agrees to the following additional provisions:

**Advances.** An irrevocable request for advance substantially in the form attached to this Agreement ("**Request for Advance**") must be submitted, not later than 11:00 a.m. Ottawa time, 3 Business Days before the date of any proposed advance, unless otherwise agreed by EDC.

If an advance is made in the 20 days prior to an Interest Payment Date, the principal and the interest on the said advance will be payable by the Borrower on the second Interest Payment Date following such advance.

**Principal Installments.** Each installment of principal will be equal to the result obtained by dividing the principal advanced and not overdue by the number of installments then remaining to be paid. The last installment will be in the amount necessary to repay in full all advances then outstanding.

**Interest.** Subject to applicable law, default interest on amounts due and payable but unpaid will be paid by the Borrower on demand at the rate set out in the "Interest" section of this Agreement increased by 2% per annum and compounded on each Interest Payment Date from the date of payment default and while such default continues, as well as before and after demand and/or judgment.

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

**Interest and Fees Calculation.** Interest and Commitment Fees will be calculated on the basis of the actual number of days elapsed divided by 365. The actual yearly rate of interest and, if applicable, Commitment Fees is calculated by multiplying the said rate by the actual number of days in the year divided by 365.

**Application of Payments.** All payments made under this Agreement (other than a voluntary prepayment pursuant to the "Voluntary/Mandatory Prepayment" Section of this Agreement) will be applied first to all amounts then due and payable other than principal and interest in such order as EDC may elect, then to interest due and payable, then to principal due and payable, and lastly to prepayment of installments of principal in inverse order of maturity.

Amounts voluntarily prepaid pursuant to the "Voluntary/Mandatory Prepayment" Section of this Agreement will be applied against the outstanding installments of principal in inverse order of their maturity.

**Right to Retain.** EDC will be entitled to retain from the advance, such fees or other amounts due and unpaid by the Borrower on the date that the advance is made and the Borrower will be deemed in each case to have received an advance in the amount requested by the Borrower prior to such retention.

**Payments.** All amounts payable by the Borrower to EDC pursuant hereto will be paid without set-off, compensation or counterclaim not later than 11:00 a.m. Ottawa time on the day such payment is due and in funds which are for same-day settlement, at such institution and to the credit of such account as EDC may from time to time notify the Borrower.

The Borrower agrees to execute a Pre-Authorized Debit Agreement, in form and substance satisfactory to EDC (a "**PAD Agreement**"), authorizing deductions from the Borrower's bank account of regular recurring installments of principal, interest, and/or fees payable from time to time arising under this Agreement or in the event that the Borrower makes installment payments to EDC through a third party (the "**Third Party Payor**"), the Borrower will cause such Third Party Payor to execute a PAD Agreement authorizing deductions from the Third Party Payor's bank account, it being understood that any such payments by the Third Party Payor will be deemed to be payments made by the Borrower under this Agreement. Further, if the Third Party Payor also acts as Guarantor hereunder, no such payments made by the Third Party Payor under a PAD Agreement will constitute a payment under its Guarantee.

If a day on which an amount is due is not a Business Day, such amount will be deemed to be due on the next occurring Business Day.

**Judgment Currency.** The obligation of a Transaction Party under this Agreement or any other Transaction Document to make payments in the currency set out in Section 3 of this Agreement entitled "Facility Amount" (the "**Facility Currency**") will not be discharged or satisfied by any payment or recovery, whether pursuant to any judgment or otherwise, expressed in or converted into any other currency except to the extent of the amount of Facility Currency that is actually received by EDC as a result of such payment or recovery. If, as a result of the conversion of any payment or recovery from another currency into the Facility Currency, EDC receives less than the full amount of the Facility Currency payable by a



Transaction Party to EDC under this Agreement or any other Transaction Document, the Transaction Parties agree to pay EDC such additional amount as may be necessary to ensure that the amount received by EDC is not less than the full amount of the Facility Currency payable by the Transaction Party to EDC under this Agreement or the Transaction Document in question, and such amount will be due as a separate debt and will not be affected by judgment being obtained for any other sums due under this Agreement or any other Transaction Document.

**Currency Conversion.** For purposes of payments hereunder as well as determining the purchase price of the Goods and Services, EDC will convert any amounts set out in currencies other than US Dollars into US Dollars at the Spot Rate of Exchange at which EDC may, in accordance with normal practice, purchase US Dollars with such other currency on the date of each application of payments or the determination of the purchase price of the Goods and Services. “**Spot Rate of Exchange**” means the spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market with USD, as applicable, displayed on the BFIX page of the Bloomberg terminal selected by EDC as of 11:00 am on a particular day.

**Events of Default – Remedies.** If any one or more Event of Default has occurred, EDC is under no further obligation to make advances and EDC may declare all or part of the indebtedness of the Borrower hereunder to be immediately due and payable, whereupon the same will become immediately due and payable without any further demand or notice of any kind provided that if an Event of Default described in paragraph (c) of Schedule D has occurred, all indebtedness of the Borrower hereunder will automatically become and be immediately due and payable without any further demand or notice of any kind. Any exercise, failure to exercise or delay in exercising by EDC of any right or remedy hereunder will not be or be deemed to be a waiver of, or will not prejudice, any other rights or remedies to which EDC may be entitled for any Event of Default or event that with notice, lapse of time or a determination hereunder or any combination thereof would constitute an Event of Default.

**Illegality.** If, at any time, it is or becomes illegal (in the reasonable opinion of EDC) under the laws of any jurisdiction for EDC to perform, fund or maintain the loan hereunder, including without limitation, any illegality due to any economic or financial sanctions administered or enforced by any Sanctions Authority or if EDC is advised in writing by a Sanctions Authority that penalties will be imposed by a Sanctions Authority as a result of such loans, any other business or financial relationship with the Borrower or its Affiliates, then EDC will promptly so notify the Borrower and (i) EDC will have no obligation to make any further advances hereunder, and (ii) any outstanding advances hereunder will become immediately due and payable with accrued interest thereon and all other amounts then due.

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**Joint and Several.** Where more than one party is liable as Borrower or Guarantor for any obligation under or in connection with this Agreement or any other Transaction Document, then the liability of each such party for such obligation is joint and several (solidary) with each other such party.

**Evidences of Indebtedness.** The loan accounts maintained by EDC in the name of the Borrower will be *prima facie* evidence (in the absence of manifest error) of the indebtedness of the Borrower to EDC hereunder.

**Taxes.** If the Borrower is required by law to deduct or withhold taxes from any payment to EDC hereunder, the sum payable by the Borrower will be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, EDC receives and retains (free from any liability in respect of any such deduction or withholding) the sum it would have received and so retained had no such deduction or withholding been made or required.

**Costs and Expenses.** The Borrower will reimburse EDC within 30 days of EDC’s request for all of EDC’s: (i) reasonable and documented out-of-pocket costs and expenses incurred in respect of the preparation, negotiation, execution, amendment, operation or waiver under any Transaction Document including the reasonable and documented fees and expenses of independent legal counsel for EDC and all travel costs of EDC and its independent legal counsel; and (ii) out-of-pocket costs and expenses incurred in respect of enforcement of, or the preservation of rights under any Transaction Document including the fees and expenses of independent legal counsel for EDC and all travel costs of EDC and its independent legal counsel.

**Accounting Terms.** Each accounting term used herein, unless otherwise defined, shall have the meaning ascribed to it in the Generally Accepted Accounting Principles of Canada or the United States of America or the International Financial Reporting Standards, existing on the date of this Agreement. All financial statements and/or reports required to be delivered hereunder shall be prepared using one of the aforementioned principles or standards, as appropriate. Any changes to such principles or standards or in the manner they are interpreted or applied, which affects the calculation of financial covenants and ratios set out in this Agreement will not apply without the consent of EDC.

**Confidentiality/Disclosure.** EDC agrees with the Borrower that it will keep confidential and not to disclose any non-public information supplied to it by the Borrower in connection with this Agreement, provided that nothing herein will limit, and the Borrower hereby consents to, the disclosure of any such information (a) to the extent required by statute, rule, regulation, court order or judicial process or by Canada’s or EDC’s international commitments, including in relation to

the WTO Subsidies and Countervailing Measures Agreement; (b) to counsel for EDC; (c) to bank examiners, advisors, agents, auditors, consultants or accountants; (d) in connection with any litigation or enforcement activity or other action relating to this Agreement, any other Transaction Document, or the transactions contemplated hereby or thereby to which EDC is a party; (e) to any party with or through whom EDC enters or proposes to enter into any kind of transfer, participation, subparticipation or assignment of, or to any party who would otherwise become directly or indirectly entitled to, EDC's rights and benefits hereunder or under any other Transaction Document or to successors of EDC; (f) to any actual or prospective party to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payment hereunder; or (g) required to be disclosed pursuant to EDC's Disclosure Policy being the name of each Transaction Party, the EDC financial service provided and date of related agreement, a general description of the transactions/project (including country) and the amount of EDC support in an approximate dollar range.

**Notice.** Any notice, demand, request, waiver, agreement, consent, or any other communication under this Agreement must be in writing to be effective and will be hand-delivered or sent by registered mail, telefax or email to the addresses for notice appearing under each party's signature, or such other address, telefax number, or email address or to the attention of such other individual which either party may from time to time notify the other in writing. Any notice delivered by hand, by registered mail or by email will be deemed to have been given when received, and if transmitted by fax, on the day of transmission unless such day is not a Business Day, in which case the following Business Day. In this section, "Business Day" means a day in the recipient's jurisdiction when banks are generally open for public business. Communications sent to an email address will be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement). In this Agreement, "in writing" includes printing, typewriting or any electronic transmission that can be reproduced as printed text, on paper, at the point of reception.

**Assignment.** This Agreement will be binding upon and enure to the benefit of the parties and their respective successors and

assigns. Neither the Borrower nor any Guarantor may assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of EDC.

**Amendments.** Neither this Agreement nor any other Transaction Document nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by EDC and the Transaction Parties that are party thereto.

**Severability.** Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

**Time of Essence.** Time is of the essence in respect of all obligations and provisions of each Transaction Document.

**Counterpart.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which will constitute together one and the same instrument and the parties agree that receipt by fax or portable document format (pdf) of an executed copy of this Agreement will be deemed to be receipt of an original.

**English Language.** The parties agree that this Agreement and each other Transaction Document will be in the English language or will be accompanied by an English translation certified by the Borrower or upon request by EDC will be accompanied by an English translation certified by an officially sworn licensed translator to be complete and correct. *Les parties aux présentes conviennent que cette convention de prêt ainsi que tout document qui s'y rapporte et devant être fourni par l'Emprunteur, sera rédigé en langue anglaise ou sera accompagné d'une traduction anglaise certifiée par l'Emprunteur comme étant complète et vraie.*

**Entire Agreement.** The Transaction Documents constitute the entire understanding among the parties with respect to the subject matter hereof and supersede any and all prior agreements or understandings, written or oral, with respect thereto.

**EXHIBIT 1****Location of Operations, Records and Collateral**Borrower:

The business operations of the Borrower are located at: (i) 7600 Danbro Crescent, Mississauga, Ontario, Canada, L5N 6L6;

The records of the Borrower are located at: (i) 7600 Danbro Crescent, Mississauga, Ontario, Canada, L5N 6L6; and (ii) 2145 Meadowpine Blvd., Mississauga, Ontario, Canada L5N 6R8;

The collateral described in the Security Documents to which the Borrower is a party is located at: (i) 7600 Danbro Crescent, Mississauga, Ontario, Canada, L5N 6L6; and (ii) 2145 Meadowpine Blvd., Mississauga, Ontario, Canada L5N 6R8

For CPL Canada Holdco Limited:

The business operations are located at: 7600 Danbro Crescent, Mississauga, Ontario, Canada, L5N 6L6;

The records are located at: 7600 Danbro Crescent, Mississauga, Ontario, Canada, L5N 6L6

**EXHIBIT 2****Conditions Precedent**

**PART 1 - Conditions Precedent for the Initial Advance.** EDC has received delivery of:

- (a) an executed copy of the Agreement;
- (b) an executed copy of each Guarantee executed by each Guarantor;
- (c) an executed copy of each Security Document and evidence that all such Security Documents and related instruments have been recorded and filed in all jurisdictions wherein such recording or filing is necessary to create and perfect the interests of EDC in the collateral described in such Security Documents;
- (d) as required by EDC, executed copies of any subordination or intercreditor agreements from other secured creditors having Liens over the collateral described in the Security Documents;
- (e) an officer's certificate satisfactory to EDC, (i) setting out the names of persons authorized to sign the Transaction Documents and any other documents required thereunder including any Request for Advance, on behalf of each Transaction Party, with specimen signatures of such persons, and (ii) attaching a copy of the resolutions of the shareholders, the Board of Managers, the Board of Directors or any other governing body of each Transaction Party as EDC may require, authorizing the Transaction Documents;
- (f) an executed copy of a waiver of distraint from The Everlast Group with respect to the collateral located at 2145 Meadowpine Blvd., Mississauga, Ontario, as required by EDC;
- (g) evidence of insurance coverage (together with lender loss payee and additional insured certificates satisfactory to EDC) for the Borrower as required pursuant to the terms of the Transaction Documents;
- (h) evidence satisfactory to EDC of the commitment of USD20,000,000 equity investment to fund proprietary product development costs in Glasshouse Pharmaceuticals Limited Canada;
- (i) a copy of the Borrower's draft audited financial statements on a consolidated and non-consolidated basis for the year ended October 31, 2017, to be consistent with that of internally prepared financial statements for the same period;
- (j) an executed copy of a PAD Agreement; and
- (k) such financial or other information or documents relating to each Transaction Party as EDC may reasonably require.

**PART 2 - Additional Conditions Precedent for Each Advance.** The following conditions have been fulfilled:

- (a) a copy of a purchase order, purchase confirmation, or such other evidence satisfactory to EDC for the Goods and Services in respect of which the advance has been requested.
- (b) except as permitted or required hereunder, each of the representations and warranties in this Agreement and in the other Transaction Documents will be true and correct in all material respects as if made and repeated on the date of the advance, except where expressed to be made as of a specific date, in which case such representations and warranties will be correct as of such date;
- (c) no Event of Default or event that with notice, lapse of time or a determination hereunder or any combination thereof would constitute an Event of Default, will have occurred and be continuing;
- (d) no events or circumstances have occurred which have resulted in, or would reasonably be expected to result in a material adverse effect on the condition, financial or otherwise, or to the earnings, operations, assets, business affairs or business prospects of any Transaction Party or on the ability of any Transaction Party to perform their respective obligations under any of the Transaction Documents and any other documents required thereunder; and

- (e) the Borrower will have paid all fees (including all invoiced legal fees of EDC), expenses and other amounts payable under this Agreement.

**EXHIBIT 3****Request for Advance**

EXPORT DEVELOPMENT CANADA  
150 Slater Street  
Ottawa, Ontario K1A 1K3  
Canada

Attention: Loans Services  
Fax: (613) 598-2514  
Email: [LS-directlending@edc.ca](mailto:LS-directlending@edc.ca)

Re: Loan Agreement dated as of March 6, 2018 between Contract Pharmaceuticals Limited Canada and Export Development Canada (the "**Loan Agreement**")  
EDC Loan No. 880-65706

Expressions defined in the Loan Agreement have the same meaning when used in this Request for Advance.

1. We hereby request an advance as follows:
  - (a) Proposed Borrowing Date:
  - (b) Currency and Amount of Advance:
  - (c) Beneficiary Name (Name on Account):
  - (d) Beneficiary Bank:
  - (e) Account #:
  - (f) Beneficiary Bank Code and Bank Transit Number:
  - (g) SWIFT Code or ABA or Routing #:
  - (h) Correspondent Bank Name, if applicable:
  - (i) Correspondent Bank's SWIFT Code or ABA or Routing #, if applicable:
2. Except as permitted or required under the Loan Agreement, each of the representations and warranties in the Loan Agreement and in the other Transaction Documents and any other documents required thereunder will be true and correct in all material respects as if made and repeated on the date hereof, except where expressed to be made as of a specific date, in which case such representations and warranties will be correct as of such date.
3. No Event of Default or event that with notice, lapse of time or a determination hereunder or any combination thereof that would constitute an Event of Default, has occurred and is continuing.
4. No events or circumstances have occurred which have resulted in, or could reasonably be expected to result in a material adverse effect on the condition, financial or otherwise, or to the earnings, operations, assets, business affairs or business prospects of any Transaction Party or on the ability of any other Transaction Party to perform their respective obligations under any of the Transaction Documents and any other documents required thereunder.
5. Attached hereto is a copy of the [purchase order/purchase confirmation] for the Goods and Services in respect of which the advance has been requested. The Amount of Advance requested does not exceed 80% of the purchase price of the Goods and Services.

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

Signature: \_\_\_\_\_  
Authorized Signing Officer  
Name: Marcel Vieno  
Title: Vice President Finance  
Date: \_\_\_\_\_

**EXHIBIT 4****Certificate – Financial Covenants**

EXPORT DEVELOPMENT CANADA  
150 Slater Street  
Ottawa, Canada K1A 1K3

\_\_\_\_\_  
(insert date)

Attention: Covenants Officer  
Fax: (613) 598-3186  
Email: [covenantsofficer@edc.ca](mailto:covenantsofficer@edc.ca)

Re: Loan Agreement dated as of March 6, 2018 between Contract Pharmaceuticals Limited Canada (the "Borrower") and Export Development Canada (the "Loan Agreement")  
EDC Loan No. 65706

We refer to the Loan Agreement. This is the certificate referred to under Section 13(a)(iv) of the Loan Agreement.

The undersigned, the \_\_\_\_\_ of the Borrower, hereby certifies that:  
(insert title)

1. As of the date hereof, no Event of Default or event that with notice, lapse of time or a determination hereunder or any combination thereof would constitute an Event of Default has occurred;
2. The financial covenants set out in Section 13(f) of the Loan Agreement have been met as of the fiscal year ended \_\_\_\_\_;  
(insert date);
3. Debt Service Coverage is \_\_\_\_\_:1, being not less than the minimum required ratio of 1.25:1;
4. The ratio of Total Liabilities to Tangible Net Worth is \_\_\_\_\_:1, being not greater than the maximum permitted ratio of 2.25:1; and
5. The detailed calculations of the foregoing ratios and covenants is set forth in the addendum annexed hereto and are true and correct in all respects.

**For and on behalf of**

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

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

Name:

Position:





**Amendment No.1 to the EDC Loan Agreement**

[Amendment Follows]



EDC LOAN NO. 880-65706

THIS FIRST AMENDING AGREEMENT dated this March 6, 2020,

BETWEEN:

**Contract Pharmaceuticals Limited Canada**  
(the “Borrower”)

AND

**CPL Canada Holdco Limited**  
(the “Guarantor”)

AND

**EXPORT DEVELOPMENT CANADA,**  
a corporation established by an Act of the  
Parliament of Canada, having its head office  
at Ottawa, Canada  
(“EDC”)

WHEREAS EDC the Borrower and the Guarantor entered into a loan agreement dated March 6, 2018, as amended (the “Loan Agreement”);

AND WHEREAS EDC, the Borrower and the Guarantor wish to make certain further amendments to the Loan Agreement on the terms and subject to the conditions of this First Amending Agreement (hereinafter referred to as the “Agreement”).

NOW THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual promises herein contained, the Borrower, the Guarantor and EDC agree as follows:

**1. Interpretation.**

- (a) Unless expressly provided to the contrary in this Agreement, all terms defined in the Loan Agreement shall have the same meaning in this Agreement;



- (b) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
- i. the division of this Agreement into articles and sections, and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
  - ii. references in this Agreement to an article, section, schedule or exhibit are to be construed as references to an article, section, schedule or exhibit of or to this Agreement unless otherwise specified; and
  - iii. in this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.

2. **Amendments to Loan Agreement.**

The parties hereto agree that the Loan Agreement shall be amended as follows:

- (a) Section 5 - Availability is deleted in its entirety and replaced with the following:

"In up to 8 advances in USD, provided that there shall be no more than 1 advance per quarter, each in increments of no less than USD1,000,000 or the remaining available funds, should the available funds at the time of a given Request for Advance be less than USD1,000,000 on a revolving basis for an aggregate principal amount up to be not exceeding USD15,000,000 no later than May 31, 2020.

No advance made hereunder shall exceed 80% of the purchase price of the Goods and Services in respect of which the advance has been requested."

3. **Acknowledgement of Existing Security.**

The Borrower and the Guarantor acknowledges and agrees that all security previously granted by the Borrower and the Guarantor in favour of EDC pursuant to the terms of the Loan Agreement secures all indebtedness, liabilities and obligations, absolute or contingent, direct or indirect, matured or not matured, of the Borrower to EDC under the Loan Agreement, as amended by this Agreement (collectively, the



“Obligations”). All collateral encumbered thereby will continue to secure the payment and performance of the Obligations now or hereafter existing.

4. **Effectiveness.**

This Agreement shall become effective when EDC shall have received each of the following:

- (a) a duly executed copy of this Agreement; [and]
- (b) payment of any sums due to EDC (to the extent then payable) pursuant to the Loan Agreement.

5. **Representations and Warranties.**

In order to induce EDC to enter into this Agreement, the Borrower and the Guarantor represents and warrants to EDC the following, which representations and warranties shall survive the execution and delivery hereof:

- (a) the execution, delivery and performance of this Agreement and the transactions contemplated hereunder are all within the its powers, have been duly authorized and are not in contravention of law or the terms of the its certificate of incorporation, by-laws or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which its property is bound;
- (b) it has duly executed and delivered this Agreement;
- (c) this Agreement is a legal, valid and binding obligation of such party, enforceable against it by EDC in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and the fact that the courts may deny the granting or enforcement of equitable remedies;
- (d) the representations set forth in Section 12 of the Loan Agreement continue to be true and correct as of the date hereof; and,
- (e) no default or Event of Default exists.





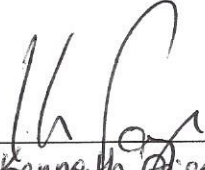
6. Miscellaneous.

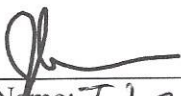
- (a) This Agreement shall be read in conjunction with the Loan Agreement and shall form a part thereof and all provisions of the Loan Agreement insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- (b) This Agreement, together with the Loan Agreement and any amendments thereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect (i) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part, or (ii) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario. The provisions relating to the submission to jurisdiction in the Loan Agreement apply hereto.
- (e) This Agreement may be executed in any number of counterparts and all counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other electronic transmission and each of the parties hereto may rely on such facsimile or electronic signature as though such signature were an original signature.



IN WITNESS WHEREOF the parties hereto have signed and delivered this Agreement.

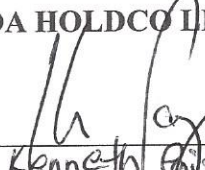
**CONTRACT PHARMACEUTICALS LIMITED  
CANADA**


Per:   
Name: *Kenneth Faise*  
Title: *CEO*

Per:  VP, Finance  
Name: *John Wilkening*  
Title:

*I/We have authority to bind the corporation.*

**CPL CANADA HOLDCO LIMITED**

Per:   
Name: *Kenneth Faise*  
Title: *CEO*

Per:  VP, Finance  
Name: *John Wilkening*  
Title:

*I/We have authority to bind the corporation.*



**EXPORT DEVELOPMENT CANADA**

Per:

A blue ink signature, appearing to read "Michael Reid", written over a horizontal line.

Name: Michael Reid  
Title: Financing Manager

Per:

A blue ink signature, appearing to read "Darren Gilbert", written over a horizontal line.

Name: Darren Gilbert  
Title: Senior Financing Manager

**Amendment No.2 to the EDC Loan Agreement**

[Amendment Follows]





EDC LOAN NO. 880-65706

THIS SECOND AMENDING AGREEMENT dated this 1<sup>st</sup> day of April, 2020.

BETWEEN:

**Contract Pharmaceuticals Limited Canada**  
(the “**Borrower**”)

AND

**CPL Canada Holdo Limited**  
(the “**Guarantor**” )

AND

**EXPORT DEVELOPMENT CANADA,**  
a corporation established by an Act of the  
Parliament of Canada, having its head offices  
at Ottawa, Canada  
(“**EDC**”)

WHEREAS EDC, the Borrower and the Guarantor entered into a loan agreement dated March 6<sup>th</sup> 2018, as amended (the “**Loan Agreement**”);

AND WHEREAS EDC has agreed to defer all principal payments owed by the Borrower to EDC by 3 months;

AND WHEREAS EDC has further agreed to allow the accrual of interest payments for a 3 month period to be deferred to July 10, 2020;

AND WHEREAS EDC, the Borrower and the Guarantor wish to make certain further amendments to the Loan Agreement on the terms and subject to the conditions of this Second Amending Agreement (hereinafter referred to as the “**Agreement**”).



NOW THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual promises herein contained, the Borrower, the Guarantor and EDC agree as follows:

**1. Interpretation.**

- (a) Unless expressly provided to the contrary in this Agreement, all terms defined in the Loan Agreement shall have the same meaning in this Agreement;
- (b) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
  - i. the division of this Agreement into articles and sections, and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
  - ii. references in this Agreement to an article, section, schedule or exhibit are to be construed as references to an article, section, schedule or exhibit of or to this Agreement unless otherwise specified; and
  - iii. in this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.

**2. Amendments to Loan Agreement.**

The parties hereto agree that the Loan Agreement shall be amended as follows:

- (a) Section 6, Principal Repayment, is deleted in its entirety and replaced with the following:

“The Borrower will repay to EDC the outstanding advances in 50 consecutive monthly installments on each Interest Payment Date commencing on July 10, 2020 (“First Deferred Repayment Date”).

Notwithstanding the above, the last installment will be in the amount necessary to repay in full the aggregate of all advances then outstanding. Amounts repaid or prepaid may not be re-borrowed.”



- c) Section 7, Interest, is deleted in its entirety and replaced with the following:

Interest on the outstanding principal will be calculated and payable in arrears by the Borrower on each Interest Payment Date at the rate of US Prime Rate plus 2.5% per annum.

**"Interest Payment Date"** means the date which falls every 10<sup>th</sup> day of every calendar month following the date of the initial advance and each anniversary of these dates. Notwithstanding the foregoing, accrued interest from April 10, 2020 to July 10, 2020 will be payable on the First Deferred Repayment Date."

**3. Acknowledgement of Existing Security.**

The Borrower and the Guarantor acknowledges and agrees that all security previously granted by the Borrower the Guarantor in favour of EDC pursuant to the terms of the Loan Agreement secures all indebtedness, liabilities and obligations, absolute or contingent, direct or indirect, matured or not matured, of the Borrower to EDC under the Loan Agreement, as amended by this Agreement (collectively, the "Obligations"). All collateral encumbered thereby will continue to secure the payment and performance of the Obligations now or hereafter existing.

**4. Effectiveness.**

This Agreement shall become effective when EDC shall have received each of the following:

- (a) a duly executed copy of this Agreement;

**5. Representations and Warranties.**

In order to induce EDC to enter into this Agreement, the Borrower and the Guarantor represent and warrant to EDC the following, which representations and warranties shall survive the execution and delivery hereof:

- (a) the execution, delivery and performance of this Agreement and the transactions contemplated hereunder are all within its powers, have been duly authorized and are not in contravention of law or the terms of the its certificate of incorporation, by-laws or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which its property is bound;





- (b) it has duly executed and delivered this Agreement;
- (c) this Agreement is a legal, valid and binding obligation of such party, enforceable against it by EDC in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and the fact that the courts may deny the granting or enforcement of equitable remedies;
- (d) the representations set forth in Section 12 of the Loan Agreement continue to be true and correct as of the date hereof; and,
- (e) no default or Event of Default exists.

**6. Miscellaneous.**

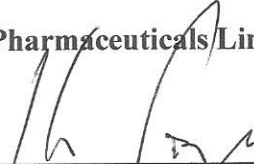
- (a) This Agreement shall be read in conjunction with the Loan Agreement and shall form a part thereof and all provisions of the Loan Agreement insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- (b) This Agreement, together with the Loan Agreement and any amendments thereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect (i) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part, or (ii) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in such Province. The provisions relating to the submission to jurisdiction in the Loan Agreement apply hereto.



- (e) This Agreement may be executed and delivered by facsimile or other electronic transmission and each of the parties hereto may rely on such facsimile or electronic signature as though such signature were an original signature.

IN WITNESS WHEREOF the parties hereto have signed and delivered this Agreement.

**Contract Pharmaceuticals Limited Canada**

Per:   
Name: Kennedy Paige  
Title: CEO

*I have authority to bind the corporation.*

**CPL Canada Holdo Limited**

Per:   
Name: John Wilkening  
Title: VP, Finance

*I have authority to bind the corporation.*

**EXPORT DEVELOPMENT CANADA**

Per:   
Name: Michael Reid  
Title: Financing Manager

Per:   
Name: Jessica Markic  
Title: Senior Associate

**Amendment No.3 to the EDC Loan Agreement**

[Amendment Follows]



EDC LOAN NO. 880-65706

THIS THIRD AMENDING AGREEMENT dated this 27<sup>th</sup> day of May, 2020,

BETWEEN:

**Contract Pharmaceuticals Limited Canada**  
(the “Borrower”)

AND

**CPL Canada Holdco Limited**  
(the “Guarantor”)

AND

**EXPORT DEVELOPMENT CANADA,**  
a corporation established by an Act of the  
Parliament of Canada, having its head office  
at Ottawa, Canada  
(“EDC”)

WHEREAS EDC, the Borrower and the Guarantor entered into a loan agreement dated March 6, 2018, as amended (the “Loan Agreement”);

AND WHEREAS EDC has agreed to defer all principal payments owed by the Borrower to EDC by a further 3 months;

AND WHEREAS EDC has further agreed to allow the accrual of interest payments for a further 3 month period to be deferred to October 10, 2020;

AND WHEREAS EDC, the Borrower and the Guarantor wish to make certain further amendments to the Loan Agreement on the terms and subject to the conditions of this Third Amending Agreement (hereinafter referred to as the “Agreement”).





NOW THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual promises herein contained, the Borrower, the Guarantor and EDC agree as follows:

**1. Interpretation.**

- (a) Unless expressly provided to the contrary in this Agreement, all terms defined in the Loan Agreement shall have the same meaning in this Agreement;
- (b) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
  - i. the division of this Agreement into articles and sections, and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
  - ii. references in this Agreement to an article, section, schedule or exhibit are to be construed as references to an article, section, schedule or exhibit of or to this Agreement unless otherwise specified; and
  - iii. in this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.

**2. Amendments to Loan Agreement.**

The parties hereto agree that the Loan Agreement shall be amended as follows:

- (a) Section 5 - Availability is deleted in its entirety and replaced with the following:

"In up to 8 advances in USD, provided that there shall be no more than 1 advance per quarter, each in increments of no less than USD1,000,000 or the remaining available funds, should the available funds at the time of the given Request for Advance be less than USD1,000,000 on a revolving basis for an aggregate principal amount up to but not exceeding USD15,000,000 no later than May 31, 2021.

No advance made hereunder shall exceed 80% of the purchase price of the Goods and Services in respect of which the advance has been requested."





- (b) Section 6, Principal Repayment, is deleted in its entirety and replaced with the following:

“The Borrower will repay to EDC the outstanding advances in 50 consecutive monthly installments on each Interest Payment Date commencing on October 10, 2020 (“First Deferred Repayment Date”).

Notwithstanding the above, the last installment will be in the amount necessary to repay in full the aggregate of all advances then outstanding. Amounts repaid or prepaid may not be re-borrowed.”

- (c) Section 7, Interest, is deleted in its entirety and replaced with the following:

“Interest on the outstanding principal will be calculated and payable in arrears by the Borrower on each Interest Payment Date at the rate of US Prime Rate plus 2.50% per annum.

“**Interest Payment Date**” means the date which falls every 10<sup>th</sup> day of every calendar month following the date of the initial advance and each anniversary of these dates. Notwithstanding the foregoing, accrued interest from the period April 10, 2020 to October 10, 2020 will be payable on the First Deferred Repayment Date.”

### 3. Acknowledgement of Existing Security.

The Borrower and the Guarantor acknowledge and agree that all security previously granted by the Borrower and the Guarantor in favour of EDC pursuant to the terms of the Loan Agreement secures all indebtedness, liabilities and obligations, absolute or contingent, direct or indirect, matured or not matured, of the Borrower to EDC under the Loan Agreement, as amended by this Agreement (collectively, the “Obligations”). All collateral encumbered thereby will continue to secure the payment and performance of the Obligations now or hereafter existing.

### 4. Effectiveness.

This Agreement shall become effective when EDC shall have received each of the following:

- (a) a duly executed copy of this Agreement;



**5. Representations and Warranties.**

In order to induce EDC to enter into this Agreement, the Borrower and the Guarantor represent and warrant to EDC the following, which representations and warranties shall survive the execution and delivery hereof:

- (a) the execution, delivery and performance of this Agreement and the transactions contemplated hereunder are all within the its powers, have been duly authorized and are not in contravention of law or the terms of the its certificate of incorporation, by-laws or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which its property is bound;
- (b) it has duly executed and delivered this Agreement;
- (c) this Agreement is a legal, valid and binding obligation of such party, enforceable against it by EDC in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and the fact that the courts may deny the granting or enforcement of equitable remedies;
- (d) the representations set forth in Section 12 of the Loan Agreement continue to be true and correct as of the date hereof; and,
- (e) no default or Event of Default exists.

**6. Miscellaneous.**

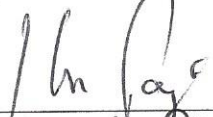
- (a) This Agreement shall be read in conjunction with the Loan Agreement and shall form a part thereof and all provisions of the Loan Agreement insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- (b) This Agreement, together with the Loan Agreement and any amendments thereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral.



- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect (i) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part, or (ii) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in such Province. The provisions relating to the submission to jurisdiction in the Loan Agreement apply hereto.
- (e) This Agreement may be executed in any number of counterparts and all counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other electronic transmission and each of the parties hereto may rely on such facsimile or electronic signature as though such signature were an original signature.

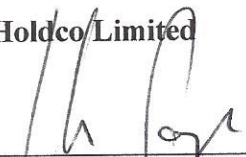
IN WITNESS WHEREOF the parties hereto have signed and delivered this Agreement.

**Contract Pharmaceuticals Limited Canada**

Per:   
 Name: Kenneth Raize  
 Title: CEO

*I have authority to bind the corporation.*

**CPL Canada Holdco Limited**

Per:   
 Name: Kenneth Raize  
 Title: CEO

*I have authority to bind the corporation.*



**EXPORT DEVELOPMENT CANADA**

Per: 

Name: Michael Reid  
Title: Financing Manager

Per: 

Name: Jessica Markic  
Title: Senior Associate

**Amendment No.4 to the EDC Loan Agreement**

[Amendment Follows]





EDC LOAN NO. 880-65706

THIS FOURTH AMENDING AGREEMENT dated this 10<sup>th</sup> day of February, 2022

BETWEEN:

**Contract Pharmaceuticals Limited Canada**  
(the “**Borrower**”)

AND

**CPL Canada Holdco Limited**  
(the “**Guarantor**”)

AND

**EXPORT DEVELOPMENT CANADA,**  
a corporation established by an Act of the  
Parliament of Canada, having its head office  
at Ottawa, Canada  
(“**EDC**”)

WHEREAS EDC, the Borrower and the Guarantor entered into a loan agreement dated March 6, 2018, as amended (the “**Loan Agreement**”);

AND WHEREAS EDC and the Guarantor entered into a guarantee agreement dated March 6, 2018 (as may be further amended, supplemented or otherwise modified from time to time, the “**Guarantee**”) wherein the Guarantor agreed to guarantee the obligations of the Borrower under the Loan Agreement;

AND WHEREAS EDC, the Borrower and the Guarantor wish to make certain further amendments to the Loan Agreement on the terms and subject to the conditions of this Fourth Amending Agreement (hereinafter referred to as the “**Agreement**”).



NOW THEREFORE, THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual promises herein contained, the Borrower, the Guarantor and EDC agree as follows:

**1. Interpretation.**

- (a) Unless expressly provided to the contrary in this Agreement, all terms defined in the Loan Agreement shall have the same meaning in this Agreement;
- (b) For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:
  - i. the division of this Agreement into articles and sections, and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
  - ii. references in this Agreement to an article, section, schedule or exhibit are to be construed as references to an article, section, schedule or exhibit of or to this Agreement unless otherwise specified; and
  - iii. in this Agreement, words signifying the singular number include the plural and vice versa, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.

**2. Amendments to Loan Agreement.**

The parties hereto agree that the Loan Agreement shall be amended as follows:

- (a) Section 6, Principal Repayment is deleted in its entirety and replaced with the following:

“The Borrower and EDC acknowledge and agree that as of February 9, 2022, the Borrower has repaid to EDC Principal Installments in the aggregate amount of CAD6,034,055.38, pursuant to the terms of the Loans Agreement.

Subject to the terms and conditions hereof, EDC grants the Borrower a moratorium on Principal Installments for the period from and including February 10, 2022 to and including July 10, 2022. For clarity, interest remains payable monthly and this moratorium does not affect the Interest Rate currently in effect, as set out in the Loan Agreement



The Borrower will repay to EDC the outstanding advances in 34 consecutive monthly installments on each Interest Payment Date commencing on August 10, 2022 (“First Deferred Repayment Date”).

Each installment of principal will be equal to the result obtained by dividing the outstanding principal advanced and not overdue by the number of installments then remaining to be paid. The last installment will be in the amount necessary to repay in full all advances then outstanding. Amounts repaid or prepaid may not be re-borrowed.”

3. **Acknowledgement of Existing Security and Confirmation of Guarantee.**

The Borrower and the Guarantor acknowledges and agrees that all security previously granted by the Borrower and the Guarantor in favour of EDC pursuant to the terms of the Loan Agreement secures all indebtedness, liabilities and obligations, absolute or contingent, direct or indirect, matured or not matured, of the Borrower to EDC under the Loan Agreement, as amended by this Agreement (collectively, the “Obligations”). All collateral encumbered thereby will continue to secure the payment and performance of the Obligations now or hereafter existing.

The Guarantor confirms that the Guarantee to which it is a party is and shall continue to be in full force and effect and is hereby confirmed in all respects and confirms that the “Guaranteed Indebtedness” referred to and defined in the Guarantee to which it is a party extends to and includes the indebtedness of the Borrower under the Loan Agreement as amended by this Agreement.

4. **Effectiveness.**

This Agreement shall become effective when EDC shall have received each of the following:

- (a) a duly executed copy of this Agreement; and
- (b) payment of an amendment fee of CAD750.00, payable by wire transfer; and
- (c) payment of any sums due to EDC (to the extent then payable) pursuant to the Loan Agreement.





**5. Representations and Warranties.**

In order to induce EDC to enter into this Agreement, the Borrower and the Guarantor represents and warrants to EDC the following, which representations and warranties shall survive the execution and delivery hereof:

- (a) the execution, delivery and performance of this Agreement and the transactions contemplated hereunder are all within its powers, have been duly authorized and are not in contravention of law or the terms of its certificate of incorporation, by-laws or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which its property is bound;
- (b) it has duly executed and delivered this Agreement;
- (c) this Agreement is a legal, valid and binding obligation of such party, enforceable against it by EDC in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditor's rights generally and the fact that the courts may deny the granting or enforcement of equitable remedies;
- (d) the representations set forth in Section 12 of the Loan Agreement continue to be true and correct as of the date hereof; and,
- (e) no default or Event of Default exists.

**6. Miscellaneous.**

- (a) This Agreement shall be read in conjunction with the Loan Agreement and shall form a part thereof and all provisions of the Loan Agreement insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- (b) This Agreement, together with the Loan Agreement and any amendments thereto, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral.



- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect (i) the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part, or (ii) the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in such Province. The provisions relating to the submission to jurisdiction in the Loan Agreement apply hereto.
- (e) This Agreement may be executed in any number of counterparts and all counterparts taken together shall be deemed to constitute one and the same instrument. This Agreement may be executed and delivered by facsimile or other electronic transmission and each of the parties hereto may rely on such facsimile or electronic signature as though such signature were an original signature.

IN WITNESS WHEREOF the parties hereto have signed and delivered this Agreement.

**Contract Pharmaceuticals Limited Canada**

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

Name: Kenneth Paige  
Title: CEO

*I have authority to bind the corporation.*

**CPL Canada Holdco Limited**

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


Name: Kenneth Paige  
Title: CEO

*I have authority to bind the corporation.*



**EXPORT DEVELOPMENT CANADA**

Per:   
\_\_\_\_\_  
Name: Michael Reid  
Title: Financing Manager

Per:   
\_\_\_\_\_  
Name: Jessica Markic  
Title: Senior Associate



**Payment Transfer Instructions**

**WIRE INSTRUCTIONS:**

**Canadian Dollars**

Correspondent:	Royal Bank of Canada 90 Sparks Street Ottawa, ON K1P 5T6
Account Number:	1070481
Swift:	ROYCCAT2
Account Name:	Export Development Canada
Institution-Transit #:	003-00006

**United States Dollars**

Correspondent:	Citibank NA Domestic Bank Customer Service 111 Wall Street, 5th Floor/Zone 4 New York, New York 10043
Account Number:	36236357
Swift:	CITIUS33
Account Name:	Export Development Canada
ABA:	021000089

**CHEQUE:**

Made to the order of: Export Development Canada

Please mail cheque to:

Export Development Canada  
150 Slater Street  
Ottawa, Ontario  
K1A 1K3

Attention: Loans Services

Please include bottom portion below with your cheque.

-----  
Attention: Loans Services

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

EDC Ref Number: \_\_\_\_\_

Currency and Amount of cheque: \_\_\_\_\_

**THIS IS EXHIBIT "F"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits

**FACILITY AGREEMENT****dated as of December 6, 2018****by and among****Glasshouse Pharmaceuticals Limited Canada,****as the Borrower,****the other Loan Parties party hereto from time to time,****the Lenders****and****Deerfield Private Design Fund IV, L.P.,****as agent for itself and the Lenders**

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Exhibit F	Form of Borrowing Notice
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## FACILITY AGREEMENT

**FACILITY AGREEMENT** (this “**Agreement**”), dated as of December 6, 2018, by and among Glasshouse Pharmaceuticals Limited Canada, an Ontario corporation (the “**Borrower**”), the other Loan Parties (as defined below) party hereto from time to time, the lenders set forth on the signature page of this Agreement (together with their successors and permitted assigns, the “**Lenders**”), Deerfield Private Design Fund IV, L.P., as agent for itself and the Lenders (in such capacity, together with its successors and assigns in such capacity, “**Agent**,” and, together with the Lenders, the Borrower and the other Loan Parties party hereto, the “**Parties**”).

### WITNESSETH:

**WHEREAS**, the Borrower desires that the Lenders extend certain term and delayed draw term loans to the Borrower to provide funds necessary (i) to provide funds for the Borrower’s working capital and general corporate purposes and (ii) to pay a portion of the fees, costs and expenses related to this Agreement;

**WHEREAS**, Borrower desires to secure all of the Obligations by granting to Agent, for the benefit of the Secured Parties, a first priority (subject to any Lien priority of (i) RBC solely with respect to the assets of CPL Canada Holdco and CPLC that are expressly provided for in the RBC Subordination Agreement and (ii) EDC with respect to equipment and inventory only that is expressly provided for in the EDC Subordination Agreement) perfected Lien upon all of its personal and real property (other than Excluded Property); and

**WHEREAS**, (i) each of the Loan Parties is willing to guaranty all of the Obligations (and, with respect to the US Guarantors and the Limited Guarantors, the CVR Obligations) (subject to, with respect to the Limited Guarantors only, the terms of the Limited Guaranty), (ii) the US Guarantors and the Limited Guarantors are willing to also guaranty all of the CVR Obligations (subject to, with respect to the Limited Guarantors only, the terms of the Limited Guaranty), and (iii) each of the Loan Parties is willing to grant to Agent, for the benefit of the Secured Parties, to secure all of the Obligations (and, with respect to the US Guarantors and Limited Guarantors, all of the CVR Obligations), a first priority (subject to any Lien priority of (i) RBC solely with respect to the assets of CPL Canada Holdco and CPLC that are expressly provided for in the RBC Subordination Agreement and (ii) EDC with respect to equipment and inventory only that is expressly provided for in the EDC Subordination Agreement) perfected Lien upon all of its respective personal and real property, including all of the issued and outstanding Stock of its direct Subsidiaries which are issued to a Loan Party (subject to (y) with respect to the Limited Guarantors only, the terms of the Limited Guaranty, and (z) with respect to the CVR Obligations only, limited to 65% of the Stock of any Excluded Foreign Subsidiary), other than Excluded Property.

**NOW, THEREFORE**, in consideration of the mutual agreements set forth herein, the receipt and sufficiency of each is hereby acknowledged by the Loan Parties, the Parties hereby agree as follows:

## DEFINITIONS

### 1.1 General Definitions.

Wherever used in this Agreement, the Exhibits or the Schedules attached hereto, unless the context otherwise requires, the following terms have the following meanings:

“**Additional Amounts**” has the meaning set forth in Section 2.5(a).

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly:

- (a) controls, or is controlled by, or is under common control with, such Person; or
- (b) is a general partner, manager or managing member of such Person.

Without limiting the foregoing, a Person shall be deemed to be “controlled by” any other Person if such Person possesses, directly or indirectly, power to vote ten percent (10%) or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managers or power to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. Unless expressly stated otherwise herein, no Secured Party shall be deemed an Affiliate of any Loan Party or any of its Subsidiaries.

“**Agent**” has the meaning set forth in the preamble to this Agreement.

“**Agreement**” has the meaning set forth in the preamble to this Agreement.

“**Agreement Date**” means the date of this Agreement.

“**Agreement Date Projections**” has the meaning set forth in Section 3.1(t).

“**Anti-Corruption Laws**” has the meaning set forth in Section 3.1(jj).

“**Anti-Money Laundering Laws**” has the meaning set forth in Section 3.1(jj).

“**Applicable Law**” means, with respect to any Person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its property or Products or to which such Person or any of its property or Products is subject.

“**ASPE**” means accounting standards for private enterprise in Canada applied on a consistent basis, subject to the provisions of Section 1.5.

“**ASPE/GAAP**” means (i) with respect to any Person that has not successfully implemented GAAP, ASPE, or (ii) with respect to any Person that has successfully implemented GAAP, GAAP.

“**Assignment of Insurance**” means that certain Assignment of Insurance, dated as of the Agreement Date, by the Loan Parties in favor of the Agent.

“**Authorization**” means, with respect to any Person, any permit, approval, authorization, license, registration, certificate, clearance, concession, grant, franchise, variance or permission from, and any other contractual obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or Products or to which such Person or any of its property or Products is subject (including all Registrations), and any supplements or amendments with respect to the foregoing.

“**Authorized Officer**” means the chief executive officer, the president or the chief financial officer of the Borrower or any other officer having substantially the same authority and responsibility.

“**Bankruptcy Code**” means title 11 of the United States Code (and the Bankruptcy and Insolvency Act (Canada) and any other equivalent code or law in Canada), as in effect from time to time.

“**Base Business Net Revenue**” means, for any period, with respect to CPL and its Subsidiaries, (a) CPL’s and its Subsidiaries’ gross revenues generated solely with respect to commercial contract manufacturing, stability, analytical and development activities (and, for the avoidance of doubt, excluding any branded, generic or other revenue) during such period, less (b)(i) trade, quantity and cash discounts allowed by CPL and its Subsidiaries, (ii) discounts, refunds, rebates, charge backs, retroactive price adjustments and any other allowances which effectively reduce net selling price, (iii) product returns and allowances, (iv) allowances for shipping or other distribution expenses, (v) set-offs and counterclaims, (vi) sales taxes and (vii) any other similar and customary deductions used by CPL and its Subsidiaries in determining net revenues, all, in respect of (a) and (b), as determined in accordance with ASPE and in the ordinary course of business.

“**Borrower**” has the meaning set forth in the preamble to this Agreement.

“**Borrowing Notice**” means a borrowing notice substantially in the form of Exhibit F.

“**Business Day**” means a day other than Saturday or Sunday on which banks are open for business in New York, New York and Toronto, Ontario.

“**Canada**” means the country of Canada and any province or territory thereof.

“**Canadian Security Agreement**” means the General Security Agreement and Guarantee dated as of the Agreement Date, by and among the Canadian Loan Parties and Agent, pursuant to which, among other things, the Canadian Loan Parties party thereto grant to Agent for the benefit of the Secured Parties a security interest and Lien in all of their assets to secure the Obligations, as amended, restated, supplemented or otherwise modified from time to time.

“**Capital Lease**” means, with respect to any Person, any lease of or other arrangement conveying the right to use, any property by such Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with ASPE/GAAP.

“**Capital Lease Obligations**” means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with ASPE/GAAP.

“**Canadian Loan Parties**” means the Borrower, CPLC, CPL Canada Holdco and each other Loan Party organized in Canada.

“**Cash Equivalents**” means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least “A-1” from S&P or at least “P-1” from Moody’s, (c) any commercial paper rated at least “A-1” by S&P or “P-1” by Moody’s and issued by any Person organized under the laws of any state of the United States, (d) any United States dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers’ acceptance issued or accepted by any commercial bank that is (A) organized under the laws of the United

States, any state thereof or the District of Columbia, (B) “adequately capitalized” (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of \$250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of \$500,000,000 and (iii) has obtained from either S&P or Moody’s the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed one year.

“**Change of Control**” means (a) any Major Transaction shall occur, (b) at any time, CPL shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock of any of its Subsidiaries (measured both on a fully diluted basis and not on a fully diluted basis) free and clear of all Liens (other than the Liens granted to Agent under the Loan Documents and, in the case of the Stock of CPLC only, the Liens granted thereon in favour of RBC under the RBC Loan Documents), (c) at any time prior to the occurrence of an IPO Event, Parent Entities shall fail to own, directly or indirectly, seventy-two percent (72%) of both the economic and voting interests in CPL’s Stock free and clear of all Liens (other than the Liens granted to Agent under the Loan Documents), (d) at any time, Peter M. Wege II, any of his immediate family members (or any trusts or foundations of which they are the sole beneficiaries or corporations or other entities of which they are the sole owners and have complete control of) shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock of any of the Ultimate Parent Entities (measured both on a fully diluted basis and not on a fully diluted basis), (e) at any time, (i) Moodoos Parent shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock of any of Moodoos CPL (measured both on a fully diluted basis and not on a fully diluted basis) and (ii) Greylock Parent shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock of any of Greylock CPL (measured both on a fully diluted basis and not on a fully diluted basis), (f) a sale of all or substantially all of the assets of CPL (including, for the avoidance of doubt, the sale of all or substantially all of the assets of the Subsidiaries of the CPL) or of CPL’s Stock shall occur or be consummated, (g) the consummation of a purchase, tender or exchange offer made to and accepted by the holders of more than 50% of the outstanding Stock of the CPL, (h) any change in the composition of the board of directors of CPL such that the individuals who, as of the Agreement Date, constituted the board of directors of CPL (such board of directors being hereinafter referred to as the “Incumbent Board”) cease for any reason to constitute at least a majority of the board of directors of CPL; provided, however, that any individual who becomes a member of the board of directors of CPL whose election, or nomination for election by CPL’s shareholders, was approved by a vote of at least a majority of those individuals who are members of the board of directors of CPL and who were also members of the Incumbent Board (or deemed to be such pursuant to this proviso) shall be considered as though such individual were a member of the Incumbent Board, (i) on or after the date on which any IPO Event occurs, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) other than the Parent Entities is or shall at any time become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of 28% or more on a fully diluted basis of the voting interests in CPL’s Stock or (j) a “change of control” however so defined in any document, agreement or instrument governing or evidencing any Indebtedness of any Ultimate Parent Entity, any Parent Entity, CPL or any of CPL’s Subsidiaries or, in each case, any term of similar effect, shall occur.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

“**Collateral**” has the meaning given to it in either Security Agreement, the Limited Guaranty or other Loan Document, as applicable.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

“**Common Stock**” means the “Common Stock” of the Borrower, with a \$0.01 par value per share.

“**Contingent Value Rights**” has the meaning set forth in Section 2.10(a).

“**Control Agreement**” means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agent, among Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Loan Party maintaining such account or owning such entitlement or contract, effective to grant “control” (within the meaning of Articles 8 and 9 under the applicable UCC or, to the extent applicable, the PPSA) over such account to Agent.

“**Convertible Securities**” means any Stock or securities (other than Options) directly or indirectly convertible into or exchangeable or exercisable for shares of Common Stock.

“**Covenant Testing Period**” means any period (a) commencing on the last day of the fiscal quarter of CPL most recently ended for which financial statements pursuant to Section 5.1(h) have been, or are required to have been, delivered, in which EBITDA, calculated for the 12-month period ending on such date, is equal to an amount less than \$0, and (b) continuing through and including the last day of the fiscal quarter of CPL most recently ended for which financial statements pursuant to Section 5.1(h) have been, or are required to have been, delivered, in which EBITDA, calculated for the 12-month period ending on such date, is equal to an amount greater than or equal to \$0.

“**CPL**” means Contract Pharmaceuticals Limited, a Delaware corporation.

“**CPLC**” means Contract Pharmaceuticals Limited Canada, an Ontario corporation.

“**CPL Canada Holdco**” means CPL Canada Holdco Limited, an Ontario corporation.

“**CVR Obligations**” means (a) all of the obligations of any Loan Party under the Contingent Value Rights, (b) any guarantee of such obligations by any Loan Party under the US Security Agreement (or any joinder agreement thereto) and (c) any guarantee of such obligations by any Limited Guarantor under the Limited Guaranty (or any joinder agreement thereto).

“**Default**” means any event which, with the giving of notice, lapse of time or fulfillment of any other applicable condition (or any combination of the foregoing), would constitute an Event of Default.

“**Disbursement**” means the Initial Disbursement and/or the Subsequent Disbursement.

“**Disbursement Date**” means the date that any Disbursement is funded by the applicable Lenders.

“**Dispose**” and “**Disposition**” mean (a) the sale, lease, conveyance or other disposition of any assets or property (including any transfer or conveyance of any assets or property pursuant to a division or split of a limited liability company or other entity or Person into two or more limited liability companies or other entities or Persons) and (b) the sale or transfer by the Borrower or any Subsidiary of the Borrower of any Stock issued by any Subsidiary of the Borrower.

“**Disqualified Stock**” means any Stock which, by its terms (or by the terms of any security or other Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or

condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the Maturity Date (excluding any provisions requiring redemption upon a “change of control” or similar event; provided that such “change of control” or similar event results in the occurrence of the Facility Termination Date), (b) is convertible into or exchangeable for (i) debt securities or (ii) any Stock referred to in (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the Maturity Date at the time such Stock was issued, or (c) is entitled to receive scheduled dividends or distributions in cash prior to the date that is ninety-one (91) days following the Maturity Date.

“**Dollars**” and the “**\$**” sign mean the lawful currency of the United States.

“**EBITDA**” means, for any period, net income (or loss) for the applicable period of measurement of CPL and its Subsidiaries (together with the other Persons whose income or loss is taken into account in as provided below in determining EBITDA) on a consolidated basis, determined in accordance with ASPE/GAAP, without duplication of any item described below (and the term “duplication” shall include any cash reimbursement for any loss or expense or other item for which an add-back is provided below), to the extent taken into account in the calculation of net income (or loss) for such period:

- (a) less the income (or plus the loss) of any Person which is not a Subsidiary of any Loan Party or any of its Subsidiaries, except to the extent of the amount of dividends or other distributions actually paid to any Loan Party or any of its Subsidiaries in cash or Cash Equivalents by such Person and the payment of dividends or similar distributions by that Person was not at the time subject to the consent of a third party or prohibited by operation of the terms of its charter or of any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Person,
- (b) less the income (or plus the loss) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or is merged into or consolidated with any Loan Party or any of its Subsidiaries or that Person’s assets are acquired by any Loan Party or any of its Subsidiaries,
- (c) less the proceeds of any insurance (other than business interruption insurance),
- (d) less gains (or plus losses) from the Disposition of assets or property not in the ordinary course of business of CPL its Subsidiaries, and related tax effects in accordance with ASPE/GAAP,
- (e) less any other extraordinary gains (or plus any other extraordinary losses) of CPL and its Subsidiaries, and related tax effects, in accordance with ASPE/GAAP (as defined in ASPE/GAAP prior to the effectiveness of FASB ASU 2015-01),
- (f) less income tax refunds received, in excess of income tax liabilities,
- (g) less income (or plus the loss) from the early extinguishment of Indebtedness, net of related tax effects,
- (h) Plus, without duplication, to the extent already taken into account in the calculation of net income (or loss) for such period:
  - (i) depreciation and amortization,



- (ii) Net Interest Expense,
- (iii) all Taxes on or measured by income (excluding income tax refunds), and
- (iv) all unrealized non-cash losses (or minus unrealized non-cash gains) under Swap Contracts,
- (v) fees and reasonable and documented out-of-pocket expenses incurred in connection with the negotiation, execution and delivery on the Agreement Date of the Loan Documents and the Contingent Value Right in an amount not to exceed \$700,000, and
- (vi) non-cash expenses with employee Stock grants.

Notwithstanding anything to the contrary in the Loan Documents and the Contingent Value Right, for purposes of calculating EBITDA for any purpose in the Loan Documents and the Contingent Value Right, EBITDA shall be calculated to give effect to (A) any Permitted Investments, (B) any asset sales, divestitures or other dispositions consummated in accordance with this Agreement and/or (C) any discontinued divisions or lines of business or operations or restructuring consummated in accordance with this Agreement, in each case, at any time on or after the first day of the measurement period and prior to the date of determination, as if such (A) Permitted Investments, (B) asset sales, divestitures or other dispositions and/or (C) discontinued lines of business or operations or restructuring, in each case, had been effected on the first day of such measurement period.

“**EDC**” means Export Development Canada.

“**EDC General Security Agreements**” means (i) that certain General Security Agreement, dated as of August 15, 2014, by and between CPLC and EDC, whereby CPLC grants certain Liens on its assets in favor of EDC in connection with the EDC Loan Facility #2, as in effect on the Agreement Date and (ii) that certain General Security Agreement, dated as of March 6, 2018, by and between CPLC and EDC, whereby CPLC grants certain Liens on its assets in favor of EDC in connection with the EDC New Loan Facility, as in effect on the Agreement Date.

“**EDC Loan Agreement #2**” means that certain agreement, dated as of August 15, 2014, by and among CPLC, as borrower, and EDC, as lender, as in effect on the Agreement Date, in which, among other things, EDC provides the EDC Loan Facility #2 to CPLC, as such agreement may be amended from time to time to the extent expressly permitted by both Section 5.2(s) of this Agreement and by the EDC Subordination Agreement.

“**EDC Loan Agreements**” means EDC Loan Agreement #2 and the EDC New Loan Agreement.

“**EDC Loan Documents**” means the EDC Loan Agreements, the EDC General Security Agreements and any other agreement, instrument or document related thereto.

“**EDC Loan Facilities**” means the EDC Loan Facility #2 and the EDC New Loan Facility, which when taken together, shall not exceed an aggregate principal amount of \$17,000,000 at any time outstanding, minus any prepayments, payments or repayments thereof.

“**EDC Loan Facility #2**” means that certain loan facility provided by EDC to CPLC pursuant to EDC Loan Agreement #2 in an amount from and after the date hereof not to exceed \$2,000,000 at any time outstanding, minus any prepayments, payments or repayments thereof.

“**EDC New Loan Agreement**” means that certain agreement, dated as of March 6, 2018, by and among CPLC, as borrower, and EDC, as lender, as in effect on the Agreement Date, in which, among other things, EDC provides the EDC New Loan Facility to CPLC, as such agreement may be amended from time to time to the extent expressly permitted by both Section 5.2(s) of this Agreement and by the EDC Subordination Agreement.

“**EDC New Loan Facility**” means that certain loan facility provided by EDC to CPLC pursuant to the EDC New Loan Agreement in an amount not to exceed \$15,000,000 at any time outstanding, minus any prepayments, payments or repayments thereof.

“**EDC Subordination Agreement**” means that certain Intercreditor Agreement dated as of the Agreement Date, by and between Agent, RBC and EDC, whereby, among other things, (a) Agent and RBC subordinates their Liens in the equipment of CPLC that is Collateral to EDC, (b) Agent subordinates its Liens in the inventory of CPLC that is Collateral to EDC, (c) EDC subordinates its Liens in the inventory of CPLC to RBC and (d) EDC subordinates its Liens in all other assets and property of CPLC to Agent and RBC. For the avoidance of doubt, the EDC Subordination Agreement provides no subordination in right of payment by Agent or any other Secured Party under any circumstance.

“**Employee**” means any employee of any Loan Party, any Subsidiary of any Loan Party.

“**Employee Benefit Plan**” means any “employee benefit plan” within the meaning of Section 3(3) of ERISA, and any Stock purchase, Stock option, Stock-based severance, employment, change-in-control, medical, disability, fringe benefit, bonus, incentive, deferred compensation, employee loan and any other employee benefit plan, agreement, program, policy or other arrangement, whether or not subject to ERISA, under which (A) any current or former employee, director or independent contractor of any Loan Party or any of its Subsidiaries has any present or future right to benefits and which is contributed to, sponsored by or maintained by any Loan Party or any of its respective Subsidiaries or (B) any Loan Party or any of its Subsidiaries has had or has or could reasonably be expected to have any present or future obligation or liability.

“**Environmental Laws**” means all Applicable Laws, Authorizations and permits imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the workplace, the environment and natural resources, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

“**Environmental Liabilities**” means all Liabilities (including costs of removal and remedial actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the cost of environmental consultants and attorneys’ costs) that may be imposed on, incurred by or asserted against any Loan Party or any Subsidiary of any Loan Party as a result of, or related to, any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law resulting from the ownership, lease, sublease or other operation or occupation of property by any Loan Party or any Subsidiary of any Loan Party, whether on, prior or after the date hereof.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended and regulations and other regulatory guidance thereunder.

“**ERISA Affiliate**” means collectively any Loan Party, any Subsidiary of any Loan Party and any Person under common control or treated as a single employer with, any Loan Party or any Subsidiary of any Loan Party within the meaning of Code Section 414 (b), (c), (m) or (o) or under ERISA.

**“ERISA Event”** means any of the following: (a) a reportable event described in Section 4043(b) or (c) of ERISA (or, unless the 30-day notice requirement has been duly waived under the applicable regulations) with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) the complete or partial withdrawal of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of insolvency or termination, or treatment of a plan amendment as termination, under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan, or treatment of a plan amendment as termination, under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure to make any required contribution to any Title IV Plan or Multiemployer Plan when due; (h) the imposition of a Lien under Section 412 or 430(k) of the Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate; (i) the failure of an Employee Benefit Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Applicable Law to qualify thereunder; (j) a Title IV plan is in “at risk” status within the meaning of Code Section 430(i); (k) a Multiemployer Plan is in “endangered status” or “critical status” within the meaning of Section 432(b) of the Code; and (l) any other event or condition that constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any Liability upon any ERISA Affiliate under Title IV of ERISA other than for contributions to Title IV Plans and Multiemployer Plans in the ordinary course and PBGC premiums due but not delinquent.

**“Exercise Price”** has the meaning provided therefor in the Warrants.

**“Event of Default”** has the meaning set forth in Section 5.4.

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended, including the rules and regulations promulgated thereunder.

**“Excluded Accounts”** has the meaning set forth in Section 5.1(k).

**“Excluded Foreign Subsidiary”** means (a) any Foreign Subsidiary which is a controlled foreign corporation (as defined in the Code) that has not guaranteed or pledged any of its assets to secure, or with respect to which there shall not have been pledged two-thirds or more of the voting Stock to secure, any Indebtedness (other than the Obligations) of a Loan Party, or (b) a Foreign Subsidiary owned by a Foreign Subsidiary described in clause (a).

**“Excluded Property”** has the meaning set forth in the US Security Agreement.

**“Excluded Taxes”** means with respect to any Lender, (a) Taxes imposed on (or measured by) such Lender’s net income, franchise Taxes and branch profits Taxes, in each case (i) imposed as a result of such Lender being organized under the laws of, or having its principal office, or applicable lending office located in the jurisdiction imposing such Tax (or any political subdivision thereof), or (ii) that are Other Connection Taxes or (b) any United States federal withholding Tax imposed on amounts payable to such Lender under FATCA.

**“Facility Termination Date”** has the meaning set forth in Section 2.3(a).

**“FATCA”** means Sections 1471 through 1474 of the Code as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any regulations or official interpretations thereof and any agreements entered into pursuant to Section

1471(b)(1) of the Code and any applicable intergovernmental agreements entered into with respect to the foregoing.

“**FCPA**” has the meaning set forth in Section 3.1(jj).

“**FDA**” means the United States Food and Drug Administration (and any equivalent governmental agency or Government Authority in Canada) and any successors thereto.

“**FEDASO**” means Her Majesty the Queen in Right of Canada represented by the Minister responsible for Federal Economic Development Agency for Southern Ontario.

“**FEDASO Credit Agreement**” means that certain Contribution Agreement, dated as of March 16, 2015, between FEDASO, CPLC, as recipient, and CPL Canada Holdco, as obligor, as in effect on the Agreement Date.

“**FEDASO Loan Documents**” means the FEDASO Credit Agreement and any other agreement, instrument or document related thereto.

“**FEDASO Loans**” means an aggregate maximum amount not to exceed \$8,992,672 that is interest-free and not subject to any fees and unsecured and is provided by FEDASO to CPLC pursuant to the terms and conditions of the FEDASO Credit Agreement, minus any prepayments, payments or repayments made thereon from time to time.

“**Federal Reserve Board**” means the Board of Governors of the Federal Reserve System or any entity succeeding to any of its principal functions.

“**Final Payment**” means such amount as may be necessary to repay, without duplication, the aggregate amount of principal due and payable hereunder and under the other Loan Documents and all other Obligations and all CVR Obligations.

“**Foreign Benefit Plan**” means any Employee Benefit Plan that is subject to the laws or a jurisdiction outside the United States, including those mandated by a government other than the United States.

“**Foreign Subsidiary**” means any Subsidiary of CPL that is not incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

“**GAAP**” means generally accepted accounting principles in the United States applied on a consistent basis, subject to the provisions of Section 1.5.

“**Glasshouse**” means Glasshouse Pharmaceuticals LLC, a Delaware limited liability company.

“**Governmental Authority**” means any nation, sovereign, government, quasi-governmental agency, governmental department, ministry, cabinet, commission, board, bureau, agency, court, tribunal, regulatory authority, instrumentality, judicial, legislative, fiscal or administrative or public body or entity, whether domestic or foreign, federal, state, provincial, territorial, local or other political subdivision thereof, having jurisdiction over the matter or matters and Person or Persons in question or having the authority to exercise executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, securities exchange, regulatory body, arbitrator, public sector entity, supra-national entity and any self-regulatory organization. The term “Governmental Authority” shall further include any institutional review board, ethics committee, data monitoring committee or other committee or Person with defined authority to oversee Regulatory Matters.

“**Greylock CPL**” means Greylock CPL, LLC, a Michigan limited liability company.

“**Greylock Parent**” means Greylock, Inc., a Michigan corporation.

“**Guarantor**” means CPL, Glasshouse, CPL Canada Holdco, CPLC, each other Subsidiary of CPL (other than the Borrower) or other Person who provides a guaranty of the Obligations (and, with respect to the US Guarantors, the CVR Obligations) under either Security Agreement or any other Loan Document (other than the Limited Guaranty); provided that no Limited Guarantor is (or shall be deemed to be) a Guarantor.

“**Hazardous Material**” means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

“**HSR Act**” means the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended and the related rules and regulations promulgated thereunder, and any successor statute.

“**Indebtedness**” means the following with respect to any Person:

- (a) all indebtedness for borrowed money of such Person;
- (b) the deferred purchase price of assets or services (other than trade payables entered into in the ordinary course of business and which are not more than 90 days past due) of such Person, including earn-outs, which in accordance with ASPE/GAAP should be shown to be a liability on the balance sheet;
- (c) all guarantees of Indebtedness by such Person;
- (d) the face amount of all letters of credit issued or acceptance facilities established for the account of such Person (or for which such Person is liable), including without duplication, all drafts drawn thereunder;
- (e) all Capital Lease Obligations of such Person;
- (f) all indebtedness (including Indebtedness of other types covered by the other clauses of this definition) of such Person or another Person secured by any Lien on any assets or property of such Person, whether or not such indebtedness has been assumed or is recourse (with the amount thereof, in the case of any such indebtedness that has not been assumed by such Person, being measured as the lower of (y) fair market value of such property and (z) the amount of the indebtedness secured);
- (g) indebtedness created or arising under any conditional sale or title retention agreement, or incurred as financing, in either case with respect to assets or property acquired by such Person (even if 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 assets or property);
- (h) all obligations of such Persons evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses;

- (i) all obligations of such Person, whether or not contingent, in respect of Disqualified Stock, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends;
- (j) all direct or indirect liability, contingent or otherwise, of such Person with respect to any other Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto;
- (k) all direct or indirect liability, contingent or otherwise, of such Person under Swap Contracts;
- (l) all direct or indirect liability, contingent or otherwise, of such Person to make take-or-pay or similar payments if required regardless of non-performance by any other party or parties to an agreement; or
- (m) all direct or indirect liability, contingent or otherwise, of such Person for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any assets or property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person.

“**Indemnified Person**” has the meaning set forth in Section 6.11(a).

“**Indemnified Taxes**” means (a) any Tax imposed on or with respect to any payments made by or on account of any Obligation of any Loan Party under any Loan Document or any CVR Obligation of any US Loan Party or any Limited Guarantor under any Contingent Value Right, other than an Excluded Tax, and (b) to the extent not otherwise described in clause (a) above in this definition, Other Taxes.

“**Indemnity**” has the meaning set forth in Section 6.11(a).

“**Initial Disbursement**” has the meaning set forth in Section 2.2(a).

“**Initial Disbursement Date**” means the Distribution Date of the Initial Disbursement.

“**Intellectual Property**” has the meaning set forth in Section 3.1(n).

“**Interest Payment Date**” has the meaning set forth in Section 2.6.

“**Interest Rate**” means 6.5% per annum for the principal amount of the Loans and any overdue interest thereon.

“**Internal Controls**” has the meaning set forth in Section 3.1(u).

“**Investment**” has the meaning set forth in Section 5.2(e).

“**Investment Company Act**” means the Investment Company Act of 1940, as amended.

“**IP**” has the meaning set forth in Section 3.1(n).

“**IPO Event**” means the closing of the Borrower’s initial firm commitment underwritten public offering pursuant to an effective registration statement under the Securities Act.

“**IRS**” means the United States Internal Revenue Service.

“**Landlord Waivers**” means any landlord waiver or collateral access agreement, in form and substance reasonably satisfactory to Agent, entered into by and between Agent and any landlord or sublandlord of any Loan Party, and in certain instances, such Loan Party that is the tenant or subtenant.

“**Lenders**” has the meaning set forth in the preamble to this Agreement.

“**Liabilities**” means all claims, actions, suits, judgments, damages, losses, liabilities, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

“**Lien**” means any lien, pledge, preferential arrangement, mortgage, security interest, deed of trust, charge, assignment, hypothecation, title retention or other encumbrance on or with respect to property or interest in property having the practical effect of constituting a security interest, in each case with respect to the payment of any obligation with, or from the proceeds of, any asset or revenue of any kind.

“**Limited Guarantors**” means the Parent Entities and each other Person that at any time owns or controls any of the Stock of CPL (in each case, solely to the extent that The Wege Foundation does not own or control more of the Stock of CPL that it owns and controls on the Agreement Date (and, in any event, not more than 28% of the Stock of CPL) and does not join the Limited Guaranty as a party thereto, other than The Wege Foundation).

“**Limited Guaranty**” means the Limited Recourse Guaranty and Security Agreement executed and delivered on the Agreement Date pursuant to which the Limited Guarantors party thereto grant to Agent for the benefit of the Secured Parties a security interest in all of their Collateral to secure the Obligations and the CVR Obligations, as amended, restated, supplemented or otherwise modified from time to time.

“**Loan**” means any loan or other credit extension made, funded or advanced from time to time by the Lenders to the Borrower pursuant to this Agreement or, as the context may require, the principal amount thereof from time to time outstanding. “Loan” shall include any funded Disbursement.

“**Loan Documents**” means this Agreement, the Notes, the Canadian Security Agreement, the US Security Agreement, the Limited Guaranty, the Assignment of Insurance, the UCC Filing Authorization Letter, each Perfection Certificate, each Solvency Certificate, each Control Agreement, the Subordination Agreement, the Warrants, the Registration Rights Agreement, any intellectual property security agreement, any Landlord Waivers and other documents, agreements and instruments delivered in connection with any of the foregoing and dated the Agreement Date or subsequent thereto, whether or not specifically mentioned herein or therein, in each case, as amended, restated, supplemented or otherwise modified from time to time.

“**Loan Parties**” means the collective reference to the Borrower, all of the Guarantors and all of the Limited Guarantors.

“**Loss**” has the meaning set forth in Section 6.11(a).

“**Major Transaction**” has the meaning specified in any Warrant.

“**Manufacturing Contract**” means any contract or agreement involving (or related to) the manufacturing, development, creation or production of any Product between (a) Borrower and/or any of its Subsidiaries, on the one hand, and (b) any other Person, on the other hand.

“**Margin Stock**” means “margin stock” as such term is defined in Regulation T, U or X of the Federal Reserve Board.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, operations, results of operations, condition (financial or otherwise) or assets or prospects of any Loan Party and its Subsidiaries, taken as a whole, (b) the validity or enforceability of any provision of any Loan Document and any Contingent Value Right, (c) the ability of (i) any Loan Party or any Limited Guarantor to timely perform the Obligations or (ii) any US Loan Party or any Limited Guarantor to timely perform the CVR Obligations, (d) the creation, perfection or priority of the Liens granted under the Loan Documents, or (e) the rights and remedies of the Secured Parties under any Loan Document or any Contingent Value Right.

“**Material Agreements**” has the meaning set forth in Section 3.1(aa).

“**Material Environmental Liabilities**” means Environmental Liabilities exceeding \$100,000 in the aggregate.

“**Maturity Date**” means December 6, 2023.

“**Moodoos CPL**” means Moodoos CPL, LLC, a Michigan limited liability company.

“**Moodoos Parent**” means Moodoos, Inc., a Michigan corporation.

“**Multiemployer Plan**” means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has, or could reasonably be expected to have, any obligation or Liabilities (including under Section 4212 of ERISA).

“**Necessary Documents**” has the meaning set forth in Section 3.1(l).

“**Net Interest Expense**” means for CPL and its Subsidiaries for any period:

- (a) gross interest expense (including that attributable to Capital Lease Obligations) for such period paid or required to be paid in cash (including all commissions, discounts, fees and other charges in connection with letters of credit and similar instruments and net amounts paid or payable and/or received or receivable under permitted Swap Contracts in respect of interest rates) for CPL and its Subsidiaries on a consolidated basis, less
- (b) interest income for such period.

“**Notes**” means the Notes and the Unfunded Subsequent Disbursement Commitment Notes.



**“Obligations”** means, without duplication, all Loans and Disbursements, the principal amount due and payable hereunder, interest, fees, expenses, costs, liabilities, indebtedness and other obligations (monetary (including post-petition interest, costs, fees, expenses (including attorneys’ fees and expenses) and other amounts, whether allowed or not) or otherwise) of (or owed by) the Borrower and the other Loan Parties under or in connection with the Loan Documents, in each case howsoever created, arising or evidenced, whether direct or indirect (including those acquired by assignment), absolute or contingent, now or hereafter existing, or due or to become due (including, without limitation, any obligations under Section 2.5(d)).

**“OFAC”** has the meaning set forth in Section 3.1(jj).

**“Options”** means any rights, warrants or options to subscribe for or purchase shares of Common Stock or Convertible Securities.

**“Organizational Documents”** means the Certificate of Incorporation and Bylaws or equivalent documents, each as amended to date, of each of the Loan Parties, as the context may require.

**“Other Connection Taxes”** means with respect to any Lender, Taxes imposed as a result of a present or former connection between such Lender and the jurisdiction imposing such Tax (except a connection arising solely from such Lender having executed, delivered, become a party to, performed its obligations or received a payment under, received or perfected a security interest under, engaged in any transaction pursuant to or enforced any Loan Document or any Contingent Value Right, or sold or assigned an interest in any Loan Document or any Contingent Value Right).

**“Other Taxes”** means any and all present or future stamp, court or documentary, excise, value added, intangible, recording, filing or similar Taxes arising from any payment made hereunder or from the execution, delivery, transfer, recordation, registration or enforcement of, or otherwise with respect to, any Loan Document or any Contingent Value Right.

**“Parent Entities”** means Moodoos CPL and Greylock CPL.

**“Parties”** has the meaning set forth in the preamble to this Agreement.

**“PBGC”** means the United States Pension Benefit Guaranty Corporation or any successor thereto.

**“Perfection Certificate”** means each perfection certificate executed or delivered by any Loan Party or any of its Subsidiaries to any Secured Party from time to time in substantially the form of Exhibit B.

**“Permitted Dispositions”** means each of the following:

- (a) Dispositions of inventory, goods or services or of worn-out obsolete, damaged or surplus equipment, all in the ordinary course of business;
- (b) (i) Dispositions of Cash Equivalents in the ordinary course of business made to a Person that is not an Affiliate of any Loan Party and (ii) conversions of Cash Equivalents into cash or other Cash Equivalents;
- (c) transactions permitted under clause (i)(ii) of the definition of “Permitted Liens;”
- (d) Permitted Investments, to the extent any such Investment constitutes a Disposition;

- (e) the sale or issuance of the Stock in the Borrower to any direct equity holder of the Borrower in the ordinary course of business;
- (f) the transfer of any assets or property (i) by a Loan Party (other than the Borrower) to another Loan Party (other than a Limited Guarantor, CPL Canada Holdco or CPLC), (ii) by a Subsidiary of Borrower that is not a Loan Party to (A) a Loan Party (other than a Limited Guarantor) for no more than fair market value or (B) any other Subsidiary of Borrower that is not a Loan Party that has its Stock pledged at least of the same amount and percentage as the transferring Subsidiary does, or (iii) by a Limited Guarantor to another Limited Guarantor;
- (g) any Subsidiary not organized in the United States, Canada or any state or province thereof may issue Stock to qualified directors where required by or to satisfy any Applicable Law, including any Applicable Law with respect to ownership of Stock in such Subsidiaries;
- (h) transactions permitted by Section 5.2(a);
- (i) Dispositions of past due accounts receivable in the ordinary course of business (including any discount and/or forgiveness thereof) or, in the case of accounts receivable in default, in connection with the collection or compromise thereof and in any event, not involving any securitization thereof; and
- (j) (i) any termination of any lease in the ordinary course of business, (ii) any expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or litigation claims (including in tort) in the ordinary course of business.

**“Permitted Indebtedness”** means each of the following:

- (a) Indebtedness existing as of the Agreement Date and set forth on Schedule 3.1(f) attached hereto;
- (b) the Obligations and the CVR Obligations;
- (c) (i) the EDC Loan Facilities to the extent (A) subject to the terms of the EDC Subordination Agreement, (B) the EDC Subordination Agreement is in full force and effect and (C) the aggregate principal amount thereof does not exceed \$17,000,000 at any time outstanding, minus any prepayments, payments or repayments thereof, (ii) the FEDASO Loans to the extent (A) that the aggregate amount thereof does not exceed \$8,992,672 in Canadian dollars at any time outstanding, minus any prepayments, payments or repayments thereof, (B) they are interest-free and (C) they are not subject to any fees and are unsecured, and (iii) the RBC Credit Facility to the extent (A) subject to the terms of the RBC Subordination Agreement and the EDC Subordination Agreement, (B) the RBC Subordination Agreement and the EDC Subordination Agreement are in full force and effect and (C) that the aggregate principal amount hereof does not exceed \$18,500,000 in Canadian dollars at any time outstanding, minus any commitment reductions or terminations thereunder from time to time;
- (d) Indebtedness not to exceed \$250,000 in the aggregate at any time outstanding, consisting of Capital Lease Obligations or purchase money obligations secured by Liens permitted by clauses (k) and (l) of the definition of “Permitted Liens;”

- (e) Indebtedness in respect of netting services, overdraft protections and other similar and customary services in connection with deposit accounts;
- (f) Indebtedness to employees in respect of benefit plans and employment and severance arrangements;
- (g) performance bonds, surety bonds and similar instruments incurred in the ordinary course of business;
- (h) Indebtedness arising under guaranties made in the ordinary course of business of obligations of any Loan Party that are otherwise permitted hereunder; provided that if such obligation is subordinated to the Obligations and/or the CVR Obligations, such guaranty shall be subordinated to the same extent;
- (i) Indebtedness owed by (i) any Loan Party (other than any Limited Guarantor) to another Loan Party (other than Borrower, CPL Canada Holdco or CPLC), (ii) any Loan Party (other than any Limited Guarantor) to one of its Subsidiaries that is not a Loan Party so long as such Indebtedness is unsecured and subordinated to the Obligations and/or the CVR Obligations) in a manner reasonably satisfactory to Agent, and (iii) any Limited Guarantor to any other Limited Guarantor;
- (j) obligations of any Loan Party under any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to alter the risks of that Person arising from fluctuations in the value of certain currencies, provided that (x) any such agreement or arrangement shall be entered into for bona fide hedging purposes and not for speculation and (y) the notional obligations of the Loan Parties of all such agreements or arrangements shall not exceed \$200,000 at any time in the aggregate;
- (k) endorsements for collection or deposit in the ordinary course of business;
- (l) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business; and
- (m) other unsecured Indebtedness not exceeding in the aggregate at any time outstanding \$100,000, which shall be subordinated in a manner reasonably acceptable to Agent; provided that before and immediately after giving effect to such Indebtedness, no Default or Event of Default has occurred and is continuing; and

provided, however, notwithstanding anything in this Agreement, any other Loan Document or any Contingent Value Right to the contrary, the maximum aggregate principal amount of clauses (a), (c), (d) and (m) of this definition (taken together as a whole) shall not at any time exceed \$35,000,000 on a pro forma basis after giving effect to any increases or extensions thereof.

**“Permitted Investments”** means each of the following:

- (a) Investments in cash and Cash Equivalents;
- (b) Investments consisting of (i) extensions of credit or capital contributions by any Loan Party (other than Borrower) to or in any other then existing Loan Party (other than any Limited Guarantor, CPL Canada Holdco or CPLC), (ii) extensions of credit or capital contributions

by a Loan Party to or in any then existing Subsidiaries of the Borrower which are not Loan Parties not to exceed \$100,000 in the aggregate at any time outstanding for all such extensions of credit and capital contributions; provided, if the Investments described in foregoing clauses (i) and (ii) are evidenced by promissory notes, such promissory notes shall be pledged to Agent, for the benefit of the Secured Parties, and have such terms as Agent may reasonably require, (iii) extensions of credit or capital contributions by a Subsidiary of the Borrower which is not a Loan Party to or in another then existing Subsidiary of the Borrower which is not a Loan Party that has at least the same amount and percentage of its Stock pledged to Agent as the party lending such credit amounts or extending such capital contribution, and (iv) extensions of credit or capital contributions by any Limited Guarantor to any other Limited Guarantor;

- (c) loans and advances to employees in the ordinary course of business that (i) are set forth on Schedule 1.1-1 hereto (and, for the avoidance of doubt, subject to no increases to the amounts listed therein as of the Agreement Date and subject to (and to be decreased by) any prepayment, repayments and payments thereon) or (ii) otherwise, do not to exceed \$25,000 in the aggregate at any time outstanding;
- (d) Investments acquired in connection with the settlement of delinquent accounts receivable in the ordinary course of business or in connection with the bankruptcy or reorganization of suppliers or customers;
- (e) Investments consisting of non-cash loans made by the Borrower to officers, directors and employees of a Loan Party which are used by such Persons to purchase simultaneously Stock of the Borrower;
- (f) Investments existing on the Agreement Date and set forth on Schedule P-1;
- (g) Investments comprised of guarantees of Indebtedness permitted in the definition of "Permitted Indebtedness;"
- (h) Subsidiaries of the Borrower that may be established or created so long as the Loan Parties and such Subsidiary comply with the applicable provisions of Section 5.1(l);
- (i) guarantees provided by (i) CPL Canada Holdco under the EDC Loan Agreements in favor of EDC with respect to CPLC's obligations under the EDC Loan Facility, to the extent (A) subject to the terms of the EDC Subordination Agreement and (B) the EDC Subordination Agreement is in full force and effect, and (ii) (A) Borrower on an unsecured basis under the RBC CPL Borrower Guaranty in favor of RBC for the obligations of CPLC under the RBC Credit Facility and (B) CPL Canada Holdco under the RBC CPL Canada Holdco Guaranty in favor of RBC for the obligations of CPLC under the RBC Credit Facility, in each case of this clause (ii), to the extent (y) subject to the terms of the RBC Subordination Agreement and the EDC Subordination Agreement and (z) the RBC Subordination Agreement and the EDC Subordination Agreement are in full force and effect; and
- (j) other Investments not to exceed \$100,000 in the aggregate at any time outstanding; provided that before and immediately after giving effect to such Investment, no Default or Event of Default has occurred and is continuing.

“**Permitted Liens**” means each of the following:

- (a) Liens existing on the Agreement Date and set forth on Schedule 3.1(d);
- (b) Liens in favor of the Secured Parties under the Loan Documents;
- (c) carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s, repairmen’s or other similar Liens arising in the ordinary course of business which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the assets or property subject thereto and for which adequate reserves in accordance with ASPE/GAAP are being maintained;
- (d) Liens for Taxes, assessments or governmental charges or levies not past due or payable or that are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with ASPE/GAAP are being maintained;
- (e) (A) Liens arising from judgments, decrees or attachments in circumstances not constituting an Event of Default and (B) pledges or cash deposits made in lieu of, or to secure the performance of, judgment or appeal bonds in respect to such judgments and proceedings;
- (f) Liens in favor of financial institutions arising in connection with the Borrower’s or its Subsidiaries’ deposit accounts maintained in the ordinary course held at such institutions to secure standard fees for services charged by, but not financing made available by, such institutions;
- (g) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other funded Indebtedness) or to secure liability to insurance carriers;
- (h) easements, rights of way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, do not affect the value or marketability of such real property and which do not in any case materially interfere with the conduct of the business of any Loan Party or its Subsidiaries;
- (i) (i) any interest or title of a lessor or sublessor under any lease not prohibited by this Agreement or (ii) non-exclusive licenses and sublicenses granted by a Loan Party or any Subsidiary of a Loan Party and leases and subleases (by a Loan Party or any Subsidiary of a Loan Party as lessor or sublessor) to third parties in the ordinary course of business not interfering with the business of the Loan Parties or any of their Subsidiaries;
- (j) Liens of a collection bank arising under Section 4-210 of the UCC (or equivalent in foreign jurisdictions) on items in the course of collection;
- (k) Liens on any assets or property acquired or held by any Loan Party or any Subsidiary of any Loan Party securing Indebtedness incurred or assumed for the purpose of financing (or

refinancing) all or any part of the cost of acquiring such assets or property and permitted under clause (d) of the definition of “Permitted Indebtedness;” provided that (i) such Lien attaches solely to the assets or property so acquired in such transaction and the proceeds thereof and (ii) the principal amount of the Indebtedness secured thereby does not exceed 100% of the cost of such assets or property;

- (l) Liens securing Capital Lease Obligations permitted under clause (d) of the definition of “Permitted Indebtedness;”
- (m) Liens arising from the filing of precautionary uniform commercial code financing statements with respect to any lease not prohibited by this Agreement;
- (n) Liens arising out of consignment or similar arrangements for the sale of goods entered into by the Borrower or any Subsidiary of the Borrower in the ordinary course of business;
- (o) Liens in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the ordinary course of business;
- (p) Liens on unearned insurance premiums securing the financing thereof to the extent permitted under clause (m) of the definition of “Permitted Indebtedness;” and
- (q) Liens granted under (i) the EDC Loan Documents in effect as of the Agreement Date to the extent (A) subject to the terms of the EDC Subordination Agreement and (B) the EDC Subordination Agreement is in full force and effect, and (ii) the RBC Loan Documents in effect as of the Agreement Date to the extent (A) subject to the terms of the RBC Subordination Agreement and the EDC Subordination Agreement and (B) the RBC Subordination Agreement and the EDC Subordination Agreement are in full force and effect.

“**Person**” means and includes any natural person, individual, partnership, joint venture, corporation, trust, limited liability company, limited company, joint stock company, unincorporated organization, government entity or any political subdivision or agency thereof, or any other entity.

“**PPSA**” means the *Personal Property Security Act* (Ontario) and to the extent applicable, equivalent legislation of any other jurisdiction in Canada.

“**Products**” means any item or any service that is designed, developed, created, manufactured, managed, performed, packaged, tested, supplied or otherwise used, offered or handled by or on behalf of any Loan Party or any of its Subsidiaries.

“**Pro Rata Loan Share**” means, with respect to any Lender, the applicable amount (as adjusted from time to time in accordance with the terms hereof and the actual principal amount outstanding related thereto) specified opposite such Lender’s name on Annex A under the column “Initial Disbursement Amounts” and the applicable amount (as adjusted from time to time in accordance with the terms hereof and the actual principal amount outstanding related thereto) of Loans funded by such Lender pursuant to its Subsequent Disbursement Commitment.

“**Pro Rata Share**” means, with respect to any Lender, the applicable percentage (as adjusted from time to time in accordance with the terms hereof) obtained by dividing (a) the sum of (i) such Lender’s Pro Rata Subsequent Disbursement Share of the Subsequent Disbursement Commitment (to the extent not

terminated or used in its entirety), and (ii) such Lender's Pro Rata Loan Share of the outstanding Loans, by (b) the sum of (i) the total amount of remaining Subsequent Disbursement Commitments held by all Lenders, and (ii) the total outstanding amount of Loans held by all Lenders.

**"Pro Rata Subsequent Disbursement Share"** means, with respect to any Lender, in respect of unfunded Subsequent Disbursement Commitments, the applicable percentage (as adjusted from time to time in accordance with the terms hereof and as decreased as such Subsequent Disbursement Commitments are reduced or terminated) specified opposite such Lender's name on Annex A under the column "Subsequent Disbursement Commitment."

**"Public Health Laws"** means all Applicable Laws relating to the procurement, development, manufacture, production, analysis, distribution, dispensing, importation, exportation, use, handling, quality, sale or promotion of any drug, medical device, food, dietary supplement or other product (including any ingredient or component of the foregoing products) subject to regulation under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. et seq.) and similar state laws, controlled substances laws, pharmacy laws or consumer product safety laws.

**"Put Notice"** has the meaning set forth in Section 5.3.

**"RBC"** means Royal Bank of Canada.

**"RBC ABL Credit Agreement"** means that certain agreement, dated as of November 22, 2017 and amended by Amendment No. 1 to Loan Agreement dated as of the Agreement Date (and as may be further amended from time to time to the extent expressly permitted by both Section 5.2(s) of this Agreement and by the RBC Subordination Agreement), by and among CPLC, as borrower, CPL Canada Holdco, as a guarantor, CPL, as a guarantor, and RBC, as lender, whereby RBC provides (a) an asset based loan demand facility of up to a maximum principal amount of the lesser of (i) the "Borrowing Limit" (as defined therein) and (ii) \$18,500,000, in each case, at any time outstanding and (b) a VISA Business credit card facility in a maximum amount of \$130,000 at any time outstanding in Canadian dollars and Dollars, as in effect on the Agreement Date.

**"RBC Assignment of Insurance"** means that certain Assignment of Insurance, dated November 19, 2015, by CPL Canada Holdco in favor of RBC.

**"RBC CPL Borrower Guaranty"** means that certain Guarantee and Postponement of Claim, dated as of November 19, 2015, by CPL in favor of RBC, as in effect on the Agreement Date.

**"RBC CPL Canada Holdco Guaranty"** means Guarantee and Postponement of Claim, dated as of November 19, 2015, by CPL Canada Holdco in favor of RBC, as in effect on the Agreement Date.

**"RBC CPL Canada Holdco Postponement and Assignment of Claim"** means that certain Postponement and Assignment of Claim, dated as of November 19, 2015, by CPL Canada Holdco in favor of RBC, as in effect on the Agreement Date.

**"RBC Credit Facility"** means that certain credit facility evidenced by the RBC ABL Credit Agreement in an amount not to exceed at any time outstanding of \$18,500,000, minus any commitment reductions or terminations thereunder from time to time.

**"RBC Landlord Waivers"** means, collectively, (a) that certain Landlord Waiver and Access Agreement, dated as of October 30, 2015, by and between RBC, The Everlast Group and CPLC with respect to the Real Estate located at 2145 Meadowpine Blvd., Mississauga, ON L5N 6R8, and (b) that certain Landlord Waiver

and Access Agreement, dated as of November 26, 2015, by and between RBC, Piret (Mississauga) Holdings Inc. and CPLC with respect to the Real Estate located at 7600 Danbro Crescent, Mississauga, ON, Canada, L5N 6L6.

“**RBC Loan Documents**” means the RBC ABL Credit Agreement, the RBC Security Agreement, the RBC CPL Canada Holdco Postponement and Assignment of Claim, the RBC CPL Canada Holdco Guaranty, the RBC CPL Borrower Guaranty, the EDC Subordination Agreement, the RBC Subordination Agreement, the RBC Assignment of Insurance, the RBC Landlord Waivers and all other agreements, instruments and documents related thereto.

“**RBC Security Agreement**” means that certain General Security Agreement, dated as of November 19, 2015, by and between CPLC and RBC, as in effect on the Agreement Date.

“**RBC Subordination Agreement**” means that certain Intercreditor Agreement dated as of the Agreement Date, by and between the Borrower, CPL Canada Holdco, CPL, Agent and RBC, whereby, among other things, (a) RBC subordinates to Agent Liens granted to RBC by CPL Canada Holdco in the Stock of Borrower, (b) RBC agrees not to take as collateral property of CPL or any of its Subsidiaries (other than CPLC and CPL Canada Holdco) or to make CPL or any of its Subsidiaries (other than CPLC and CPL Canada Holdco) borrowers, guarantors or obligors under the RBC Loan Documents and (c) Agent subordinates to RBC Liens granted to Agent in the assets of CPLC and CPL Canada Holdco (other than the Stock of Borrower) that is Collateral pursuant to the Loan Documents. For the avoidance of doubt, the RBC Subordination Agreement provides no subordination in right of payment by Agent or any other Secured Party under any circumstance.

“**Real Estate**” means any real property owned, leased, subleased or otherwise operated or occupied by any Loan Party or any Subsidiary of any Loan Party.

“**Register**” has the meaning set forth in Section 1.4(b).

“**Registration Rights Agreement**” means that certain Registration Rights Agreement dated as of the Agreement Date entered into by the Persons parties thereto and substantially in the form of Exhibit E.

“**Registrations**” means all Authorizations and exemptions issued or allowed by any Governmental Authority (including new drug applications, abbreviated new drug applications, biologics license applications, investigational new drug applications, over-the-counter drug monograph, device pre-market approval applications, device pre-market notifications, investigational device exemptions, product recertifications, manufacturing approvals and authorizations, CE Marks, pricing and reimbursement approvals, labeling approvals or their foreign equivalent, controlled substance registrations, and wholesale distributor permits) held by, or applied by contract to, any Loan Party or any of its Subsidiaries, that are required for the research, development, manufacture, distribution, marketing, storage, transportation, use and sale of the Products of any Loan Party or any of its Subsidiaries.

“**Regulation D**” means Regulation D as promulgated under the Securities Act.

“**Regulatory Matters**” means, collectively, activities and Products that are subject to Public Health Laws.

“**Releases**” means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material into or through the environment.

“**Reporting Period**” has the meaning set forth in Section 5.1(h).



“**Required Lenders**” means, at any time, Lenders having Pro Rata Shares the aggregate Dollar equivalent amount of which exceeds 50% of the outstanding Loans and the unfunded Subsequent Disbursement Commitments, collectively.

“**Restricted Payments**” means, with respect to any Person, (i) the declaration or making of any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any of its Stock, (ii) the purchasing, redemption or other acquisition for value of any of its Stock now or hereafter outstanding or (iii) the making of any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to, any Indebtedness subordinated to the Obligations and/or the CVR Obligations as to right and/or time of payment or as to other rights and remedies thereunder.

“**Sanctioned Country**” has the meaning set forth in Section 3.1(jj).

“**Sanctions**” has the meaning set forth in Section 3.1(jj).

“**SDN List**” has the meaning set forth in Section 3.1(jj).

“**Secured Parties**” means Agent, the Lenders and all Indemnified Persons.

“**Securities**” means the Loans, the Subsequent Disbursement Commitments, the Notes, and the related guaranties set forth in the Security Agreements of the Guarantors, the related limited guaranties set forth in the Limited Guaranty of the Limited Guarantors, the Warrants and the Warrant Shares.

“**Securities Act**” means the Securities Act of 1933, as amended, including the rules and regulations promulgated thereunder.

“**Security Agreements**” means, collectively, the US Security Agreement and the Canadian Security Agreement.

“**Social Security Act**” means the Social Security Act of 1965 as set forth in Title 42 of the United States Code, as amended, and any successor statute thereto, as interpreted by the rules and regulations issued thereunder, in each case as in effect from time to time.

“**Solvency Certificate**” means a solvency certificate substantially in the form of Exhibit G.

“**Solvent**” means, with respect to any Person as of any date of determination, that, as of such date, (a) the value of the assets of such Person (both at fair value and present fair saleable value) is greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Person, (b) such Person is able to pay all liabilities of such Person as such liabilities mature and (c) such Person does not have unreasonably small capital in relation to such Person’s business as contemplated as of the Agreement Date. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“**Stock**” means (a) all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting; and (b) all securities convertible into or exchangeable for any other Stock and all warrants, options and other rights to purchase, subscribe for or otherwise acquire any other Stock, whether or not presently convertible, exchangeable or exercisable.

**“Subordination Agreement”** means (a) the EDC Subordination Agreement and (b) the RBC Subordination Agreement.

**“Subsequent Disbursement”** has the meaning set forth in Section 2.2(b).

**“Subsequent Disbursement Commitments”** means the commitments of the Lenders to provide Subsequent Disbursements under this Agreement.

**“Subsequent Disbursement Commitment Termination Date”** has the meaning set forth in Section 2.2(b).

**“Subsidiary”** or **“Subsidiaries”** means, as to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person. Unless the context otherwise requires, each reference to Subsidiaries herein shall be a reference to Subsidiaries of CPL.

**“Swap Contract”** means any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

**“Tax Affiliate”** means (a) CPL, Borrower and any of their respective Subsidiaries and (b) any Affiliate of the Borrower with which the Borrower files or is required to file combined, unitary or other similar Tax Returns.

**“Taxes”** means all present or future taxes, levies, imposts, stamp or other duties, deductions, charges or withholdings imposed by an Governmental Authority, together with any interest, additions to tax, penalties and other Liabilities with respect thereto.

**“Tax Returns”** has the meaning set forth in Section 3.1(p).

**“The Wege Foundation”** means The Wege Foundation, a Michigan non-profit corporation.

**“Title IV Plan”** means an Employee Benefit Plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has or could reasonably be expected to have any obligation or Liabilities (including under Section 4069 of ERISA).

**“Transactions”** means (a) the occurrence of the repayment of certain existing Indebtedness, (b) the funding of the Initial Disbursement, (c) the issuance of the Contingent Value Right and (d) the payment of fees, commissions, costs and expenses in connection with each of the foregoing.

**“UCC”** means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect from time to time in the State of New York.

**“UCC Filing Authorization Letter”** means a letter duly executed by one or more Loan Parties authorizing the Agent to file UCC-1 financing statements (and amendments and continuation statements thereto) in such office or offices as may be necessary or, in the opinion of the Agent, desirable to perfect the security interests or Liens granted to the Agent under the Loan Documents.

**“Ultimate Parent Entities”** means Moods Parent and Greylock Parent.

**“Unfunded Subsequent Disbursement Commitment Notes”** means the Notes issued to any of the Lenders evidencing the unfunded Subsequent Disbursement Commitments provided by such Lenders in the form attached hereto as Exhibit A-2, in each case, as amended, restated, supplemented or otherwise modified from time to time.

**“United States”** and **“U.S.”** each means the United States of America.

**“USA Patriot Act”** means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56, as amended from time to time.

**“US Guarantors”** means CPL, Glasshouse and each of the other Guarantors organized in any state in the United States or the District of Columbia or any other location or jurisdiction within the United States.

**“US Loan Parties”** means the US Guarantors and any other Loan Party organized under the laws of the United States or any state or other political subdivision thereof (including the District of Columbia).

**“US Security Agreement”** means that certain United States Guaranty and Security Agreement dated as of the Agreement Date, by and among the Loan Parties (other than the Limited Guarantors) party thereto and Agent, pursuant to which, among other things, the Loan Parties (other than the Limited Guarantors) party thereto grant to Agent for the benefit of the Secured Parties a security interest and Lien in all of their Collateral (as defined therein) to secure the Obligations and the CVR Obligations, as amended, restated, supplemented or otherwise modified from time to time.

**“US Subsidiary”** means any Subsidiary organized under the laws of the United States or any state or other political subdivision thereof (including the District of Columbia).

**“Warrant Distributions”** has the meaning provided therefor in the Warrants.

**“Warrants”** has the meaning set forth in Section 2.10(a).

**“Warrant Shares”** has the meaning provided therefor in the Warrants.

## **1.2 Interpretation.**

In this Agreement, the other Loan Documents and the Contingent Value Right, unless the context otherwise requires, all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties requires and the verb shall be read and construed as agreeing with the required word and pronoun. The division of this Agreement, the other Loan Documents and the Contingent Value Right into Articles and Sections and the use of headings and captions is for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions. The words “herein,” “hereof,” “hereunder,” “hereinafter” and “hereto” and words of similar import refer to this Agreement (or other applicable Loan Document or the Contingent Value Right) as a whole and not to any particular Article or Section hereof (or thereof). The term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or.” The term “documents” and “agreements” include any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The use in any of the Loan Documents or the Contingent Value Right of the word “include” or “including,” when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term

or matter. References to a specified Article, Exhibit, Section or Schedule shall be construed as a reference to that specified Article, Exhibit, Section or Schedule of this Agreement (or other applicable Loan Document or the Contingent Value Right). Unless specifically stated otherwise, any reference to any of the Loan Documents or the Contingent Value Right means such document as the same shall be amended, restated, supplemented or otherwise modified and from time to time in effect. The references to “asset” (or “assets”) and “property” (or “properties”) in the Loan Documents or the Contingent Value Right are meant to be mean the same and are used throughout the Loan Documents and the Contingent Value Right interchangeably, and such words shall be deemed to refer to any and all tangible and intangible assets and properties, including cash, securities, Stock, accounts and contract rights. Unless otherwise specified herein or therein, all terms defined in any Loan Document or any Contingent Value Right shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto or thereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC or the PPSA, as applicable, shall have the meanings therein described. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.” If any provision of this Agreement, any other Loan Document or any Contingent Value Right refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, unless otherwise expressly stated, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and, except as otherwise provided with respect to FATCA, are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation, and any reference to any law or regulation, shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time. Whenever any reference is made in any Loan Document or any Contingent Value Right to any Person such reference shall be construed to include such Person’s permitted successors and permitted assigns. Any financial ratios required to be satisfied in order for a specific action to be permitted under any Loan Document or any Contingent Value Right shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein or therein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number). Unless otherwise specified, all references in any Loan Document or any Contingent Value Right to times of day shall be references to New York City time. Notwithstanding anything to the contrary in any Loan Document or any Contingent Value Right, any reference to “Organizational Document” or “Organizational Documents” of any Loan Party or any of its Subsidiaries in any Loan Document or any Contingent Value Right shall mean such written documents, agreements and arrangements that are in effect on the Agreement Date after giving effect to the Transactions occurring on the Agreement Date that have been approved by Agent, without giving effect to any amendment, restatement, change, supplement, waiver or other modification thereto or thereof that is not expressly permitted by Section 5.2(j). Any reference to “payment in full”, “paid in full”, “repaid in full”, “prepaid in full”, “redeemed in full” or any other term or word of similar effect used in this Agreement, any other Loan Document or any Contingent Value Right with respect to the Loans, the Obligations or the CVR Obligations shall mean (a) all Obligations and all CVR Obligations (in each case, including the amount of principal due and payable hereunder and under the other Loan Documents) (excluding contingent claims for indemnification to the extent no claim giving rise thereto has been asserted) have been repaid in full in cash and have been fully performed, and (b) all commitments of Lenders (including Subsequent Disbursement Commitments), if any, to extend credit under the Loan Documents have been terminated or have expired.

### 1.3 Business Day Adjustment.

Except as otherwise expressly stated herein or in any other Loan Document or any Contingent Value Right, if the day by which any payment or other performance is due to be made is not a Business Day, that payment or performance shall be made by the next succeeding Business Day unless that next succeeding Business Day falls in a different calendar month, in which case that payment or other performance shall be made by the Business Day immediately preceding the day by which such payment or other performance is due to be made; provided that interest will continue to accrue each additional day in connection therewith.

### 1.4 Loan Records.

- (a) The Borrower shall record on its books and records the amount of the Loan, the unfunded amount of the Subsequent Disbursement Commitments, the interest rate applicable thereto, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding.
- (b) The Borrower shall establish and maintain at its address referred to in Section 6.1, a record of ownership (the “**Register**”) in which the Borrower agrees to register by book entry the interests (including any rights to receive payment hereunder) of each Lender in the Loans and the unfunded Subsequent Disbursement Commitments, and any assignment of any such interest or interests, and (ii) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and any change thereto pursuant to this Agreement), (2) the amount of the Loans and the unfunded Subsequent Disbursement Commitments and each funding of any participation therein, (3) the amount of any principal, interest, fee or other amount due and payable or paid, and (4) any other payment received by the Lenders from the Borrower and its application to the Loans and the unfunded Subsequent Disbursement Commitments.
- (c) The Loans made by each Lender are evidenced by this Agreement. Additionally, the Borrower shall execute and deliver to each Lender (and/or, if applicable and if so requested by any assignee Lender pursuant to the assignment provisions of Section 6.5) on the Agreement Date (or, if such assignment is made after the Agreement Date, promptly after such Lender’s request) a Note (with respect to any Initial Disbursement) or an Unfunded Subsequent Disbursement Commitment Note (with respect to any unfunded Subsequent Disbursement Commitment) payable to such Lender in an amount equal to the unpaid principal amount of the Loans or unfunded Subsequent Disbursement Commitment held by such Lender (which, at the request of such Lender, may require separate Notes for separate or different parts of the Loans and unfunded Subsequent Disbursement Commitments held by such Lender). Notwithstanding anything to the contrary contained in this Agreement, the Loan and the unfunded Subsequent Disbursement Commitments (including any Notes evidencing the Loan or the Subsequent Disbursement Commitments) is a registered obligation, the right, title and interest of the Lenders and their successors and assignees in and to the Loan and any unfunded Subsequent Disbursement Commitments shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. ***This Section 1.4 shall be construed so that the Loan is at all times maintained in “registered form” within the meaning of Section 163(f) of the Code.***
- (d) The Borrower, Agent and the Lenders shall treat each Person whose name is recorded in the Register as a Lender for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrower, Agent or

such Lender at any reasonable time and from time to time upon reasonable prior notice, or when an Event of Default exists, with just notice (whether reasonable or not) by Agent or any such Lender.

### **1.5 Accounting Terms and Principles.**

All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with ASPE/GAAP. No change in the accounting principles used in the preparation of any financial statement hereafter adopted by the Borrower or its Subsidiaries (including, to the extent GAAP has been successfully implemented pursuant to the definition of “ASPE/GAAP”, any change in GAAP that would require leases that would be classified as operating leases under GAAP on the Agreement Date to be reclassified as Capital Leases) shall be given effect for purposes of measuring compliance with any provision of this Agreement or otherwise determining any relevant ratios and baskets which govern whether any action is permitted hereunder unless the Borrower, Agent and the Required Lenders agree to modify such provisions to reflect such changes in ASPE/GAAP and unless such provisions are modified, all financial statements and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in ASPE/GAAP. Notwithstanding any other provision contained herein or in any other Loan Document or any Contingent Value Right, all terms of an accounting or financial nature used herein and in the other Loan Documents and the Contingent Value Right shall be construed, and all computations of amounts and ratios referred to herein and in the other Loan Documents and the Contingent Value Right shall be made, without giving effect to any election under Statement of Financial Accounting Standards No. 159 (Codification of Accounting Standards 825-10) (or any ASPE equivalent thereof, to the extent applicable pursuant to the definition of “ASPE/GAAP”) to value any Indebtedness or other liabilities of any Loan Party or any Subsidiary at “fair value,” as defined therein.

### **1.6 Officers.**

Any document, agreement or instrument delivered under the Loan Documents or the Contingent Value Right that is signed by an Authorized Officer or another officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Authorized Officer or other officer shall be conclusively presumed to have acted on behalf of such Loan Party in such person’s capacity as an officer of such Loan Party and not in any individual capacity.

## **ARTICLE 2 AGREEMENT FOR THE LOAN**

### **2.1 Use of Proceeds.**

- (a) Subject to compliance with Section 2.1(c) in all respects, the proceeds of the Initial Disbursement will be used solely to pay (i) for working capital and general corporate purposes of the Borrower and (ii) fees, commissions, costs and expenses in connection with the Transactions.
- (b) Subject to compliance with Section 2.1(c), the proceeds of the Subsequent Disbursement will be used for working capital and for general corporate purposes of the Borrower that are not prohibited by the Loan Documents and the Contingent Value Right.
- (c) All Disbursements and Loans made shall be maintained by Borrower in a deposit account covered by a Control Agreement and shall not be distributed or sent to, or used by any

Parent Entity, The Wege Foundation, any Ultimate Parent Entity or any of Borrower's other direct or indirect parent entities or holders of its Stock.

## 2.2 Disbursements.

- (a) **Initial Disbursement.** Subject to the satisfaction of the conditions set forth in Section 4.1 and this Section 2.2(a) on the Agreement Date and subject to the terms in this Agreement and in reliance on the representations and warranties in the Loan Documents and the Contingent Value Right, upon the delivery of a Borrowing Notice by Borrower to each Lender at least one Business Day in advance of the proposed date of the funding of such amounts by such Lenders (or such shorter period agreed to by all the Lenders in their sole discretion), each Lender on the Agreement Date (or such later date required pursuant to when the Borrowing Notice regarding the Initial Disbursement was delivered by Borrower to each Lender) severally and not jointly agrees to lend to the Borrower on such date, the principal amount set forth opposite such Lender's name in Annex A under the heading "Initial Disbursement Amount." Amounts borrowed under this Section 2.2(a) are referred to as the "**Initial Disbursement.**"
- (b) **Subsequent Disbursements.** Subject to the satisfaction of the conditions set forth in Section 4.2 and this Section 2.2(b) and in reliance on the representations and warranties in the Loan Documents and the Contingent Value Right, to the extent a Borrowing Notice requesting such amounts is received by each Lender holding a Subsequent Disbursement Commitment from an Authorized Officer of the Borrower (and with such Borrowing Notice, among other things, certifying that all such aforementioned conditions in this Section 2.2(b) and the conditions in Section 4.2 are fully satisfied) at least fifteen (15) Business Days in advance of the proposed date of the funding of such amounts by such Lenders (or such shorter period agreed to by all such Lenders in their sole discretion) with the proposed date of funding being required to be a Business Day after the Agreement Date but on or prior to December 6, 2019 (or such earlier date set forth in the proviso of the first sentence of Section 2.3(a) or caused by the Facility Termination Date occurring or any earlier date of termination based on remedies available upon the occurrence of an Event of Default) (such end date of the Subsequent Disbursement Commitment, the "**Subsequent Disbursement Commitment Termination Date**"), each Lender holding a Subsequent Disbursement Commitment severally and not jointly agrees to lend one time only to the Borrower on the proposed date of funding, up to the principal amount set forth opposite such Lender's name in Annex A under the heading "Subsequent Disbursement Commitment;" provided that (y) the request for any such loan shall be in an amount equal to \$10,000,000 and (z) only one Subsequent Disbursement shall be requested and provided under this Agreement. Amounts borrowed under this Section 2.2(b) are referred to as the "**Subsequent Disbursement.**" Upon the funding of the Subsequent Disbursement by any Lender, the Subsequent Disbursement Commitment amount of such Lender shall be immediately and automatically terminated and the Borrower shall provide notation thereof in the Register of the termination of the Subsequent Disbursement Commitment amount of such Lender and the holding of the Subsequent Disbursement by such Lender; provided the failure by Borrower to so note such termination or the holding of the Subsequent Disbursement shall not affect the validity of such termination or the holding of the Subsequent Disbursement by such Lender. Any Subsequent Disbursement Commitments that are still available as of the Subsequent Disbursement Commitment Termination Date shall immediately and automatically terminate without any action or notice by any Person.
- (c) **[Reserved].**

- (d) **No Re-Borrowing of Disbursements or Loans.** Amounts borrowed as an Initial Disbursement or a Subsequent Disbursement which are repaid or prepaid may not be re-borrowed under any circumstance.

### 2.3 Payments; Prepayments.

- (a) The Borrower shall pay in cash to each of the Lenders its Pro Rata Share of the outstanding principal amount of the Obligations (as provided in the Notes held by such Lender) and all other Obligations (and, with respect to the US Guarantors, the CVR Obligations) on the earliest (such earliest date, the “**Facility Termination Date**”) of (i) the Maturity Date, (ii) the date the principal amounts of the Obligations or the CVR Obligations are declared to be, or automatically become, due and payable following an Event of Default, (iii) the proposed or required date of a prepayment, payment, redemption or repayment of the Obligations and CVR Obligations in full in cash prior to the Maturity Date other than pursuant to Section 5.3 and (iv) following delivery of a Put Notice pursuant to Section 5.3, the date the applicable Major Transaction is consummated; provided that, notwithstanding anything to the contrary in the Loan Documents or the Contingent Value Right, to the extent the Subsequent Disbursement Commitment Termination Date would occur after such earliest date of clauses (i) – (iii) above in this sentence, then the Subsequent Disbursement Commitment Termination Date shall automatically be moved to the same earliest date without any action or notice of any Person.
- (b) [Reserved].
- (c) Notwithstanding anything to the contrary in any of the Loan Documents or any Contingent Value Right, no Loans shall be permitted to be prepaid, paid, redeemed or repaid early, except to the extent all Obligations and CVR Obligations are prepaid in full at the same time as provided in Section 2.3(a).
- (d) Each prepayment, payment, redemption and repayment by the Borrower shall be applied (i) first, to all fees, costs and expenses (including any attorneys’ fees) owed to Agent under the Loan Documents and the Contingent Value Right, (ii) second, ratably to all fees, costs and expenses (including any attorneys’ fees) owed to any Lender under the Loan Documents and the Contingent Value Right, (iii) third, ratably to accrued and unpaid interest owed to the Lenders under the Loan Documents, (iv) fourth, ratably to the principal amount of the Loans owed to the Lenders, and, (v) fifth, to all other Obligations and CVR Obligations owing to Agent or any other Secured Party, and, with respect to any such Obligations or any CVR Obligations owed to the Secured Parties, shall be allocated among the Secured Parties in accordance with and in proportion to their Pro Rata Share.

### 2.4 Payment Details.

All payments of the Obligations by the Borrower, each other Loan Party (including, if any such payments are made thereby, by each Limited Guarantor) hereunder and under any of the other Loan Documents (or the CVR Obligations by each US Guarantor) under the Loan Documents or the Contingent Value Right) shall be made without setoff or counterclaim and shall be paid in cash in Dollars. Payments of any amounts and other Obligations and CVR Obligations due to Agent or the other Secured Parties under this Agreement or the other Loan Documents or the Contingent Value Right shall be made in Dollars in immediately available funds prior to 11:00 a.m. (New York City time) on such date that any such payment is due, using such wire information or address for Agent or such applicable Secured Party that is set forth on Schedule 2.4 or at such other bank or place as Agent or such applicable Secured Parties shall from time to time



designate in writing at least three (3) Business Days prior to the date such payment is due. The Borrower and the other Loan Parties (other than the Limited Guarantors) shall pay all and any fees, costs and expenses (administrative or otherwise) imposed by banks, clearing houses or any other financial institutions in connection with making any payments under any of the Loan Documents and the Contingent Value Right.

## 2.5 Taxes.

- (a) Any and all payments hereunder or under any other Loan Document or any Contingent Value Right shall be made, in accordance with this Section 2.5, free and clear of and without deduction or withholding for any and all present or future Taxes except as required by Applicable Law. If any Loan Party shall be required by Applicable Law to deduct or withhold any Taxes from or in respect of any sum payable hereunder or under any other Loan Document or any Contingent Value Right, (i) such Loan Party shall make such deductions or withholding, (ii) such Loan Party shall pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law, and (iii) to the extent that the deduction is made on account of Indemnified Taxes, the sum payable shall be increased by as much as shall be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.5), each Lender shall receive an amount equal to the sum it would have received had no such deductions been made (any and all such additional amounts payable shall hereafter be referred to as the “**Additional Amounts**”). Within thirty (30) days after the date of any payment of such Taxes, the Borrower shall furnish to the applicable Lender the original or a certified copy of a receipt evidencing payment thereof or other evidence of such payment reasonably satisfactory to such Lender.
- (b) In addition, the Loan Parties agree to pay and authorize each Lender to pay in their name, all Other Taxes. Within 30 days after the date of any payment of Other Taxes by any Loan Party, the Borrower shall furnish to the applicable Lender the original or a certified copy of a receipt evidencing payment thereof or other evidence of such payment reasonably satisfactory to such Lender.
- (c) The Borrower shall reimburse and indemnify, within ten (10) days after receipt of demand therefor, each Lender for all Indemnified Taxes (including all Indemnified Taxes imposed on amounts payable under this Section 2.5(c)) paid or payable by such Lender, and any Liabilities arising therefrom or relating thereto, whether or not such Indemnified Taxes were correctly or legally asserted. A certificate of the applicable Lender(s) setting forth the amounts to be paid thereunder and delivered to the Borrower shall be conclusive, absent manifest error.
- (d) The provisions of Sections 2.5(a), (b) and (c) shall apply to any Canadian Taxes imposed on the issuance of, or any consideration payable by CPL to any Secured Parties holding Warrants or Contingent Value Rights.
- (e) If a payment to a Lender under this Agreement would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA, such Lender shall deliver to the Borrower, at the times prescribed by law or as reasonably requested by Borrower, such documentation as is required in order for the Borrower to comply with its obligations under FATCA, to determine that such Lender has or has not complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of

this Section 2.5(e), “**FATCA**” shall include any amendments made to FATCA after the date of this Agreement.

- (f) If a Lender determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 2.5, such Lender shall promptly pay such refund (but only to the extent of indemnity payments made under this Section 2.5 with respect to the Taxes refund) to the Borrower, net of all out-of-pocket expense (including any Taxes imposed thereon) of such Lender incurred in obtaining such refund or making such payment, provided that the Borrower, upon the request of such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Lender if such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.5(f), in no event shall a Lender be required to pay any amount to the Borrower pursuant to this Section 2.5(f), the payment of which would place such Lender in a less favorable net after-Tax position than such Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted or otherwise imposed and the indemnification payments with respect to such Tax had never been paid. Nothing in this Section 2.5(f) shall require any Lender to disclose any information it deems confidential (including its tax returns) to any Person, including the Borrower.

## **2.6 Interest.**

From and after the Agreement Date, the outstanding principal amount of the Loans and any overdue interest shall bear interest at the Interest Rate (calculated on the basis of the actual number of days elapsed in each month). Interest shall (a) during the period from and after the Agreement Date through (but not including) the third annual anniversary of the Agreement Date, be accrued and with such amounts being compounded quarterly in arrears commencing on January 1, 2019 and on the first Business Day of each calendar quarter thereafter and with interest thereafter accruing on such compounded amounts and all such amounts that have been compounded (including all interest accruing thereon) from the Agreement Date until (and including) the third annual anniversary of the Agreement Date shall be paid in full in cash by Borrower to the Lenders on the date that is the third annual anniversary of the Agreement Date, (b) from and after the third annual anniversary of the Agreement Date, be paid in cash quarterly in arrears with the first cash payment being due and payable on January 1, 2022 and on the first Business Day of each calendar quarter thereafter (each, an “**Interest Payment Date**”).

## **2.7 Interest on Late Payments; Default Interest.**

- (a) Without limiting the remedies available to Agent and the Lenders under the Loan Documents, the Contingent Value Right or otherwise, to the maximum extent permitted by Applicable Law, if the Borrower or any other Loan Party fails to make a required payment of principal or interest with respect to the Loan when due the Borrower shall pay, in respect of such principal and interest at the rate per annum equal to the Interest Rate plus ten percent (10%) per annum for so long as such payment remains outstanding. Such interest shall be payable in cash on demand.
- (b) At the election (which upon such election, to the extent permitted by Applicable Law, such additional interest rate shall retroactively apply to the first day of existence of such Event of Default) of Agent or the Required Lenders while any Event of Default exists (or automatically while any Event of Default under Section 5.4(a) or 5.4(d) exists), the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent

permitted by Applicable Law) on the Obligations and past due interest thereon (and the US Guarantors shall pay interest (after as well as before entry of judgment thereon to the extent permitted by Applicable Law) on the CVR Obligations and any past due amounts owed thereon), if any, from and after the date of occurrence of such Event of Default, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Interest Rate then in effect for the Loans. Such interest shall be payable in cash on demand.

## 2.8 [Reserved].

## 2.9 Transaction Fees.

On the earlier of (a) the third anniversary of the Agreement Date and (b) the Facility Termination Date, the Borrower shall pay to the Lenders, based on their Pro Rata Share of the outstanding Loans, a transaction fee equal to \$500,000 in immediately available funds, and such fee shall be fully earned as of the Agreement Date upon the Lenders funding the Initial Disbursement and shall not be refundable upon being paid for any reason whatsoever.

## 2.10 Deliveries.

- (a) On the Agreement Date, CPL shall issue to the Lenders, based on such Lenders' respective Pro Rata Shares of the Initial Disbursement, (i) warrants to purchase 6,036 shares of common stock at an Exercise Price of \$497.08 per share (each as subject to any adjustments provided for therein), each in substantially the form of Exhibit C attached hereto (together with any Warrants issuable pursuant to Section 2.10(b) below, the "**Warrants**") with an expiration date of December 6, 2028 and (ii) contingent value rights (each as subject to any adjustments provided for therein), each in substantially the form of Exhibit H attached hereto (the "**Contingent Value Rights**").
- (b) Upon any Lender holding any Subsequent Disbursement Commitments making a Subsequent Disbursement, CPL shall issue to such Lender (in addition to any Warrants issued or issuable pursuant to Section 2.10(a) above, based on such Lender's Pro Rata Share of such Subsequent Disbursement funded on such Disbursement Date by such Lender, a Warrant to purchase a number of shares of common stock equal to thirty percent (30%) of such Subsequent Disbursement funded by such Lender, divided by the Exercise Price in substantially the form of Exhibit C attached hereto, with an expiration date of the tenth (10th) annual anniversary of the date of issuance.
- (c) The Warrants issued pursuant to this Section 2.10 shall be allocated among the Lenders as set forth on Annex A.
- (d) Notwithstanding anything herein to the contrary, the number of shares of Common Stock into which the Warrants to be issued pursuant to Section 2.10 are exercisable, the Exercise Price thereof on the issue date and the class of Common Stock issuable upon exercise of the Warrants shall be adjusted to reflect any adjustments in the number of shares or class of Common Stock into which such Warrant is exercisable that would have taken effect pursuant to the terms of such Warrant had such Warrant been issued on the date hereof and remained outstanding through the date of such issuance.

## ARTICLE 3

### REPRESENTATIONS AND WARRANTIES

#### 3.1 Representations and Warranties of the Loan Parties.

The Loan Parties, jointly and severally, represent and warrant on (i) the Agreement Date, (ii) each Disbursement Date, (iii) the date of each amendment, consent or waiver of this Agreement executed by any Loan Party or any such representation or warranty is otherwise remade or deemed remade and (iv) solely with respect to any new Loan Party that joins this Agreement after the Agreement Date, on the date such new Loan Party joins this Agreement:

- (a) Each Loan Party is (i) conducting its business in compliance with its Organizational Documents and (ii) not in violation of its Organizational Documents. Each Loan Party's Organizational Documents are in full force and effect.
- (b) No Default or Event of Default has occurred or will result from the transactions contemplated by the Loan Documents and the Contingent Value Right (including the Transactions). No default or event of default under the EDC Loan Documents, the FEDASO Loan Documents or the RBC Loan Documents has occurred or will result from the Transactions or the transactions contemplated by the Loan Documents.
- (c) Including, as applicable, before and after giving effect to any Disbursement and the incurrence of any other Indebtedness on such date (including the use of proceeds thereof), (i) each Loan Party and each of its Subsidiaries (A) is capable of paying its debts as they fall due, has not admitted its inability to pay its debts as they fall due and (B) has not taken action, and no such action has been taken by a third party, for its winding up, dissolution or liquidation or similar executory or judicial proceeding or for the appointment of a liquidator, custodian, receiver, trustee, administrator or other similar officer for any Loan Party, any Subsidiary of a Loan Party or any or all of such Loan Party's or such Subsidiary's assets or revenues and (ii) the Borrower, individually, is, and the Loan Parties and their respective Subsidiaries, on a consolidated basis, are, Solvent.
- (d) No Lien exists on any Loan Party's assets, except for Permitted Liens.
- (e) The obligation of the Loan Parties to make any payment required under this Agreement, the other Loan Documents or the Contingent Value Right (together with all charges in connection therewith) is absolute and unconditional.
- (f) No Indebtedness of any Loan Party exists other than Permitted Indebtedness.
- (g) Each Loan Party is validly existing as a corporation, limited liability company, limited partnership or other entity, as applicable, and is in good standing under the laws of the jurisdiction of its incorporation, organization, formation or other existence, as applicable. Each Loan Party (i) has full power and authority (and all governmental licenses, authorizations, permits, consents and approvals) to (A) own its properties, conduct its business and (B) enter into, and perform its obligations under, the Loan Documents and the Contingent Value Right and (z) consummate the transactions contemplated under the Loan Documents and the Contingent Value Right, and (ii) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and in good standing, under the laws of each jurisdiction where its ownership, lease or

operation of property or the conduct of its business requires such qualification or license, in each case of this clause (ii), where the failure to be so qualified, licensed or in good standing could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

- (h) There is not pending or, to the knowledge of the Loan Parties, threatened, any material action, suit or other proceeding before any Governmental Authority (i) to which any Loan Party is a party, (ii) which purports to affect or pertain to the Loan Documents or the Contingent Value Right, the Transactions or the other transaction contemplated hereby or thereby or (iii) which has as the subject thereof any assets owned by any Loan Party or any of its Subsidiaries, in each case which could reasonably be expected to result in monetary judgments or relief, individually or in the aggregate, in excess of \$100,000. There are no current or, to the knowledge of the Loan Parties, pending, legal actions, suits or other proceedings, in each case which could reasonably be expected to result in monetary judgments or relief, individually or in the aggregate, in excess of \$100,000, to which any Loan Party or any of its Subsidiaries or any of their respective assets is subject. No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement, any other Loan Document or any Contingent Value Right, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided. None of the directors (or equivalent persons) or officers of any Loan Party or its Subsidiaries has been involved (as a plaintiff, defendant, witness or otherwise) in securities-related litigation or other securities-related legal proceedings during the past five years.
- (i) The Loan Documents, the Contingent Value Right and the issuance of the Securities hereunder and thereunder have been duly authorized, executed and delivered by each Loan Party and, to the extent applicable, the holders of any Loan Party's Stock (including the Parent Entities and The Wege Foundation) and no further consent or authorization is required by such Loan Party, such Loan Party's board of directors (or other equivalent governing body) or the holders of such Loan Party's Stock (including the Parent Entities and The Wege Foundation), and constitute a valid, legal and binding obligation of each Loan Party and such holders of any Loan Party's Stock (including the Parent Entities and, as applicable, The Wege Foundation), enforceable in accordance with their terms, except as such enforceability may be limited by applicable insolvency, bankruptcy, reorganization, moratorium or other similar laws affecting creditors' rights generally. The execution, delivery and performance of the Loan Documents and the Contingent Value Right by each Loan Party party thereto and the consummation of the transactions contemplated herein and therein will not (A) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any Lien (other than pursuant to the Loan Documents) upon any assets of any such Loan Party pursuant to, any agreement, document or instrument to which such Loan Party is a party or by which any Loan Party is bound or to which any of the assets or property of any Loan Party is subject, except, with respect to this clause (A), as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (B) result in any violation of or conflict with the provisions of the Organizational Documents, (C) result in the violation of any Applicable Law, except, with respect to this clause (C), as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, or (D) result in the violation of any judgment, order, rule, regulation or decree of any Governmental Authority. No consent, approval, Authorization or order of, or registration or filing with any Governmental Authority is required for (i) the

execution, delivery and performance of any of the Loan Documents or any Contingent Value Right, and (ii) the consummation by any Loan Party of the Transactions or the other transactions contemplated hereby or thereby, except for such registrations and filings contemplated by the Security Agreements.

- (j) Other than has been obtained, no Authorization is required for (i) the execution and delivery of this Agreement, the other Loan Documents and the Contingent Value Right, or (ii) the consummation of the Transactions and the other transactions contemplated hereby and thereby.
- (k) Each Loan Party and its Subsidiaries are in compliance with Applicable Law.
- (l) (i) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (A) each Loan Party holds, and is operating in compliance in all material respects with, all franchises, grants, Authorizations, licenses, permits, easements, consents, certificates and orders of any Governmental Authority (collectively, “**Necessary Documents**”) required for the conduct of its business and (B) all Necessary Documents are valid and in full force and effect; (ii) no Loan Party has (A) received written notice of any revocation, non-renewal, amendment or other modification of any of the Necessary Documents and (B) reason to believe that any of the Necessary Documents will not be renewed in the ordinary course of business; and (iii) each Loan Party is in compliance in all material respects with all applicable federal, state, local and foreign laws, regulations, orders and decrees applicable to the conduct of its business.
- (m) As of the Agreement Date, the Real Estate listed in Schedule 3.1(m) constitutes all of the Real Estate of each Loan Party and each of its Subsidiaries. Each Loan Party has good and marketable title to all of its assets and property free and clear of all Liens, except Permitted Liens. Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the property held under lease by each Loan Party is held under valid, subsisting and enforceable leases with only such exceptions with respect to any particular lease as do not interfere in any material respect with the conduct of the business of such Loan Party.
- (n) Each Loan Party owns, or has the right to use pursuant to a valid and enforceable written license, free and clear of any Liens other than Permitted Liens, all Intellectual Property (as defined below) that is necessary for the conduct of its business as currently conducted (the “**IP**”). All IP that is registered with or issued by a Governmental Authority, or where an application for such registration or issuance has been made, is currently in the name of a Loan Party and is valid and enforceable. There is no pending or, to the knowledge of the Loan Parties, threatened action, suit, other proceeding or claim by any Person challenging or contesting the validity, ownership, or enforceability of any IP, the use thereof by any Loan Party, or other rights of any Loan Party in or to any IP, and no Loan Party has received any written notice regarding any such action, suit, other proceeding or claim. Neither the conduct of the business of any Loan Party, nor any Loan Party, has, to the knowledge of any Loan Party, infringed, misappropriated or otherwise violated, or is infringing, misappropriating or otherwise violating, in any respect, any Intellectual Property of any Person. Except as set forth on Schedule 3.1(n), there is no pending or, to the knowledge of the Loan Parties, threatened action, suit, other proceeding or claim by any Person alleging that any Loan Party is infringing, misappropriating or violating, or otherwise using without authorization, any Intellectual Property of any Person, and no Loan Party has received any written notice regarding, any such action, suit, other

proceeding or claim. No Loan Party is a party to or bound by any options, licenses or other agreements, written or oral, granting any right, title or interest in or to any IP or otherwise relating to any IP, other than licenses for computer software acquired in the ordinary course of business. The term “**Intellectual Property**” as used herein means all (i) trademarks, service marks, trade dress, slogans, logos, trade names, corporate names, Internet domain names, and any other indicia of source, together with all goodwill associated with each of the foregoing, (ii) copyrights (whether or not registered or published) and works of authorship, (iii) registrations and applications for registration for any of the foregoing, (iv) patents (including all reissuances, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions and extensions thereof), patent applications, patent disclosures and inventions (whether or not patentable or reduced to practice), (v) computer software (including but not limited to source code and object code), data, databases, and documentation thereof, (vi) trade secrets and other confidential information, know-how, protocols, processes, methodologies, techniques, strategies, and processes, (vii) other intellectual property and all rights associated with any of the foregoing, including the right to prosecute and recover monetary damages for any past, present and future infringements and other violations thereof, and (viii) copies and tangible embodiments of the foregoing (in whatever form and medium).

- (o) No Loan Party is, except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, in breach of or otherwise in default under, and no event has occurred which, with notice or lapse of time or both, would constitute such breach or other default in the performance of any agreement or condition contained in any agreement under which it may be bound, or to which any of its assets is subject.
- (p) All U.S. and Canadian federal, state, provincial and local income and franchise and other material Tax returns, reports and statements (collectively, the “**Tax Returns**”) required to be filed by any Tax Affiliates have been filed with the appropriate Governmental Authorities, all such Tax Returns are true and correct in all material respects, and all Taxes, assessments and other governmental charges and impositions reflected therein or otherwise due and payable have been paid prior to the date on which any material Liability may be added thereto for non-payment thereof except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with ASPE/GAAP. As of the Agreement Date, no material Tax Return is under audit or examination by any Governmental Authority, and no Tax Affiliate has received written notice from any Governmental Authority of any audit or examination or any assertion of any claim for material Taxes. To the extent material, proper and accurate amounts have been withheld by each Tax Affiliate from their respective employees for all periods in full and complete compliance with the Tax, social security and unemployment withholding provisions of Applicable Law and such withholdings have been timely paid to the respective Governmental Authorities. No Tax Affiliate has participated in a “listed transaction” within the meaning of Treasury Regulation Section 1.6011-4(b)(2) or has been a member of an affiliated, combined or unitary group other than the group of which a Tax Affiliate is the common parent.
- (q) Other than customary and non-exclusive field marketing agreements and other than those set forth on Schedule 3.1(q), no Loan Party has granted rights to market or sell its services to any other Person, and is not bound by any agreement that affects the exclusive right of each Loan Party to develop, license, market or sell its services.

- (r) Except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect after the Agreement Date, each Loan Party: (A) at all times has complied with all Applicable Laws; (B) has not received any warning letter or other correspondence or notice from the any Governmental Authority alleging or asserting noncompliance with any Applicable Laws or any Authorizations; (C) possesses and complies with the Authorizations, which are valid and in full force and effect; (D) has not received written notice that any Governmental Authority has taken, is taking or intends to take action to limit, suspend, modify or revoke any Authorization and has no knowledge that any Governmental Authority is considering such action; and (E) has filed, obtained, maintained or submitted all reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Applicable Laws or Authorizations.
- (s) The audited financial statements of CPL and its Subsidiaries as of October 31, 2017 and the unaudited financial statements of CPL and its Subsidiaries dated April 30, 2018, and all other financial statements delivered pursuant to Section 5.1(h), in each case, fairly present the consolidated financial position and condition of CPL and its Subsidiaries and the consolidated results of their operations and cash flows for the periods then ended or covered thereby and have been prepared in accordance with ASPE/GAAP consistently applied with prior periods (subject, in the case of unaudited quarterly financial statements, to normal fiscal year-end adjustments that are not material individually or in the aggregate and lack of footnote disclosures); and there are no material off-balance sheet arrangements or any other relationships with unconsolidated entities or other Persons, that may have a material current or, to the Loan Parties' knowledge, material future effect on any Loan Party's or any of its Subsidiaries' financial position or condition, results of operations, cash flow, liquidity, capital expenditures, capital resources or significant components of revenue or expenses.
- (t) Since October 31, 2017, there has been no Material Adverse Effect or any event or circumstance which would reasonably be expected to result in a Material Adverse Effect. All financial performance projections delivered to any Secured Party, including the financial performance projections delivered on or prior to the Agreement Date (the "**Agreement Date Projections**"), represent each Loan Party's and its Subsidiaries' good faith estimate of future financial performance and are based on assumptions believed by the Loan Parties and their Subsidiaries to be fair and reasonable in light of current market conditions, it being acknowledged and agreed by Agent and the Lenders that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by such projections may differ from the projected results and such differences may be material.
- (u) The Loan Parties and their Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with ASPE/GAAP and to maintain asset and liability accountability, (iii) access to assets or incurrence of liability is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any differences (such internal accounting controls (including clauses (i) – (iv) above), collectively, "**Internal Controls**").



- (v) No Loan Party has, directly or indirectly, made any agreements with any Secured Party relating to the terms or conditions of the transactions contemplated by the Loan Documents or the Contingent Value Right, except as set forth herein or therein.
- (w) (i) No Loan Party has engaged, and to the knowledge of the Loan Parties, no other Person has engaged in any “prohibited transaction” as defined under Section 406 of ERISA or Section 4975 of the Code that is not exempt under ERISA Section 408 or Section 4975 of the Code, under any applicable regulations and published interpretations thereunder or under any applicable prohibited transaction, individual or class exemption issued by the Department of Labor, with respect to any Employee Benefit Plan, except as for such transaction that could not be expected, individually or in the aggregate, to have a Material Adverse Effect, (ii) (A) at no time within the last seven years has the Borrower or any ERISA Affiliate maintained, sponsored, participated in, contributed to or had any Liability with respect to, and (B) no Loan Party or any ERISA Affiliate has any Liability or obligation in respect of, any Title IV Plan, Multiemployer Plan or any multiple employer plan for which the Borrower or any ERISA Affiliate has incurred or could incur Liability under Section 4063 or 4064 of ERISA, (iii) no Loan Party has any obligation or Liability with respect to post-termination or retiree health, life insurance or other retiree or post-termination welfare benefits except as may be required by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or similar state law and for which premiums therefor are paid solely by participants or their designated beneficiaries, (iv) each Employee Benefit Plan is and has been operated in compliance with its terms and all Applicable Laws, including ERISA and the Code, except for such failures to comply that could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (v) (A) no ERISA Event has occurred ( and (B) no event or condition exists or existed that could reasonably be expected to subject the Borrower or any ERISA Affiliate to any tax, fine, lien, penalty or Liability imposed by ERISA, the Code or other Applicable Law, except for any such ERISA Event or tax, fine, lien, penalty or liability that could not be expected, individually or in the aggregate, to have a Material Adverse Effect, and (vi) no Loan Party maintains or has any obligation or Liability with respect to any Foreign Benefit Plan.
- (x) CPL’s Subsidiaries are set forth in Schedule 3.1(x).
- (y) Subsequent to April 30, 2018, the Borrower has not declared or paid any dividends or made any distribution of any kind with respect to its Stock, except as permitted hereunder.
- (z) All of the issued and outstanding shares of Stock of the Borrower are duly authorized and validly issued, fully paid and non-assessable, have been issued in compliance with all federal and state and foreign securities laws, were not issued in violation of or subject to any preemptive rights or other rights to subscribe for or purchase securities that have not been waived in writing. The Borrower has reserved for issuance a number of shares of Common Stock sufficient to cover all shares issuable upon the exercise of the Warrants (the “**Warrant Shares**”) (computed without regard to any limitations on the number of shares that may be issued on conversion or exercise, as the case may be). The Warrants, the Warrant Shares and the other distributions required to be made pursuant to the Warrants (the “**Warrant Distributions**”), in each case, have been duly authorized. Upon the issuance in accordance with the terms of the Loan Documents and the Contingent Value Right, the holders of the Warrants will be entitled to the rights set forth in the Warrants. Upon exercise of the Warrants in accordance with their terms, the Warrant Shares will be validly issued, fully paid and non-assessable and free from all taxes and

Liens with respect to the issue or conversion thereof, with the holders thereof being entitled to all rights accorded to a holder of Common Stock. The issuance by the Borrower of the Securities is exempt from registration under the Securities Act (pursuant to Section 4(a)(2) thereof and Rule 506 of Regulation D) and applicable state securities laws. Each Loan Party's authorized, issued and outstanding shares of Stock of each Loan Party and each of its Subsidiaries are set forth in Schedule 3.1(z), and, except as set forth in Schedule 3.1(z), there are no (i) Stock options or other Stock incentive plans, employee Stock purchase plans or other plans, programs or arrangements of any Loan Party or any of its Subsidiaries under which Stock options, Stock or other Stock-based or Stock-linked awards are issued or issuable to officers, directors, employees, consultants or other Persons, (ii) outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exchangeable or exercisable for, any Stock of any Loan Party or any of its Subsidiaries, or contracts, commitments, understandings or arrangements by which any Loan Party or any of its Subsidiaries is or may become bound to issue additional Stock of any Loan Party or any of its Subsidiaries, or options, warrants or scrip for rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into or exercisable or exchangeable for, any shares of Stock of any Loan Party or any of its Subsidiaries, (iii) agreements or arrangements under which any Loan Party or any of its Subsidiaries is obligated to register the sale of any of their securities or Stock under the Securities Act (except the Registration Rights Agreement), (iv) outstanding Stock, securities or instruments of any Loan Party or any of its Subsidiaries that contain any redemption or similar provisions, or contracts, commitments, understandings or arrangements by which any Loan Party or any of its Subsidiaries is or may become bound to redeem a security of any Loan Party, (v) Stock or other securities or instruments containing anti-dilution or similar provisions that may be triggered by the issuance of securities of any Loan Party or any of its Subsidiaries or (vii) stock appreciation rights or "phantom stock" plans or agreements or any similar plans or agreements to which any Loan Party or any of its Subsidiaries is a party or by which any Loan Party or any of its Subsidiaries is otherwise subject or bound. There are no (X) stockholders' agreements, voting agreements or similar agreements to which any Loan Party or any of its Subsidiaries is a party or by which any Loan Party or any of its Subsidiaries is otherwise subject or bound, (Y) preemptive rights or any other similar rights to which any Stock of any Loan Party or any of its Subsidiaries is subject or (Z) any restrictions upon the voting or transfer of any Stock of any Loan Party or any of its Subsidiaries (other than restrictions on transfer imposed by applicable securities laws). The Borrower has furnished to Agent and each Lender true, correct and complete copies of each Loan Party's Organizational Documents and any amendments, restatements, supplements or modifications thereto, and all documents, agreements and instruments containing the terms of all securities and Stock convertible into, or exercisable or exchangeable for, Common Stock or other Stock of any Loan Party or its Subsidiaries, and the material rights of the holders thereof in respect thereto.

- (aa) Schedule 3.1(aa) sets forth all material contracts, agreements, leases instruments and commitments (collectively, the "**Material Agreements**") to which any Loan Party or any of its Subsidiaries are a party or by which they are bound, that involve any of the following: (a) obligations (contingent or otherwise) of, or payments to, any Loan Party or its Subsidiaries on or after the date hereof in excess of \$1,000,000 in the aggregate in any fiscal year of CPL (other than normal nonexclusive customer licenses entered into with customers of any Loan Party or its Subsidiaries in the ordinary course), where all of any Loan Party's or its Subsidiaries' agreements involving the same Person (including Persons

that any Loan Party or its Subsidiaries has reason to believe are affiliated therewith) shall be aggregated for the purpose of meeting the preceding individual minimum dollar amount; (b) the transfer or license of any IP to or from any Loan Party or its Subsidiaries (other than normal non-exclusive and use customer licenses entered into with customers of the Borrower or its Subsidiaries in the ordinary course and nonexclusive object code licenses to any Loan Party or its Subsidiaries for “off the shelf” or other standard software products); (c) the material restriction of or otherwise materially and adversely affecting the Borrower’s or its Subsidiaries’ exclusive right to develop, manufacture, assemble, distribute, market, sell or otherwise exploit its products or services (whether by territorial restriction or otherwise) or that prohibit the Borrower or its Subsidiaries from freely engaging in any business or competing anywhere in the world in any material respect; or (d) the termination or breach of which could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

- (bb) No Loan Party nor any of its Subsidiaries are in material breach or default under any Material Agreement, and, to the knowledge of the Loan Parties, no other party to a Material Agreement is in default or breach thereunder.
- (cc) The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 2.1.
- (dd) Except as set forth in Schedule 3.1(dd) and except where any failures to comply could not reasonably be expected to result in, either individually or in the aggregate, Material Environmental Liabilities to the Loan Parties and their Subsidiaries, each Loan Party and each Subsidiary of each Loan Party (a) are and have been in compliance with all applicable Environmental Laws, including obtaining and maintaining all Permits required by any applicable Environmental Law, (b) is not party to, and no Real Estate currently (or to the knowledge of any Loan Party previously) owned, leased, subleased, operated or otherwise occupied by or for any such Person is subject to or the subject of, any contractual obligation or any pending or, to the knowledge of any Loan Party, threatened, order, action, investigation, suit, proceeding, audit, Lien, claim, demand, dispute or notice of violation or of potential liability or similar notice relating in any manner to any Environmental Law, (c) has not caused or suffered to occur a Release of Hazardous Materials at, to or from any Real Estate, (d) currently (or to the knowledge of any Loan Party, previously) own, lease, sublease, operate or otherwise occupy no Real Estate that is contaminated by any Hazardous Materials and (e) is not, and has not been, engaged in, and has not permitted any current or former tenant to engage in, operations in violation of any Environmental Law and knows of no facts, circumstances or conditions reasonably constituting notice of a violation of any Environmental Law, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act or similar Environmental Laws.
- (ee) None of any Loan Party, any Person controlling any Loan Party or any Subsidiary of any Loan Party is (a) registered or required to be registered as an “investment company” within the meaning of the Investment Company Act or subject to the restrictions imposed, by the Investment Company Act, or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents (including the Obligations) and the Contingent Value Right (including the CVR Obligations).

- (ff) There are no strikes, boycotts, grievances, work stoppages, slowdowns, lockouts or other job actions existing, pending (or, to the knowledge of any Loan Party, threatened) against or involving any Loan Party or any Subsidiary of any Loan Party, except for those that could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as set forth on Schedule 3.1(ff), as of the Agreement Date, (a) there is no memorandum of understanding, collective bargaining or similar agreement, and there is no ongoing negotiation or duty to negotiate, with any union, labor organization, works council or similar representative covering any Employee or otherwise binding any Loan Party or any Subsidiary of any Loan Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any Employee, (c) no such representative has sought certification or recognition with respect to any Employee, and (d) no Employee or his or her representative is engaged in any organizing efforts. All current and former Employees are or were correctly classified as exempt or non-exempt under, and are and have been paid in accordance with, all applicable federal, state, and local wage and hour laws. Further, all individuals who perform or have performed services for any Loan Party, any Subsidiary of any Loan Party are or were correctly classified under each Employee Benefit Plan, ERISA, the Internal Revenue Code and other Applicable Law as common law employees, independent contractors or other non-employee basis, or leased employees, except as could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Each Loan Party and Subsidiary of any Loan Party are in material compliance with all Applicable Laws concerning employment, including hiring, background checks, compensation, benefits, wages (including payment of overtime), wage deductions and withholdings, classification, immigration, work authorization, employment eligibility verification, reporting, taxation, occupational health and safety, equal rights, labor relations, accommodations, breaks, notices, employment policies, paid or unpaid time off work, accessibility, privacy, and workers' compensation, except for those that could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.
- (gg) Schedule 3.1(gg) lists each Loan Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Loan Party's chief executive office or sole place of business, in each case as of the date hereof, and such Schedule 3.1(gg) also lists all jurisdictions of organization and legal names of such Loan Party for the five years preceding the Agreement Date.
- (hh) Schedule 3.1(hh) lists all banks and other financial institutions securities intermediary or commodity intermediary at which any Loan Party maintains deposit, securities, commodities or similar accounts as of the Agreement Date, and such Schedule 3.1(hh) correctly identifies the name, address and any other relevant contact information reasonably requested by Agent with respect to each depository or intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.
- (ii) None of the statements contained in each exhibit, report, statement or certificate furnished by or on behalf of any Loan Party or any of their Subsidiaries in connection with the Loan Documents, the Contingent Value Right and the Transactions (including the offering and disclosure materials, if any, delivered by or on behalf of any Loan Party to any Secured Party prior to the Agreement Date, but excluding any financial performance projections), when taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made

therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered.

- (jj) Each Loan Party and each Subsidiary of each Loan Party is in compliance in all material respects with all U.S. economic sanctions laws, executive orders and implementing regulations (“**Sanctions**”) as administered by the U.S. Treasury Department’s Office of Foreign Assets Control (“**OFAC**”) and the U.S. State Department. No Loan Party and no Subsidiary of a Loan Party (i) is a Person on the list of the Specially Designated Nationals and Blocked Persons (the “**SDN List**”), (ii) is a Person who is otherwise the target of U.S. economic sanctions laws such that a U.S. Person cannot deal or otherwise engage in business transactions with such Person, (iii) is a Person organized or resident in a country or territory subject to comprehensive Sanctions (a “**Sanctioned Country**”), or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement, any other Loan Document or any Contingent Value Right would be prohibited by U.S. law. Each Loan Party and each Subsidiary of each Loan Party is in compliance with all laws related to terrorism or money laundering (“**Anti-Money Laundering Laws**”) including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), and any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to “know your customer” or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such Anti-Money Laundering Laws is pending or threatened to the knowledge of each Loan Party and each Subsidiary of each Loan Party. Each Loan Party and each Subsidiary of each Loan Party is in compliance in all material respects with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 (“**FCPA**”) and the U.K. Bribery Act 2010 (“**Anti-Corruption Laws**”). None of any Loan Party or any Subsidiary of a Loan Party, nor to the knowledge of any Loan Party or any Subsidiary thereof, any director, officer, agent, employee or other Person acting on behalf of the Loan Party or any Subsidiary of a Loan Party, has taken any action, directly or indirectly, that would result in a violation of applicable Anti-Corruption Laws. The Loan Party and each Subsidiary of a Loan Party maintains and implements policies and procedures designed to ensure compliance by the Loan Parties, their Subsidiaries and their respective directors, officers, employees and agents with Sanctions, Anti-Money Laundering Laws and Anti-Corruption Laws.
- (kk) To each Loan Party’s and its Subsidiaries’ knowledge, FEDASO has not entered into, and does not intend to enter into, directly or indirectly, an intercreditor agreement or similar intercreditor arrangements with any Loan Party’s or its Subsidiaries’ other creditors (including EDC, RBC or any of their respective Affiliates).
- (ll) No Loan Party nor any of its Subsidiaries nor, to the Borrower’s knowledge, any director, officer or employee, of any Loan Party or any of its Subsidiaries, has received or otherwise obtained any material complaint, allegation, assertion or claim, whether written or oral, regarding the accounting or auditing practices, procedures, methodologies or methods of any Loan Party or any of its Subsidiaries or its internal accounting controls, including any complaint, allegation, assertion or claim that any Loan Party or any of its Subsidiaries has

engaged in questionable accounting or auditing practices. No attorney representing any Loan Party or any of its Subsidiaries, whether or not employed by any Loan Party or any of its Subsidiaries, has reported credible evidence of a material violation of securities laws or breach of fiduciary duty or similar violation by any Loan Party or any of its Subsidiaries or any of their respective officers, directors, employees or agents to any Loan Party's or any of its Subsidiaries' board of directors (or equivalent governing body) or any committee thereof or to any director (or equivalent person) or officer of any Loan Party or any of its Subsidiaries.

- (mm) [Reserved].
- (nn) Neither the Borrower, nor any of its Affiliates, nor any Person acting on its or their behalf, has engaged or will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer, sale or issuance of the Securities.
- (oo) Neither the Borrower, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made, or will make, any offers or sales of any security or Stock or solicited any offers to buy any security or Stock, under circumstances that would require registration of any of the Securities under the Securities Act or cause this offering of the Securities to be integrated with prior offerings by the Borrower for purposes of the Securities Act.
- (pp) The Borrower has furnished Agent and the Lenders with a true, correct and complete copy of the EDC Loan Documents, the FEDASO Loan Documents and the RBC Loan Documents (in each case, including all schedules, exhibits, amendments, restatements, supplements, modifications, assignments and all other agreements, instruments and documents delivered pursuant thereto or in connection therewith). Each of the Loan Parties and their Subsidiaries has duly taken all necessary organizational action to authorize the execution, delivery and performance of the Loan Documents and the Contingent Value Right and the consummation of transactions contemplated thereby. As of the Agreement Date, the Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right have been consummated (or are being consummated substantially contemporaneously with the Initial Disbursement hereunder) in accordance with the terms of the Loan Documents and the Contingent Value Right. The Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right will comply with all applicable legal requirements, and all necessary governmental, regulatory, creditor, shareholder, partner, director, member, manager and other material consents, approvals and exemptions required to be obtained by a Loan Party or any of its Subsidiaries will be, prior to consummation of the Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right, duly obtained and will be in full force and effect. As of the Agreement Date, all applicable waiting periods with respect to the Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right will have expired without any action being taken by any competent Governmental Authority which restrains, prevents or imposes material adverse conditions upon the consummation of the Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right. The execution and delivery of the Loan Documents and the Contingent Value Right (and the performance of the obligations thereunder) did and will not, and the consummation of the Transactions and the other transactions contemplated by the Loan Documents and the Contingent Value Right will not, violate any statute or

regulation of Canada or the United States (including any securities law) or of any state or other applicable jurisdiction, or any order, judgment or decree of any court or governmental body binding on any Loan Party or any Loan Party's Subsidiaries, or result in a breach of, or constitute a default under, (y) any material agreement, indenture, instrument or other document, or any judgment, order or decree, to which any Loan Party or any Loan Party's Subsidiary is a party or by which any Loan Party or any Loan Party's Subsidiary is bound or (z) any EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document.

- (qq) The Loan Documents create valid first priority security interests in, and Liens on, the Collateral purported to be covered thereby, which security interests and Liens are currently first priority perfected security interests and Liens, prior to all other Liens (in each case, subject to any Lien priority of (i) RBC solely with respect to the assets of CPL Canada Holdco and CPLC that are expressly provided for in the RBC Subordination Agreement (but, for the avoidance of doubt, excluding the Stock in the Borrower) and (ii) EDC with respect to equipment and inventory only that is expressly provided for in the EDC Subordination Agreement).
- (rr) The Loan Parties and their Subsidiaries do not own or have any "consumer goods" (as such term is defined in Section 9-102(a)(23) of the UCC).
- (ss) [Reserved].
- (tt) The Borrower and the other Loan Parties are solely responsible for the payment of any fees, costs, expenses and commissions of any placement agent, broker or financial adviser relating to or arising out of the transactions contemplated by the Loan Documents or the Contingent Value Right. The Borrower and the other Loan Parties will pay, and hold each of the Secured Parties harmless against, any liability, loss or expense (including attorneys' fees, costs and expenses) arising in connection with any claim for any such payment.
- (uu) Schedule 3.1(uu) sets forth, as of the Agreement Date, a complete and correct list of all Registrations held by each Loan Party and its Subsidiaries. Such listed Registrations are the only Registrations that are required for each Loan Party and its Subsidiaries to conduct their respective businesses as presently conducted or as proposed to be conducted. Each Loan Party and each of its Subsidiaries has, and it and its Products are in conformance with, all Registrations required to conduct its respective businesses as now or currently proposed to be conducted except where the failure to have such Registrations could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. To the knowledge of each Loan Party and each of its Subsidiaries, neither the FDA nor other Governmental Authority is considering limiting, suspending or revoking such Registrations or changing the marketing classification or labeling or other significant parameter affecting the Products of any Loan Party or any of its Subsidiaries. To the knowledge of each Loan Party and each of its Subsidiaries, there is no false or misleading information or significant omission in any product application or other submission to the FDA or other Governmental Authority administering Public Health Laws. Each Loan Party and each of its Subsidiaries have fulfilled and performed their obligations under each Registration, and no event has occurred or condition or state of facts exists which would constitute a breach or default, or would cause revocation or termination of any such Registration. To the knowledge of each Loan Party and each of its Subsidiaries, no event has occurred or condition or state of facts exists which could present potential product liability related, in whole or in part, to Regulatory Matters. To the knowledge of each Loan

Party and each of its Subsidiaries, any third party that is a manufacturer or contractor for any Loan Party or any of its Subsidiaries is in compliance with all Registrations required by the FDA or comparable Governmental Authority and all Public Health Laws insofar as they reasonably pertain to the Products of any Loan Party or any of its Subsidiaries.

- (vv) All Products designed, developed, investigated, manufactured, prepared, assembled, packaged, tested, labeled, distributed, sold or marketed by or on behalf of any Loan Party or any of its Subsidiaries that are subject to Public Health Laws have been and are being designed, developed, investigated, manufactured, prepared, assembled, packaged, tested, labeled, distributed, sold and marketed in compliance with the Public Health Laws or any other Applicable Law, including clinical and non-clinical evaluation, product approval or clearance, premarketing notification, good manufacturing practices, labeling, advertising and promotion, record-keeping, establishment registration and device listing, reporting of recalls and adverse event reporting.
- (ww) No Loan Party nor any of its Subsidiaries is subject to any obligation arising under an administrative or regulatory action, proceeding, investigation or inspection by or on behalf of a Governmental Authority, warning letter, notice of violation letter, consent decree, request for information or other notice, response or commitment made to or with a Governmental Authority with respect to Regulatory Matters, and, to the knowledge of each Loan Party and each of its Subsidiaries, no such obligation has been threatened. There is no, and there is no act, omission, event, or circumstance of which any Loan Party or any of its Subsidiaries has knowledge that could reasonably be expected, individually or in the aggregate, to give rise to or lead to, any civil, criminal or administrative action, suit, demand, claim, complaint, hearing, investigation, demand letter, warning letter, proceeding or request for information pending against any Loan Party or any of its Subsidiaries, and, to each Loan Party and each of its Subsidiaries' knowledge, no Loan Party nor any of its Subsidiaries has any liability (whether actual or contingent) for failure to comply with any Public Health Laws. There has not been any violation of any Public Health Laws by any Loan Party or any of its Subsidiaries in its product development efforts, submissions, record keeping and reports to the FDA or any other Governmental Authority that could reasonably be expected to require or lead to investigation, corrective action or enforcement, regulatory or administrative action that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. To the knowledge of each Loan Party and each of its Subsidiaries, there are no civil or criminal proceedings relating to any Party or any of its Subsidiaries or any officer, director or employee of any Loan Party or any of its Subsidiaries that involve a matter within or related to the FDA's or any other Governmental Authority's jurisdiction.
- (xx) As of the Agreement Date, except as set forth on Schedule 3.1(xx), no Loan Party nor any of its Subsidiaries is undergoing any inspection related to Regulatory Matters or any other Governmental Authority investigation.
- (yy) During the period of three calendar years immediately preceding the Agreement Date, no Loan Party nor any of its Subsidiaries has introduced into commercial distribution any Products manufactured by or on behalf of any Loan Party or any of its Subsidiaries or distributed any products on behalf of another manufacturer that were upon their shipment by any Loan Party or any of its Subsidiaries adulterated or misbranded in violation of 21 U.S.C. § 331. Except as set forth on Schedule 3.1(yy), no Loan Party nor any of its Subsidiaries has received any notice or communication from any Governmental Authority alleging material noncompliance with any Applicable Law. No Product has been seized,



withdrawn, recalled, detained, or subject to a suspension (other than in the ordinary course of business) of research, manufacturing, distribution or commercialization activity, and there are no facts or circumstances reasonably likely to cause (i) the seizure, denial, withdrawal, recall, detention, public health notification, safety alert or suspension of manufacturing or other activity relating to any Product; (ii) a change in the labeling of any Product suggesting a compliance issue or risk; or (iii) a termination, seizure or suspension of manufacturing, researching, distributing or marketing of any Product. No proceedings in the United States or any other jurisdiction seeking the withdrawal, recall, revocation, suspension, import detention or seizure of any Product are pending or threatened against any Loan Party or any of its Subsidiaries.

- (zz) No Loan Party, any of its Subsidiaries or any of its or their respective officers, directors, employees, agents or contractors (i) have been excluded or debarred from any federal healthcare program (including Medicare or Medicaid) or any other federal program or (ii) have received notice from the FDA or any other Governmental Authority with respect to debarment or disqualification of any Person that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. No Loan Party, any of its Subsidiaries or any of its or their respective officers, directors, employees, agents or contractors have been convicted of any crime or engaged in any conduct for which (y) debarment is mandated or permitted by 21 U.S.C. § 335a or (z) such Person could be excluded from participating in the federal health care programs under Section 1128 of the Social Security Act or any similar law. No officer and to the knowledge of any Loan Party and each of its Subsidiaries, no employee or agent of any Loan Party or any of its Subsidiaries, has (A) made any untrue statement of material fact or fraudulent statement to the FDA or any other Governmental Authority; (B) failed to disclose a material fact required to be disclosed to the FDA or any other Governmental Authority; or (C) committed an act, made a statement or failed to make a statement that could reasonably be expected, individually or in the aggregate, to provide the basis for the FDA or any other Governmental Authority to invoke its policy respecting “Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities,” as set forth in 56 Fed. Reg. 46191 (September 10, 1991).
- (aaa) Except as set forth on Schedule 3.1(aaa), no Loan party nor any of its Subsidiaries has granted rights to design, develop, manufacture, produce, assemble, distribute, license, prepare, package, label, market or sell its Products to any other Person nor is any Loan Party or any of its Subsidiaries bound by any agreement that affects any Loan Party’s or any of its Subsidiaries’ exclusive right to design, develop, manufacture, produce, assemble, distribute, license, prepare, package, label, market or sell its Products.
- (bbb) Except as set forth on Schedule 3.1(bbb): (i) each Loan Party and each of its Subsidiaries and, to their knowledge, their respective contract manufacturers are, and have been for the past three calendar years, in compliance with, and each Product in current commercial distribution is designed, manufactured, processed, prepared, assembled, packaged, labeled, stored, installed, serviced and held in compliance with, the current Good Manufacturing Practice regulations set forth in 21 C.F.R. Parts 210 and 211, as applicable, (ii) each Loan Party and each of its Subsidiaries is in compliance with the written procedures, record-keeping and reporting requirements required by the FDA or any comparable Governmental Authority pertaining to the reporting of adverse events and recalls involving the Products, (iii) all Products are and have been labeled, promoted, and advertised in accordance with their Registration and approved labeling or within the scope of an exemption from obtaining such Registration, and (iv) each Loan Party and each of its

Subsidiaries' establishments are registered with the FDA, as applicable, and each Product is listed with the FDA under the applicable FDA registration and adverse event reporting regulations for pharmaceuticals.

### **3.2 Borrower Acknowledgment.**

The Loan Parties (on their behalf and on their Subsidiaries' behalf) acknowledge that they have made the representations and warranties referred to in Section 3.1 with the intention of persuading Agent and the Lenders to enter into the Loan Documents and the Contingent Value Right and that Agent and the Lenders have entered into the Loan Documents and the Contingent Value Right on the basis of, and in full reliance on, each of such representations and warranties, each of which shall survive the execution and delivery of this Agreement, the other Loan Documents, the Contingent Value Right and the making of any Disbursement and the issuance of the Securities until the later of (a) (i) all of the Obligations and CVR Obligations are repaid in full, (ii) all of the Subsequent Disbursement Commitments are no longer available or terminated, and (iii) the Warrants have expired or been terminated and (b) the end of the Reporting Period.

### **3.3 Representations and Warranties of the Lenders.**

Each Lender, severally and not jointly, represents and warrants to the Borrower as of the Agreement Date that such Lender (i) is acquiring the Loans and the Notes (together with the related guaranties set forth in (A) the Security Agreements of the Guarantors and (B) the Limited Guaranty of the Limited Guarantors) provided by such Lender and the Warrants related to the Loans made by such Lender hereunder, (ii) [reserved], and (iii) upon any exercise of such Warrants, will acquire the Warrant Shares then-issuable upon exercise thereof for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered under, or exempted from, the registration requirements of the Securities Act; provided, however, that by making the representations herein, such Lender does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to assign, transfer or otherwise dispose of any of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the Securities Act.

## **ARTICLE 4**

### **CONDITIONS OF DISBURSEMENT**

#### **4.1 Conditions to the Initial Disbursement.**

The obligation of the Lenders to make the Initial Disbursement shall be subject to the fulfillment and satisfaction of all of the following conditions:

- (a) Agent and the Lenders shall have received executed counterparts of this Agreement and each other Loan Document, Contingent Value Right and items set forth on the closing checklist attached hereto as Exhibit D;
- (b) all actions required to be taken by CPL pursuant to Section 2.10 shall have been taken;
- (c) each representation and warranty by any Loan Party or any of its Subsidiaries contained herein, in any other Loan Document or any Contingent Value Right is true, correct and complete as of the Agreement Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true, correct and complete as of such earlier date);

- (d) Agent and the Lenders shall have received evidence of repayment in full of all outstanding indebtedness of CPLC or any other Loan Party to EDC (other than in connection with the EDC Loan Documents entered into concurrently with this Agreement), together with evidence of discharge of all guarantees, Liens and security interests delivered in connection therewith;
- (e) Agent and the Lenders shall have received the EDC Loan Documents, amendments and/or consents to the FEDASO Loan Documents and amendments and/or consents to the RBC Loan Documents, the other Transactions and the entering and performance of the actions and obligations (including the Obligations and the CVR Obligations) by the Loan Parties and their Subsidiaries under the Loan Documents and the Contingent Value Right, in each case in form and substance reasonably satisfactory to Agent and the Lenders;
- (f) no Loan Party nor any of its Subsidiaries shall have any Indebtedness, other than Permitted Indebtedness;
- (g) all actions necessary to establish that Agent (for the benefit of itself and the Lenders) will have perfected first priority (subject to any Lien priority of (i) RBC with respect to the assets of CPLC and CPL Canada Holdco that is expressly provided for in the RBC Subordination Agreement (but, for the avoidance of doubt, excluding the Stock in the Borrower) and (ii) EDC with respect to equipment and inventory only that is expressly provided for in the EDC Subordination Agreement) security interests and Liens in the Collateral under the Loan Documents shall have been taken;
- (h) all fees required to be paid on the Agreement Date pursuant to this Agreement, the other Loan Documents and the Contingent Value Right and all costs and expenses required to be paid on the Agreement Date pursuant to this Agreement (including pursuant to Section 6.3), the other Loan Documents and the Contingent Value Right shall have been paid (which amounts, at the sole option of the Lenders, may be offset against the proceeds of the Initial Disbursement);
- (i) Agent and the Lenders shall have received at least three (3) Business Days prior to the Agreement Date all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act, that has been reasonably requested by Agent or any Lender;
- (j) the conditions set forth in Section 2.2(a) have been satisfied and the terms set forth in Section 2.2(a) have been completely complied with;
- (k) no Default or Event of Default shall have occurred or would result from such Initial Disbursement or the use of the proceeds therefrom;
- (l) the Lenders shall have received a written consent to the issuance of the Warrants and the making of Warrant Distributions pursuant thereto executed by the applicable holders of Stock of CPL;
- (m) the Loan Parties and their Subsidiaries shall have made all filings under all applicable federal and state securities laws necessary to consummate the issuance of the Securities

pursuant to the Loan Documents and the Contingent Value Right in compliance with such laws;

- (n) during the period beginning on the date of this Agreement and ending immediately prior to the Initial Disbursement, there shall not have been any Stock dividend, Stock split, Stock combination, recapitalization or other similar transaction with respect to any Stock of the Borrower, including the Common Stock; and
- (o) Agent and the Lenders shall have received a Solvency Certificate duly executed by an Authorized Officer of the Borrower.

#### **4.2 Conditions to the Subsequent Disbursement.**

The obligation of the Lenders to make a Subsequent Disbursement shall be subject to the fulfillment and satisfaction of all of the following conditions (in addition to the satisfaction of all conditions set forth in Section 4.1 on the Agreement Date):

- (a) all actions required to be taken by CPL pursuant to Section 2.10 shall have been taken;
- (b) no Default or Event of Default shall have occurred or would result from such Subsequent Disbursement or the use of the proceeds therefrom;
- (c) each representation and warranty by any Loan Party or any of its Subsidiaries contained herein, in any other Loan Document or any Contingent Value Right is true, correct and complete in all material respects (without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true, correct and complete in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);
- (d) the Lenders shall have received Notes aggregating the amount of the funded Subsequent Disbursement;
- (e) such Subsequent Disbursement is not prohibited under the EDC Loan Documents or the RBC Loan Documents and RBC and EDC are in compliance with the RBC Subordination Agreement and the EDC Subordination Agreement, as applicable;
- (f) the conditions set forth in Section 2.2(b) have been satisfied and the terms set forth in Section 2.2(b) have been completely complied with;
- (g) the Subsequent Disbursement Commitment Termination Date shall not have occurred;
- (h) no prior Subsequent Disbursement has been made or provided by any Lender;
- (i) there has been no violation of any Applicable Law that could not reasonably be expected, individually or in the aggregate, to have an adverse effect on Borrower or its Subsidiaries ability to conduct its business in the ordinary course;
- (j) the Base Business Net Revenue of CPL and its Subsidiaries (measured on a consolidated basis) as of the end of any four fiscal quarter period of CPL ending after the Agreement

Date for which financial statements have been delivered or are required to have been delivered to Agent or any Lender pursuant to Section 5.1(h) shall have been no less than seventy-five percent (75%) of the Base Business Net Revenue of CPL and its Subsidiaries (measured on a consolidated basis) set forth on Schedule 1.1-2 for such four fiscal quarter period of CPL;

- (k) there has been no (i) termination (other than termination upon expiry of the stated term of the agreement that has been renewed on similar terms or terms that are more favorable to such Loan Party or such applicable Subsidiary) or loss of any Manufacturing Contract, (ii) default or event of default (however defined) under any such Manufacturing Contract that gives the non-defaulting party the right to terminate such Manufacturing Contract or seek or enforce any other remedy provided to such party under Manufacturing Contract or (iv) any amendment, restatement, supplement or other modification to any Manufacturing Contract that reduces or decreases (or potentially reduces or decreases) the aggregate written forecasted Base Business Net Revenue set forth on Schedule 1.1-2 solely from such Manufacturing Contract in any fiscal year of CPL ending after the Agreement Date, except to the extent that the events described in the foregoing clauses (i) – (iii) could not, individually or in the aggregate, be expected to reduce the Base Business Net Revenue of CPL and its Subsidiaries (measured on a consolidated basis) as set forth on Schedule 1.1-2 by more than thirty percent (30%) for either the fiscal year of CPL ending October 31, 2018 or October 31, 2019; and
- (l) Agent and the Lenders shall have received a Solvency Certificate duly executed by an Authorized Officer of the Borrower.

#### **4.3 Conditions Subsequent.**

The obligation of the Lenders to make any Subsequent Disbursement (or otherwise extend credit hereunder) is subject to the fulfillment and completion, on or before the date applicable thereto (and without giving effect to any time periods set forth therein), of all actions set forth in Section 5.1(s).

## **ARTICLE 5**

### **PARTICULAR COVENANTS AND EVENTS OF DEFAULT**

#### **5.1 Affirmative Covenants.**

- (a) The Loan Parties shall, and shall cause their Subsidiaries to, (i) preserve and maintain in full force and effect its organizational existence and good standing under the Applicable Laws of its jurisdiction of incorporation, organization or formation, as applicable, and (ii) preserve and maintain all qualifications to do business in each other jurisdiction not covered by clause (i) above that the failure to be so qualified could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.
- (b) The Loan Parties shall, and shall cause their Subsidiaries to, (i) comply in all material respects with all Applicable Laws, except where the necessity of compliance therewith is contested in good faith by appropriate proceedings, and (ii) maintain in effect and enforce policies and procedures designed to ensure compliance by the Loan Parties, their Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions.

- (c) The Loan Parties shall, and shall cause their Subsidiaries to, obtain, make and keep in full force and effect all licenses, certificates, approvals, registrations, clearances, Authorizations and permits required to conduct their businesses, except where the failure to make and keep such licenses, certificates, approvals, registrations, clearances, authorizations and permits in full force and effect could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.
- (d) Each Loan Party shall maintain, and shall cause each of its Subsidiaries to, maintain, and preserve all its assets and property which is used or useful in its business in good working order and condition, ordinary wear and tear excepted and shall make all necessary repairs thereto and renewals and replacements thereof, except where the failure to do so could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.
- (e) The Loan Parties shall, and shall cause each of their Subsidiaries to, maintain with financially sound and reputable insurance companies insurance with respect to their assets, properties and business, against such hazards and liabilities, of such types and in such amounts, as is customarily maintained by companies in the same or similar businesses similarly situated. Each such policy of insurance shall (i) in the case of each liability policy, name Agent on behalf of the Secured Parties as an additional insured thereunder as its interests may appear, and (ii) in the case of each casualty insurance policy contain a lender's loss payable clause or endorsement that names Agent, on behalf of the Secured Parties, as the lender's loss payee thereunder and provide for at least thirty (30) days' prior written notice to Agent of any modification, non-renewal or cancellation of such policy (or ten (10) days' prior written notice in the case of the failure to pay any premiums thereunder). A true and complete listing of such insurance, including issuers, coverages and deductibles, shall be provided to Agent promptly following Agent's request.
- (f) Each Loan Party shall, and shall cause each of its Subsidiaries to, pay, discharge and perform as the same shall become due and payable or required to be performed all Tax liabilities, assessments and governmental charges or levies upon it or its property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with ASPE/GAAP are being maintained by such Person.
- (g) The Loan Parties shall, and shall cause each of its Subsidiaries to, (i) promptly (and, in any event, within two Business Days) notify in writing Agent and each Lender of the occurrence of (A) any Default or Event of Default, (B) any material claims (other than in connection with the denial of plan claims in the ordinary course of business), litigation, arbitration, mediation or administrative or regulatory proceedings that are instituted or threatened against any Loan Party, (C) any default or event of default under any EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document, (D) the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any of its Subsidiaries or any property or Product of any Loan Party or any of its Subsidiaries that alleges potential or actual violations of any Public Health Law, (E) any notice that the FDA or any other similar Governmental Authority is limiting, suspending or revoking any Registration, changing the market classification, distribution pathway or parameters, or labeling of the Products of any Loan Party or any of its Subsidiaries, or considering any of the foregoing, (F) any Loan Party or any of its Subsidiaries becoming subject to any administrative or regulatory action, inspection, Form FDA 483 observation, warning letter, notice of violation letter or other notice, response or

commitment made to or with the FDA or any comparable Governmental Authority, or any Product of any Loan Party or any of its Subsidiaries being seized, withdrawn, recalled, detained or subject to a suspension of manufacturing, or the commencement of any proceedings in the United States, Canada or any other jurisdiction seeking the withdrawal, recall, suspension, import detention or seizure of any Product are pending or threatened against any Loan Party or any of its Subsidiaries, (G) any voluntary withdrawal or recall of any Product by any Loan Party or any of its Subsidiaries in an aggregate amount of \$100,000 or which could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, and (H) any material change in accounting policies or financial reporting practices by any Loan Party or any of its Subsidiaries; (ii) on the same date as delivery thereof to any party (or any agent, representative or Affiliate of any party) to any EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document, in each case, deliver to Agent and each Lender any agreement, instrument, notice, certificate or other document related to any of the foregoing documents in this clause (ii), and any amendment, restatement, supplement, waiver, consent or other modification thereto; and (iii) promptly, deliver to Agent and/or any Lender, such additional information regarding the business, financial or corporate affairs of any Loan Party or any Subsidiary of any Loan Party, or compliance with the terms of the Loan Documents and the Contingent Value Right, as Agent or any Lender may from time to time reasonably request.

- (h) The Loan Parties will provide to Agent and each Lender quarterly financial statements for CPL and its Subsidiaries within forty-five (45) days after the end of each fiscal quarter of CPL, and an audited annual financial statements within one-hundred-twenty (120) days after the end of each fiscal year of CPL, in each case, which shall fairly present in all material respects the consolidated financial position and condition, and consolidated results of operations and cash flows (subject, in the case of unaudited quarterly financial statements, to normal fiscal year-end adjustments that are not material individually or in the aggregate and lack of footnote disclosures), of CPL and its Subsidiaries for the periods then ended or covered thereby and which shall have been prepared in accordance with ASPE/GAAP applied on a basis consistent with prior periods, and with respect to the audited annual financial statements, with a report thereon by CPL's independent certified public accountants, which accountants shall be reasonably acceptable to Agent and the Lenders, and which report shall (i) contain an unqualified opinion, stating that such consolidated financial statements (A) present fairly in all material respects the consolidated financial position and condition and consolidated results of operations and cash flows of CPL and its Subsidiaries for the periods then ended or covered thereby and (B) have been prepared in conformity with ASPE/GAAP applied on a basis consistent with prior fiscal years and (ii) not include any explanatory paragraph expressing substantial doubt as to going concern status (other than in connection with the maturity of the Loans and the termination of the Subsequent Disbursement Commitments hereunder, in each case, solely in the case of the audit delivered with respect to the fiscal year of CPL immediately prior to the fiscal year of CPL during which the applicable maturity and termination is scheduled hereunder to occur). As soon as available and in any event no later than forty-five (45) days after the last day of each fiscal year of CPL, the Borrower shall deliver projections ("**Post-Agreement Date Projections**"; together with the Agreement Date Projections; individually and collectively, the "**Projections**") of CPL (and its Subsidiaries) consolidated financial performance for the forthcoming two (2) fiscal years on a fiscal year by fiscal year basis, and for the forthcoming fiscal year on a fiscal quarter by fiscal quarter basis. Within 45 days after the end of each fiscal quarter of CPL, the Loan Parties and their Subsidiaries shall deliver to Agent and the Lenders an updated Perfection Certificate. Upon the reasonable request of any Secured Party, the Loan Parties

and their Subsidiaries shall promptly deliver to such Secured Party such additional business, financial, corporate affairs, perfection certificates, items or documents related to creation, perfection or priority of Agent's Liens in the Collateral and other information related to the Collateral as any Secured Party may from time to time reasonably request. On the same day that the same are sent, the Loan Parties and their Subsidiaries shall deliver to Agent and the Lenders copies of all financial statements, reports, documents and other information which any Loan Party or any of its Subsidiaries sends to its holders of Stock. From the occurrence of any IPO Event until the later of (i) the first date on which no Warrants remain outstanding, and (ii) the first date on which the Secured Parties no longer own any Securities (the period ending on such latest date, the "**Reporting Period**"), CPL and its Subsidiaries shall timely (without giving effect to any extensions pursuant to Rule 12b-25 of the Exchange Act) file all reports required to be filed with the SEC pursuant to the Exchange Act, and CPL and its Subsidiaries shall not terminate the registration of the Common Stock under the Exchange Act or otherwise terminate its status as an issuer required to file reports under the Exchange Act. The Borrower hereby agrees that, during the Reporting Period, the Borrower shall send to each Secured Party copies of (i) any notices and other information made available or given to the holders of the Stock of CPL generally, contemporaneously with CPL's making available or giving such notices and other information to such holders of Stock (which clause (i) requirement shall be deemed to have been met if such materials are publicly available through EDGAR if that is the method of delivery of such materials to holders of Stock of CPL generally) and (ii) all other documents, reports, financial data and other information not available on EDGAR that does not contain any material nonpublic information of CPL that any Secured Party may reasonably request.

- (i) Each Loan Party shall, and shall cause each of its Subsidiaries to, with respect to each owned, leased or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agent and its representatives shall have access at any and all times during the continuance thereof): (i) provide access to such property to Agent and its representatives, as frequently as Agent determines to be appropriate; and (ii) permit Agent to conduct field examinations, appraise, inspect, and make extracts and copies (or take originals if reasonably necessary) from all of such Loan Party's and its Subsidiaries' books and records, and evaluate and conduct appraisals and evaluations in any manner and through any medium that Agent considers advisable, in each case of clause (i) and clause (ii), at the Loan Parties' sole expense; provided that (y) the Agent shall not conduct more than one (1) of each of such appraisal, evaluation and inspection per year (other than upon the occurrence and continuance of an Event of Default during such year, all of which shall be conducted substantially concurrently with one another), unless an Event of Default has occurred and is continuing during such year and (z) the Loan Parties shall only be obligated to reimburse Agent for the expenses of one (1) each of such appraisal, evaluation and inspection per calendar year unless an Event of Default has occurred and is continuing, in which case, the Loan Parties shall reimburse Agent for the expenses of all such appraisals, evaluations and inspections performed or conducted by Agent or its representatives. Any Lender may accompany Agent or its representatives in connection with any inspection. Solely with respect to the foregoing investigation right in this Section 5.1(i), such investigation right shall be conditioned on such inspections being: (a) subject to the limitations set forth in the proviso of the immediately preceding sentence of this Section 5.1(i); (b) until the occurrence of an Event of Default which is continuing, (i) subject to such Loan Party's customary and reasonable confidentiality obligations to third party customers that are set forth in binding written agreements with such third party



customers entered into in the ordinary course of business, consistent with past practices, and which were not entered into in a manner, or for the purpose of, prohibiting or circumventing such investigation right, and which copies of such agreements shall be provided to Agent promptly upon request thereof, and (ii) to the extent reasonably requested by the Borrower, conducted in the presence of a representative of the applicable Loan Party; and (c) at all times, conducted in accordance with all customary and reasonable site environmental health and safety policies of the Borrower that were in place as of the Agreement Date and were not implemented in a manner, or for the purpose of, prohibiting or circumventing such investigation right.

- (j) Each Loan Party shall, and shall cause each of its Subsidiaries to, (i) ensure that all written information, exhibits and reports furnished to any Secured Party, when taken as a whole, do not and will not contain any untrue statement of a material fact and do not and will not omit to state any material fact or any fact necessary to make the statements contained therein not materially misleading in light of the circumstances in which made, and (ii) promptly disclose to Agent and the Lenders and correct any defect or error that may be discovered therein, in any Loan Document or in any Contingent Value Right or in the execution, acknowledgement or recordation thereof.
- (k) Subject to Section 5.1(s) (solely with respect to any such deposit account of any Loan Party existing as of the Agreement Date), each Loan Party (other than any Limited Guarantor) shall enter into, and cause each depository, securities intermediary or commodities intermediary to enter into, Control Agreements with respect to each deposit account, securities account, commodity account or similar account maintained by such Person (other than (a) any payroll account so long as such payroll account is a zero balance account and (b) withholding tax and fiduciary accounts (such accounts in clauses (a) and (b), the “**Excluded Accounts**”)) as of and after the Agreement Date; provided that, solely with respect to the deposit accounts of CPLC with deposit account numbers 03212-1004027 and 03212-4006730 and CPL Canada Holdco with deposit account number 03212-1011162, in each case, maintained with RBC, no such Control Agreement shall be required until the earliest of (i) the date the “RBC Credit Obligations” (as defined in the RBC Subordination Agreement) (other than (A) amounts in excess of the “Capped RBC Credit Obligations Amount” (as defined in the RBC Subordination Agreement and (B) unasserted contingent indemnification obligations and expense reimbursement obligations) have been paid in full, (ii) the date such deposit accounts are moved to another financial institution or Person, (iii) the date any consent of RBC is obtained to allow for a Control Agreement over such deposit account and (iv) upon Agent’s request, the date an Event of Default has occurred and is continuing.
- (l) Promptly upon request by Agent, the Loan Parties shall (and, subject to the limitations expressly set forth herein and in the other Loan Documents, shall cause each of their Subsidiaries to) take such additional actions and execute such documents as Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement, any other Loan Document or any Contingent Value Right, (ii) to subject the Liens created by any of the Loan Documents to cover (and create a security interest on and Lien in) any of the assets or properties, rights or interests covered by any of the Loan Documents or any Contingent Value Right, (iii) to perfect and maintain the validity,

effectiveness and priority of any of the Loan Documents and the Contingent Value Right and the Liens intended to be created thereby, and (iv) to better assure, grant, preserve, protect and confirm to the Secured Parties the rights, remedies and Liens granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document or any Contingent Value Right. Without limiting the generality of the foregoing, the Loan Parties shall cause each of their Subsidiaries on the date of the formation or acquisition thereof (and any Subsidiaries, limited liability companies, other entities or other Persons into which any Loan Party divides or splits itself on the date of such division or split), to guaranty the Obligations (and if such Subsidiary is a US Subsidiary, to guaranty the CVR Obligations) and to cause each such Subsidiary (and any such Subsidiary, limited liability company, other entity or other Person into which any Loan Party divides or splits itself) to grant to Agent, for the benefit of the Secured Parties, a security interest in all of such Subsidiary's (and, which respect to any such division or split of a Loan Party, all such Subsidiary's, limited liability company's, other entity's or other Person's) assets and property (other than Excluded Property but including any assets or property that are not Excluded Property allocated, distributed, conveyed or otherwise transferred pursuant to any division or split of any Loan Party into any Subsidiaries, limited liability companies, other entities or other Persons into which any Loan Party divides or splits itself) to secure such guaranty. Furthermore, the Loan Parties shall notify Agent and the Lenders in writing on the date of (x) the formation or acquisition of any Subsidiary, (y) the issuance by or to any Loan Party of any Stock (other than, with respect to any Limited Guarantor, any Stock of any direct Subsidiary other than CPL), or (z) any division or split of any Loan Party into two or more Subsidiaries, limited liability companies, other entities or other Persons. Each Loan Party shall pledge, and shall cause each of its Subsidiaries to pledge, all of the Stock of each of its Subsidiaries (and any Subsidiaries, limited liability companies, other entities or other Persons into which any such Loan Party divides or splits itself), directly owned by a Loan Party (other than, with respect to any Limited Guarantor, any Stock of any direct Subsidiary except for CPL), in each instance, to Agent, for the benefit of the Secured Parties, to secure the Obligations (and, as applicable, the CVR Obligations), on the date of (I) formation or acquisition of such Subsidiary, (II) the issuance of any shares of Stock of such Subsidiary, or (III) any division or split of any Loan Party into two or more Subsidiaries, limited liability companies, other entities or other Persons. The Loan Parties shall deliver, or cause to be delivered, to Agent, appropriate resolutions, secretary certificates, certified Organizational Documents and, if requested by Agent, legal opinions relating to the matters described in this Section 5.1(l) (which opinions shall be in form and substance reasonably acceptable to Agent and, to the extent applicable, substantially similar to the opinions delivered on the Agreement Date), in each instance with respect to (1) each Loan Party or Subsidiary formed or acquired (and each Subsidiary, limited liability company, other entity or other Person into which a Loan Party divides or splits itself), (2) each Loan Party or Person (other than a Loan Party) whose Stock is being pledged, and (3) the assets and property that are allocated, distributed, conveyed or otherwise transferred pursuant to any division or split of any Loan Party into any Subsidiaries, limited liability companies, other entities or other Persons into which any Loan Party divides or splits itself, in each case of clauses (1) through (3), after the Agreement Date. In connection with each pledge of Stock, the Loan Parties shall deliver, or cause to be delivered, to Agent, irrevocable proxies and Stock powers and/or assignments, as applicable, duly executed in blank. To the extent (A) The Wege Foundation owns or controls more Stock of CPL than The Wege Foundation owned or controlled on the Agreement Date (or, in any event, more than 28% of the Stock of CPL) or (B) any other Person (other than the Parent Entities and The Wege Foundation) owns or controls any of the Stock of CPL, the Loan Parties shall cause The Wege Foundation or

such other Person (as applicable) to (i) become a party to the Limited Guaranty and be a Limited Guarantor, (ii) grant a first priority Lien in all of the Stock of CPL that The Wege Foundation or such other Person (as applicable) owns and/or controls and (iii) take such other actions as Agent may reasonably request in connection therewith.

- (m) Each Loan Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its Real Estate, whether owned, leased, subleased or otherwise operated or occupied, in compliance with all applicable Environmental Laws or that is required by orders and directives of any Governmental Authority except where the failure to comply could not reasonably be expected to, individually or in the aggregate, result in a Material Environmental Liability.
- (n) Promptly upon becoming aware that any of the following has occurred, the Borrower will provide written notice to the Lenders specifying the nature of such event, what action the Loan Party or any ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, if applicable, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto: (i) any ERISA Event, or (ii) a “prohibited transaction” as defined under Section 406 of ERISA or Section 4975 of the Code that is not exempt under ERISA Section 408 or Section 4975 of the Code, under any applicable regulations and published interpretations thereunder or under any applicable prohibited transaction, individual or class exemption issued by the Department of Labor, with respect to any Employee Benefit Plan.
- (o) Other than with respect to the Real Estate leased by the Loan Parties located at (i) 7600 Danbro Crescent, Mississauga, On, Canada , L5N 6L6 and (ii) 2145 Meadowpine Blvd., Mississauga, ON L5N 6R8 (in each case, which, for the avoidance of doubt, shall be subject to the conditions, terms and provisions set forth in Sections 4.3 and 5.1(s)), each Loan Party shall use commercially reasonable efforts to execute and deliver to Agent a Landlord Waiver, in a form and substance reasonably satisfactory to Agent, from each landlord from whom such Loan Party now or hereafter may lease or sublease any Real Estate within thirty (30) days after (x) other than with respect to the Real Estate described in the following clause (y), such Loan Party enters into a lease with respect to such Real Estate or (y) solely with respect to the Real Estate leased by the Loan Parties located at 115 Route 46 W, Bldg. F 2nd Floor, Unit 33, Mountain Lakes, NJ 07046, the aggregate fair market value of the Loan Parties’ assets maintained at such location exceed \$250,000 at any time.
- (p) Each Loan Party acknowledges and agrees that the Securities may be pledged by a holder thereof in connection with a bona fide margin agreement or other loan, financing or Indebtedness secured by the Securities. Such pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities under the Loan Documents or the Contingent Value Right, and no such holder effecting any such pledge of Securities shall be required to provide any Loan Party or any of its Subsidiaries with any notice thereof or otherwise make any delivery to any Loan Party pursuant to any Loan Document or any Contingent Value Right. The Loan Parties and their Subsidiaries hereby agrees to execute and deliver such documentation as a pledgee of the Securities may reasonably request in connection with a pledge of the Securities to such pledgee by a holder of Securities.
- (q) Each Loan Party covenants and agrees that CPL and its Subsidiaries shall, during the course of any fiscal quarter of CPL during a Covenant Testing Period, maintain, on a consolidated basis, a minimum aggregate amount of unrestricted Cash in deposit accounts covered by either (i) a Control Agreement in favor of Agent or (ii) a deposit account

control agreement in form and substance satisfactory to Agent equal to no less than \$500,000 average daily balance for such fiscal quarter.

- (r) Without limiting the generality of the foregoing, each Loan Party and each of its Subsidiaries shall comply with all Public Health Laws and their implementation by any applicable Governmental Authority and all lawful requests of any Governmental Authority applicable to its Products. All Products developed, manufactured, tested, distributed or marketed by or on behalf of any Loan Party or any of its Subsidiaries that are subject to the jurisdiction of the FDA or comparable Governmental Authority shall be developed, tested, manufactured, distributed and marketed in compliance with the Public Health Laws and any other Applicable Law, including product approval or premarket notification, good manufacturing practices, labeling, advertising, record-keeping, and adverse event reporting, and have been and are being tested, investigated, distributed, marketed, and sold in compliance with Public Health Laws and all other Applicable Law.
- (s) Each Loan Party shall, and shall cause each of its Subsidiaries to:
  - (i) subject to the proviso in Section 5.1(k), as soon as reasonably practicable, but in no event later than ninety (90) days after the Agreement Date, deliver or cause to be delivered to Agent either (A) with respect to each deposit account, securities account, commodity account or other similar account of the Loan Parties (other than the Limited Guarantors) existing on the Agreement Date (other than Excluded Accounts), a Control Agreement covering such deposit account, securities account, commodity account or other similar account, or (B) evidence reasonably satisfactory to Agent that such deposit account, securities account, commodity account or other similar account (other than Excluded Accounts) has been closed; provided, that, if the Loan Parties close any of the above referenced deposit accounts, securities accounts, commodity accounts or other similar accounts, the funds maintained therein shall be immediately transferred on the date of closure thereof to one or more deposit accounts, securities account, commodity account or other similar accounts, as applicable, maintained at a depository institution, securities intermediary or commodities intermediary that has executed and delivered a Control Agreement covering such deposit account, securities account, commodity account or other similar account;
  - (ii) use commercially reasonable efforts to deliver, or cause to be delivered, to Agent a Landlord Waiver with respect to (A) 7600 Danbro Crescent, Mississauga, ON, Canada, L5N 6L6 and/or (B) 2145 Meadowpine Blvd., Mississauga, ON L5N 6R8, in each case, within thirty (30) days after the earliest to occur of: (x) the termination of the applicable RBC Landlord Waiver with respect to such location, (y) the extension, renegotiation, replacement or other material amendment, amendment and restatement, supplement or other modification of the applicable lease agreement with respect to such location and (z) the date the "RBC Credit Obligations" (as defined in the RBC Subordination Agreement) (other than (I) amounts in excess of the "Capped RBC Credit Obligations Amount" (as defined in the RBC Subordination Agreement and (II) unasserted contingent indemnification obligations and expense reimbursement obligations) have been paid in full;
  - (iii) deliver, or cause to be delivered, to Agent a Landlord Waiver in form and substance substantially identical to the applicable RBC Landlord Waiver in effect

on the Agreement Date with respect to (A) 7600 Danbro Crescent, Mississauga, ON, Canada, L5N 6L6 and/or (B) 2145 Meadowpine Blvd., Mississauga, ON L5N 6R8, in each case, within thirty (30) days after the aggregate fair market value of the Deerfield Loan Priority Collateral maintained at such location exceeds the fair market value of RBC Lender Priority Collateral (as such terms are defined in the RBC Subordination Agreement) maintained at such location (and, on or before such date, have the applicable RBC Landlord Waiver for such location terminated and be of no further force or effect); and

- (iv) deliver, or cause to be delivered, to Agent promptly following Agent's request a Landlord Waiver in form and substance reasonably satisfactory to Agent with respect to (A) 7600 Danbro Crescent, Mississauga, ON, Canada, L5N 6L6 and/or (B) 2145 Meadowpine Blvd., Mississauga, ON L5N 6R8, in each case, upon the occurrence and continuance of an Event of Default.
- (t) During the Reporting Period, except as otherwise provided in the Loan Documents and the Contingent Value Right, the Borrower shall not in any manner issue or sell any Options or Convertible Securities that are convertible into or exchangeable or exercisable for shares of Common Stock at a price that varies or may vary with the market price of the Common Stock, including by way of one or more resets to a fixed price or increases in the number of shares of Common Stock issued or issuable, or at a price that upon the passage of time or the occurrence of certain events automatically is reduced or is adjusted or at the option of any Person may be reduced or adjusted, whether or not based on a formulation of the then current market price of the Common Stock (other than proportional adjustments as a result of subdivisions or combinations of the Common Stock in the form of stock splits, stock dividends, reverse stock splits, combinations or recapitalizations).
- (u) Each Loan Party shall not, and shall cause each of its Subsidiaries and its and each of their respective officers, directors, employees, attorneys, representatives and agents to not provide any Secured Party with any material non-public information regarding any Loan Party or any of its Subsidiaries from and after the occurrence of an IPO Event without the express prior written consent of such Secured Party. Each Loan Party hereby acknowledges and agrees that no Secured Party (nor any of such Secured Party's Affiliates) shall have any duty of trust or confidence with respect to any material non-public information regarding the Borrower provided by, or on behalf of, the Borrower, any of its Subsidiaries, any of their respective Affiliates or any of their respective officers, directors, employees, attorneys, representatives or agents, in violation of the foregoing covenant. Subject to the foregoing, no Loan Party shall issue any press releases or any other public statements with respect to the transactions contemplated by any Loan Document or any Contingent Value Right or disclosing the name of any Secured Party; provided, however, that the Borrower shall be entitled, without the prior approval of any Secured Party, to make any press release or other public disclosure with respect to such transactions as is required by Applicable Law and regulations (provided that each Secured Party shall be consulted by the Borrower in connection with any such press release or other public disclosure prior to its release and shall be provided with a copy thereof). Notwithstanding anything to the contrary herein, in the event that any Loan Party believes that a notice or communication to any Secured Party contains material, non-public information relating to any Loan Party, any of its Subsidiaries or Affiliates or any of their respective property or Stock, the Borrower shall so indicate to the Secured Parties contemporaneously with delivery of such notice or communication, and such indication shall provide the Secured Parties the means to refuse to receive such notice or

communication; and in the absence of any such indication, the holders of the Securities shall be allowed to presume that all matters relating to any Loan Party, any of its Subsidiaries or its Affiliates or any of their respective property or Stock. Upon receipt or delivery by any Loan Party or any of its Subsidiaries of any notice in accordance with the terms of the Loan Documents and the Contingent Value Right following an IPO Event, unless the Borrower has in good faith determined that the matters relating to such notice do not constitute material, non-public information relating to any Loan Party or any of its Subsidiaries or its Affiliates or their respective property or Stock, the Loan Parties shall within one Business Day after any such receipt or delivery publicly disclose such material, non-public information.

## 5.2 Negative Covenants.

- (a) No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, (I) merge with, consolidate with or into, dissolve or liquidate into or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except (1) a Subsidiary of a Loan Party that is not a Loan Party may merge into any Loan Party or any of its Subsidiaries (provided that, (y) to the extent such Subsidiary that is not a Borrower or Guarantor has its equity pledged to Agent, then any Person it merges with must also have its equity pledged to Agent by at least the same percentage and (z) to the extent that a Loan Party is part of such transaction, the Loan Party must be the surviving Person), (2) a Subsidiary of a Loan Party that is a Guarantor may merge into Borrower or any other Guarantor other than CPL Canada Holdco or CPLC (provided that, (y) to the extent such Subsidiary being merged has its equity pledged to Agent, then any Person it merges with must also have its equity pledged to Agent by at least the same percentage and (z) to the extent the Borrower is part of such transaction, the Borrower must be the surviving Person), and (3) any Subsidiary of a Loan Party (other than CPL or the Borrower (or any of the Borrower's direct or indirect parent entities, including any Parent Entity, The Wege Foundation or any Ultimate Parent Entity)) may liquidate or dissolve if (i) the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and it is not materially disadvantageous to the Secured Parties and (ii) to the extent such Subsidiary is a Guarantor, any such assets or business held by such subject Subsidiary shall be transferred to, or otherwise owned or conducted by, Borrower or another Guarantor (other than CPL Canada Holdco or CPLC) after giving effect to such liquidation or dissolution, or (II) divide (or otherwise split) itself or themselves into two or more limited liability companies or other entities or Persons. No Loan Party shall, nor shall it permit any of its Subsidiaries to, establish or form any Subsidiary, unless such Subsidiary complies with Section 5.1(I) and such Subsidiary executes and/or delivers all other documents, agreements and instruments reasonably requested by Agent or any Lenders that are related to satisfying the requirements set forth in Section 5.1(I).
- (b) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (1) enter into any partnership, joint venture, syndicate, pool, profit-sharing or royalty agreement or other combination, or engage in any transaction with (a) any holder of Stock of CPL, (b) any Affiliate of CPL or (c) any holder of Stock of such Affiliate, whereby its income or profits are, or might be, shared with another Person other than a wholly owned Subsidiary, (11) enter into any management contract or similar arrangement whereby all or a substantial part of its business is managed by another Person, or (111) make any Restricted Payments, other than when no Default or Event of Default has occurred and is continuing, the

repurchase of CPL's Stock from current or former officers, employees or directors of the any Loan Party or its Subsidiaries (or their permitted transferees or estates) upon their death, disability or termination of employment in an aggregate amount not to exceed \$100,000 in any fiscal year of CPL.

- (c) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (1) directly or indirectly make, create, incur, assume or suffer to exist any Lien upon or with respect to any of its assets or property, except Permitted Liens, or (11) directly or indirectly Dispose of (whether in one or a series of transactions) any assets or property (including the Stock of any Subsidiary of CPL or any Guarantor, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except Permitted Dispositions. No Limited Guarantor shall (A) directly or indirectly make, create, incur, assume or suffer to exist any Lien upon or with respect to any of its Collateral (including the Stock of CPL), except for Liens granted under the Loan Documents, or (B) directly or indirectly Dispose of (whether in one or a series of transactions) any of its Collateral (including the Stock of CPL).
- (d) No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume, guarantee, permit to exist or be liable with respect to any Indebtedness, other than Permitted Indebtedness.
- (e) No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, (i) purchase or acquire any Stock, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Subsidiary, or (ii) make any acquisition of any of the assets or Stock of another Person, or of any business or division of any Person, including by way of merger, consolidation, other combination or otherwise, or (iii) make, purchase or acquire any advance, loan, extension of credit (other than trade payables in the ordinary course of business) or capital contribution to or any other investment in, any Person including any Loan Party, any Affiliate of any Loan Party or any Subsidiary of any Loan Party (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for Permitted Investments.
- (f) No Loan Party shall, nor shall it permit any of its Subsidiaries to, issue, sell or otherwise transfer or provide a controlling or management interest in, any Stock of any Loan Party or any of its Subsidiaries, except with respect to issuances of the Common Stock and preferred stock of CPL subject to, and in accordance and compliance with, the Warrants and the Registration Rights Agreement and so long as such Common Stock and preferred stock is pledged to the Agent (for the benefit of the Secured Parties) and the original thereof (along with a corresponding original stock power executed in blank by the holder thereof) is delivered to the Agent or its designee in accordance with Section 5.1(l) of this Agreement and each other provision of any Loan Document.
- (g) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (w) enter into any transaction with any Affiliate of any Loan Party or of any Subsidiary of any Loan Party (other than, in each case, transactions between or among any Loan Party; provided that, (A) if Borrower is a party to such transaction, such transaction shall be on an arm's length basis or the terms of such transaction shall be more favorable to the Borrower than to such Guarantor party to such transaction and (B) if CPL Canada Holdco or CPLC are a party to such transaction, on the one hand, and another Loan Party is the other party to such transaction, such transaction shall (I) be on an arm's length basis or the terms of such transaction shall be more favorable to the Loan Party that is not CPL Canada Holdco or

CPLC and (II) not involve the transfer of any property or assets of the Loan Party that is not CPL Canada Holdco or CPLC to CPL Canada Holdco or CPLC) or any officer, employee or director (or similar official or governing person) of any of the foregoing, (x) pay any management, consulting or similar fees to any of the foregoing, (y) pay or reimburse any of the foregoing for any costs, expenses and similar items or (z) pay any indemnification payments to any such Person, except (1) with respect to transactions between or among any Loan Party and its Subsidiaries as expressly permitted by this Agreement, (2) in the ordinary course of business and pursuant to the reasonable requirements of the business of any Loan Party or such Subsidiary upon fair and reasonable terms no less favorable to such Loan Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of such Loan Party or such Subsidiary and which, with respect to any such material transaction, are disclosed in advance in writing to Agent (it being understood that transactions with CPL Canada Holdco and CPLC by the other Loan Parties for the type of services described in Schedule 5.2(g) to be performed by CPL Canada Holdco and CPLC on behalf of such other Loan Parties (and payment by such other Loan Parties for such services to CPL Canada Holdco and CPLC) shall be permitted under this clause (2) and shall not have to be specifically disclosed, in each case, so long as (i) they are (A) entered into or conducted in good faith and in the ordinary course of business and are either (I) consistent with past practice or (II) reasonable and customary for companies in the same industry to partake in, (B) not entered into or conducted in a manner to (or with the intention to) (I) contravene this Section 5.2(g), (II) impair the Collateral, the priority of the Agent's Liens on the Collateral or the benefits that are intended to be provided and afforded to the Secured Parties under the Loan Documents; provided that the making of cash payments for such services so provided that satisfies all other components and requirements of, and is otherwise in accordance and compliance with, this Section 5.2(g) shall not be considered a breach of this item (II) due to the mere fact of making such cash payments, or (III) defraud the Secured Parties, (C) not materially adverse to the Secured Parties or the Loan Parties (other than CPL Canada Holdco or CPLC), provided that the making of cash payments for such services so provided that satisfies all other components and requirements of, and is otherwise in accordance and compliance with, this Section 5.2(g) shall not be considered to be materially adverse to the Secured Parties or such Loan Parties due to the mere fact of making such cash payments, and (D) not entered into when a Default or Event of Default has occurred and is continuing, (ii) all cash, Cash Equivalents, other assets and proceeds received or provided to the Loan Parties and their Subsidiaries from any such transaction are part of the (and constitute) Collateral and the Agent (for the benefit of the Secured Parties) shall have a perfected security interest and Lien in such Collateral with the priority required by this Agreement and the other Loan Documents, (iii) the result of such transactions (and the performance thereunder) do not cause the Loan Parties to not be able to timely satisfy, perform and pay all of the Obligations and all other obligations and agreements under the Loan Documents, and (iv) such transactions do not cause a Material Adverse Effect, a Default or an Event of Default to occur); provided, further, that in no event shall any Loan Party or any of its Subsidiaries perform or provide any management, consulting, administrative or similar services to or for any Person other than Borrower, a Guarantor, a Subsidiary of Borrower or a customer who is not an Affiliate in the ordinary course of business, (3) payment of directors' of any Loan Party or its Subsidiaries fees and reimbursement of actual out-of-pocket expenses incurred in connection with attending board of director meetings of such Loan Party or its Subsidiaries not to exceed in the aggregate, with respect to all such items, Two Hundred and Fifty Thousand Dollars (\$250,000) in any fiscal year of CPL, and (4) customary and reasonable compensation arrangements for officers and other employees of any Loan Party its Subsidiaries entered into in the ordinary course of business.



- (h) No ERISA Affiliate shall cause or suffer to exist (a) any event that could result in the imposition of a Lien on any asset of a Loan Party or a Subsidiary of a Loan Party with respect to any Title IV Plan or Multiemployer Plan, or (b) any other ERISA Event, which other ERISA Event could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.
- (i) No Loan Party shall, nor shall it permit any of its Subsidiaries to, engage in any line of business different from those lines of business carried on by it on the Agreement Date and any businesses reasonably related thereto.
- (j) No Loan Party shall, nor shall it permit any of its Subsidiaries to, amend any of its Organizational Documents in any respect materially adverse to any Secured Party.
- (k) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (a) make any significant change in accounting treatment or reporting practices, except as required by ASPE/GAAP, (b) change the fiscal year or method for determining the fiscal quarters of CPL or of any of its Subsidiaries, (c) change its name as it appears in official filings in its jurisdiction of organization or formation, or (d) change its jurisdiction of organization or formation, in the case of clauses (c) and (d), without at least ten (10) days' prior written notice to Agent (or such shorter period as may be agreed by Agent in its sole discretion).
- (l) No Loan Party shall, nor shall it permit any of its Affiliates to, directly or indirectly, purchase, redeem or defease earlier than scheduled or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness of any Loan Party or any of its Subsidiaries prior to its scheduled maturity, other than Indebtedness secured by a Permitted Lien if the sole asset securing such Indebtedness has been sold or otherwise disposed of as a Permitted Disposition.
- (m) No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Loan Party or any Subsidiary of any Loan Party to pay dividends or make any other distribution on any of such any Loan Party's or Subsidiary's Stock or to pay fees, including management fees, or make other payments and distributions to Borrower or any Guarantor, except for those in the Loan Documents and the Contingent Value Right. No Loan Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any contractual obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Agent, whether now owned or hereafter acquired, except (A) those in the Loan Documents and the Contingent Value Right and (B) in connection with any document or instrument governing Liens permitted pursuant to clauses (k) and (l) of the definition of "Permitted Liens;" provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Liens.
- (n) No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to fail to comply with the laws, regulations and executive orders referred to in Section 3.1(jj). No Loan Party, Subsidiary of a Loan Party, or any director, officer, agent, employee or other Person acting on behalf of any Loan Party or any such Subsidiary, will request or use the proceeds of any Loan, directly or indirectly, (A) for any payments to any Person, including any government official or employee, political party, official of a political party, candidate for political office or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, or otherwise take any action, directly or

indirectly, that would result in a violation of any Anti-Corruption Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Person on the SDN List or a government of a Sanctioned Country, to the extent such activities, business or transaction would be prohibited by Sanctions if conducted by a corporation or other Person incorporated in the United States, Canada or in a European Union member state, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto. Furthermore, the Loan Parties will not, and will not permit their respective Subsidiaries to, directly or indirectly, use the proceeds of the transaction, or lend, contribute or otherwise make available such proceeds to any Subsidiary, Affiliate, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any Person participating in the transaction of any Sanctions.

- (o) No Loan Party shall, nor shall it permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets or property.
- (p) No Loan Party shall, nor shall it permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any Real Estate that would violate or form the basis of Liability under any Environmental Law, other than such violations or liabilities that could not reasonably be expected, individually or in the aggregate, to result in Material Environmental Liabilities.
- (q) No Loan Party shall, nor shall it permit any of its Subsidiaries to, be registered or required to be registered as an “investment company” as such term is defined in the Investment Company Act or subject to the restrictions imposed by the Investment Company Act.
- (r) Borrower shall not issue any preferred stock or any other Stock (a) senior to its shares of Common Stock or (b) convertible into or exercisable or exchangeable for Stock senior to its Common Stock, in each case, except for the issuance of any Common Stock or preferred stock of CPL expressly permitted by Section 5.2(f).
- (s) No Loan Party shall, nor shall it permit any of its Subsidiaries to, (i) amend, restate, supplement, waive, consent to or otherwise modify any EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document, in each case, in a manner adverse to any Loan Party or any Secured Party or (ii) have any Ultimate Parent Entity, any Parent Entity, The Wege Foundation, any Loan Party or any of their Subsidiaries (A) join the EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document as a borrower, guarantor, obligor or otherwise to the extent such Person is not a borrower or guarantor on the Agreement, (B) grant a Lien on any of such Person’s property or assets under the EDC Loan Documents or any RBC Loan Document unless such property or assets of such Person have already been pledged as collateral (and a Lien granted thereon thereunder) as of the Agreement Date or (C) grant a Lien on any of such Person’s property or assets under the FEDASO Loan Documents.
- (t) No Loan Party shall, nor shall it permit any of its Affiliates (including, without limitation, the Wege Foundation) to, allow or permit (i) the Wege Foundation to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any of the Stock it owns or controls in CPL, or (ii) any Limited Guarantor, the Wege Foundation or any other holder of any Stock of CPL to, directly or indirectly, Dispose of (whether in one or a series of transactions) any of the Stock it owns or controls in CPL

unless, in connection with such a Disposition pursuant to this clause (ii), such other Person that is party to such Disposition or that receives such Stock (A) becomes a party to the Limited Guaranty, (B) provides a first priority security interest in such Stock and (C) executes and delivers such agreements, instruments and documents, and takes such other actions, as reasonably requested by Agent or the Lenders.

- (u) Neither Glasshouse nor CPL shall, nor shall it permit any of its Subsidiaries (other than CPL Canada Holdco and CPLC) to, Dispose, convey, contribute or otherwise transfer any assets or property to CPL Canada Holdco or CPLC or any of its Subsidiaries, provided, that, for greater certainty, the transactions permitted under Section 5.2(g) shall not be prohibited under this Section 5.2(u).
- (v) No Loan Party shall, nor shall it permit any of its Affiliates to (or have any of its landlords, sublandlords, warehouseman, bailees or other holders of any of their property or assets), enter into any Landlord Waiver, collateral access agreement, warehouse agreement or bailee agreement with any Person (other than the RBC Landlord Waivers in existence in the Agreement Date without giving effect to any changes, amendments, restatements, supplements, waivers, consents or modifications thereto after the Agreement Date) unless the same is also entered into with the Agent (for the benefit of the Secured Parties) with such applicable changes to adapt for the loan facility and other facilities and arrangements evidenced by this Agreement.

### **5.3 Major Transaction.**

The Loan Parties and their Subsidiaries shall give Agent and the Lenders written notice of a Major Transaction at least fifteen (15) days prior to the consummation thereof but in any event not later than two (2) Business Days following the first public announcement thereof. The Lenders, within five (5) days after the receipt of such notice, in the exercise of their sole discretion, may deliver a notice to the Borrower (the “**Put Notice**”) that the Final Payment shall be due and payable and all remaining Subsequent Disbursement Commitments shall be automatically terminated upon the consummation of such Major Transaction, with no further action taken by any Person as of or after the date of such Put Notice. If the Lenders deliver a Put Notice, then simultaneously with consummation of such Major Transaction, the Borrower shall make (or cause to be made) the Final Payment to the Lenders and all remaining Subsequent Disbursement Commitments shall be immediately and automatically terminated as of the date of such Put Notice. In such case, the Loan Parties shall make arrangements satisfactory to the Agent, as determined by the Agent in its sole discretion, that the Final Payment will be paid in full to the Lenders (and all remaining Subsequent Disbursement Commitments shall immediately and automatically terminate), in each case, concurrently with the consummation of such Major Transaction (which arrangements may include obtaining a written agreement from the acquiring Person, as applicable, that payment of the Final Payment shall be made to the Lenders upon the consummation of such Major Transaction). The Loan Parties hereby acknowledge and agree that the Secured Parties shall have the right to apply for an injunction in any state or federal courts sitting in the City of New York to prevent the consummation of such Major Transaction unless and until such arrangements satisfactory to the Agent have been made. The Loan Parties shall not, and shall not permit any of their Subsidiaries to, consummate any Major Transaction without complying in all respects with the provisions of this Section 5.3.

### **5.4 General Acceleration Provision upon Events of Default.**

If one or more of the events specified in this Section 5.4 shall have happened or occurred and be continuing beyond any applicable cure, grace or notice period expressly provided in this Section 5.4 (each, an “**Event of Default**”), the Required Lenders or Agent may, or Agent (upon written election by the Required Lenders

but subject to the protections for Agent set forth in Section 6.15) shall, by (subject to Section 5.5(a), which, for the avoidance, shall not require such notice and shall occur automatically) written notice to the Borrower, declare all accrued and unpaid interest and all other Obligations and CVR Obligations or any part of any of them (together with any other amounts accrued or payable under the Loan Documents and the Contingent Value Right) to be, and the same shall thereupon become, immediately due and payable, and, in each case, for the avoidance of doubt, plus any interest, fees, costs, expenses and other Obligations and CVR Obligations owing or due by any Loan Party and shall immediately terminate all of the remaining Subsequent Disbursement Commitments), in each case, without any further notice and without any presentment, demand or protest of any kind, all of which are hereby expressly waived by the Borrower and the other Loan Parties, appoint a receiver for the Loan Parties and their Subsidiaries, and take any further action available at law or in equity or that are provided in the Loan Documents or the Contingent Value Right, including the sale or transfer of the Loan, other Obligations and the CVR Obligations and all other rights acquired in connection with the Loan, the other Obligations or the CVR Obligations or under the Loan Documents or the Contingent Value Rights:

- (a) The Borrower or any other Loan Party shall have failed (i) to pay when and as required to be paid herein, in any other Loan Document or the Contingent Value Rights, any amount of principal of any Loan, including after maturity of the Loans, or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee or any other amount or Obligation or CVR Obligation payable hereunder or pursuant to any other Loan Document or the Contingent Value Rights.
- (b) Any Loan Party shall have failed to comply with or observe (i) Section 2.1, Section 5.1(a), 5.1(b), 5.1(d), 5.1(e), 5.1(f), 5.1(g), 5.1(h), 5.1(i), 5.1(j), 5.1(k), 5.1(l), 5.1(m), 5.1(o), 5.1(p), 5.1(q), 5.1(r), 5.1(s), 5.1(t) or 5.1(u), Section 5.2 or Section 5.3 of this Agreement or any provision in any Security Agreement, any Note or the Contingent Value Rights, or (ii) any covenant contained in any Loan Document (other than the covenants described in Section 5.4(a) or Section 5.4(b)(i) above), and such failure, with respect to this Section 5.4(b)(ii) only, shall not have been cured within thirty (30) days after the earlier to occur of (y) the date upon which any officer of any Loan Party or any of its Subsidiaries becomes aware of such failure and (z) the date upon which written notice thereof is given to any Loan Party or any of its Subsidiaries by any Secured Party; provided no such cure period in this Section 5.4(b)(ii) shall be provided or apply with respect to any provision or covenant that by its inherent nature cannot be cured upon being violated or breached.
- (c) Any representation or warranty made by any Loan Party in any Loan Document or the Contingent Value Rights shall have been incorrect, false or misleading in any material respect (except to the extent that such representation or warranty is qualified by reference to materiality or Material Adverse Effect, to which extent it shall have been incorrect, false or misleading in any respect) as of the date it was made.
- (d) (i) Any Loan Party or any of its Subsidiaries shall generally be unable to pay its debts as such debts become due, or shall admit in writing its inability to pay its debts as they come due or shall make a general assignment for the benefit of creditors; (ii) any Loan Party or any of its Subsidiaries shall declare a moratorium on the payment of its debts; (iii) the commencement by any Loan Party or any of its Subsidiaries of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the commencement of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization, intervention or other similar relief under any Applicable Law, or the consent by it to the filing of any such petition or to the appointment of an intervenor, receiver, liquidator, assignee, trustee, sequestrator or other similar official of all or

substantially all of its assets; (iv) the commencement against any Loan Party or any of its Subsidiaries of a proceeding in any court of competent jurisdiction under any bankruptcy or other Applicable Law (as now or hereafter in effect) seeking its liquidation, winding up, dissolution, reorganization, arrangement or adjustment, or the appointment of an intervenor, receiver, liquidator, assignee, trustee, sequestrator or other similar official, and any such proceeding shall continue undismissed, or any order, judgment or decree approving or ordering any of the foregoing shall continue unstayed or otherwise in effect, for a period of sixty (60) days; (v) the making by any Loan Party or any of its Subsidiaries of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debt generally as they become due; or (vi) any other event shall have occurred which under any Applicable Law would have an effect analogous to any of those events listed above in this subsection.

- (e) One or more judgments, orders or decrees or settlements shall be rendered against any Loan Party or any Subsidiary of a Loan Party that exceeds by more than \$100,000 any insurance coverage applicable thereto (to the extent the relevant insurer has been notified of such claim and has not denied coverage therefor) or one or more non-monetary judgments, orders or decrees or settlements shall be rendered against any Loan Party or any Subsidiary of a Loan Party that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, and in either case (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order or decree or (ii) such judgment, order or decree shall not have been vacated or discharged within ten (10) days of the entry thereof or there shall not be in effect (by reason of a pending appeal or otherwise) any stay of enforcement thereof.
- (f) Any authorization of a Governmental Authority necessary for the execution, delivery or performance of any Loan Document or any Contingent Value Right (other than any authorization required under the HSR Act as a result of the exercise of the Warrants) or for the validity or enforceability of any of the Obligations under any Loan Document or any of the CVR Obligations under any Contingent Value Right is not given or is withdrawn or ceases to remain in full force or effect.
- (g) The validity of any Loan Document or any Contingent Value Right shall be contested by any Loan Party or any of its Subsidiaries, or any Applicable Law shall purport to render any material provision of any Loan Document or any Contingent Value Right invalid or unenforceable or shall purport to prevent or materially delay the performance or observance by any Loan Party or any of its Subsidiaries of the Obligations or the CVR Obligations.
- (h) Any Loan Party or any Subsidiary of any Loan Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations, the CVR Obligations, the EDC Loan Facilities, the FEDASO Loans and the RBC Credit Facility) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than \$100,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) and such failure continues after the applicable cure, grace or notice period, if any, specified in the documents relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any agreement or instrument relating to any such Indebtedness, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness

(or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, such Indebtedness to be declared to be due and payable (or otherwise required immediately to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto) or cash collateral in respect thereof to be demanded.

- (i) Any material provision of any Loan Document or any Contingent Value Right shall for any reason cease to be valid and binding on or enforceable against any Loan Party or any Subsidiary of any Loan Party party thereto or any Loan Party or any Subsidiary of any Loan Party shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Loan Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in the Collateral (to the extent that such perfection or priority is required hereby) purported to be covered thereby or such security interest shall for any reason cease to be a perfected and first priority security interest.
- (j) (i) The occurrence of any ERISA Event that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect or (ii) the imposition of a Lien on any asset of a Loan Party or a Subsidiary of a Loan Party with respect to any Title IV Plan or Multiemployer Plan.
- (k) The occurrence of any Event of Default (as such term is defined in the Warrants) or any Failure Event (as such term is defined in the Contingent Value Rights), or CPL has otherwise failed to perform or observe any condition or covenant under the Warrants or the Contingent Value Rights, or any other event shall occur or condition exist which results in a breach of, or default under the Warrant or the Contingent Value Rights.
- (l) The occurrence of any Change of Control.
- (m) Any Loan Party or any Subsidiary of any Loan Party fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any EDC Loan Document, any FEDASO Loan Document or any RBC Loan Document, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, such Indebtedness to be declared to be due and payable (or otherwise required immediately to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto) or cash collateral in respect thereof to be demanded.
- (n) Any provisions of any Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Loan Party, any Subsidiary of any Loan Party or any party to any Subordination Agreement shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder.
- (o) Any provisions of the Subordination Agreement, the RBC Subordination Agreement or the EDC Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any Loan Party, any Subsidiary of any Loan Party or any party (other than the Agent or any Lender) to any of the foregoing shall (i) contest in any manner the validity or enforceability thereof or deny that it has any

further liability or obligation thereunder or (ii) be in violation or breach of any provision of the any of the foregoing.

- (p) [Reserved].
- (q) (i) The FDA or any other Governmental Authority initiates enforcement action against any Loan Party or any of its Subsidiaries, or any suppliers that causes any Loan Party or any of its Subsidiaries to recall, withdraw, remove or discontinue marketing any of its Products or that otherwise adversely affects Borrower's or any of its Subsidiaries' ability to conduct their business; (ii) the FDA or any other Governmental Authority issues a warning letter to any Loan Party or any of its Subsidiaries with respect to any Regulatory Matter which could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; (iii) any Loan Party or any of its Subsidiaries conducts a mandated or voluntary recall which could reasonably be expected to result in aggregate liability and expense to any Loan Party and its Subsidiaries of \$100,000 or more or that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; or (iv) any Loan Party or any of its Subsidiaries enters into a settlement agreement with the FDA or any other Governmental Authority that results in aggregate liability as to any single or related series of transactions, incidents or conditions, of \$100,000 or more, or that could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

## 5.5 Additional Remedies.

- (a) Automatic Acceleration on Dissolution or Bankruptcy. Notwithstanding any other provisions of this Agreement, if an Event of Default under Section 5.4(d) shall occur, the accrued and unpaid interest and all other Obligations accrued or payable under this Agreement or the other Loan Documents and all CVR Obligations accrued and payable under the Contingent Value Right shall thereupon become immediately and automatically due and payable, and, in each case, for the avoidance of doubt, plus any interest, fees, costs, expenses and other Obligations and the CVR Obligations owing or due by any Loan Party and shall immediately terminate all of the remaining Subsequent Disbursement Commitments, in each case, without any presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Borrower and the other Loan Parties.
- (b) Power of Attorney. Notwithstanding anything to the contrary in this Agreement, the Notes, the Warrants, the other Loan Documents and the Contingent Value Right, each Loan Party hereby irrevocably and unconditionally constitutes and appoints Agent and any of Agent's Affiliates, attorneys, representatives or agents, with full power of substitution, as such Loan Party's true and lawful attorney-in-fact with full irrevocable and unconditional power and authority in the place and stead of such Loan Party and in the name of such Loan Party or in its own name during the existence of an Event of Default, for the purpose of carrying out the terms of this Agreement, the Notes, the Warrants, the other Loan Documents and the Contingent Value Right, to take any appropriate steps or actions and to execute and deliver (and perform under on such Loan Party's behalf) any agreement, document or instrument that may be necessary or desirable to accomplish the purposes and/or effectuate the items and actions set forth in this Agreement, the other Loan Documents and the Contingent Value Right, including (i) any actions that any such Loan Party fails to take that are required under such documents, agreements or instruments and (ii) to deliver the original shares of Common Stock to be issued under any Warrants to the

applicable holder thereof upon such holder exercising its rights pursuant to the terms of such Warrants.

### **5.6 Recovery of Amounts Due.**

If any Obligation or other amount payable hereunder or under any of the other Loan Documents or any CVR Obligation or other amount payable under any Contingent Value Right is not paid as and when due (subject to any grace period provided for in Section 5.4(a)), the Borrower and the other Loan Parties hereby authorize Agent and the Lenders to proceed, to the fullest extent permitted by Applicable Law, without prior notice, by right of set-off, banker's lien or counterclaim, against any moneys or other assets of the Borrower or any other Loan Party to the full extent of all Obligations, all CVR Obligation or other amounts payable to Agent and/or the Lenders; provided that, where practicable, Agent shall use commercially reasonable efforts to provide the Borrower with notice of any exercise of Agent's remedies provided for in this Section 5.6 promptly after such remedies are exercised, but any failure to provide any such notice shall not be a breach of this Agreement by any Secured Party and shall not negate any rights or remedies available or previously taken by any of the Secured Parties.

### **5.7 Credit Bidding.**

The Loan Parties and the Lenders hereby irrevocably authorize Agent, based upon the written instruction of the Required Lenders, to (a) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Section 363 of the Bankruptcy Code or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral at any other sale or foreclosure conducted by (or with the consent or at the direction of) Agent (whether by judicial action or otherwise) in accordance with Applicable Law. In connection with any such credit bid and purchase, the Obligations and CVR Obligations owed to the Lender shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations and CVR Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not unduly delay the ability of Agent to credit bid and purchase at such sale or other disposition of the Collateral and, if such claims cannot be estimated without unduly delaying the ability of Agent to credit bid, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the asset or assets purchased by means of such credit bid) and the Lenders whose Obligations or CVR Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations and CVR Obligations credit bid in relation to the aggregate amount of Obligations and CVR Obligations so credit bid) in the asset or assets so purchased (or in the Stock of the acquisition vehicle or vehicles that are used to consummate such purchase). Except as provided above and otherwise expressly provided for herein or in the other Loan Documents, Agent will not execute nor deliver a release of any Lien on any Collateral. Upon request by Agent or the Borrower at any time, the Lenders will confirm in writing Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this Section 5.7.

## **ARTICLE 6**

### **MISCELLANEOUS**

#### **6.1 Notices.**

Any notices or other information (including an financial information) required or permitted to be given under the terms hereof and, except as otherwise expressly set forth therein, or under the terms of the other Loan Documents or the Contingent Value Right shall be sent by certified or registered mail (return receipt



requested) or delivered personally or by courier (including a recognized overnight delivery service) or by facsimile or by electronic mail and shall be effective five (5) days after being placed in the mail, if mailed by regular United States or Canada mail, or upon receipt, if delivered personally or by courier (including a recognized overnight delivery service) or by facsimile, or when received by electronic mail in each case addressed to a party as follows (or such other address, facsimile or electronic mail address provided by such party to such other parties pursuant to the below (or such later address, facsimile or electronic mail address provided in accordance herewith)):

If to the Borrower or any other Loan Party:

Contract Pharmaceuticals Limited  
7600 Danbro Cres.  
Mississauga ON L5N 6L6, Canada  
E-mail: kpaige@cplltd.com  
Attn: Ken Paige

With a copy to (which shall not be deemed to constitute notice):

Goodmans LLP  
Bay Adelaide Centre - West Tower  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7, Canada  
Facsimile No.: (416) 979-1234  
E-mail: ddedic@goodmans.ca  
Attn: Dan Dedic

If to Agent:

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017  
Facsimile: (212) 599-3075  
E-mail: dclark@deerfield.com  
Attn: David J. Clark, Esq.

With a copy to (which shall not be deemed to constitute notice):

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017  
E-mail: jisler@deerfield.com  
Attn: Jonathan Isler

and

Katten Muchin Rosenman LLP  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067-3012  
Facsimile: (310) 788-4471  
E-mail: kristopher.ring@kattenlaw.com and mark.wood@kattenlaw.com  
Attn: Kristopher J. Ring, Esq.

Attn: Mark D. Wood, Esq.

If to any Lender, the information for notices included on Schedule 2.4 or pursuant to any assignment agreement assigning any Obligations or CVR Obligations to any new Lender.

## **6.2 Waiver of Notice.**

Whenever any notice is required to be given to a Secured Party or a Loan Party under any of the Loan Documents or the Contingent Value Right, a waiver thereof in writing signed by the Person or Persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## **6.3 Cost and Expense Reimbursement.**

The Loan Parties agree to pay on or prior to the Agreement Date and, within ten (10) Business Days after delivery of an invoice therefor after the Agreement Date, (a) all reasonable, documented, out-of-pocket fees, costs and expenses of Agent and the Lenders and of legal counsel to Agent and the Lenders of negotiation, documentation, preparation, execution, delivery and closing, of the Loan Documents and the Contingent Value Right and in connection with the consummation of the Transactions and the other transactions contemplated hereby and thereby (provided that solely with respect to all reasonable, documented, out-of-pocket fees, costs and expenses for legal, accounting and other professional services incurred by Agent and the Lenders' legal counsel prior to the Agreement Date for the transactions covered in this Section 6.3(a), the Borrower shall only be obligated to pay such legal fees, costs and expenses up to \$350,000, unless otherwise agreed to by the Borrower), (b) any consents, amendments, waivers or other modifications to the Loan Documents or the Contingent Value Right or otherwise in connection with the consummation of the Transactions and the other transactions contemplated hereby and thereby, (c) all fees, costs and expenses of creating and perfecting Liens in favor of Agent on behalf of the Secured Parties pursuant to any Loan Document or the Contingent Value Right, including filing and recording fees, expenses and Taxes related thereto, search fees, title insurance premiums, and fees, costs, expenses and disbursements of counsel to Agent and the Lenders and of counsel providing any opinions that Agent or the Lenders may request in respect of any Loan Documents or the Contingent Value Right or the Liens created pursuant to the Loan Documents, (d) all costs and expenses incurred by Agent or any Lender in connection with the custody or preservation of any of the Collateral, (e) all costs and expenses, including fees, costs and expenses of legal counsel to Agent and the Lenders and fees, costs and expenses of accountants, advisors and consultants, incurred by Agent, any Lender and its counsel relating to efforts to protect, evaluate, assess or dispose of any of the Collateral, (f) all costs and expenses, including fees, costs and expenses of legal counsel to Agent and the Lenders and all fees, costs and expenses of accountants, advisors and consultants and costs of settlement, incurred by the Agent and the Lenders in enforcing any of the Loan Documents, the Contingent Value Right, any Obligations or any CVR Obligations of, or in collecting any payments due from, any Loan Party hereunder or under the other Loan Documents or the Contingent Value Right (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Loan Documents or the Contingent Value Right) or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or pursuant to any proceeding or event of the type set forth in Section 5.4(d), (g) the cost of purchasing insurance that the Loan Parties fail to obtain as required by the Loan Documents, (h) providing any notices under the Loan Documents or the Contingent Value Right that are required or recommended by Applicable Law (i) providing any new Notes or amended and restated Notes and (j) any other actions taken after the Agreement Date by the applicable Secured Party in connection with the foregoing or in accordance with or as otherwise permitted by this Agreement, any of the Loan Documents or the Contingent Value Right related to the Obligations, CVR Obligations, the Loan Documents or the Contingent Value Right. Without limiting any of the foregoing provisions of this Section 6.3, any action taken by any Loan Party

under or with respect to any Loan Document or any Contingent Value Right, even if required under any Loan Document or any Contingent Value Right or at the request of the Agent or any other Secured Party, shall be (unless otherwise expressly provided for under any Loan Document or any Contingent Value Right) at the sole expense of such Loan Party, and neither Agent nor any other Secured Party shall be required under any Loan Document or any Contingent Value Right to reimburse any Loan Party or any Subsidiary of any Loan Party therefor.

#### **6.4 Governing Law; Venue; Jurisdiction; Service of Process; Waiver of Jury Trial.**

All questions concerning the construction, validity, enforcement and interpretation of this Agreement and, unless otherwise expressly stated therein, the other Loan Documents and the Contingent Value Right shall be governed by and construed and enforced in accordance with the laws of the State of New York applicable to contracts made and to be performed in such State. Each Party agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and, unless otherwise expressly stated therein, the other Loan Documents and the Contingent Value Right (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each Party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, borough of Manhattan for the adjudication of any dispute hereunder or under the other Loan Documents or the Contingent Value Right or in connection herewith or with the other Loan Documents or the Contingent Value Right or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, or that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding; provided that nothing in this Agreement or in any other Loan Document or any Contingent Value Right shall limit the right of any Secured Party to commence any suit, action or proceeding in federal, state or other court of any other jurisdiction to the extent such Secured Party determines that such suit, action or proceeding is necessary or appropriate to exercise its rights or remedies under this Agreement or any of the other Loan Documents or any Contingent Value Right. Each Party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such Party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, THE CONTINGENT VALUE RIGHT AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO AGENT, REPRESENTATIVE OR OTHER PERSON AFFILIATED WITH OR RELATED TO ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THE LOAN DOCUMENTS OR THE CONTINGENT VALUE RIGHT, AS APPLICABLE, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 6.4.

## 6.5 Successors and Assigns.

This Agreement shall bind and inure to the respective successors and assigns of the Parties, except that no Loan Party may assign or otherwise transfer all or any part of their rights or obligations (including the Obligations and the CVR Obligations) under the Loan Documents or the Contingent Value Right without the prior written consent of all of the Lenders, and any prohibited assignment by the Loan Parties shall be absolutely void *ab initio*. Any Lender or other Secured Party may assign or transfer its rights, Obligations or CVR Obligations (including any Subsequent Disbursement Commitments) under the Loan Documents or the Contingent Value Right. Upon a Lender's assignment of any of the Loans or Subsequent Disbursement Commitments held by it, such Lender shall provide notice of the transfer to Borrower (with a copy to Agent) for recordation in the Register pursuant to Section 1.4. Upon receipt of a notice of a permitted transfer of an interest in a Loan or a Subsequent Disbursement Commitment, the Borrower shall record the identity of the transferee and other relevant information in the Register and the transferee shall (to the extent of the interests transferred to such transferee) have all the rights and obligations of, and shall be deemed, a Lender with respect to such Loan or Subsequent Commitment (as applicable) hereunder or under the other Loan Documents.

In addition to the other rights provided in this Section 6.5, each Secured Party may grant a security interest in, or otherwise assign as collateral, any of its rights under the Loan Documents and the Contingent Value Right, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to any holder of, or trustee for the benefit of the holders of, such Secured Party's Indebtedness or equity securities.

## 6.6 Entire Agreement; Amendments.

- (a) The Loan Documents and the Contingent Value Right contain the entire understanding of the Parties with respect to the matters covered hereby and thereby and supersede any and all other written and oral communications, negotiations, commitments and writings with respect thereto.
- (b) The provisions of this Agreement shall not be amended, restated, supplemented, terminated, changed or otherwise modified or waived (or any deviation of any such provision be consented to) except by an agreement or instrument in writing signed by an authorized officer of each Party.
- (c) No consideration shall be offered or paid (in any form, whether cash, Stock, other property or otherwise) to any Loan Party to amend, restate, supplement, modify or change or consent to a waiver of (or a diversion from) any provision of any of the Loan Documents unless the same consideration also is offered to all of the Lenders under the Loan Documents. For clarification purposes, this provision constitutes a separate right granted to each Lender and is not intended for the Borrower or any other Loan Party to treat the Lenders as a class and shall not be construed in any way as the Lenders acting in concert or otherwise as a group with respect to the purchase, disposition or voting of securities or Stock or otherwise.

## 6.7 Severability.

If any provision of this Agreement or any of the other Loan Documents or any Contingent Value Right shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby. The Parties shall endeavor in good faith negotiations to replace the invalid, illegal or unenforceable provisions with

valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision.

## **6.8 Counterparts.**

This Agreement, the other Loan Documents and the Contingent Value Right may be executed in several counterparts, and by each Party on separate counterparts, each of which and any photocopies, facsimile copies and other electronic methods of transmission thereof shall be deemed an original, but all of which together shall constitute one and the same agreement.

## **6.9 Survival.**

- (a) In addition to Section 3.2, this Agreement and all agreements, representations and warranties and covenants made in the Loan Documents and the Contingent Value Right, and in any document, certificate or statement delivered pursuant thereto or in connection therewith shall be considered to have been relied upon by the other Parties and shall survive the execution and delivery of this Agreement, the other Loan Documents and the Contingent Value Right and the making of the Loan (including any Subsequent Disbursement) hereunder or thereunder regardless of any investigation made by any such other Party or on its behalf, and shall continue in force until the later of (i) (A) all Obligations and other amounts payable under the Loan Documents and the CVR Obligations and all other amounts payable under the Contingent Value Right shall have been fully paid in accordance with the provisions hereof and thereof and (B) any Subsequent Disbursement Commitments have terminated and (ii) the end of the Reporting Period. Agent and the Lenders shall not be deemed to have waived, by reason of making the Loan (including any Subsequent Disbursement), any Event of Default that may arise by reason of such representation or warranty proving to have been false or misleading, notwithstanding that the Lenders may have had notice or knowledge of any such Event of Default or may have had notice or knowledge that such representation or warranty was false or misleading at the time the Disbursement was made.
- (b) All representations and warranties made hereunder and in any other Loan Document or the Contingent Value Right or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive (and shall continue to be made in accordance with the terms hereof and thereof after) the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Secured Parties, regardless of any investigation made by the Secured Parties or on their behalf and notwithstanding that the Secured Parties may have had notice or knowledge of any Default or Event of Default at the time of any Loan, and shall continue in full force and effect (and shall continue to be made in accordance with the terms of the applicable Loan Documents and the Contingent Value Right) as long as any Loan or any other Obligation hereunder or under the other Loan Documents or any CVR Obligations shall remain unpaid or unsatisfied.
- (c) Notwithstanding anything to the contrary in the Loan Documents or the Contingent Value Right, the obligations of the Loan Parties under Sections 1.4 and 2.5 and any provisions that concern or are related to the Reporting Period and the obligations of the Loan Parties and the Lenders under this Article 6 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loan, the other Obligations and the CVR Obligations, the termination of the Subsequent Disbursement Commitments, the extinguishment or the termination of this

Agreement, any of the other Loan Documents or the Contingent Value Right or any provision hereof or thereof.

#### **6.10 No Waiver.**

Neither the failure of, nor any delay on the part of, any Party in exercising any right, power or privilege hereunder, or under any agreement, document or instrument mentioned herein or under any other Loan Document or under any Contingent Value Right, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder, under any other Loan Document, under any Contingent Value Right or under any other agreement, document or instrument mentioned herein, preclude other or further exercise thereof or the exercise of any other right, power or privilege; nor shall any waiver of any right, power, privilege or default hereunder, under any other Loan Document, under any Contingent Value Right or under any agreement, document or instrument mentioned herein, constitute a waiver of any other right, power, privilege or default or constitute a waiver of any default of the same or of any other term or provision. No course of dealing and no delay in exercising, or omission to exercise, any right, power or remedy accruing to Agent or the Lenders upon any breach, Default or Event of Default under this Agreement, any other Loan Document, any Contingent Value Right or any other agreement shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence therein; nor shall the action of Agent or the Lenders in respect of any such breach, Default or Event of Default or any acquiescence by it therein, affect or impair any right, power or remedy of the Secured Parties in respect of any other breach, Default or any Event of Default. All rights and remedies herein or in the other Loan Documents and the Contingent Value Right provided are cumulative and not exclusive of any rights or remedies otherwise provided by (or available at) law or in equity.

#### **6.11 Indemnity.**

- (a) The Loan Parties shall, at all times, indemnify and hold harmless (the “**Indemnity**”) the Secured Parties and each of their respective directors, partners, officers, employees, agents, counsel and advisors (each, an “**Indemnified Person**”) in connection with any losses, claims (including the reasonable attorneys’ fees incurred in defending against such claims), damages, liabilities, penalties or other expenses arising out of, or relating to, the Loan Documents, the Contingent Value Right the extension of credit hereunder or the Loan or the other Obligations or the CVR Obligations, the providing of the Subsequent Disbursement Commitments or the use or intended use of the Loan, the other Obligations or the CVR Obligations, which an Indemnified Person may incur or to which an Indemnified Person may become subject, but excluding Excluded Taxes (each, a “**Loss**”). The Indemnity shall not apply to the extent that a court or arbitral tribunal of competent jurisdiction issues a final judgment that such Loss resulted from the gross negligence or willful misconduct of the Indemnified Person. The Indemnity is independent of and in addition to any other agreement of any Party under any Loan Document or the Contingent Value Right to pay any amount to the Secured Parties, and any exclusion of any obligation to pay any amount under this Section 6.11(a) shall not affect the requirement to pay such amount under any other section hereof or under any other agreement. For the avoidance of doubt, this Section 6.11 shall not apply to Indemnified Taxes.
- (b) An Indemnified Person shall have the right to retain its own legal counsel with the fees, costs and expenses of such legal counsel and of such Indemnified Person to be paid by the indemnifying Person. The indemnification required by this Section 6.11 shall be made and paid by such indemnifying Person within ten (10) Business Days of written demand by such Indemnified Person.

- (c) No settlement of any Loss shall be entered into by such indemnifying Person without the written consent of the applicable Indemnified Person provided, such consent shall not be unreasonably withheld where such settlement: (a) provides for the unconditional release of the applicable Indemnified Person; (b) requires the payment of compensatory monetary damages by the indemnifying Person only; (c) does not require the Indemnified Person to either take any action or to avoid taking any action whatsoever whether as a matter of injunctive relief, court order, or any other form; and (d) expressly states that neither the fact of settlement nor the settlement agreement shall constitute, or be construed or interpreted as, an admission by the Indemnified Person of any issue, fact, allegation or any other aspect of the claim being settled.
- (d) No Indemnified Person and no Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, assert, and each Indemnified Person and each Loan Party on behalf of itself and its Subsidiaries, hereby waives, any claim, loss or amount against each other with respect to any special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or the other Loan Documents or the Contingent Value Right or any undertaking or transaction contemplated hereby or thereby. No Indemnified Person shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with the Loan Documents or the Contingent Value Right or the transactions contemplated hereby or thereby, except resulting directly from the gross negligence or willful misconduct of such Indemnified Person as determined by a final, non-appealable judgment of a court or arbitral tribunal of competent jurisdiction.

#### **6.12 No Usury.**

The Loan Documents or the Contingent Value Right are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration or otherwise, shall the amount paid or agreed to be paid to Agent or any other Secured Party for the Loan, the other Obligations or the CVR Obligations exceed the maximum amount permissible under Applicable Law. If from any circumstance whatsoever fulfillment of any provision hereof or any other Loan Document or any Contingent Value Right, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by Applicable Law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance Agent or any other Secured Party shall ever receive anything which might be deemed interest under Applicable Law, that would exceed the highest lawful rate, such amount that would be deemed excessive interest shall be applied to the reduction of the principal amount owing on account of the Loan, the other Obligations or CVR Obligations, or if such deemed excessive interest exceeds the unpaid balance of principal of the Loan, the other Obligations or CVR Obligations, such deemed excess shall be refunded to the Borrower. All sums paid or agreed to be paid to Agent or the other Secured Parties for the Loan, the other Obligations or the CVR Obligations shall, to the extent permitted by Applicable Law, be deemed to be amortized, prorated, allocated and spread throughout the full term of the Loan, the other Obligations and the CVR Obligation until payment in full so that the deemed rate of interest on account of the Loan, the other Obligations and the CVR Obligation is uniform throughout the term thereof. The terms and provisions of this Section shall control and supersede every other provision of this Agreement, the Notes, the other Loan Documents and the Contingent Value Right.

#### **6.13 Specific Performance.**

The Loan Parties agree that irreparable damage, for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that any provision of the Loan Documents or the Contingent

Value Right is not performed in accordance with its specific terms or is otherwise breached, including if the Loan Parties hereto fail to take any action required of them hereunder or thereunder to consummate the transactions contemplated by the Loan Documents and the Contingent Value Right. In light of the foregoing, the Loan Parties hereby agree that (a) the Secured Parties shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches of the Loan Documents and the Contingent Value Right and to enforce specifically the terms and provisions hereof and thereof in the courts described in Section 6.4 without proof of damages or otherwise and (b) the right of specific performance and other equitable relief is an integral part of the transactions contemplated by the Loan Documents and the Contingent Value Right and without that right, the Secured Parties would not have entered into the Loan Documents or the Contingent Value Right or have provided Loans or Disbursements hereunder or under the other Loan Documents or the Contingent Value Right or the Subsequent Disbursement Commitments hereunder and under the other Loan Documents. The Loan Parties hereby agree not to assert (or have any of their Subsidiaries or their attorneys, agents or representatives assert or any other Person on their behalf to assert) that a remedy of specific performance or other equitable relief is unenforceable, invalid, contrary to Applicable Law or inequitable for any reason, and not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at law. The Loan Parties hereby acknowledge and agree that any Secured Party seeking an injunction or injunctions to prevent breaches of, or defaults under, the Loan Documents and the Contingent Value Right, to prevent any Default or Event of Default and to enforce specifically the terms and provisions of the Loan Documents and the Contingent Value Right in accordance with this Section 6.13 shall not be required to provide any bond or other security in connection with any such injunction or other order or proceeding. The remedies available to the Secured Parties pursuant to this Section 6.13 shall be in addition to any other remedy which may be available under the Loan Documents, the Contingent Value Right, at law, in equity or otherwise.

#### **6.14 Further Assurances.**

From time to time, the Loan Parties shall perform any and all acts and execute and deliver to Agent and the Lenders such additional documents, agreements and instruments as may be necessary or as requested by Agent or any other Secured Party to carry out the purposes of any Loan Document or the Contingent Value Right or to preserve and protect Agent's or any other Secured Party's rights as contemplated therein.

#### **6.15 Agent.**

- (a) Each Lender hereby irrevocably appoints Deerfield Management Company, L.P. (together with any successor Agent appointed by Deerfield Management Company, L.P. or any successor Agent that was appointed by the Required Lenders or any prior Agent) as Agent hereunder and under the other Loan Documents and the Contingent Value Right and authorizes Agent to (i) execute and deliver the Loan Documents and the Contingent Value Right and accept delivery thereof on its behalf from any Loan Party, (ii) take such other actions on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Agent under the Loan Documents and the Contingent Value Right and (iii) exercise such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document or any Contingent Value Right, Agent shall not have any duty or responsibility except those expressly set forth herein, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement, any other Loan Document or any Contingent Value Right or otherwise exist against Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in other Loan Documents or the Contingent Value Right with reference to



Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

- (b) Agent may execute or delegate any of its duties under this Agreement or any other Loan Document or the Contingent Value Right by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. Agent shall not be responsible for the negligence or misconduct of any agent, employee or attorney in fact that it selects in the absence of gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction.
- (c) None of Agent nor any of its directors, officers, employees, attorneys, advisors, representatives or agents shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or any Contingent Value Right or the Transactions or the transactions contemplated hereby or thereby (except to the extent resulting from its own gross negligence or willful misconduct in connection with its duties expressly set forth herein as determined by a final, non-appealable judgment of a court of competent jurisdiction), or (ii) be responsible in any manner to any Lender, any other Secured Party or participant for any recital, statement, representation or warranty made by any Loan Party or Affiliate of any Loan Party, or any officer thereof, contained in this Agreement or in any other Loan Document or any Contingent Value Right, or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection with, this Agreement or any other Loan Document or any Contingent Value Right, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document (or the creation, perfection or priority of any Lien or security interest therein) or any Contingent Value Right, or for any failure of any Loan Party or any other party to any Loan Document or any Contingent Value Right to perform its obligations (including the Obligations and the CVR Obligations) hereunder or thereunder. Agent shall not be under any obligation to any Lender or any other Secured Party to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document or any Contingent Value Right, or to inspect the properties, books or records of any Loan Party or any Loan Party's Subsidiaries or Affiliates.
- (d) Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, electronic mail message, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document or the Contingent Value Right unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, confirmation from the Lenders of their obligation to indemnify Agent against any and all liabilities and expenses (including any fees and expenses of counsel to Agent) which may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document or the

Contingent Value Right in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon each Lender.

- (e) Agent shall not be deemed to have knowledge or notice of the occurrence of any Event of Default or Default, unless Agent shall have received written notice from a Lender or any Loan Party referring to this Agreement, the other Loan Documents and the Contingent Value Right, describing such Event of Default or Default and stating that such notice is a “notice of default.” Agent shall take such action with respect to such Event of Default or Default as may be requested by the Required Lenders; provided that unless and until the Agent has received any such request, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default or Default as it shall deem advisable or in the best interest of itself and the Lenders.
- (f) Each Lender acknowledges that Agent has not made any representation or warranty to it, and that no act by Agent hereafter taken, including any consent and acceptance of any assignment or review of the affairs of the Loan Parties or any of their Subsidiaries, shall be deemed to constitute any representation or warranty by Agent to any Lender as to any matter, including whether Agent has disclosed material information in its possession. Each Lender represents to Agent that it has, independently and without reliance upon Agent and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower and the other Loan Parties, and made its own decision to enter into this Agreement, the other Loan Documents and the Contingent Value Right and to extend credit to Borrower hereunder and under the other Loan Documents. Each Lender also represents that it will, independently and without reliance upon Agent and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, the other Loan Documents and the Contingent Value Right, and to make such investigations as it deems necessary or appropriate to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower and the other Loan Parties. Except for notices, reports and other documents expressly herein required to be furnished to the Lenders by Agent, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial or other condition or creditworthiness of Borrower or any other Loan Party which may come into the possession of Agent.
- (g) Whether or not the transactions contemplated hereby are consummated, each Lender shall indemnify upon demand Agent and its directors, officers, partners, employees, attorneys, advisors, representatives and agents (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of Borrower to do so), according to its applicable Pro Rata Share, from and against any and all losses, claims (including the reasonable attorneys’ fees incurred in defending against such claims), damages, liabilities, penalties or other expenses arising out of, or relating to, any of Agent’s duties, responsibilities or actions set forth in or that taken pursuant to the Loan Documents and the Contingent Value Right; provided that no Lender shall be liable for any payment to any such Person of any portion of the foregoing to the extent determined by a final, non-appealable judgment by a court of competent jurisdiction to have resulted from the applicable Person’s own gross negligence or willful misconduct. No action taken in accordance with the directions of the Required Lenders shall be deemed to constitute gross

negligence or willful misconduct for purposes of this Section 6.15(g). Without limitation of the foregoing, each Lender shall reimburse Agent upon demand for its ratable share of any costs or out of pocket expenses incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, any Contingent Value Right or any document contemplated by or referred to herein or therein, to the extent that Agent is not reimbursed for such fees, costs and expenses by or on behalf of the Loan Parties. The undertaking in this Section 6.15(g) shall survive repayment of the Loans, the other Obligations and the CVR Obligations, the termination of the Subsequent Disbursement Commitments, any foreclosure under, or modification, release or discharge of, any or all of the Loan Documents or the Contingent Value Right, termination of this Agreement or the other Loan Documents or the Contingent Value Right and the resignation or replacement of Agent.

- (h) Agent may resign as Agent upon 30 days' notice to the Lenders. If Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor Agent for such successor Agent and the Lenders. If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders, a successor Agent from among the Lenders. Upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers and duties of the retiring Agent and the term "Agent" shall mean such successor Agent, and the retiring Agent's appointment, powers and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 6.15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement, the other Loan Documents and the Contingent Value Right. If no successor Agent has accepted appointment as Agent by the date which is 30 days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder, under the other Loan Documents and under the Contingent Value Right until such time, if any, as the Required Lenders appoint a successor Agent as provided for above.
- (i) Each Lender further agrees to indemnify Agent, its Affiliates and each of its and their employees, advisors, attorneys, representatives and agents (to the extent not reimbursed by any Loan Party), severally and ratably, from and against Liabilities (including Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by or asserted against Agent, its Affiliates or any of its or their employees, advisors, attorneys, representatives or agents in any matter relating to or arising out of, in connection with or as a result of any Loan Document or any Contingent Value Right or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Agent, its Affiliates or any of its or their employees, advisors, attorneys, representatives or agents under or with respect to any of the foregoing.

## **6.16 USA Patriot Act.**

Each Lender that is subject to the USA Patriot Act (and Agent (for itself and not on behalf of any Lender)) hereby notifies the Loan Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name

and address of each Loan Party and other information that will allow such Lender or Agent to identify each Loan Party in accordance with the USA Patriot Act.

#### **6.17 Placement Agent.**

To the extent that the Borrower, the other Loan Parties or any of their Subsidiaries or Affiliates have retained or engaged any placement agent, broker or financial adviser relating to or arising out of the transactions contemplated by the Loan Documents or the Contingent Value Right, the Borrower and the other Loan Parties shall be solely responsible for the payment of any fees, costs, expenses and commissions of any such placement agent, broker or financial adviser. The Borrower and the other Loan Parties shall pay, and hold each of the Secured Parties harmless against, any liability, loss or expense (including attorneys' fees, costs and expenses) arising in connection with any claim for any such payment.

#### **6.18 [Reserved].**

#### **6.19 Joint and Several.**

The obligations of the Loan Parties hereunder and under the other Loan Documents (and, where applicable, the Contingent Value Right) are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article 2 of the US Security Agreement and Article 2 of the Canadian Security Agreement, to which the obligations of the Loan Parties are subject.

#### **6.20 No Third Parties Benefited.**

This Agreement is made and entered into for the sole protection and legal benefit of the Loan Parties and the Secured Parties party hereto, and their successors and permitted assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement, any of the other Loan Documents or any Contingent Value Right. No Secured Party shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

#### **6.21 Binding Effect.**

This Agreement shall become effective when it shall have been executed by each of the Loan Parties party hereto, each Lender party hereto and Agent and such executed counterparts have been delivered to Agent pursuant to the terms of this Agreement. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of each Loan Party party hereto and each Secured Party party thereto and, in each case, their respective successors and permitted assigns.

#### **6.22 Marshaling; Payments Set Aside.**

No Secured Party shall be under any obligation to marshal any property in favor of any Loan Party or any other Person or against or in payment of any Obligation or any CVR Obligation. To the extent that any Secured Party receives a payment from the Borrower, from any other Loan Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

**6.23 No Waiver; Cumulative Remedies.**

No failure to exercise and no delay in exercising, on the part of any Secured Party, any right, remedy, power or privilege under any Loan Document or any Contingent Value Right, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Loan Party, any Affiliate of any Loan Party or any Secured Party shall be effective to amend, modify or discharge any provision of any of the Loan Documents or the Contingent Value Right. The rights provided for in this Agreement, the other Loan Documents or the Contingent Value Right are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

**6.24 Right of Setoff.**

Each Secured Party and each of its Affiliates is hereby authorized, without notice or demand (each of which is hereby waived by each Loan Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by any Secured Party or any of its Affiliates to or for the credit or the account of the Borrower or any other Loan Party against any Obligation or CVR Obligation of any Loan Party now or hereafter existing, whether or not any demand was made under any Loan Document or any Contingent Value Right with respect to such Obligation or CVR Obligation and even though such Obligation or CVR Obligation may be unmaturing. The rights under this Section 6.24 are in addition to any other rights and remedies (including other rights of setoff) that any Secured Party or any of its Affiliates may have.

**6.25 Loan Parties' Obligations Under Contingent Value Rights.**

Notwithstanding anything to the contrary contained herein or in any other Loan Document or the Contingent Value Right, in no event shall Borrower, CPL Canada Holdco, CPLC or any of their respective Subsidiaries that are organized in Canada (or any province or territory thereof) be liable, in whole or in part, for any payment or performance obligations under any Contingent Value Right or any CVR Obligations. For the avoidance of doubt, the provisions of this Section 6.25 shall not affect or otherwise derogate from the Loan Parties' obligations under Section 2.5(d).

**6.26 Interest Act of Canada.**

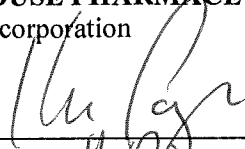
For the purpose of the *Interest Act* of Canada, the yearly rate of interest to which interest calculated on the basis of a period that is shorter than a calendar year of 365 days is equivalent, is the rate of interest as determined in this Agreement for such period multiplied by the number of days in such year and divided by 365 or 366, as the case may be.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the first day written above.

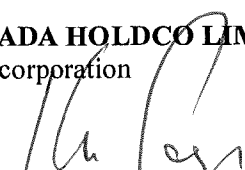
**BORROWER:**

**GLASSHOUSE PHARMACEUTICALS LIMITED CANADA,**  
an Ontario corporation

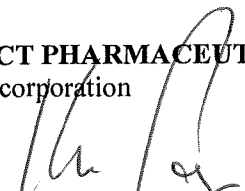
By:   
Name: Kenneth Paige  
Title: CEO

**OTHER LOAN PARTIES:**

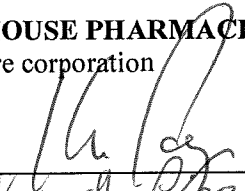
**CPL CANADA HOLDCO LIMITED,**  
an Ontario corporation

By:   
Name: Kenneth Paige  
Title: CEO

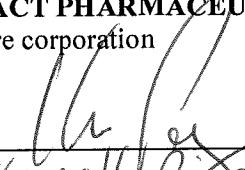
**CONTRACT PHARMACEUTICALS LIMITED CANADA,**  
an Ontario corporation

By:   
Name: Kenneth Paige  
Title: CEO

**GLASSHOUSE PHARMACEUTICALS LLC,**  
a Delaware corporation

By:   
Name: Kenneth Paige  
Title: CEO

**CONTRACT PHARMACEUTICALS LIMITED,**  
a Delaware corporation

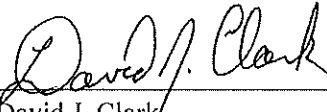
By:   
Name: Kenneth Paige  
Title: CEO

**LENDER AND AGENT:**

**DEERFIELD PRIVATE DESIGN FUND IV, L.P.**

By: Deerfield Mgmt IV, L.P., General Partner

By: J.E. Flynn Capital IV, LLC, General Partner

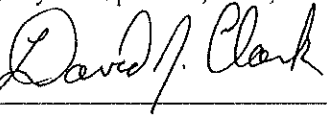
By:   
Name: David J. Clark  
Title: Authorized Signatory

**LENDER:**

**DEERFIELD PRIVATE DESIGN FUND III, L.P.**

By: Deerfield Mgmt III, L.P., General Partner

By: J.E. Flynn Capital III, LLC, General Partner

By:   
Name: David J. Clark  
Title: Authorized Signatory

**Amendment to the Deerfield Facility Agreement**

[Amendment Follows]



**FIRST AMENDMENT TO FACILITY AGREEMENT**

This FIRST AMENDMENT TO FACILITY AGREEMENT (this "Amendment"), dated as of December 27, 2021, is entered into by and among Glasshouse Pharmaceuticals Limited Canada, an Ontario corporation (the "Borrower"), the other Loan Parties (as defined below) party hereto, the lenders set forth on the signature pages of this Amendment (together with their successors and permitted assigns, the "Lenders"), Deerfield Private Design Fund IV, L.P., as agent for itself and the Lenders (in such capacity, together with its successors and assigns in such capacity, "Agent," and, together with the Lenders, the Borrower and the other Loan Parties party hereto, the "Parties").

**RECITALS:**

A. The Parties have entered into that certain Facility Agreement, dated as of December 6, 2018 (as the same has been and may hereafter be amended, modified, restated or otherwise supplemented from time to time, the "Facility Agreement").

B. The Parties desire to amend the Facility Agreement on the terms and subject to the conditions set forth below.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the Parties hereby agree as follows:

1. **Defined Terms.** Capitalized terms used herein that are defined in the Facility Agreement, unless otherwise defined herein, shall have the respective meanings ascribed to them in the Facility Agreement. The Recitals to this Amendment are incorporated herein in their entirety by this reference thereto.

2. **Amendments to Facility Agreement.** Upon and subject to the satisfaction of the conditions set forth in Section 3 of this Amendment, the Facility Agreement is hereby amended as follows:

a. The following defined terms are hereby inserted in appropriate alphabetical order in Section 1.1 of the Facility Agreement to read in their entirety as follows:

**"Additional Loan"** means the sum of (a) the PIK Interest Principal plus (b) the Fee Principal.

**"Additional Loan Interest Rate"** means 10% *per annum*.

**"Initial Loans"** means the aggregate principal amount of the Loans, excluding the Additional Loan."

b. The defined term "Interest Rate" set forth in Section 1.1 of the Facility Agreement is hereby changed to "Initial Interest Rate" and amended and restated to read in its entirety as follows:

**"Initial Interest Rate"** means 6.5% *per annum*.

c. The defined term “Loan” set forth in Section 1.1 of the Facility Agreement is hereby amended and restated to read in its entirety as follows:

“**Loan**” means any loan or other credit extension made, funded or advanced, or deemed made, funded or advanced, from time to time by the Lenders to the Borrower pursuant to this Agreement or, as the context may require, the principal amount thereof from time to time outstanding. “Loan” shall include any funded Disbursement and the Additional Loan.”

d. Section 2.6 of the Facility Agreement is hereby amended and restated to read in its entirety as follows:

“The Initial Loans shall bear interest at the Initial Interest Rate. Such interest shall, (a) during the period from and after the Agreement Date through (but not including) the third anniversary of the Agreement Date, be accrued and with such amounts being compounded quarterly in arrears commencing on January 1, 2019 and on the first Business Day of each calendar quarter thereafter and with interest thereafter accruing on such compounded amounts and all such amounts that have been compounded (including all interest accruing thereon) from the Agreement Date until (and including) the third anniversary of the Agreement Date and shall, on the third anniversary of the Agreement Date, be converted to additional principal for all purposes hereunder as of and after such date (such additional principal, the “**PIK Interest Principal**”) and thereafter constitute a Loan, (b) from and after the third anniversary of the Agreement Date, be paid in cash quarterly in arrears with the first cash payment being due and payable on April 1, 2022 (in respect of the period from the third anniversary of the Agreement Date through and including March 31, 2022) and on the first Business Day of each calendar quarter thereafter with respect to the prior calendar quarter (each, an “**Interest Payment Date**”). From and after the third anniversary of the Agreement Date, the Additional Loan shall bear interest at the Additional Loan Interest Rate and shall be paid in cash quarterly in arrears on each Interest Payment Date occurring thereafter.”

e. Section 2.7(a) of the Facility Agreement is hereby amended and restated to read in its entirety as follows:

“(a) Without limiting the remedies available to Agent and the Lenders under the Loan Documents, the Contingent Value Right or otherwise, to the maximum extent permitted by Applicable Law, if the Borrower or any other Loan Party fails to make a required payment of principal or interest with respect to the Initial Loans or the Additional Loan when due, the Borrower shall pay, in respect of such principal and interest at the rate *per annum* equal to (i) in the case of the Initial Loans, the Initial Interest Rate plus ten percent (10%) *per annum* and (ii) in the case of the Additional Loan, the Additional Loan Interest Rate plus ten percent (10%) *per annum*, in each case for so long as such payment remains outstanding. Such interest shall be payable in cash on demand.”

f. Section 2.7(b) of the Facility Agreement is hereby amended and restated to read in its entirety as follows:

“At the election (which upon such election, to the extent permitted by Applicable Law, such additional interest rate shall retroactively apply to the first day of existence of such Event of Default) of Agent or the Required Lenders while any Event of Default exists

(or automatically while any Event of Default under Section 5.4(a) or 5.4(d) exists), the Borrower shall pay interest (after as well as before entry of judgment thereon to the extent permitted by Applicable Law) on the Obligations and past due interest thereon (and the US Guarantors shall pay interest (after as well as before entry of judgment thereon to the extent permitted by Applicable Law) on the CVR Obligations and any past due amounts owed thereon), if any, from and after the date of occurrence of such Event of Default, at a rate per annum which is determined by adding two percent (2.0%) *per annum* to the Interest Rate then in effect for the Loans (or, solely in the case of the Additional Loan, at a rate per annum which is determined by adding two percent (2.0%) *per annum* to the Additional Loan Interest Rate then in effect for the Additional Loan). Such interest shall be payable in cash on demand.”

g. Section 2.9 of the Facility Agreement is hereby amended and restated to read in its entirety as follows:

“On the earlier of (a) the third anniversary of the Agreement Date and (b) the Facility Termination Date, the Borrower shall pay to the Lenders, based on their Pro Rata Share of the outstanding Loans, a transaction fee equal to \$500,000, by converting such fee to additional principal hereunder (the “**Fee Principal**”), which shall thereafter constitute a Loan, and such fee shall be fully earned as of the Agreement Date upon the Lenders funding the Initial Disbursement and shall not be refundable upon being paid for any reason whatsoever.”

3. Conditions Precedent. The effectiveness of this Amendment is subject to satisfaction of the following conditions precedent:

a. Executed Amendment. Agent and the Consenting Lenders shall have received counterparts of this Agreement, executed by each of the Parties.

b. Representations, Warranties, Covenants. The representations and warranties of the Borrower contained in this Amendment shall be true and correct in all respects.

4. Representations and Warranties of the Borrower. The Borrower hereby represents and warrants to Agent and the Consenting Lenders that:

a. As of the date hereof, the representations and warranties of the Borrower contained in the Facility Documents are, (i) in the case of representations and warranties qualified by “materiality,” “Material Adverse Effect” or similar language, true and correct in all respects and (ii) in the case of all other representations and warranties, true and correct in all material respects, in each case on and as of the date hereof (as if made on the date hereof), except to the extent that any such representation or warranty relates to a specific date, in which case such representation and warranty is true and correct in all respects or all material respects, as applicable, as of such earlier date.

b. The execution and delivery by the Borrower of this Amendment and the performance by the Borrower and the other Loan Parties of the Facility Documents (as amended by this Amendment) (i) are within the Borrower’s and the other Loan Parties’ corporate powers, (ii) have been duly authorized by all necessary action pursuant to their Organizational Documents, (iii) require no further action by or in respect of, or filing with, any Governmental Authority, and (iv) do not violate, conflict with or cause a breach or a default under any provision of Applicable Law or of the Borrower’s or any other Loan Parties’ Organizational Documents or of any judgment,

injunction, order, or decree of any Governmental Authority applicable to, or of any agreement or other instrument binding upon, the Borrower or any other Loan Party, except to the extent such violation, conflict, breach or default in respect of any Applicable Law or any agreement or other instrument would not individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

c. This Amendment and the other Facility Documents (as amended hereby) constitute the valid and binding obligations of the Borrower and each other Loan Party, enforceable against the Borrower and each other Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to the enforcement of creditor's rights generally and by general equitable principles.

d. Upon the effectiveness of the amendments in Section 2 of this Amendment, no Default or Event of Default has occurred and is continuing.

5. No Further Amendments; Ratification of Liability. Except as amended hereby, the Facility Agreement and each of the other Facility Documents shall remain in full force and effect in accordance with their respective terms. The Borrower as debtor, grantor, pledgor, guarantor or assignor, or in any similar capacity in which it has granted Liens or acted as an accommodation party or guarantor, as the case may be, hereby ratifies, confirms and reaffirms its liabilities, its payment and performance obligations (contingent or otherwise) and its agreements under the Facility Agreement and the other Facility Documents, all as amended by this Amendment, and the liens and security interests granted, created and perfected thereby. Nothing contained in this Amendment shall constitute the approval or consent by any Lender or any of its Affiliates (in any capacity), or obligate any Lender or any of its Affiliates (in any capacity) to approve or consent to any other transaction proposed to be effected by the Borrower. This Amendment constitutes a Facility Document and, together with the other Facility Documents, contains the entire agreement among the Borrower and the Lenders with respect to the matters contemplated by this Amendment. The execution of this Amendment shall not serve to effect a novation of any of the Obligations.

6. Legal Fees and Expenses. The Borrower agrees to reimburse Agent and Consenting Lenders on demand for all out-of-pocket costs, fees and expenses, including reasonable attorney's fees and expenses, incurred by the Lenders in connection with the negotiation, documentation and closing of this Amendment.

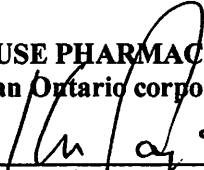
7. Incorporation by Reference. The provisions of Sections 9.3, 9.6 and 9.7 of the Facility Agreement are hereby incorporated herein by reference *mutatis mutandis* as if fully set forth herein.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date set forth above.

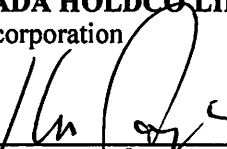
**BORROWER:**

**GLASSHOUSE PHARMACEUTICALS LIMITED  
CANADA, an Ontario corporation**

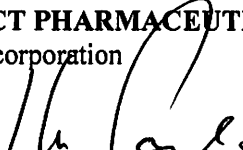
By:   
Name: Kenneth Paige  
Title: CEO

**OTHER LOAN PARTIES:**

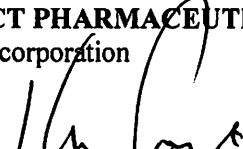
**CPL CANADA HOLDCO LIMITED,  
an Ontario corporation**

By:   
Name: Kenneth Paige  
Title: CEO

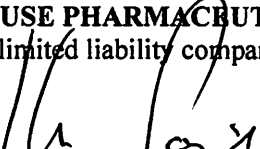
**CONTRACT PHARMACEUTICALS LIMITED CANADA,  
an Ontario corporation**

By:   
Name: Kenneth Paige  
Title: CEO

**CONTRACT PHARMACEUTICALS LIMITED,  
a Delaware corporation**

By:   
Name: Kenneth Paige  
Title: CEO

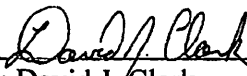
**GLASSHOUSE PHARMACEUTICALS LLC,  
a Delaware limited liability company**

By:   
Name: Kenneth Paige  
Title: CEO

**LENDER AND AGENT:**

**DEERFIELD PRIVATE DESIGN FUND IV, L.P.,**

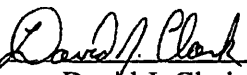
By: Deerfield Mgmt IV, L.P., its General Partner  
By: J.E. Flynn Capital IV, LLC, its General Partner

By:   
Name: David J. Clark  
Title: Authorized Signatory

**LENDER:**

**DEERFIELD PRIVATE DESIGN FUND III, L.P.,**

By: Deerfield Mgmt III, L.P.  
General Partner  
By: J.E. Flynn Capital III, LLC  
General Partner

By:   
Name: David J. Clark  
Title: Authorized Signatory

**THIS IS EXHIBIT "G"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

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Commissioner for Taking Affidavits

## SUMMARY OF UCC SEARCHES

1. **UNIFORM COMMERCIAL CODE (DELAWARE) – File Currency: December 6, 2023**(a) **Glasshouse Pharmaceuticals LLC**

Secured Party(ies)	Debtor(s)	Registration Number/Date	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Deerfield Private Design Fund IV, L.P., as Agent	Glasshouse Pharmaceuticals LLC	Reg. No.: 20187335066 Reg. Date: 10/23/2018 Exp. Date: 10/23/2028 <i>(Expiry date includes renewal)</i>	ALL ASSETS OF THE DEBTOR WHETHER NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, INCLUDING ALL PROCEEDS THEREOF.	<u>Continuation filed by 20234031349 on 06/05/2023</u>

(b) **Contract Pharmaceuticals Limited**

Secured Party(ies)	Debtor(s)	Registration Number/Date	General Collateral Description	Amendments/Assignments Discharges/Renewals Transfers/Subordinations
1. Royal Bank of Canada	Contract Pharmaceuticals Limited	Reg. No.: 20155457964 Reg. Date: 11/18/2015 Exp. Date: 11/18/2025 <i>(Expiry date includes renewal)</i>	ALL INDEBTEDNESS AND LIABILITY, PRESENT AND FUTURE, OF CONTRACT PHARMACEUTICALS LIMITED CANADA OWED TO THE DEBTOR FROM TIME TO TIME.	<u>Continuation filed by 20208075303 on 11/18/2020</u>
2. Deerfield Private Design Fund IV, L.P., as Agent	Contract Pharmaceuticals Limited	Reg. No.: 20187334903 Reg. Date: 10/23/2018 Exp. Date: 10/23/2028 <i>(Expiry date includes renewal)</i>	ALL ASSETS OF THE DEBTOR WHETHER NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, INCLUDING ALL PROCEEDS THEREOF.	<u>Continuation filed by 20234031356 on 06/05/2023</u>



**THIS IS EXHIBIT "H"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

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Commissioner for Taking Affidavits

Recipient Name: Contract Pharmaceuticals Limited Canada

**INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY  
CONTRIBUTION AGREEMENT**

This Contribution Agreement is made as of March 16, 2015

**BETWEEN:** **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
("Her Majesty") hereby represented by the Minister responsible  
for Federal Economic Development Agency for Southern  
Ontario

**AND:** **CONTRACT PHARMACEUTICALS LIMITED CANADA**  
("Recipient") a corporation incorporated under the laws of  
**Ontario**

**AND:** **CPL CANADA HOLDCO LIMITED** ("Obligor") a  
corporation incorporated under the laws of **Ontario**

**WHEREAS** the Federal Economic Development Agency for Southern Ontario was created to help make Canadians more productive and competitive in the knowledge-based economy, by supporting economic development, economic diversification, job creation, and sustainable, self-reliant communities in Southern Ontario (as defined herein);

**WHEREAS** as part of the Southern Ontario Prosperity Program, the Minister has established the *Investing in Business Growth and Productivity* initiative with the intent to assist established businesses by providing funding for projects related to business and market expansion, facilities expansion, integration into global value chains or skills development to support the adoption of new technologies. The initiative aims also to assist businesses to solve productivity challenges and allow businesses to take advantage of global opportunities by supporting the efforts of not-for-profits and post-secondary institutions to work with businesses on competitive challenges;

**WHEREAS** the Minister has agreed to make a repayable contribution to the Recipient up to the maximum amount of *Eight Million Nine Hundred and Ninety Two Thousand Six Hundred and Seventy Two Dollars (\$8,992,672)* in support of the Recipient's Eligible and Supported Costs (as defined herein) of the Project,

**NOW THEREFORE**, in accordance with the mutual covenants and agreements herein, Her Majesty as represented by the Minister (as defined herein) and the Recipient agree as follows:

**1. Purpose of the Agreement**

The purpose of this Agreement is to set out the terms and conditions under which the Minister will provide funding in support of the Project (as defined herein).

**2. Interpretation**

**2.1 Definitions.** In this Agreement, a capitalized term has the meaning given to it in this section, unless the context indicates otherwise:

**Agency** means the Federal Economic Development Agency for Southern Ontario.

**Agreement** means this contribution agreement including all the annexes attached hereto, as such may be amended, restated or supplemented, from time to time.

**Change of Control** means a proposed change in the identity of the individual or legal entity or group of individuals or legal entities that owns fifty point one percent (50.1%) or more of the outstanding voting shares of the Recipient.

**Completion Date** means the Project completion date, December 31, 2018.

**Contribution** means the contribution to Eligible and Supported Costs in the amount stipulated in Subsection 4.1.

**Control Period** means the period of six (6) years following the period determined in Subsection 3.1 as the duration of the Agreement.

**Date of Acceptance** means the date on which the duplicate fully executed copy of this Agreement is received by the Minister.

**Eligibility Date** means April 1, 2014.

**Eligible Costs** means those costs incurred by the Recipient and which, in the opinion of the Minister, are reasonable and required to carry out the Project.

**Eligible and Supported Costs** means those Eligible Costs supported by the Contribution and which are identified in Annex 1 – Statement of Work and relating to the Project activities described therein and which are in compliance with Annex 2 – Costing Memorandum.

**Event of Default** means the events of defaults described in Subsection 12.1 hereof.

**Fiscal Year** means the Government of Canada's fiscal year beginning on April 1st of a year and ending on March 31st of the following year.

**Foreground Intellectual Property** includes, without limitation, all technical data, designs, specifications, software, data, drawings, plans, reports, patterns, models, prototypes, demonstration units, practices, inventions, methods and related technology, processes or other information conceived, produced, developed or reduced to practice in carrying out the Project, and all rights therein, including, without limitation, patents, copyrights, industrial designs, trade-marks and any registrations or applications for the same and all other rights of intellectual property therein, including any rights which arise from the above items being treated by the Recipient as trade secrets or confidential information.

**Minister** means the Minister responsible for the Agency or any one or more of his representatives.

**Parties** mean the Minister, the Recipient and the Obligor and **Party** means any one of them.

**Project** means the project described in Annex 1 – Statement of Work.

**Southern Ontario** includes the following 2011 Statistic Canada Census Regions: 1 Stormont, Dundas and Glengarry; 2 Prescott and Russell; 6 Ottawa; 7 Leeds and Grenville; 9 Lanark; 10 Frontenac; 11 Lennox and Addington; 12 Hastings; 13 Prince Edward; 14 Northumberland; 15 Peterborough; 16 Kawartha Lakes; 18 Durham; 19 York; 20 Toronto; 21 Peel; 22 Dufferin; 23 Wellington; 24 Halton; 25 Hamilton; 26 Niagara; 28 Haldimand-Norfolk; 29 Brant; 30 Waterloo; 31 Perth; 32 Oxford; 34 Elgin; 36 Chatham-Kent; 37 Essex; 38 Lambton; 39 Middlesex; 40 Huron; 41 Bruce; 42 Grey; 43 Simcoe; 46 Haliburton; and 47 Renfrew.

- 2.2 **Singular/Plural.** Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural.
- 2.3 **Entire Agreement.** This Agreement comprises the entire agreement between the Parties. No prior document, negotiation, provision, undertaking or agreement in relation to the subject matter of this Agreement has legal effect. No representation or warranty, whether express, implied or otherwise, has been made by the Minister to the Recipient, except as expressly set out in this Agreement.
- 2.4 **Inconsistency.** In case of inconsistency or conflict between a provision contained in the part of the Agreement preceding the signatures and a provision contained in any of the Annexes to this Agreement, the provision contained in the part of the Agreement preceding the signatures will prevail.
- 2.5 **Annexes.** This Agreement contains the following Annexes as described below, which form an integral part of this Agreement:

**Annex 1 - Statement of Work**  
**Annex 2 - Costing Guideline Memorandum**  
**Annex 3 - Reporting Requirements**  
**Annex 4 - Federal Visibility Requirements**  
**Annex 5 - Repayment Schedule**

### 3. Duration of Agreement

- 3.1 **Duration of Agreement.** This Agreement comes into force on the Date of Acceptance and will terminate, subject to Subsection 3.2, upon the date all amounts due by the Recipient to Her

Majesty under this Agreement have been paid in full, unless terminated earlier in accordance with the terms of this Agreement.

- 3.2 **Control Period.** Notwithstanding the provisions of Subsection 3.1 above, during the Control Period, the rights and obligations described in the following sections shall continue beyond the duration of the Agreement:

Section 5 - Other Government Financial Support  
 Subsection 6.7 - Overpayment and non-entitlement  
 Subsections 7.2, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8 - Reporting, Monitoring, Audit and Evaluation  
 Subsection 8.1c - Representations  
 Section 11 - Indemnification and Limitation of Liability  
 Section 12 - Default and Remedies  
 Section 15 - General  
 Section 3 of Annex 3 - Reporting Requirements

- 3.3 **Commencement.** The Recipient agrees to commence the Project, no later than sixty (60) calendar days after the Date of Acceptance, otherwise the Minister may terminate this Agreement at his sole discretion.

#### 4. The Contribution

- 4.1 The Minister will make a repayable Contribution to the Recipient in respect of the Project in an amount not exceeding the lesser of (a) and (b) as follows:
- (a) (i) 25% of Eligible and Supported Costs representing capital costs of the Project incurred by the Recipient; plus
    - (ii) 25% of Eligible and Supported Costs representing non-capital costs of the Project incurred by the Recipient; and
  - (b) \$8,992,672
- 4.2 The payment of the Contribution per Fiscal Year is estimated at amounts specified in Annex 1 - Statement of Work. The Minister will have no obligation to pay any amounts in any other Fiscal Years than those specified in Annex 1 - Statement of Work.
- 4.3 The Minister shall not contribute to any Eligible and Supported Costs incurred prior to the Eligibility Date or later than the Completion Date.
- 4.4 The Recipient shall be responsible for all costs of the Project, including cost overruns, if any.
- 4.5 **Holdbacks.** Notwithstanding any other provisions of this Agreement, the Minister will, at the Minister's sole discretion, withhold up to ten percent (10%) of the Contribution amount until:
- (a) the Project is completed to the satisfaction of the Minister;
  - (b) the Recipient has satisfied all the conditions of this Agreement;
  - (c) the final report described in Subsection 6.5(a)(iii) has been submitted to the satisfaction of the Minister;
  - (d) audits and site visit, where required by the Minister, have been completed to the satisfaction of the Minister; and
  - (e) the Minister has approved the final claim described in Subsection 6.5.

#### 5. Other Government Financial Support

- 5.1 The Recipient hereby confirms that for purposes of this Project no federal, provincial, municipal or local government assistance has been requested, received or will be received except as disclosed in Annex 1 - Statement of Work.
- 5.2 The Recipient shall promptly inform the Minister in writing in the event additional other government financial support has been requested or received for the Project, during the term of this Agreement and acknowledges and agrees that an adjustment to the amount of the Contribution and a request for repayment of part or all of the amounts paid to the Recipient may be made as a result thereof. In such event, Annex 5- Repayment Schedule, will be adjusted

accordingly and communicated to the Recipient. The amount of repayment requested will constitute a debt due to Her Majesty and will be recovered as such from the Recipient.

- 5.3 (a) In no instance will the total government funding towards the Eligible Costs representing capital costs of the Project be allowed to exceed fifty percent (50%) of the total Eligible Costs representing capital costs, and

(b) In no instance will the total government funding towards the Eligible Costs representing non-capital costs of the Project be allowed to exceed seventy-five percent (75%) of the total Eligible Costs representing non-capital costs.

**6. Claims and Payments**

- 6.1 The Recipient shall maintain accounting records that account for the Contribution paid to the Recipient and the related Project costs in respect of this Agreement, separate and distinct from any other sources of funding.

- 6.2 **Claims Procedures.** The Recipient shall submit claims for reimbursement of Eligible and Supported Costs incurred, not more frequently than monthly and not less frequently than quarterly, in a form satisfactory to the Minister. Each claim will include the following information:

- (a) an itemized summary by cost category of Eligible and Supported Costs incurred substantially in the form prescribed by the Minister;
- (b) a certification of the claim by a director or officer of the Recipient, confirming the accuracy of the claim and all supporting information provided;
- (c) if applicable, a certification by a director or officer of the Recipient that any environmental mitigation measures that may be set out in this Agreement have been implemented; and
- (d) any other substantiating documentation (including without limitation, any invoice or proof of payment), as may be required by the Minister.

- 6.3 The Recipient agrees to submit its first claim for Eligible and Supported Costs ninety (90) calendar days after the date any conditions precedent described in Section 17 are satisfied, as communicated by the Minister to the Recipient.

**6.4 Advance Payments.**

No advances will be paid under this Agreement.

**6.5 Final Claim Procedures.**

- (a) The Recipient shall submit a final claim pertaining to the final reimbursement of any Eligible and Supported Costs previously claimed or not, signed by a director or officer of the Recipient and accompanied by the following, in addition to the requirements set out in Subsection 6.2, in a form satisfactory to the Minister in scope and detail:
  - (i) a final statement of total Project costs;
  - (ii) a statement of the total government assistance (federal, provincial and municipal assistance) received or requested towards the Eligible Costs of the Project;
  - (iii) a final report on the Project, as more fully described in Section 2 of Annex 3 – Reporting Requirements; and
  - (iv) a final certificate executed by a director or officer of the Recipient substantially in the form prescribed by the Minister;
- b) The Recipient shall submit the final claim for reimbursement of Eligible and Supported Costs to the satisfaction of the Minister no later than three (3) months after the Completion Date or the date the Project is completed to the satisfaction of the Minister, whichever is earlier. The Minister shall have no obligation to pay any claims submitted after this date.

**6.6 Payment Procedures.**

- (a) The Minister shall review and approve the documentation submitted by the Recipient following the receipt of the Recipient's claim and in the event of any deficiency in the documentation, it will notify the Recipient and the Recipient shall immediately take action to address and rectify the deficiency.
- (b) Subject to the maximum Contribution amounts set forth in Subsection 4.1 and all other conditions contained in this Agreement, the Minister shall pay to the Recipient the **Eligible and Supported Costs** set forth in the Recipient's claim, in accordance with the Minister's customary practices.
- (c) The Minister may request at any time that the Recipient provides satisfactory evidence to demonstrate that all Eligible and Supported Costs claimed have been paid.
- (d) The Minister may require, at his expense, any claim submitted for payment of the Contribution be certified by the Recipient's external auditor or by an auditor approved by the Minister.

6.7 **Overpayment or non-entitlement.** Where, for any reason, the Recipient is not entitled to all or part of the Contribution or the amount paid to the Recipient exceeds the amount to which the Recipient is entitled, the Contribution or the amount in excess, as the case may be, shall constitute a debt due to Her Majesty and shall be recovered as such from the Recipient. The Recipient shall repay Her Majesty within thirty (30) calendar days from the date of the Minister's notice, the amount of the Contribution disbursed or the amount of the overpayment, as the case may be, together with interest as calculated in accordance with Subsection 15.2 of this Agreement.

#### 6.8 **Repayment**

- (a) The Recipient agrees to repay the Contribution to Her Majesty in accordance with the repayment schedule attached hereto as Annex 5 – Repayment Schedule.
- (b) Any overdue amount will bear interest in accordance with Subsection 15.2.
- (c) A Fifty dollars (\$50) administration fee will be charged on every payment for which funds were unavailable in the account identified or used for payment.
- (d) The Recipient may at any time make prepayments on account of repayment instalments and each such prepayment will be applied first to interest owing and secondly to repayment instalments in reverse order of maturity.

#### 7. **Reporting, Monitoring, Audit and Evaluation**

- 7.1 The Recipient agrees to provide the Minister with the reports as described in Annex 3 – Reporting Requirements, to the Minister's satisfaction.
- 7.2 Upon request of the Minister and at no cost to the Minister, the Recipient shall promptly elaborate upon any report submitted or provide such additional information as may be requested.
- 7.3 The Minister may request a copy of any report or publication produced as a result of this Agreement or the Project, whether interim or final, as soon as it becomes available.
- 7.4 The Recipient shall at its own expense:
  - (a) preserve and make available for audit and examination by the Minister, proper books, accounts and records of the Project costs, wherever such books, and records may be located, and permit the Minister to conduct such independent audits and evaluations as the Minister in his discretion may require;
  - (b) upon reasonable notice and after consultation with the Recipient, permit the Minister, reasonable access to the Project site and/or the Recipient's premises and documents in order to inspect and assess the progress and results of the Project and compliance with the terms of this Agreement;
  - (c) supply promptly, on request, such other reports or data in respect of the Project and its results, as the Minister may require for purposes of this Agreement and for statistical and/or evaluation purposes.

- 7.5 The Minister shall have the right, at his own expense, and as and when he determines necessary, to perform audits of the Project costs and the Recipient's books, accounts, records, financial statements and claims for reimbursement of Eligible and Supported Costs, and the Recipient's administrative, financial and claim certification processes and procedures, for the purposes of verifying the costs of the Project, validating claims for reimbursement of Eligible and Supported Costs, ensuring compliance with the terms of this Agreement, and confirming amounts repayable to Her Majesty under the provisions of this Agreement.
- 7.6 Any audits performed hereunder will be carried out by auditors selected by the Minister, which may include any of the following: Agency officials, an independent auditing firm, and/or the Recipient's external auditors. The Minister will provide the Recipient with a description of the scope and criteria of the audit and the expected time frames for completion of the audit and public release of the related reports.
- 7.7 The Recipient agrees that the Minister, at the Minister's expense, may engage outside firms or individuals, unrelated to the Government of Canada, with the required expertise to evaluate and monitor the Project and its implementation or review any documents submitted by the Recipient. The Recipient agrees to provide access to any site, meeting or to any document in relation to the Project to such firms or individuals.
- 7.8 **Auditor General of Canada.** The Recipient acknowledges that the Auditor General of Canada may, at the Auditor General's cost, after consultation with the Recipient, conduct an inquiry under the authority of Subsection 7.1(1) of the *Auditor General Act* in relation to any funding agreement (as defined in Subsection 42(4) of the *Financial Administration Act*) with respect to the use of funds received. For purposes of any such inquiry undertaken by the Auditor General, the Recipient shall provide, upon request and in a timely manner, to the Auditor General or anyone acting on behalf of the Auditor General:
- (a) all records held by the Recipient or by agents or contractors of the Recipient, relating to this Agreement and the use of the Contribution; and
  - (b) such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request relating to this Agreement and/or the Contribution.

## 8. Representations and Covenants

### 8.1 **Representations.** The Recipient represents and warrants that:

- (a) it is a corporation, duly incorporated and validly existing and in good standing under the laws of Ontario and has the power and authority to carry on its business, to hold its property and to enter into this Agreement. The Recipient warrants that it shall remain as such for the duration of this Agreement;
- (b) the execution, delivery and performance of this Agreement have been duly and validly authorized by the necessary corporate actions of the Recipient and when executed and delivered by the Recipient, this Agreement constitutes a legal, valid and binding obligation of the Recipient, enforceable against it in accordance with its terms;
- (c) it has acquired general liability insurance and property damage insurance, in an adequate amount consistent with the scope of the operations and the Project, but in any event no less than **\$10 million for property damage and no less than two million dollars for general liability insurance** and will maintain such for the duration of the Agreement and the Control Period.
- (d) the signatory(ies) to this Agreement, on behalf of the Recipient, has(ve) been duly authorized under a borrowing by-law to execute and deliver this Agreement;
- (e) this Agreement constitutes a legally binding obligation of the Recipient, enforceable against it in accordance with its terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization and other laws affecting generally the enforcement of the rights of creditors and subject to a court's discretionary authority with respect to the granting of a decree, ordering specific performance or other equitable remedies;
- (f) the execution and delivery of this Agreement and the performance by the Recipient of its obligations hereunder will not, with or without the giving of notice or the passage of time or both:

- (i) violate the provisions of the Recipient's by-laws, any other corporate governance document subscribed to by the Recipient or any resolution of the Recipient;
  - (ii) violate any judgment, decree, order or award of any court, government agency, regulatory authority or arbitrator; or
  - (iii) conflict with or result in the breach or termination of any material term or provision of, or constitute a default under, or cause any acceleration under, any license, permit, concession, franchise, indenture, mortgage, lease, equipment lease, contract, permit, deed of trust or any other instrument or agreement by which it is bound.
- (g) there are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Recipient, threatened and there is no order, judgment or decree of any court or governmental agency, which could materially and adversely affect the Recipient's ability to carry out the activities contemplated by this Agreement;
  - (h) it has obtained or will obtain all necessary licences and permits in relation to the Project, which satisfy the requirements of all regulating bodies of appropriate jurisdiction;
  - (i) it owns or holds sufficient rights in any intellectual property required to carry out the Project;
  - (j) the description of the Project in Annex 1 -- Statement of work is complete and accurate;
  - (k) it is located in Southern Ontario; and
  - (l) it employs normally between 15 and 1,000 full time employees.

**8.2 Covenants.** The Recipient covenants and agrees that:

- (a) it shall use the Contribution solely and exclusively to support the Eligible and Supported Costs of the Project, and shall carry out the Project in a diligent and professional manner, using qualified personnel;
- (b) it shall obtain the prior written consent of the Minister before making any change to any aspect of the Project or to the management of the Project or the Recipient;
- (c) no Change of Control will occur without the prior written consent of the Minister except where the Recipient is a reporting issuer under applicable securities laws in which case the Recipient agrees to provide notice of the Change of Control within 15 business days of the take-over being approved;
- (d) it shall comply with the federal visibility requirements set out in Annex 4 – Federal Visibility Requirements;
- (e) it shall acquire and manage all equipment, services and supplies required for the Project in a manner that ensures the best value for funds expended; and
- (f) it shall not pay any dividends whatsoever, make payments to a parent company or to any of its affiliates, or payout shareholders loans without the prior written consent of the Minister.

**9. Official Languages**

The Recipient agrees that any public acknowledgement of the Agency's support for the Project will be expressed in both official languages.

**10. Environmental and Other Requirements**

- 10.1 The Recipient represents that the Project is not a "designated project" as defined in the *Canadian Environmental Assessment Act, 2012* ("CEAA") and is not being carried out on "federal lands" as defined in the CEAA.
- 10.2 The Recipient agrees to comply with all federal, provincial, territorial, municipal and other applicable laws governing the Recipient and the Project, including without limitation, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to environmental protection and the successful implementation of and adherence to any mitigation measures, monitoring or follow-up program, which may be



prescribed by federal, provincial, territorial, municipal bodies. The Recipient will certify to the Minister that it has done so.

- 10.3 The Recipient will provide the Minister with reasonable access to any Project site, for the purpose of ensuring that the terms and conditions of any environmental approval are met, and that any required conditions, mitigation measures, monitoring or program follow up have been carried out.
- 10.4 If as a result of changes to the Project or otherwise, should a subsequent assessment be required in accordance with CEAA for the Project, the Minister and the Recipient agree that the Minister's obligations under this Agreement will be suspended from the moment that the Minister informs the Recipient, until (i) a decision statement has been issued to the Recipient or, if applicable, the Minister has decided that the Project is not likely to cause significant adverse environmental effects, and (ii) if required, an amendment to this Agreement has been signed, setting out any conditions included in the decision statement. The Recipient agrees to comply with any such conditions.
- 10.5 **Aboriginal consultation.** The Recipient acknowledges that the Minister's obligation to pay the Contribution is conditional upon Her Majesty satisfying any obligation that Her Majesty may have to consult with or to accommodate any Aboriginal groups, which may be affected by the terms of this Agreement.

## 11. Indemnification and Limitation of Liability

- 11.1 The Recipient shall at all times indemnify and save harmless Her Majesty, its officers, officials, employees and agents, from and against all claims and demands, losses, costs, damages, actions, suits or other proceedings (including, without limitation, those relating to injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights) by whomsoever brought or prosecuted, or threatened to be brought or prosecuted, in any manner based upon or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights, caused by, or arising directly or indirectly from:
- (a) the Project, its operation, conduct or any other aspect thereof;
  - (b) the performance or non-performance of this Agreement, or the breach or failure to comply with any term, condition, representation or warranty of this Agreement by the Recipient, its officers, employees and agents, or by a third party or its officers, employees, or agents;
  - (c) the design, construction, operation, maintenance and repair of any part of the Project or,
  - (d) any omission or other wilful or negligent act or delay of the Recipient or a third party and their respective employees, officers, or agents, except to the extent to which such claims and demands, losses, costs, damages, actions, suits, or other proceedings relate to the negligent act or omission of an officer, official, employee, or agent of Her Majesty, in the performance of his or her duties.
- 11.2 The Minister shall have no liability under this Agreement, except for payments of the Contribution, in accordance with and subject to the provisions of this Agreement. Without limiting the generality of the foregoing, the Minister shall not be liable for any direct, indirect, special or consequential damages, or damages for loss of revenues or profits of the Recipient.
- 11.3 Her Majesty, her agents, employees and servants will not be held liable in the event the Recipient enters into loan, a capital or operating lease or other long-term obligation in relation to the Project for which the Contribution is provided.

## 12. Default and Remedies

- 12.1 **Event of Default.** The Minister may declare that an Event of Default has occurred if:
- (a) the Recipient has failed or neglected to pay Her Majesty any amount due in accordance with this Agreement;
  - (b) the Project is not completed to the Minister's satisfaction by the Completion Date or the Project is abandoned in whole or in part;
  - (c) the Recipient makes a materially false or misleading statement concerning support by Her Majesty in any internal and/or public communication, other than in good faith;

- (d) the Recipient becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute, from time to time in force, relating to bankrupt or insolvent debtors;
- (e) an order is made or the Recipient has passed a resolution for the winding up of the Recipient, or the Recipient is dissolved;
- (f) the Recipient has, in the opinion of the Minister, ceased to carry on business or has sold all or substantially all of its assets;
- (g) the Project is carried out at locations, other than those mentioned in Annex 1 - Statement of Work;
- (h) the Recipient has submitted false or misleading information, or has made a false or misleading representation to the Agency, the Minister, in this Agreement or in its application for the Contribution;
- (i) the Recipient has not, in the opinion of the Minister, met or satisfied a term or condition of this Agreement;
- (j) the Recipient has not met or satisfied a term or condition under any other contribution agreement or agreement of any kind with Her Majesty;
- (k) the Recipient is not eligible or is otherwise not entitled to the Contribution; or
- (l) the Recipient has not complied with the monitoring, audit and evaluation requirements, specified in this Agreement.

12.2 **Notice and Rectification Period.** Except in the case of default under Subsection 12.1 (d) (e) and (f), the Minister will not declare that an Event of Default has occurred unless he has given prior written notice to the Recipient of the occurrence, which in the Minister's opinion constitutes an Event of Default. The Recipient shall, within such period of time as the Minister may specify in the notice, either correct the condition or event or demonstrate, to the satisfaction of the Minister, that it has taken such steps as are necessary to correct the condition, failing which the Minister may declare that an Event of Default has occurred.

12.3 **Remedies.** If the Minister declares that an Event of Default has occurred, the Minister may immediately exercise any one or more of the following remedies, in addition to any remedy available at law:

- (a) terminate the Agreement, including any obligation by the Minister to make any payment under this Agreement, including any obligation to pay an amount owing prior to such termination;
- (b) suspend any obligation by the Minister to make any payment under this Agreement, including any obligation to pay an amount owing prior to such suspension; and
- (c) require the Recipient to repay forthwith to Her Majesty all or part of the Contribution, and that amount is a debt due to Her Majesty and may be recovered as such.

12.4 The Recipient acknowledges the policy objectives served by the Minister's agreement to make the Contribution, that the Contribution comes from the public monies, and that the amount of damages sustained by Her Majesty in an Event of Default is difficult to ascertain and therefore, that it is fair and reasonable that the Minister be entitled to exercise any or all of the remedies, provided for in this Agreement and to do so in the manner provided for in this Agreement, if an Event of Default occurs.

### 13. Project Assets and Intellectual Property

13.1 The Recipient shall retain title to, and ownership of any assets (including any Foreground Intellectual Property), the cost of which has been contributed to by the Minister under this Agreement and shall not sell, assign, transfer, encumber, pledge, grant a security interest or otherwise dispose of same, without the prior written consent of the Minister. As a condition of such consent, the Minister may require the Recipient to repay Her Majesty the whole or any part of the Contribution paid to the Recipient hereunder.

13.2 Title to any Foreground Intellectual Property shall vest exclusively in the Recipient. The Recipient shall take appropriate steps to protect the Foreground Intellectual Property and shall, upon written request, provide information to the Minister in that regard. The Recipient shall not agree to (i) any exclusive and/or irrevocable licenses of the Foreground Intellectual Property, or (ii) the sublicensing of the Foreground Intellectual Property in any license agreement except where the Recipient will be entitled to receive royalties directly or indirectly from such sublicense.

#### 14. Miscellaneous

14.1 The Recipient represents and warrants that no member of the House of Commons or Senate of Canada shall be admitted to any share or part of this Agreement or to any benefit arising from it, that are not otherwise available to the general public.

14.2 The Recipient confirms that no current or former public servant or public office holder, to whom the *Values and Ethics Code for the Public Service*, the *Values and Ethics Code for the Public Sector*, the *Policy on Conflict of Interest and Post-Employment* or the *Conflict of Interest Act* applies, shall derive direct benefit from the Agreement, including any employment, payments or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation. Where the Recipient employs or has a major shareholder, who is either a current or former (in the last twelve (12) months) public office holder or public servant in the federal government, the Recipient shall demonstrate compliance with these codes and the legislation.

14.3 The Recipient represents and warrants that:

- (a) it has not paid, nor agreed to pay to any person, either directly or indirectly, a commission, fee or other consideration that is contingent upon the execution of this Agreement, or upon the person arranging a meeting with a public office holder;
- (b) it will not pay, nor agree to pay to any person, either directly or indirectly, any commission, fee or other consideration that is contingent upon the person arranging a meeting with a public office holder;
- (c) the Recipient or any persons who are or have been engaged by the Recipient to communicate or arrange meetings with public office holders, regarding the Project or this Agreement, are in full compliance with all requirements of the *Lobbying Act*; and
- (d) any persons who may be engaged by the Recipient to communicate or arrange meetings with public office holders, regarding the Project or this Agreement, will at all times be in full compliance with the requirements of the *Lobbying Act*.

14.4 The Recipient acknowledges that the representations and warranties in this section are fundamental terms of this Agreement. In the event of breach of these, the Minister may exercise the remedies set out in Subsection 12.3.

#### 15. General

15.1 **Debt due to Canada.** Any amount owed to Her Majesty under this Agreement shall constitute a debt due to Her Majesty and shall be recoverable as such. Unless otherwise specified herein, the Recipient agrees to make payment of any such debt forthwith on demand.

15.2 **Interest.** Debts due to Her Majesty will accrue interest in accordance with the *Interest and Administrative Charges Regulations*, in effect on the due date, compounded monthly on overdue balances payable, from the date on which the payment is due, until payment in full is received by Her Majesty. Any such amount is a debt due to Her Majesty and is recoverable as such.

15.3 **Set-Off.** Without limiting the scope of set-off rights provided in the *Financial Administration Act*, the Minister may set off against the Contribution, any amounts owed by the Recipient to Her Majesty under legislation or contribution agreements and the Recipient shall declare to the Minister all amounts outstanding in that regard, when making any claim under this Agreement.

15.4 **No Assignment of Agreement.** Neither this Agreement nor any part thereof shall be assigned by the Recipient, without the prior written consent of the Minister.

15.5 **Annual Appropriation.** Payment by the Minister of amounts due under this Agreement shall be conditional on there being a legislated appropriation for the Fiscal Year in which the payment is

to be made. The Minister shall have the right to terminate or reduce the Contribution, in the event that the amount of the appropriation is reduced or denied by Parliament. In the event that any portion of the Contribution has been paid to the Recipient and the legislated appropriation for the Fiscal Year in which such payment is made is not obtained, the Minister shall have the right to recover the amount so paid from the Recipient.

- 15.6 **Successors and Assigns.** This Agreement is binding upon the Recipient, its successors and permitted assigns.
- 15.7 **Confidentiality.** Subject to the *Access to Information Act* (Canada), the *Privacy Act*, the *Library and Archives Act* of Canada and Annex 4 – Federal Visibility Requirements, the Parties shall keep confidential and shall not disclose the contents of this Agreement or the transactions contemplated hereby, without the consent of all Parties.
- 15.8 **International Disputes.** Notwithstanding Subsection 15.7, the Recipient waives any confidentiality rights to the extent such rights would impede Her Majesty from fulfilling its notification obligations to a world trade panel for the purposes of the conduct of a dispute, in which Her Majesty is a party or a third party intervener.
- 15.9 **Governing Law.** This Agreement shall be subject to and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 15.10 **Dispute Resolution.** If a dispute arises concerning the application or interpretation of this Agreement, the Parties shall attempt to resolve the matter through good faith negotiation, and may, if necessary and the Parties consent in writing, resolve the matter through mediation or by arbitration, by a mutually acceptable mediator or arbitration in accordance with the Commercial Arbitration Code set out in the schedule to the *Commercial Arbitration Act* (Canada), and all regulations made pursuant to that Act.
- 15.11 **No Amendment.** No amendment to this Agreement shall be effective unless it is made in writing and signed by the Parties hereto.
- 15.12 **No Agency.** No provision of this Agreement or action by the Parties will establish or be deemed to establish any partnership, joint venture, principal-agent or employer-employee relationship in any way, or for any purpose, between Her Majesty and the Recipient, or between Her Majesty and a third party. The Recipient is not in any way authorized to make a promise, agreement or contract and to incur any liability on behalf of Her Majesty, nor shall the Recipient make a promise, agreement or contract and incur any liability on behalf of Her Majesty, and shall be solely responsible for any and all payments and deductions, required by the applicable laws.
- 15.13 **No Waiver.** Any tolerance or indulgence demonstrated by one Party to the other, or any partial or limited exercise of rights conferred on a Party, shall not constitute a waiver of rights, and unless expressly waived in writing the Parties shall be entitled to exercise any right and to seek any remedy, available under this Agreement or otherwise at law. Either Party may, by notice in writing, waive any of its rights under this Agreement.
- 15.14 **Public Dissemination.** All reports and other information that the Minister collects, manages or has a right to receive or produce in accordance with this Agreement, or that the Recipient collects, creates, manages and shares with the Minister, shall be deemed to be "Canada Information". The Minister shall have the right, subject to the provisions of the *Access to Information Act*, to release to the public, table before Parliament, or publish by any means, any Canada Information, including such excerpts or summaries of the Canada Information as he may, from time to time, decide to make.
- 15.15 **No conflict of interest.** The Recipient and its consultants and any of their respective advisors, partners, directors, officers, shareholders, employees, agents and volunteers shall not engage in any activity where such activity creates a real, apparent or potential conflict of interest in the sole opinion of the Minister, with the carrying out of the Project. For greater certainty, and without limiting the generality of the foregoing, a conflict of interest includes a situation where anyone associated with the Recipient owns or has an interest in an organization that is carrying out work related to the Project.
- 15.16 **Disclose potential conflict of interest.** The Recipient shall disclose to the Minister without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.
- 15.17 **Severability.** If for any reason a provision of this Agreement that is not a fundamental term of the agreement between the Parties is found to be or becomes invalid or unenforceable, whether in

whole or in part, such provision or part thereof declared invalid or unenforceable shall be deemed to be severable and shall be deleted from this Agreement and all remaining terms and conditions of this Agreement will continue to be valid and enforceable.

15.18 **Business Information.** Notwithstanding anything else contained in this Agreement, the Minister shall be given the right to the use of any of the Recipient's publicly available business information about the Project (e.g. brochures, awareness, packages, etc.).

15.19 **Tax.** The Recipient acknowledges that financial assistance from government programs may have tax implications for its organization and that advice should be obtained from a qualified tax professional.

## 16. Notice

16.1 Any notice, information or document required under this Agreement shall be effectively given, if delivered or sent by letter or facsimile (postage or other charges prepaid). Any notice that is delivered shall be deemed to have been received on delivery; any notice sent by facsimile shall be deemed to have been received one (1) working day after being sent, any notice that is mailed shall be deemed to have been received eight (8) calendar days after being mailed.

16.2 All notices must be sent to the following addresses:

### To the Minister

Federal Economic Development Agency for  
Southern Ontario  
101 Frederick Street, Suite 702  
Kitchener, ON N2H 6R2

**Attention: Investing in Business Growth  
and Productivity Initiative**

or to such other address, as is designated by  
the Agency in writing.

### To the Recipient

Contract Pharmaceuticals Limited Canada  
7600 Danbro Crescent  
Mississauga, ON L5N 6L6

**Attention: Marcel Vieno, VP Finance/IT**

16.3 Each of the Parties may change the address, which they have stipulated in this Agreement by notifying in writing the other party of the new address, and such change shall be deemed to take effect fifteen (15) calendar days after receipt of such notice.

## 17. Special Conditions

17.1 **Conditions Precedent.** As a condition precedent to the first disbursement of the Contribution:

- (a) the Recipient agrees to provide the Minister an officer's certificate executed by an officer of the Recipient in the form prescribed by the Minister which includes certified copies of the Recipient's constating documents, by-laws and resolution authorising the entering into of this Agreement;
- (b) the Recipient agrees to provide the Minister with a direct deposit authorization in the form prescribed by the Minister; and

17.2 **Renewal of Representations.** It is a condition precedent to any disbursement under this Agreement that the representations and warranties contained in this Agreement are true at the time of payment and that the Recipient is not in default of compliance with any terms of this Agreement.

17.3 **Guarantee.** In consideration of the Minister providing the Contribution, the Obligor binds itself to the Minister for the complete performance of the Recipient's obligations under this Agreement, including without limitation, the completion of the Project and the repayment of the Contribution in accordance with this Agreement. The obligations of the Obligor hereunder are joint and several. As a result of the forgoing, the Obligor or the Recipient may be compelled separately to repay the Contribution or perform any other obligations contained in this Agreement.

- 17.4 Notwithstanding clause 8.2(f), the Minister hereby consents to allow the Recipient to issue annual dividends, make payments to a parent company or to any of its affiliates, or payout shareholders loans not exceeding the higher of \$2,000,000 or 40% of its earnings before interest, taxes, depreciation, and amortization in the most recent fiscal year.
- 17.5 Notwithstanding clause 13.1, the Minister hereby consents to allow the Recipient at any time and from time to time, to pledge, mortgage, grant a security interest or otherwise encumber any one or more of the project assets as security in order to obtain or refinance bank financing (as outlined in Annex 1) for this Project and to existing financing of the Recipient that encumbers after acquired property, including the Project.

18. Acceptance

The Recipient agrees that unless the Minister receives a duly executed duplicate copy of this Agreement within thirty (30) calendar days of the date of execution by the Minister, this Agreement is revocable at the discretion of the Minister.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement through authorized representatives.


Project No.:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Per:   
Karen Ellis, President  
Federal Economic Development Agency  
for Southern Ontario


Date: March 12, 2015

CONTRACT PHARMACEUTICALS LIMITED CANADA

Per:   
Ken Paige, Chief Executive Officer

Date: March 16, 2015


I have authority to bind the corporation.

Per:   
Marcel Vieno, Vice President  
Finance and Information Technology

Date: MARCH 16, 2015

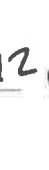
I have authority to bind the corporation.

CPL CANADA HOLBCO LIMITED, as Obligor

Per:   
Ken Paige, Chief Executive Officer

Date: March 16, 2015

I have authority to bind the corporation.

Per:   
Marcel Vieno, Vice President  
Finance and Information Technology

Date: MARCH 16, 2015

I have authority to bind the corporation.

## Annex 1

## INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY

THE PROJECT - STATEMENT OF WORK

Project Location: 7600 Danbro Crescent, Mississauga, Ontario  
 Project Start Date: April 1, 2014  
 Project Completion Date: December 31, 2018

Project Description/Purpose/Objective

Contract Pharmaceuticals Limited Canada proposes to introduce new technology and new capabilities to expand production capacity while reducing costs. The project is part of the company's ongoing commitment to reinvest in the business in order to maintain its competitiveness. The expansion is partly driven by its fast growing product development services which provide customers with services from formulation development to clinical trial manufacturing to commercial manufacturing. The future growth in this segment of the business is expected to lead to additional manufacturing and packaging contracts for the company.

The project involves acquisition of large capital equipment including high precision mixing kettles used to produce liquid and semi-liquid products as well as advanced automation equipment to be used on packaging lines. The investment is expected to increase efficiency and, more importantly, increase the company's production capacity in a rapidly growing operation. The assets will be installed at the existing manufacturing and packaging facility in Mississauga. The project is expected to take 44 months to complete ending on December 31st, 2018.

Project Milestones	Estimated Completion Date
Purchase, install, and validate 3 Symex Kettle Systems (one system per year over three years)	December 31, 2017
Purchase and install tube filling line and bottling line equipment	December 31, 2017
Purchase and install 3 packaging lines (one system per year over three years, starting in 2016)	December 31, 2018
Leasehold improvements, alcohol tank installation, walk-in refrigeration installation, software upgrades, and other equipment installation (not already included the above)	December 31, 2018

Expected Results of the Project

Measurement	At Project End
Number of new products, services and processes commercialized	0
Number of new partnership/collaborations	0
Total cash leverage	\$26,978,016

Sales (Consolidated)	At Project Start FY 2014	At Project End FY 2018	Forecasted Total Sales Post Project Year 1 FY 2019	Forecasted Total Sales Post Project Year 2 FY 2020
North American sales	\$70,597,106	\$111,006,302	\$120,751,293	\$128,943,129
Sales outside North America	\$1,440,757	\$2,265,435	\$2,464,312	\$2,631,492
Sales resulting from innovations commercialized	\$0	\$0	\$0	\$0

Jobs	Number of full-time equivalents*				Total
	Created		Maintained		
	Permanent	Temporary	Permanent	Temporary	
Forecasted Jobs by Project Completion	155	0	0	0	155
Forecasted Jobs Post Project - Year 1	0	0	0	0	0
Forecasted Jobs Post Project - Year 2	20	0	0	0	20
<b>Total</b>	<b>175</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>175</b>



\*Full-time equivalent (FTE) refers to the employment of one person full-time, or more than one person part-time, such that the total working time is the equivalent of one person working full-time. Full-time equivalents (FTEs) are measured in person years. Generally, full-time positions will involve between 35 and 40 hours in a regular work week. FTEs do not include contracted services.

### Project Costs & Financing Annex A - Costs & Financing

COSTS	Eligible & Supported <sup>1,2</sup>		Eligible & Not Supported		Ineligible		Total	
<b>CAPITAL COSTS</b>								
Facility construction/renovations	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
Equipment purchases/installation (4)	\$ 34,360,688	95.5%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 34,360,688	95.5%
Other Capital Costs (5)	\$ 1,500,000	4.2%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 1,500,000	4.2%
<b>NON-CAPITAL COSTS</b>								
Labour	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
Expertise (6)	\$ 110,000	0.3%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 110,000	0.3%
Other Non-Capital Costs	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
<b>TOTAL</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>

FINANCING	Eligible & Supported		Eligible & Not Supported		Ineligible		Total	
FedDev Ontario	\$ 8,992,672	25.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 8,992,672	25.0%
Other Federal	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
Provincial	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
Applicant (7)	\$ 10,978,016	30.5%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 10,978,016	30.5%
Bank Financing (8)	\$ 16,000,000	44.5%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 16,000,000	44.5%
<b>TOTAL</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>

FedDev Ontario Contribution by Fiscal Year	Eligible & Supported Project Costs	FedDev Ontario Contribution (\$, reimbursement %)	
2014-15	\$8,012,276	\$2,003,069	25.0%
2015-16	\$12,648,412	\$3,162,103	25.0%
2016-17	\$6,398,000	\$1,599,500	25.0%
2017-18	\$4,772,000	\$1,193,000	25.0%
2018-19	\$4,140,000	\$1,035,000	25.0%
<b>TOTAL</b>	<b>\$35,970,688</b>	<b>\$8,992,672</b>	

STACKING CALCULATION	Eligible Capital Costs	Eligible Non-Capital Costs
Total Eligible Costs <sup>3</sup>	\$35,860,688	\$110,000
Total Government Contributions	\$8,965,172	\$27,500
Stacking %	25.0%	25.0%
Stacking Limit	50.0%	75.0%

#### Additional Notes:

- 1) Eligible and Supported Costs include the amount of the harmonized sales tax (HST), net of any refund or eligible credits due from the Canada Revenue Agency.
- 2) The Recipient shall not redirect funding amount between cost categories without the prior written consent of the Minister.
- 3) Eligible Costs is the sum of Eligible and Supported Costs and eligible & not supported costs.
- 4) Equipment includes production and packaging machinery and other equipment and related installation and setup costs. These may include (but not limited to) mixing kettles, tube/bottle filling equipment, packaging equipment, walking-in refrigeration, product development equipment, vision systems, (equipment model and specification subject to change).
- 5) Other capital costs include software upgrades as well as leasehold upgrades including the purchase and installation of new alcohol storage tank.
- 6) Expertise includes third party audit/certification of new production process.
- 7) Applicant cash includes cash on hand and future cash flow.
- 8) Bank financing includes \$12M available from unused TD line of credit as well as \$4M term loan from EDC. Additional loan from EDC may be available as needed if there is a short fall from future cash flow.

**Annex 2****INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY INITIATIVE****COSTING GUIDELINE MEMORANDUM****1.0 General Conditions**

- 1.1 Costs are Eligible and Supported Costs for the purposes of this Agreement only if they are, in the opinion of the Minister,
- (a) directly related to the intent of the Project,
  - (b) reasonable,
  - (c) appear in Annex 1 - Statement of Work,
  - (d) incurred in respect of activities, which are incremental to the usual activities of the Recipient, and
  - (e) incurred between the Eligibility Date and the Completion Date,
- 1.2 Costs submitted for reimbursement must be net of any refund or eligible tax credits (including HST).
- 1.3 Costs incurred by way of the exercise of an option to purchase or hire are eligible, only if the exercise of the option is at the sole discretion of the Recipient and the option has been exercised and the costs incurred between the Eligibility Date and the Completion Date.
- 1.4 The costs of all goods and services acquired from an entity which, in the opinion of the Minister, is not at arm's length from the Recipient, shall be valued at the cost which, in the opinion of the Minister, represents the fair market value of such goods or services, which cost shall not include any mark up for profit or return on investment.
- 1.5 No cost described in Subsection 1.4 above shall be eligible for inclusion in Eligible and Supported Costs, unless the Recipient causes the supplying entity to maintain proper books, accounts and records of the costs related to the Project, and to provide the Minister access to such books, accounts and records.

**2.0 Eligible Costs**

Where consistent with the approved Eligible and Supported Costs, as defined in Annex 1 - Statement of Work, the following criteria will be used in determining eligibility of costs:

**2.1 Travel Costs - Prime Transportation**

Eligible and Supported Costs incurred for travel are those, which are deemed necessary to the performance of the Project. To be eligible, travel costs must be clearly documented as to the purpose of each trip. Travel expenses, at economy rates, shall be charged at actual costs, but only to the extent that they are considered reasonable by the Minister.

Necessary return airfare, train fare or bus fare at economy rates for participating personnel, where a personal automobile is to be used, kilometre (mileage) allowance will be based on current Treasury Board of Canada Travel Directives. Eligible and Supported Costs shall be limited to the cost that would have been incurred and paid had normal public transportation at economy rates been used.

Food, accommodation and entertainment (hospitality) costs are not eligible.

**2.2 Audit of Project Costs Claimed**

If expressly approved in writing by the Minister, Eligible and Supported Costs may include the cost of professional accountants certifying the accuracy of any costs claimed.

**2.3 Consultants**

The direct costs of studies and/or services carried out by a private contractor or consultant are eligible.

Where a particular contractor or consultant has been specified in the Agreement, and the Recipient wishes to proceed with the Project using another contractor or consultant, prior consultation with the Project officer is advised to ensure eligibility.

The Minister shall not contribute to the cost of the services of any consultant that is not, in the opinion of the Minister, at arm's length from the Recipient.

#### 2.4 Calculation of Direct Labour

Labour and benefit costs claimed by the Recipient as direct Eligible and Supported Costs toward the Project will include only that time worked directly on the Project at the payroll rate and excludes indirect time, non-project related time, holidays, vacation, paid sickness, etc, except as noted below. Paid overtime, where considered reasonable in the opinion of the Minister, may be claimed. Time off in lieu of payment is not eligible. Time claimed will normally be expressed in hours.

The payroll rate is the actual gross pay rate for each employee (normal periodic remuneration before deductions). The payroll rate excludes all premiums (e.g. overtime), shift differentials and any reimbursement or benefit conferred in lieu of salaries or wages except those noted below.

Claims relating to the employer's portion of WSIB, statutory benefits (CPP, EI and vacation) and discretionary benefits (i.e., dental, extended health, disability and life insurance, pension plans, holiday and paid leave) negotiated as part of collective agreements or other salary and benefit packages shall be limited to the lesser of (i) actual cost and (ii) twenty percent (20%) of the payroll rate of each employee.

Benefits such as car allowances and other benefits beyond those listed above are not eligible.

#### 2.5 Sales Taxes

Eligible and Supported Costs include the amount of the harmonized sales tax (HST), net of any refund or eligible credits due from the Canada Revenue Agency.

In order to have the HST approved as an Eligible and Supported Cost on future claims, the Recipient will be required to provide documentation verifying the organization's status under the relevant tax legislation.

#### 3.0 Ineligible Costs

For greater certainty, any costs that do not qualify as Eligible and Supported Costs in accordance with section 1.0 of this Annex, shall be ineligible for inclusion in the Eligible Costs. By way of example only, ineligible costs include the following:

- (a) costs of land, building or vehicle purchase;
- (b) refinancing;
- (c) costs of intangible assets such as goodwill, whether capitalized or expensed;
- (d) depreciation or amortization expenses;
- (e) interest on invested capital, bonds, debentures, or mortgages;
- (f) bond discount;
- (g) losses on investments, bad debts and any other debts;
- (h) fines or penalties;
- (i) costs related to litigation;
- (j) non-incremental wages;
- (k) fees for administrators, including payments to any member or officer of the Recipient's Board of Directors;
- (l) opportunity costs;
- (m) food, accommodation and entertainment costs;
- (n) costs of membership in a professional body; and
- (o) lobbyist fees.

## Annex 3

## INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY INITIATIVE

REPORTING REQUIREMENTS

1. **Reports.** The Recipient shall submit to the Minister a progress, job creation and a performance report on the Project, substantially in the form prescribed by the Minister and satisfactory to the Minister in scope and detail, in order to allow the Minister to assess the progress of the Project. Reports will be annually for the period up to the completion of the Project. Each report is due by the tenth (10<sup>th</sup>) calendar day following the end of the period to which the report relates. The Minister may reassess the reporting frequency from time to time at his sole discretion and notify the Recipient of any changes.
2. **Final Report.** In accordance with Subsection 6.5, the Recipient shall submit to the Minister a final report on the project, substantially in the form prescribed by the Minister and satisfactory to the Minister in scope and detail, in order to allow the Minister to assess the outcome of the Project.
3. **Financial Statements.**  
The Recipient shall submit to the Minister a copy of the Recipient's financial statements, accompanied by an externally prepared audit report or review report (as determined by the Minister) that has been issued by a licensed public accountant. These financial statements will be submitted within one hundred and twenty (120) calendar days of the Recipient's fiscal year end or within such longer period, as may be authorized in writing by the Minister.

In addition, the Recipient shall submit to the Minister a copy of Contract Pharmaceuticals Limited's (a Delaware corporation; the Recipient's parent company) consolidated financial statements, accompanied by an externally prepared audit report or review report (as determined by the Minister) that has been issued by a licensed public accountant. These financial statements will be submitted within one hundred and twenty (120) calendar days of Contract Pharmaceuticals Limited fiscal year end or within such longer period, as may be authorized in writing by the Minister.

**Annex 4****INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY INITIATIVE****FEDERAL VISIBILITY REQUIREMENTS**

1. The Recipient agrees that its name, the amount of the Contribution and a description of the general nature of the activities supported under this Agreement may be made publicly available by the Minister.
2. In order to promote the support received from Her Majesty, and to raise awareness of the Agency's *Investing in Business Growth and Productivity* initiative, the Recipient agrees to the following requirements, to be implemented at the discretion of the Minister:
  - (a) Participate in and assist with coordination of a public announcement of the Agreement by the Minister in the form of an event and/or news release as provided by the Minister. The Recipient shall maintain the confidentiality of this Agreement until such public announcement;
  - (b) Coordinate a mutually agreeable venue, date and time, in light of the availability of the Minister, for public/media events outlining to Project achievements or initiatives undertaken by the Recipient and acknowledging the role of Her Majesty on these occasions. Unless agreed to in advance by the Minister, no event will take place without at least fifteen (15) business days' notice to the Minister;
  - (c) Upon completion of the Project, hold a public/media event, which will include the Minister outlining the achievements of the Project at a mutually agreeable venue, date and time. Unless agreed to in advance by the Minister, no event will take place without at least fifteen (15) business days' notice to the Minister;
  - (d) At the request of the Agency, participate in, coordinate and accommodate activities that showcase the results or expected results of the Minister's support, including but not limited to public showcase events, site visits, photo opportunities, production of promotional products (including but not limited to, photos and images, video, print and new media). This includes providing access to the Recipient's work site(s) to Agency staff. (without divulging any trades secrets or sensitive material - such as intellectual property or proofs of concept that may exist under or be in the patent process). The Recipient agrees to be contacted by the Minister for the purposes of preparing project success stories;
  - (e) When providing information on the products and services funded in whole or in part by this Agreement (including financial assistance for an enterprise or organization), specify that the financial assistance is made possible through a contribution from Her Majesty;
  - (f) Prominently display at the Project site in a manner prescribed by the Minister, promotional material or signage which may be provided by the Minister and installed at the Recipient's expense, communicating the nature of the funded activities and/or the involvement of Her Majesty; and
  - (g) Include the appropriate "Government of Canada" wordmark and Agency funding acknowledgement in all publications and advertising describing or promoting the products and services funded in whole or in part by this Agreement, including, but not limited to, electronic and print media. The Recipient will consult with the Minister in preparing the content and look of all such material, which must be approved in advance. The Recipient will provide the Agency with no less than ten (10) business days for the approval of all materials prior to its release.

The Minister may, by notice in writing given to the Recipient, require that recognition of the support provided by the Minister not be made in any public communication of the Recipient.

## Annex 5

**INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY INITIATIVE**  
**REPAYMENT SCHEDULE**

Payment #	Date of Payment	Payment Amount	Total Paid	Total Outstanding
0		\$0.00	\$0.00	\$8,992,672.00
1	01-Jan-20	\$150,000.00	\$150,000.00	\$8,842,672.00
2	01-Feb-20	\$150,000.00	\$300,000.00	\$8,692,672.00
3	01-Mar-20	\$150,000.00	\$450,000.00	\$8,542,672.00
4	01-Apr-20	\$150,000.00	\$600,000.00	\$8,392,672.00
5	01-May-20	\$150,000.00	\$750,000.00	\$8,242,672.00
6	01-Jun-20	\$150,000.00	\$900,000.00	\$8,092,672.00
7	01-Jul-20	\$150,000.00	\$1,050,000.00	\$7,942,672.00
8	01-Aug-20	\$150,000.00	\$1,200,000.00	\$7,792,672.00
9	01-Sep-20	\$150,000.00	\$1,350,000.00	\$7,642,672.00
10	01-Oct-20	\$150,000.00	\$1,500,000.00	\$7,492,672.00
11	01-Nov-20	\$150,000.00	\$1,650,000.00	\$7,342,672.00
12	01-Dec-20	\$150,000.00	\$1,800,000.00	\$7,192,672.00
13	01-Jan-21	\$150,000.00	\$1,950,000.00	\$7,042,672.00
14	01-Feb-21	\$150,000.00	\$2,100,000.00	\$6,892,672.00
15	01-Mar-21	\$150,000.00	\$2,250,000.00	\$6,742,672.00
16	01-Apr-21	\$150,000.00	\$2,400,000.00	\$6,592,672.00
17	01-May-21	\$150,000.00	\$2,550,000.00	\$6,442,672.00
18	01-Jun-21	\$150,000.00	\$2,700,000.00	\$6,292,672.00
19	01-Jul-21	\$150,000.00	\$2,850,000.00	\$6,142,672.00
20	01-Aug-21	\$150,000.00	\$3,000,000.00	\$5,992,672.00
21	01-Sep-21	\$150,000.00	\$3,150,000.00	\$5,842,672.00
22	01-Oct-21	\$150,000.00	\$3,300,000.00	\$5,692,672.00
23	01-Nov-21	\$150,000.00	\$3,450,000.00	\$5,542,672.00
24	01-Dec-21	\$150,000.00	\$3,600,000.00	\$5,392,672.00
25	01-Jan-22	\$150,000.00	\$3,750,000.00	\$5,242,672.00
26	01-Feb-22	\$150,000.00	\$3,900,000.00	\$5,092,672.00
27	01-Mar-22	\$150,000.00	\$4,050,000.00	\$4,942,672.00
28	01-Apr-22	\$150,000.00	\$4,200,000.00	\$4,792,672.00
29	01-May-22	\$150,000.00	\$4,350,000.00	\$4,642,672.00
30	01-Jun-22	\$150,000.00	\$4,500,000.00	\$4,492,672.00
31	01-Jul-22	\$150,000.00	\$4,650,000.00	\$4,342,672.00
32	01-Aug-22	\$150,000.00	\$4,800,000.00	\$4,192,672.00
33	01-Sep-22	\$150,000.00	\$4,950,000.00	\$4,042,672.00
34	01-Oct-22	\$150,000.00	\$5,100,000.00	\$3,892,672.00
35	01-Nov-22	\$150,000.00	\$5,250,000.00	\$3,742,672.00
36	01-Dec-22	\$150,000.00	\$5,400,000.00	\$3,592,672.00
37	01-Jan-23	\$150,000.00	\$5,550,000.00	\$3,442,672.00
38	01-Feb-23	\$150,000.00	\$5,700,000.00	\$3,292,672.00
39	01-Mar-23	\$150,000.00	\$5,850,000.00	\$3,142,672.00
40	01-Apr-23	\$150,000.00	\$6,000,000.00	\$2,992,672.00
41	01-May-23	\$150,000.00	\$6,150,000.00	\$2,842,672.00
42	01-Jun-23	\$150,000.00	\$6,300,000.00	\$2,692,672.00
43	01-Jul-23	\$150,000.00	\$6,450,000.00	\$2,542,672.00
44	01-Aug-23	\$150,000.00	\$6,600,000.00	\$2,392,672.00
45	01-Sep-23	\$150,000.00	\$6,750,000.00	\$2,242,672.00
46	01-Oct-23	\$150,000.00	\$6,900,000.00	\$2,092,672.00
47	01-Nov-23	\$150,000.00	\$7,050,000.00	\$1,942,672.00
48	01-Dec-23	\$150,000.00	\$7,200,000.00	\$1,792,672.00
49	01-Jan-24	\$150,000.00	\$7,350,000.00	\$1,642,672.00
50	01-Feb-24	\$150,000.00	\$7,500,000.00	\$1,492,672.00
51	01-Mar-24	\$150,000.00	\$7,650,000.00	\$1,342,672.00
52	01-Apr-24	\$150,000.00	\$7,800,000.00	\$1,192,672.00
53	01-May-24	\$150,000.00	\$7,950,000.00	\$1,042,672.00
54	01-Jun-24	\$150,000.00	\$8,100,000.00	\$892,672.00
55	01-Jul-24	\$150,000.00	\$8,250,000.00	\$742,672.00
56	01-Aug-24	\$150,000.00	\$8,400,000.00	\$592,672.00
57	01-Sep-24	\$150,000.00	\$8,550,000.00	\$442,672.00
58	01-Oct-24	\$150,000.00	\$8,700,000.00	\$292,672.00
59	01-Nov-24	\$150,000.00	\$8,850,000.00	\$142,672.00
60	01-Dec-24	\$142,672.00	\$8,992,672.00	\$0.00
<b>Total</b>		<b>\$8,992,672.00</b>		

**Amendment No.1 to the Fed Dev Agreement**

[Amendment Follows]

## INVESTING IN BUSINESS GROWTH AND PROSPERITY INITIATIVE

### AMENDING AGREEMENT #1

This Amending Agreement made on **MAR 18 2016**

**BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**  
 (“Her Majesty”) hereby represented by the Minister responsible for the  
 Federal Economic Development Agency for Southern Ontario  
 (“Minister”)

**AND: CONTRACT PHARMACEUTICALS LIMITED CANADA** “Recipient”) a  
 corporation incorporated under the laws of **Ontario**

**AND: CPL CANADA HOLDCO LIMITED** (“Obligor”) a corporation incorporated  
 under the laws of **Ontario**

Each a “**Party**” and collectively referred to as the “**Parties**”

**WHEREAS** the Minister, the Recipient, and the Obligor entered into a contribution agreement made as of March 16, 2015 under the Investing in Business Growth and Productivity Initiative (“Contribution Agreement”) whereby the Minister agreed to make a repayable contribution to the Recipient in the maximum amount of \$8,992,672; and

**WHEREAS** the Parties wish to amend the Contribution Agreement as specified in Section 3 hereof,

**NOW THEREFORE** in consideration of their respective obligations contained herein, the Parties agree to the following:

#### 1. Interpretation

All capitalized terms used and not otherwise defined herein will have the meanings given to them in the Contribution Agreement.

#### 2. Execution

This Amending Agreement must be executed by the Recipient and the Obligor and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which the Minister may declare it will be null and void.

#### 3. Amendment

**3.1** In Annex 1 of the Contribution Agreement, the FedDev Contribution by Fiscal Year table is hereby deleted and replaced with the following table:

FedDev Ontario Contribution by Fiscal Year	Eligible & Supported Project Costs	FedDev Ontario Contribution (\$, reimbursement %)	
2014-15	\$7,048,684	\$1,762,171	25.00%
2015-16	\$5,864,640	\$1,466,160	25.00%
2016-17	\$9,764,516	\$2,441,129	25.00%
2017-18	\$7,552,848	\$1,888,212	25.00%
2018-19	\$5,740,000	\$1,435,000	25.00%
<b>TOTAL</b>	<b>\$35,970,688</b>	<b>\$8,992,672</b>	




**4. General**

- 4.1 The Contribution Agreement and this Amending Agreement will henceforth be read together and will have the effect as if all the provision of such agreements were contained in one instrument.
- 4.2 Except for the amendments expressly set forth in this Amending Agreement, the other terms and provisions of the Contribution Agreement remains unchanged.
- 4.3 This Amending Agreement is governed by the laws of the Province of Ontario.
- 4.4 This Amending Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument.
- 4.5 Each of the Parties shall, at the request of the other Party to this Amending Agreement, execute such documents and do such acts as may be reasonably required to carry out the terms of this Amending Agreement.
- 4.6 This agreement shall enure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.

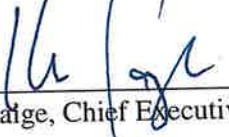
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IN WITNESS WHEREOF the Parties hereto have executed this Amending Agreement through duly authorized representatives.


**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**

Per:  Date: MAR 18 2016  
 Taras Hollyer  
 Director of Business Development  
 Federal Economic Development Agency for  
 Southern Ontario

**CONTRACT PHARMACEUTICALS LIMITED CANADA**


Per:  Date: March 30, 2016  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.


Per:  Date: March 30, 2016  
 Marcel Vieno, Vice President  
 Finance and Information Technology

I have authority to bind the corporation.

**CPL CANADA HOLDCO LIMITED, as Obligor**

Per:  Date: March 30, 2016.  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.

Per:  Date: March 30, 2016  
 Marcel Vieno, Vice President  
 Finance and Information Technology

I have authority to bind the corporation.

**Amendment No.2 to the Fed Dev Agreement**

[Amendment Follows]

## INVESTING IN BUSINESS GROWTH AND PROSPERITY INITIATIVE

### AMENDING AGREEMENT #2

This Amending Agreement made on

**BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**  
 (“Her Majesty”) hereby represented by the Minister responsible for the  
 Federal Economic Development Agency for Southern Ontario  
 (“Minister”)

**AND: CONTRACT PHARMACEUTICALS LIMITED CANADA** (“Recipient”) a  
 corporation incorporated under the laws of **Ontario**

**AND: CPL CANADA HOLDCO LIMITED** (“Obligor”) a corporation incorporated  
 under the laws of **Ontario**

Each a “**Party**” and collectively referred to as the “**Parties**”

**WHEREAS** the Minister, the Recipient, and the Obligor entered into a contribution agreement made as of March 16, 2015 under the Investing in Business Growth and Productivity Initiative, as amended by Amending Agreement # 1 dated March 18, 2016, collectively the “Contribution Agreement” whereby the Minister agreed to make a repayable contribution to the Recipient in the maximum amount of \$8,992,672; and

**WHEREAS** the Parties wish to amend the Contribution Agreement as specified in Section 3 hereof,

**NOW THEREFORE** in consideration of their respective obligations contained herein, the Parties agree to the following:

#### **1. Interpretation**

All capitalized terms used and not otherwise defined herein will have the meanings given to them in the Contribution Agreement.

#### **2. Execution**

This Amending Agreement must be executed by the Recipient and the Obligor and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which the Minister may declare it will be null and void.

#### **3. Amendment**

**3.1** In Annex 1 of the Contribution Agreement, the Costs section of the Costs and Financing Table is hereby deleted and replaced with the following table:

COSTS	Eligible & Supported <sup>1,2</sup>		Eligible & Not Supported		Ineligible		Total	
<b>CAPITAL COSTS</b>								
Facility construction/renovations	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0.0%
Equipment purchases/installation (4)	\$ 31,370,688	87.2%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 31,370,688	87.2%
Other Capital Costs (5)	\$4,000,000	11.1%	\$ 0	\$ 0	\$ 0	\$ 0	\$4,000,000	11.1%
<b>NON-CAPITAL COSTS</b>								
Labour	\$0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$0	0.0%
Expertise (6)	\$ 600,000	1.7%	\$ 0	\$ 0	\$ 0	\$ 0	\$ 600,000	1.7%
Other Non-Capital Costs	\$0	0.0%	\$ 0	\$ 0	\$ 0	\$ 0	\$0	0.0%
<b>TOTAL</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>

#### 4. General

- 4.1 The Contribution Agreement and this Amending Agreement will henceforth be read together and will have the effect as if all the provision of such agreements were contained in one instrument.
- 4.2 Except for the amendments expressly set forth in this Amending Agreement, the other terms and provisions of the Contribution Agreement remains unchanged.
- 4.3 This Amending Agreement is governed by the laws of the Province of Ontario.
- 4.4 This Amending Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument.
- 4.5 Each of the Parties shall, at the request of the other Party to this Amending Agreement, execute such documents and do such acts as may be reasonably required to carry out the terms of this Amending Agreement.
- 4.6 This agreement shall enure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.

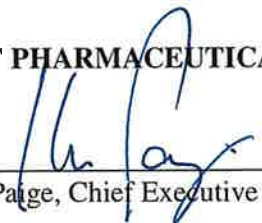
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**IN WITNESS WHEREOF** the Parties hereto have executed this Amending Agreement through duly authorized representatives.

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**

Per:  Date: Jan 18/17  
 David Wells  
 Program Manager  
 Federal Economic Development Agency for  
 Southern Ontario

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

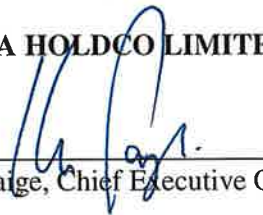
Per:  Date: Jan 24/17  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.

Per:  Date: January 23, 2017  
 Marcel Vieno, Vice President  
 Finance and Information Technology

I have authority to bind the corporation.

**CPL CANADA HOLDCO LIMITED, as Obligor**

Per:  Date: Jan 24/17  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.

Per:  Date: January 23, 2017  
 Marcel Vieno, Vice President  
 Finance and Information Technology

I have authority to bind the corporation.

**Amendment No.3 to the Fed Dev Agreement**

[Amendment Follows]

**INVESTING IN BUSINESS GROWTH AND PROSPERITY INITIATIVE****AMENDING AGREEMENT #3**

This Amending Agreement made on **FEB 01 2019**

**BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**  
("Her Majesty") hereby represented by the Minister responsible for the  
Federal Economic Development Agency for Southern Ontario  
("Minister")

**AND: CONTRACT PHARMACEUTICALS LIMITED CANADA** ("Recipient") a  
corporation incorporated under the laws of **Ontario**

**AND: CPL CANADA HOLDCO LIMITED** ("Obligor") a corporation incorporated  
under the laws of **Ontario**

Each a "**Party**" and collectively referred to as the "**Parties**"

**WHEREAS** the Minister, the Recipient, and the Obligor entered into a contribution agreement made as of March 16, 2015 under the Investing in Business Growth and Productivity Initiative, as amended by Amending Agreement #1 on March 18, 2016 and Amending Agreement #2 on January 18, 2017, collectively the "Contribution Agreement" whereby the Minister agreed to make a repayable contribution to the Recipient in the maximum amount of \$8,992,672; and

**WHEREAS** the Parties wish to amend the Contribution Agreement as specified in Section 3 hereof,

**NOW THEREFORE** in consideration of their respective obligations contained herein, the Parties agree to the following:

**1. Interpretation**

All capitalized terms used and not otherwise defined herein will have the meanings given to them in the Contribution Agreement.

**2. Execution**

This Amending Agreement must be executed by the Recipient and the Obligor and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which the Minister may declare it will be null and void.

**3. Amendment**



3.1 In Annex 1 of the Contribution Agreement, the Costs section of the Costs and Financing Table is hereby deleted and replaced with the following table:

COSTS	Eligible & Supported <sup>1,2</sup>		Eligible & Not Supported		Total	
<b>CAPITAL COSTS</b>						
Facility construction/renovations <sup>5</sup>	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	0.0%
Equipment purchases/installation	\$ 31,170,688	86.7%	\$ 0	\$ 0	\$ 31,170,688	86.7%
Other Capital Costs	\$ 4,200,000	11.7%	\$ 0	\$ 0	\$ 4,200,000	11.7%
<b>NON-CAPITAL COSTS</b>						
Labour (employees)	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	0.0%
Expertise (consulting, contract)	\$ 600,000	1.7%	\$ 0	\$ 0	\$ 600,000	1.7%
Other Non-Capital Costs	\$ 0	0.0%	\$ 0	\$ 0	\$ 0	0.0%
<b>TOTAL</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 35,970,688</b>	<b>100.0%</b>

#### 4. General

- 4.1 The Contribution Agreement and this Amending Agreement will henceforth be read together and will have the effect as if all the provision of such agreements were contained in one instrument.
- 4.2 Except for the amendments expressly set forth in this Amending Agreement, the other terms and provisions of the Contribution Agreement remains unchanged.
- 4.3 This Amending Agreement is governed by the laws of the Province of Ontario.
- 4.4 This Amending Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument.
- 4.5 Each of the Parties shall, at the request of the other Party to this Amending Agreement, execute such documents and do such acts as may be reasonably required to carry out the terms of this Amending Agreement.
- 4.6 This agreement shall enure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.

*The remainder of this page is intentionally left blank.*

**IN WITNESS WHEREOF** the Parties hereto have executed this Amending Agreement through duly authorized representatives.


**HER MAJESTY THE QUEEN IN RIGHT OF CANADA, Ken**

Per:  Date: 2/1/2019  
 Laura Chan  
 A/Manager, Investing in Business Growth and Productivity  
 Federal Economic Development Agency for  
 Southern Ontario

**CONTRACT PHARMACEUTICALS LIMITED CANADA**


Per:  Date: FEB 01 2019  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.

Per:  Date: FEB 01 2019  
 Bill Demers, Chief Financial Officer

I have authority to bind the corporation.

**CPL CANADA HOLDCO LIMITED, as Obligor**

Per:  Date: FEB 01 2019  
 Ken Paige, Chief Executive Officer

I have authority to bind the corporation.

Per:  Date: FEB 01 2019  
 Bill Demers, Chief Financial Officer

I have authority to bind the corporation.

**Amendment No.4 to the Fed Dev Agreement**

[Amendment Follows]

**INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY INITIATIVE**  
**AMENDING AGREEMENT #4**

This Amending Agreement made on May 20, 2020

Between: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**,  
("Her Majesty") hereby represented by the Minister responsible for the  
Federal Economic Development Agency for Southern Ontario  
("Minister")

And: **CONTRACT PHARMACEUTICALS LIMITED CANADA**  
("Recipient") a corporation duly incorporated under the laws of Ontario.

And: **CPL CANADA HOLDCO LIMITED** ("Obligor") a corporation duly  
incorporated under the laws of Ontario.

Each a "**Party**" and (collectively referred to as the "**Parties**")

**WHEREAS** the Minister and the Recipient entered into a contribution agreement executed March 16, 2015 under the Investing in Business Growth and Productivity Initiative, amended by Amending Agreement #1, executed on March 30, 2016, Amending Agreement #2, executed on January 24, 2017, and Amending Agreement #3, executed on February 1, 2019, collectively the ("Contribution Agreement") whereby the Minister agreed to make a repayable contribution to the Recipient up to the maximum amount of \$8,992,672; and

**WHEREAS** the Parties wish to amend the Contribution Agreement in order to amend the Annex 5 – Repayment Schedule.

**NOW THEREFORE** in consideration of their respective obligations contained herein, the Parties agree to the following:

**1. Interpretation**

All capitalized terms used and not otherwise defined herein will have the meanings given to them in the Contribution Agreement.

**2. Execution**

This Amending Agreement must be executed by the Recipient and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which it will be null and void.

**3. Amendment**

3.1 In the Contribution Agreement, Annex 5 is hereby deleted in its entirety and replaced by the new Annex 5 - Repayment Schedule attached as Schedule 1.

**4. General**

4.1 The Contribution Agreement and this Amending Agreement will henceforth be read together and will have the effect as if all the provision of such agreements were contained in one instrument.

4.2 Except for the amendments expressly set forth in this Amending Agreement, the other terms and provisions of the Contribution Agreement remains unchanged.

4.3 This Amending Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

- 4.4 This Amending Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument.
- 4.5 Each of the Parties shall, at the request of the other Party to this Amending Agreement, execute such documents and do such acts as may be reasonably required to carry out the terms of this Agreement.
- 4.6 This Amending Agreement shall enure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.
- 4.7 No modification, supplement or amendment to this Amending Agreement shall be binding unless executed in writing by all of the Parties hereto.

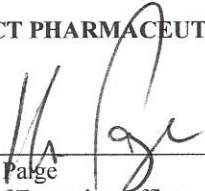
*(The remainder of this page is intentionally left blank)*

IN WITNESS WHEREOF the Parties hereto have executed this Amending Agreement through duly authorized representatives.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,

Per: Touralias, Alexia Touralias, Alexia  
C=CA, O=GC,  
OU=FEDEVONT, CN="Touralias, Alexia"  
I am the author of this document  
your signing location here  
2020-05-20 12:40:28 \_\_\_\_\_ Date \_\_\_\_\_  
 Alexia Touralias  
 Director General, Innovation & Business Development  
 Federal Economic Development Agency  
 for Southern Ontario

CONTRACT PHARMACEUTICALS LIMITED CANADA

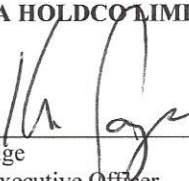
Per:  \_\_\_\_\_ Date May 21/20  
 Ken Paige  
 Chief Executive Officer

I have the authority to bind the corporation.


Per:  \_\_\_\_\_ Date May 21, 2020  
 John Wilkening  
 Vice President, Finance

I have the authority to bind the corporation.

CPL CANADA HOLDCO LIMITED, as Obligor

Per:  \_\_\_\_\_ Date May 21/20  
 Ken Paige  
 Chief Executive Officer

I have the authority to bind the corporation.

Per:  \_\_\_\_\_ Date May 21, 2020  
 John Wilkening  
 Vice President, Finance

I have the authority to bind the corporation.



## Schedule 1

## ANNEX 5

## INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY

## REPAYMENT SCHEDULE

Payment No.	Date	Beg Balance	Payment	End Balance
1	2020-01-01	\$8,992,672	\$150,000.00	\$8,842,672.00
2	2020-02-01	\$8,842,672	\$150,000.00	\$8,692,672.00
3	2020-03-01	\$8,692,672	\$150,000.00	\$8,542,672.00
4	2020-04-01	\$8,542,672	\$0.00	\$8,542,672.00
5	2020-05-01	\$8,542,672	\$0.00	\$8,542,672.00
6	2020-06-01	\$8,542,672	\$0.00	\$8,542,672.00
7	2020-07-01	\$8,542,672	\$0.00	\$8,542,672.00
8	2020-08-01	\$8,542,672	\$0.00	\$8,542,672.00
9	2020-09-01	\$8,542,672	\$0.00	\$8,542,672.00
10	2020-10-01	\$8,542,672	\$50,000.00	\$8,492,672.00
11	2020-11-01	\$8,492,672	\$50,000.00	\$8,442,672.00
12	2020-12-01	\$8,442,672	\$50,000.00	\$8,392,672.00
13	2021-01-01	\$8,392,672	\$50,000.00	\$8,342,672.00
14	2021-02-01	\$8,342,672	\$50,000.00	\$8,292,672.00
15	2021-03-01	\$8,292,672	\$50,000.00	\$8,242,672.00
16	2021-04-01	\$8,242,672	\$50,000.00	\$8,192,672.00
17	2021-05-01	\$8,192,672	\$50,000.00	\$8,142,672.00
18	2021-06-01	\$8,142,672	\$50,000.00	\$8,092,672.00
19	2021-07-01	\$8,092,672	\$147,000.00	\$7,945,672.00
20	2021-08-01	\$7,945,672	\$147,000.00	\$7,798,672.00
21	2021-09-01	\$7,798,672	\$147,000.00	\$7,651,672.00
22	2021-10-01	\$7,651,672	\$147,000.00	\$7,504,672.00
23	2021-11-01	\$7,504,672	\$147,000.00	\$7,357,672.00
24	2021-12-01	\$7,357,672	\$147,000.00	\$7,210,672.00
25	2022-01-01	\$7,210,672	\$147,000.00	\$7,063,672.00
26	2022-02-01	\$7,063,672	\$147,000.00	\$6,916,672.00
27	2022-03-01	\$6,916,672	\$147,000.00	\$6,769,672.00
28	2022-04-01	\$6,769,672	\$147,000.00	\$6,622,672.00
29	2022-05-01	\$6,622,672	\$147,000.00	\$6,475,672.00
30	2022-06-01	\$6,475,672	\$147,000.00	\$6,328,672.00
31	2022-07-01	\$6,328,672	\$147,000.00	\$6,181,672.00
32	2022-08-01	\$6,181,672	\$147,000.00	\$6,034,672.00
33	2022-09-01	\$6,034,672	\$147,000.00	\$5,887,672.00
34	2022-10-01	\$5,887,672	\$147,000.00	\$5,740,672.00
35	2022-11-01	\$5,740,672	\$147,000.00	\$5,593,672.00
36	2022-12-01	\$5,593,672	\$147,000.00	\$5,446,672.00
37	2023-01-01	\$5,446,672	\$147,000.00	\$5,299,672.00
38	2023-02-01	\$5,299,672	\$147,000.00	\$5,152,672.00
39	2023-03-01	\$5,152,672	\$147,000.00	\$5,005,672.00
40	2023-04-01	\$5,005,672	\$147,000.00	\$4,858,672.00
41	2023-05-01	\$4,858,672	\$147,000.00	\$4,711,672.00
42	2023-06-01	\$4,711,672	\$147,000.00	\$4,564,672.00
43	2023-07-01	\$4,564,672	\$147,000.00	\$4,417,672.00
44	2023-08-01	\$4,417,672	\$147,000.00	\$4,270,672.00
45	2023-09-01	\$4,270,672	\$147,000.00	\$4,123,672.00

46	2023-10-01	\$4,123,672	\$147,000.00	\$3,976,672.00
47	2023-11-01	\$3,976,672	\$147,000.00	\$3,829,672.00
48	2023-12-01	\$3,829,672	\$147,000.00	\$3,682,672.00
49	2024-01-01	\$3,682,672	\$147,000.00	\$3,535,672.00
50	2024-02-01	\$3,535,672	\$147,000.00	\$3,388,672.00
51	2024-03-01	\$3,388,672	\$147,000.00	\$3,241,672.00
52	2024-04-01	\$3,241,672	\$147,000.00	\$3,094,672.00
53	2024-05-01	\$3,094,672	\$147,000.00	\$2,947,672.00
54	2024-06-01	\$2,947,672	\$147,000.00	\$2,800,672.00
55	2024-07-01	\$2,800,672	\$147,000.00	\$2,653,672.00
56	2024-08-01	\$2,653,672	\$147,000.00	\$2,506,672.00
57	2024-09-01	\$2,506,672	\$147,000.00	\$2,359,672.00
58	2024-10-01	\$2,359,672	\$147,000.00	\$2,212,672.00
59	2024-11-01	\$2,212,672	\$147,000.00	\$2,065,672.00
60	2024-12-01	\$2,065,672	\$147,000.00	\$1,918,672.00
61	2025-01-01	\$1,918,672	\$147,000.00	\$1,771,672.00
62	2025-02-01	\$1,771,672	\$147,000.00	\$1,624,672.00
63	2025-03-01	\$1,624,672	\$147,000.00	\$1,477,672.00
64	2025-04-01	\$1,477,672	\$147,000.00	\$1,330,672.00
65	2025-05-01	\$1,330,672	\$147,000.00	\$1,183,672.00
66	2025-06-01	\$1,183,672	\$147,000.00	\$1,036,672.00
67	2025-07-01	\$1,036,672	\$172,778.00	\$863,894.00
68	2025-08-01	\$863,894	\$172,778.00	\$691,116.00
69	2025-09-01	\$691,116	\$172,778.00	\$518,338.00
70	2025-10-01	\$518,338	\$172,778.00	\$345,560.00
71	2025-11-01	\$345,560	\$172,778.00	\$172,782.00
72	2025-12-01	\$172,782	\$172,782.00	\$0.00



**Amendment No.5 to the Fed Dev Agreement**

[Amendment Follows]

**INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY**  
**AMENDING AGREEMENT #5**

This Amending Agreement made on April 28, 2022.

**Between:** **HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**  
("Her Majesty") hereby represented by the Minister responsible for the  
Federal Economic Development Agency for Southern Ontario  
("Minister")

**AND:** **CONTRACT PHARMACEUTICALS LIMITED CANADA** ("Recipient") a  
corporation duly incorporated under the laws of Ontario

**AND:** **CPL CANADA HOLDCO LIMITED** ("Obligor") a corporation duly  
incorporated under the laws of Ontario

Each a "**Party**" and (collectively referred to as the "**Parties**")

**WHEREAS** the Minister and the Recipient entered into a contribution agreement executed on March 16, 2015 under Investing in Business Growth and Productivity Initiative, as amended by Amending Agreement #1, executed on March 30, 2016, Amending Agreement #2, executed on January 24, 2017, Amending Agreement #3, executed on February 1, 2019, and Amending Agreement # 4, executed on May 21, 2020 (collectively the "Contribution Agreement") whereby the Minister agreed to make a repayable contribution to the Recipient up to the maximum amount of \$8,992,672; and

**WHEREAS** the Parties wish to amend the Contribution Agreement in order to amend the Annex 5 – Repayment Schedule

**NOW THEREFORE** in consideration of their respective obligations contained herein, the Parties agree to the following:

**1. Interpretation**

All capitalized terms used and not otherwise defined herein will have the meanings given to them in the Contribution Agreement.

**2. Execution**

This Amending Agreement must be executed by the Recipient and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which it will be null and void.

**3. Amendment**

3.1 In the Contribution Agreement, Annex 5 is hereby deleted in its entirety and replaced by the new Annex 5 - Repayment Schedule attached as Schedule 1.

**4. General**

4.1 The Contribution Agreement and this Amending Agreement will henceforth be read together and will have the effect as if all the provision of such agreements were contained in one instrument.

4.2 Except for the amendments expressly set forth in this Amending Agreement, the other terms and provisions of the Contribution Agreement remains unchanged.

- 4.3 This Amending Agreement is governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
- 4.4 This Amending Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitutes one and the same instrument.
- 4.5 Each of the Parties shall, at the request of the other Party to this Amending Agreement, execute such documents and do such acts as may be reasonably required to carry out the terms of this Agreement.
- 4.6 This Amending Agreement shall enure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.
- 4.7 No modification, supplement or amendment to this Amending Agreement shall be binding unless executed in writing by all of the Parties hereto.

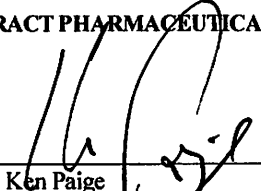
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**IN WITNESS WHEREOF** the Parties hereto have executed this Amending Agreement through duly authorized representatives.

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,**

Per: Cimino, Erin Digitally signed by Erin Cimino, DN: cn=Cimino, Erin, o=CFIA, ou=CFIA, ou=FEDEVONT, cn=Cimino, Erin \_\_\_\_\_ Date \_\_\_\_\_  
Reason: I am approving this document  
Location: Ottawa  
Date: 2022.04.29 11:23:27 -0400  
Full PDF Editor Version: 11.1.0  
 Erin Cimino  
 Director General,  
 Program Operations and Growth Initiatives  
 Federal Economic Development Agency  
 for Southern Ontario

**CONTRACT PHARMACEUTICALS LIMITED CANADA**

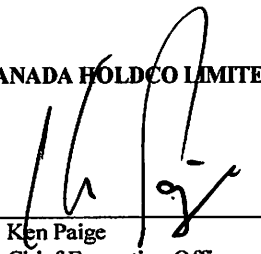
Per:  \_\_\_\_\_ Date: Apr 29/22  
 Ken Paige  
 Chief Executive Officer

I have authority to bind the corporation.

Per:  \_\_\_\_\_ Date: April 29, 2022  
 John Wilkening  
 Vice President, Finance

I have authority to bind the corporation.

**CPL CANADA HOLDCO LIMITED, as Obligor**

Per:  \_\_\_\_\_ Date: Apr 29/22  
 Ken Paige  
 Chief Executive Officer

I have authority to bind the corporation.

Per:  \_\_\_\_\_ Date: April 29, 2022  
 John Wilkening  
 Vice President, Finance

I have authority to bind the corporation.

## Schedule 1

## ANNEX 5

## INVESTING IN BUSINESS GROWTH AND PRODUCTIVITY

## REPAYMENT SCHEDULE

Payment No.	Date	Beg. Balance	Payment	End Balance
1	2020-01-01	\$8,992,672	\$150,000	\$8,842,672
2	2020-02-01	\$8,842,672	\$150,000	\$8,692,672
3	2020-03-01	\$8,692,672	\$150,000	\$8,542,672
4	2020-04-01	\$8,542,672	\$0	\$8,542,672
5	2020-05-01	\$8,542,672	\$0	\$8,542,672
6	2020-06-01	\$8,542,672	\$0	\$8,542,672
7	2020-07-01	\$8,542,672	\$0	\$8,542,672
8	2020-08-01	\$8,542,672	\$0	\$8,542,672
9	2020-09-01	\$8,542,672	\$0	\$8,542,672
10	2020-10-01	\$8,542,672	\$50,000	\$8,492,672
11	2020-11-01	\$8,492,672	\$50,000	\$8,442,672
12	2020-12-01	\$8,442,672	\$50,000	\$8,392,672
13	2021-01-01	\$8,392,672	\$50,000	\$8,342,672
14	2021-02-01	\$8,342,672	\$50,000	\$8,292,672
15	2021-03-01	\$8,292,672	\$50,000	\$8,242,672
16	2021-04-01	\$8,242,672	\$50,000	\$8,192,672
17	2021-05-01	\$8,192,672	\$50,000	\$8,142,672
18	2021-06-01	\$8,142,672	\$50,000	\$8,092,672
19	2021-07-01	\$8,092,672	\$147,000	\$7,945,672
20	2021-08-01	\$7,945,672	\$147,000	\$7,798,672
21	2021-09-01	\$7,798,672	\$147,000	\$7,651,672
22	2021-10-01	\$7,651,672	\$147,000	\$7,504,672
23	2021-11-01	\$7,504,672	\$147,000	\$7,357,672
24	2021-12-01	\$7,357,672	\$147,000	\$7,210,672
25	2022-01-01	\$7,210,672	\$147,000	\$7,063,672
26	2022-02-01	\$7,063,672	\$147,000	\$6,916,672
27	2022-03-01	\$6,916,672	\$147,000	\$6,769,672
28	2022-04-01	\$6,769,672	\$147,000	\$6,622,672
29	2022-05-01	\$6,622,672	\$0	\$6,622,672
30	2022-06-01	\$6,622,672	\$0	\$6,622,672
31	2022-07-01	\$6,622,672	\$0	\$6,622,672
32	2022-08-01	\$6,622,672	\$0	\$6,622,672
33	2022-09-01	\$6,622,672	\$0	\$6,622,672
34	2022-10-01	\$6,622,672	\$0	\$6,622,672
35	2022-11-01	\$6,622,672	\$50,000	\$6,572,672
36	2022-12-01	\$6,572,672	\$50,000	\$6,522,672
37	2023-01-01	\$6,522,672	\$50,000	\$6,472,672
38	2023-02-01	\$6,472,672	\$50,000	\$6,422,672
39	2023-03-01	\$6,422,672	\$50,000	\$6,372,672
40	2023-04-01	\$6,372,672	\$50,000	\$6,322,672
41	2023-05-01	\$6,322,672	\$50,000	\$6,272,672
42	2023-06-01	\$6,272,672	\$50,000	\$6,222,672
43	2023-07-01	\$6,222,672	\$50,000	\$6,172,672
44	2023-08-01	\$6,172,672	\$50,000	\$6,122,672
45	2023-09-01	\$6,122,672	\$50,000	\$6,072,672
46	2023-10-01	\$6,072,672	\$50,000	\$6,022,672
47	2023-11-01	\$6,022,672	\$50,000	\$5,972,672
48	2023-12-01	\$5,972,672	\$50,000	\$5,922,672
49	2024-01-01	\$5,922,672	\$141,000	\$5,781,672

50	2024-02-01	\$5,781,672	\$141,000	\$5,640,672
51	2024-03-01	\$5,640,672	\$141,000	\$5,499,672
52	2024-04-01	\$5,499,672	\$141,000	\$5,358,672
53	2024-05-01	\$5,358,672	\$141,000	\$5,217,672
54	2024-06-01	\$5,217,672	\$141,000	\$5,076,672
55	2024-07-01	\$5,076,672	\$141,000	\$4,935,672
56	2024-08-01	\$4,935,672	\$141,000	\$4,794,672
57	2024-09-01	\$4,794,672	\$141,000	\$4,653,672
58	2024-10-01	\$4,653,672	\$141,000	\$4,512,672
59	2024-11-01	\$4,512,672	\$141,000	\$4,371,672
60	2024-12-01	\$4,371,672	\$141,000	\$4,230,672
61	2025-01-01	\$4,230,672	\$141,000	\$4,089,672
62	2025-02-01	\$4,089,672	\$141,000	\$3,948,672
63	2025-03-01	\$3,948,672	\$141,000	\$3,807,672
64	2025-04-01	\$3,807,672	\$141,000	\$3,666,672
65	2025-05-01	\$3,666,672	\$141,000	\$3,525,672
66	2025-06-01	\$3,525,672	\$141,000	\$3,384,672
67	2025-07-01	\$3,384,672	\$141,000	\$3,243,672
68	2025-08-01	\$3,243,672	\$141,000	\$3,102,672
69	2025-09-01	\$3,102,672	\$141,000	\$2,961,672
70	2025-10-01	\$2,961,672	\$141,000	\$2,820,672
71	2025-11-01	\$2,820,672	\$141,000	\$2,679,672
72	2025-12-01	\$2,679,672	\$141,000	\$2,538,672
73	2026-01-01	\$2,538,672	\$141,000	\$2,397,672
74	2026-02-01	\$2,397,672	\$141,000	\$2,256,672
75	2026-03-01	\$2,256,672	\$141,000	\$2,115,672
76	2026-04-01	\$2,115,672	\$141,000	\$1,974,672
77	2026-05-01	\$1,974,672	\$141,000	\$1,833,672
78	2026-06-01	\$1,833,672	\$141,000	\$1,692,672
79	2026-07-01	\$1,692,672	\$141,000	\$1,551,672
80	2026-08-01	\$1,551,672	\$141,000	\$1,410,672
81	2026-09-01	\$1,410,672	\$141,000	\$1,269,672
82	2026-10-01	\$1,269,672	\$141,000	\$1,128,672
83	2026-11-01	\$1,128,672	\$141,000	\$987,672
84	2026-12-01	\$987,672	\$141,000	\$846,672
85	2027-01-01	\$846,672	\$141,000	\$705,672
86	2027-02-01	\$705,672	\$141,000	\$564,672
87	2027-03-01	\$564,672	\$141,000	\$423,672
88	2027-04-01	\$423,672	\$141,000	\$282,672
89	2027-05-01	\$282,672	\$141,000	\$141,672
90	2027-06-01	\$141,672	\$141,672	\$0

**THIS IS EXHIBIT "T"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits

**RBC Intercreditor Agreement**

[Agreement Follows]



**INTERCREDITOR AGREEMENT**

**THIS AGREEMENT** made as of the 6th day of December, 2018.

BETWEEN:

**ROYAL BANK OF CANADA (“RBC”)**, as lender under the RBC Credit Agreement (defined below) (in such capacity as such a lender, together with its successors and permitted assigns in such capacity, **“RBC Lender”**)

- and -

**DEERFIELD PRIVATE DESIGN FUND IV, L.P.**, as Agent for itself and the lenders and other secured parties under the Deerfield Loan Agreement (defined below) (in such capacity, together with its successors and assigns in such capacity, **“Deerfield Agent”**)

- and -

**DEERFIELD PRIVATE DESIGN FUND IV, L.P.** and **DEERFIELD PRIVATE DESIGN FUND III, L.P.**, each as an Investor under the applicable Contingent Value Right (defined below) (each in such capacity, together with its successors and assigns in such capacity, a **“Deerfield Investor”**)

- and -

**CPL CANADA HOLDCO LIMITED**, an Ontario corporation (**“Holdco”**)

- and -

**CONTRACT PHARMACEUTICALS LIMITED CANADA**, an Ontario corporation (**“CPL Canada”**)

- and -

**GLASSHOUSE PHARMACEUTICALS LIMITED CANADA**, an Ontario corporation (**“Glasshouse Canada”**)

- and -

**CONTRACT PHARMACEUTICALS LIMITED**, a Delaware limited liability company (**“CPL USA”**)

- and -

**GLASSHOUSE PHARMACEUTICALS LLC**, a Delaware limited liability company  
 (“**Glasshouse USA**”)

- and -

**MOODOOS CPL, LLC**, a Michigan limited liability company (“**MooDoos**”)

- and -

**GREYLOCK CPL, LLC**, a Michigan limited liability company (“**Greylock**”);

**WHEREAS** RBC Lender has made or will make available revolving credit facilities to CPL Canada which facilities are guaranteed by Holdco and guaranteed on an unsecured basis by CPL USA and secured by the Holdco Collateral and the CPL Canada Collateral;

**AND WHEREAS** Deerfield Agent and the Deerfield Lenders (as defined below) have made available non-revolving term credit facilities to Glasshouse Canada, which facilities are guaranteed by Holdco, CPL Canada, CPL USA and Glasshouse USA (and guaranteed on a limited basis pursuant to the Deerfield Limited Guaranty by the Deerfield Limited Guarantors) and secured by Glasshouse Canada Collateral, Holdco Collateral, CPL Canada Collateral, CPL USA Collateral, the Glasshouse USA Collateral and the Deerfield Limited Guarantors Collateral;

**AND WHEREAS** RBC, Deerfield Agent and Export Development Canada (“**EDC**”) entered into an intercreditor agreement dated as of the date hereof (the “**EDC Intercreditor Agreement**”) with respect to the security granted in their favour;

**AND WHEREAS** each Deerfield Investor has entered into a contingent value agreement with CPL USA pursuant to which the obligations of CPL USA are guaranteed by Glasshouse USA (and guaranteed on a limited basis pursuant to the Deerfield Limited Guaranty by the Deerfield Limited Guarantors) and are secured by the Deerfield Investor CPL USA Collateral, the Glasshouse USA Collateral and the Deerfield Limited Guarantors Collateral;

**AND WHEREAS** RBC Lender, Deerfield Agent and each Deerfield Investor wish to enter into this Agreement on the terms set out herein;

**NOW THEREFORE** for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged by the undersigned, each of the undersigned hereby agrees as hereinafter set forth:

## **1. Interpretation**

The following expressions used in this Agreement (including the preamble and recitals hereto) have the following respective meanings:

“**Banking Day**” means, solely for the purposes of the definition of “**LIBOR**”, a Business Day on which dealings in United States currency deposits may be carried on by and between leading

banks in the London Interbank Market and excludes any day on which banks are required or are authorized to close in New York, New York.

“**Bankruptcy Code**” means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101, et seq.) in the United States of America.

“**Bankruptcy Law**” means the Bankruptcy Code, any Insolvency Legislation and any other federal, state or foreign bankruptcy, insolvency, receivership or similar law affecting creditors’ rights or any other or similar proceedings seeking any stay, reorganization, arrangement, composition or readjustment of obligations or indebtedness.

“**Business Day**” means a day other than Saturday or Sunday on which banks are open for business in New York, New York and Toronto, Ontario.

“**Capped RBC Credit Obligations Amount**” means, with respect to loans, advances and other accommodations under the RBC Documents, an aggregate principal amount of \$20,000,000 plus accrued and unpaid interest thereon under the applicable RBC Documents to a maximum amount calculated using the Maximum Permitted RBC Interest Rate plus all fees under any of the RBC Documents. For greater certainty, the Capped RBC Credit Obligations Amount shall not include RBC Enforcement Costs (as defined below) and all such RBC Enforcement Costs shall be calculated and collected in addition to the Capped RBC Credit Obligations Amount in accordance with Section 5 and secured by the RBC Lender Security.

“**Code**” means the United States of America Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder

“**Collateral**” means collectively, Glasshouse Canada Collateral, the Holdco Collateral, the CPL Canada Collateral, the CPL USA Collateral, the Deerfield Investor Collateral, the CPL USA Collateral, the Glasshouse USA Collateral, the Deerfield Limited Guarantors Collateral and the RBC CPL USA Collateral.

“**Contingent Value Right**” means each contingent value right dated as of December 6, 2018, issued by CPL USA, as the company, to each Deerfield Investor, as the investor, as the same may be amended, modified, supplemented, restated or replaced from time to time.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ability to exercise voting power, by contract or otherwise and, including, without limitation, acting in the capacity of general partner of a limited partnership; and “**Controlling**” and “**Controlled**” shall have an analogous meaning.

“**CPL Canada Collateral**” means all present and after-acquired property, assets and undertaking of CPL Canada.

“**CPL USA Collateral**” means all present and after-acquired property, assets and undertaking of CPL USA.

“**Credit Parties**” means, collectively, Glasshouse Canada, Holdco, CPL Canada, CPL USA, Glasshouse USA and the Deerfield Limited Guarantors, and “**Credit Party**” means any one of them as the context may require.

“**Deerfield GSA**” means that certain United States Guaranty and Security Agreement dated as of the date hereof, by and among CPL USA, Glasshouse USA, any other Subsidiary of any Credit Party from time to time party thereto and Deerfield Agent as the same may be amended, modified, supplemented, restated or replaced from time to time.

“**Deerfield Investor Collateral**” means the Deerfield Investor CPL USA Collateral, the Glasshouse USA Collateral and the Deerfield Limited Guarantors Collateral.

“**Deerfield Investor CPL USA Collateral**” means all present and after-acquired property, assets and undertaking of CPL USA other than 35% of the equity interests of any Excluded Foreign Subsidiary.

“**Deerfield Investor Documents**” means, collectively, the Contingent Value Right, the Deerfield GSA, the Deerfield Limited Guaranty and all documents, instruments and agreements delivered in respect of the Contingent Value Right, the Deerfield GSA and the Deerfield Limited Guaranty and all collateral documents related to the foregoing, as each such document, instrument and agreement may be amended, modified, supplemented, renewed, refinanced or restated from time to time; provided, however that for greater certainty, no Deerfield Loan Document shall be a Deerfield Investor Document except for the Deerfield GSA and the Deerfield Limited Guaranty.

“**Deerfield Investor Obligations**” means any and all Indebtedness owed by CPL USA to any Deerfield Investor arising under, in accordance with or pursuant to the Deerfield Investor Documents (*provided* that, notwithstanding anything to the contrary, any obligations of Glasshouse Canada, Holdco, CPL Canada or any other Excluded Foreign Subsidiary that is a Credit Party are not Deerfield Investor Obligations).

“**Deerfield Investor Security**” means the Deerfield GSA, the Deerfield Limited Guaranty and any and all liens and security interests granted by any Credit Party organized in the United States (or any state therein or in the District of Columbia) on the Collateral under the Deerfield Investor Documents, collateral provided by any such Loan Party (including, without limitation, any Deerfield Limited Guarantor) under the Deerfield Investor Documents, security delivered or provided by any such Credit Party (including, without limitation, any Deerfield Limited Guarantor) to Deerfield Investor or Deerfield Agent (on behalf of Deerfield Investor) from time to time as collateral security for the Deerfield Investor Obligations (including, without limitation, the “Collateral” (as defined in any Deerfield Investor Document) and any equivalent term or term with similar meaning)

“**Deerfield Lenders**” means the lenders party to the Deerfield Loan Agreement from time to time or such other persons or entities that provide loans or other financial accommodations to Glasshouse Canada from time to time under the Deerfield Loan Agreement or other Deerfield Loan Documents.

“**Deerfield Limited Guarantors**” means MooDoos, Greylock and each other person that at any time owns or controls any of the equity interests of CPL USA (in each case, solely to the extent

that The Wege Foundation, a Michigan non-profit corporation, does not own or control more of the equity interests of CPL USA that it owns and controls on the date hereof (and, in any event, no more than 28% of the Stock of CPL USA) and does not join the Deerfield Limited Guaranty as a party thereto, other than The Wege Foundation).

**“Deerfield Limited Guarantors Collateral”** means the “Collateral” (as defined in the Deerfield Limited Guaranty).

**“Deerfield Limited Guaranty”** means that certain Limited Recourse Guaranty and Security Agreement executed and delivered on the date hereof pursuant to which, among other things, the Deerfield Limited Guarantors party thereto provide certain limited guarantees and grant to the Deerfield Agent for the benefit of the Deerfield Secured Parties and the Deerfield Investors a security interest in all of the Deerfield Limited Guarantor Collateral to secure such limited guarantees, the Deerfield Loan Obligations and the Deerfield Investor Obligations, as amended, restated, supplemented, modified or replaced from time to time.

**“Deerfield Loan Agreement”** means that certain Facility Agreement, dated as of December 6, 2018, by and among Glasshouse Canada, as borrower, and Holdco and CPL Canada, as guarantors, Deerfield Agent and the other Deerfield Lenders party thereto, as the same may be amended, modified, supplemented, restated or replaced from time to time.

**“Deerfield Loan Documents”** means, collectively, the Deerfield Loan Agreement, the Deerfield GSA, the Deerfield Limited Guaranty, the “Loan Documents” (as defined in the Deerfield Loan Agreement) and all documents, instruments and agreements delivered in respect of the Deerfield Loan Agreement, the Deerfield GSA, the Deerfield Limited Guaranty and such other Loan Documents, documents instruments and agreements and all collateral documents and all other documents, instruments, blocked account agreements and other agreements related to the foregoing, as each such document may be amended, modified, supplemented, renewed or restated from time to time; provided, however that for greater certainty, no Deerfield Loan Document shall be a Deerfield Investor Document other than the Deerfield GSA and the Deerfield Limited Guaranty.

**“Deerfield Loan Obligations”** means any and all Indebtedness and guarantees owed by any Credit Party to any Deerfield Secured Party and the “Obligations” (as defined in the Deerfield Loan Agreement). For greater certainty, “Deerfield Loan Obligations” shall include, without limitation, (i) all present and future debts, liabilities, guarantees and obligations of any Credit Party (including, without limitation, “Obligations” (as defined in the Deerfield Loan Agreement)) of any Credit Party to any Deerfield Secured Party arising from any amendment, restatement, supplement, modification or replacement to or renewal of the Deerfield Loan Agreement or other Deerfield Loan Documents including any increase in any loan thereunder (by way of overdraft or otherwise), any additional extensions of term loans or other loans, or any new credit facilities established in favour of Glasshouse Canada or any other Credit Party or any new guarantees provided by any Credit Party in favor of any of the Deerfield Secured Parties, and (ii) all costs and expenses of the sale, collection and realization of the Deerfield Loan Priority Collateral including the costs and expenses incurred by the Deerfield Secured Parties, their affiliates and their respective agents, representatives, advisors and appraisers, or by any Receiver appointed by any of the Deerfield Secured Parties, and including the documented legal

fees and disbursements incurred by the Deerfield Secured Parties or any Receiver appointed by any of them and all accounting, consulting and professional fees, costs and expenses. For the avoidance of doubt, the “Deerfield Loan Obligations” shall not include any obligations under the Contingent Value Right.

“**Deerfield Loan Priority Collateral**” means all Glasshouse Canada Collateral, Holdco Collateral, CPL Canada Collateral, CPL USA Collateral, Glasshouse USA Collateral and the Deerfield Limited Guarantors Collateral other than the RBC Lender Priority Collateral.

“**Deerfield Loan Security**” means, collectively, the General Security Agreement and Guarantee dated as of December 6, 2018 granted by Glasshouse Canada, Holdco and CPL Canada in favour of Deerfield Agent, the Intellectual Property Security Agreement dated as of December 6, 2018 granted by Glasshouse Canada and Holdco in favour of Deerfield Agent, the Deerfield GSA, the Deerfield Limited Guaranty and any and all liens and security interests granted by any Credit Party on the Collateral under the Deerfield Loan Documents, collateral provided by any Credit Party (including, without limitation, any Deerfield Limited Guarantor) under the Deerfield Loan Documents, security delivered or provided by any Credit Party (including, without limitation, any Deerfield Limited Guarantor) to Deerfield Agent or any other Deerfield Secured Party from time to time as collateral security for the Deerfield Loan Obligations (including, without limitation, the “Collateral” (as defined in the Deerfield Loan Agreement and any other Deerfield Loan Document) and any equivalent term or term with similar meaning).

“**Deerfield Secured Parties**” means Deerfield Agent, the Deerfield Lenders and their affiliates and other persons and entities holding Deerfield Loan Obligations and any other “Secured Party” (as defined in the Deerfield Loan Agreement).

“**Demand**” means a demand made by (a) Deerfield Agent under any of the Deerfield Loan Documents, (b) RBC Lender under any of the RBC Documents, or (c) any Deerfield Investor under any of the Deerfield Investor Documents, in each case, for payment of the Obligations of any Credit Party owing to Deerfield Agent, RBC Lender or any Deerfield Investor, as the case may be, and the acceleration, if applicable, of all related indebtedness, liability and Obligations.

“**EDC Intercreditor Agreement**” means the intercreditor agreement dated as of December 6, 2018 between Export Development Canada, RBC, the Deerfield Agent and CPL Canada, as may be amended, restated, supplemented, replaced or otherwise modified from time to time.

“**Event of Default**” means (i) in the case of the Deerfield Secured Parties, (A) any default, event of default or breach of any term, condition, representation, warranty or covenant or other provision in the Deerfield Loan Agreement or in any of the Deerfield Loan Documents entitling Deerfield Agent or any other Deerfield Secured Party to demand or accelerate (or to have the right to demand or accelerate) payment of any of the Deerfield Loan Obligations or any “Event of Default” (as defined in the Deerfield Loan Agreement), (B) a failure by any Credit Party to pay any amount due and owing (whether by demand or otherwise in accordance with the Deerfield Loan Documents) to Deerfield Agent or any other Deerfield Secured Party under the Deerfield Loan Documents, or (C) the taking of any action or proceeding by RBC to realize upon or foreclose upon the pledge of equity interests of CPL Canada in favor of RBC upon the occurrence and continuance of an Event of Default; (ii) in the case of RBC, (A) any default,

event of default or breach of any term, condition, representation, warranty or covenant or other provision in the RBC Credit Agreement or in any of the RBC Documents entitling RBC to demand or accelerate (or to have the right to demand or accelerate) payment of any of the RBC Credit Obligations, (B) a failure by any Credit Party to pay any amount due on demand by RBC under the RBC Documents; (C) a Demand by RBC, or (D) the taking of any action or proceeding by any of the Deerfield Secured Parties or any Deerfield Investor to realize upon or foreclose upon the pledge of equity interests of Holdco in favor of the Deerfield Secured Parties and Deerfield Investors upon the occurrence and continuance of an Event of Default, and (iii) in the case of any Deerfield Investor, (A) any default, event of default or breach of any term, condition, representation, warranty or covenant or other provision in the Contingent Value Right or in any of the other Deerfield Investor Documents entitling such Deerfield Investor to demand or accelerate (or to have the right to demand or accelerate) payment of any of the Deerfield Investor Obligations or to any rights or remedies thereunder, or (B) a failure by CPL USA to pay any amount due on demand by such Deerfield Investor.

**“Excluded Foreign Subsidiary”** means (a) any Foreign Subsidiary which is a controlled foreign corporation (as defined in the Code) that has not guaranteed or pledged any of its assets to secure, or with respect to which there shall not have been pledged more than 65% of the voting equity interests to secure, any Indebtedness (other than the Deerfield Loan Obligations) of a Credit Party, or (b) a Foreign Subsidiary owned by a Foreign Subsidiary described in clause (a) above.

**“Foreign Subsidiary”** means any Subsidiary of CPL USA that is not incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

**“Glasshouse Canada Collateral”** means all present and after-acquired property, assets and undertaking of Glasshouse Canada.

**“Glasshouse USA Collateral”** means all present and after-acquired property, assets and undertaking of Glasshouse USA.

**“Holdco Collateral”** means all present and after-acquired property, assets and undertaking of Holdco (including, without limitation, all equity interests held in CPL Canada).

**“Indebtedness”** means any and all loans, obligations, liabilities and indebtedness of any kind, nature and description owed by any Credit Party to a Lender, including principal, interest, charges, fees, costs, expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise arising under any of the Deerfield Loan Documents, the RBC Documents or the Deerfield Investor Documents, as applicable.

**“Insolvency Event”** means the occurrence of any of the following events:

- (i) if any Credit Party shall make a general assignment for the benefit of creditors;
- (ii) (A) any proceedings shall be instituted by or petition filed by any Credit Party seeking an order for relief on behalf of any of them, as debtor, or to

adjudicate any of them a bankrupt or insolvent, or seeking liquidation, winding-up reorganization, reorganization, arrangement, adjustment or composition of any of them or any of their respective debts under any Bankruptcy Law or any other law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a Receiver, trustee, custodian or similar official for any of them or any substantial part of their respective property and assets or (B) any of them shall take any corporate action to authorize any of the actions set forth in this paragraph;

- (iii) if any proceeding or petition shall be instituted or filed against any Credit Party seeking to adjudicate any of them a bankrupt or insolvent, or seeking liquidation, winding-up reorganization, reorganization, arrangement, adjustment or composition of any of them or their respective debts under any Bankruptcy Law or any other law relating to bankruptcy, insolvency reorganization or relief of debtors, or seeking appointment of a Receiver, trustee, custodian or similar official for any of them or for any substantial part of their respective property and assets and such proceedings are not or are no longer being contested in good faith by appropriate proceedings and, even if such proceeding is being contested, no longer than 60 days from the institution of such first-mentioned proceeding; and
- (iv) if a Receiver, liquidator, trustee, sequestrator or other person or officer with like powers is appointed, whether appointed privately or by court order, with respect to, or an encumbrancer take possession of, or forecloses or retains, or sells, or otherwise disposes of, or otherwise proceeds to enforce security over, all or substantially all of the property or assets of any Credit Party.

**“Insolvency Legislation”** means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other law (whether foreign or otherwise) relating to bankruptcy, insolvency, liquidation, receivership, winding-up, reorganization, arrangement, adjustment, composition or relief of debtors and any similar statute or law in any jurisdiction.

**“Lenders”** means, collectively, any Deerfield Secured Party, any Deerfield Investor and RBC Lender, and **“Lender”** means any one of them as the context may require.

**“LIBOR”** means, with respect to each interest period applicable to a loan made by reference to LIBOR under the RBC Credit Agreement, the annual rate of interest (rounded upwards, if necessary, to the nearest whole multiple of onesixteenth of one percent (1/16<sup>th</sup> %)), at which RBC, in accordance with its normal practice, would be prepared to offer deposits to leading banks in the London Interbank Market for delivery on the first day of each such interest period, for a period equal to such interest period, such deposits being in United States currency of comparable amounts to the outstanding amount of the relevant loan during such interest period, at or about 10:00 a.m. (Toronto time) on the date which is two (2) Banking Days before the first day of the interest period applicable to the relevant loan.



“**Loan Documents**” means, collectively, the Deerfield Loan Documents, the Deerfield Investor Documents and the RBC Documents.

“**Maximum Permitted RBC Interest Rate**” means, at the time of determination,

- (i) in respect of Canadian dollar prime rate loans, the annual rate of interest announced by RBC Lender from time to time as being the reference rate then in effect for determining interest rates on commercial loans made in Canadian currency in Canada plus up to 5.00% per annum as the maximum applicable margin under the RBC Credit Agreement from time to time at any time as agreed now or hereafter between CPL Canada and RBC Lender;
- (ii) in respect of United States dollar base rate loans, the annual rate of interest announced by RBC Lender from time to time as being the reference rate then in effect for determining interest rates on commercial loans made in U.S. currency in Canada plus up to 5.00% per annum as maximum the applicable margin under the RBC Credit Agreement from time to time at any time as agreed now or hereafter between CPL Canada and RBC Lender; and
- (iii) in respect of LIBOR loans, LIBOR plus up to 5.00% per annum as the maximum applicable margin under the RBC Credit Agreement from time to time at any time as agreed now or hereafter between CPL Canada and RBC Lender.

“**Notice of Default**” means a notice of an Event of Default or Events of Default issued by (i) any Deerfield Secured Party to Glasshouse Canada and RBC Lender related to any of the Deerfield Loan Documents in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement, (ii) RBC Lender to any Credit Party, Deerfield Agent and any Deerfield Investor related to the RBC Credit Agreement or the other RBC Documents in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement, and (iii) any Deerfield Investor to CPL USA and RBC related to the Contingent Value Right or any other Deerfield Investor Document in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement. Each Notice of Default shall describe the applicable Event of Default in reasonable detail.

“**Obligations**” means, collectively, the Deerfield Loan Obligations, the Deerfield Investor Obligations and the RBC Credit Obligations.

“**Option Period**” means, with respect to any Purchase Option Event, the period commencing from: (i) the earlier of: (A) the date on which any event set forth in clause (ii)(A) or clause (iii) of the definition of “Insolvency Event” occurs and continues, and (B) the first date that the Deerfield Agent obtains actual knowledge (such actual knowledge being deemed on the date that the Deerfield Agent receives, or is deemed to receive, in accordance with Section 11(k) below, any notice required to be delivered pursuant to Section 4(c) by RBC Lender) of the occurrence of such Purchase Option Event (the “**Commencement Date**”) to (and including) (ii) the date which is sixty (60) days after the Commencement Date.

“**person**” means any natural person, individual, partnership, joint venture, corporation, trust, limited liability company, limited company, joint stock company, unincorporated organization, government entity or any political subdivision or agency thereof, or any other entity.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as amended.

“**Purchase Price**” means, in respect of the RBC Credit Obligations, the aggregate of:

- (i) in the case of borrowings, loans, advances or similar extensions of credit included in the RBC Credit Obligations (including unreimbursed amounts drawn on letters of credit, but excluding the undrawn amount of outstanding letters of credit) an amount equal to:
  - (a) other than amounts in excess of the Capped RBC Credit Obligations, 100% of the principal amount outstanding of such borrowings, loans, advances or similar extensions of credited included in the RBC Credit Obligations and all breakage costs and fees, as applicable, associated with unwinding such borrowings, loans and advances on the Purchase Date, plus
  - (b) other than amounts in excess of the Capped RBC Credit Obligations, all accrued and unpaid interest and fees thereon (all in the amounts required in accordance with the applicable RBC Documents), plus
  - (c) other than amounts in excess of the Capped RBC Credit Obligations (except for such amounts excluded from the Capped RBC Credit Obligations pursuant to the second sentence of such definition), all accrued and unpaid fees, expenses and indemnities owed to RBC Lender under, in accordance with and pursuant to the RBC Documents, on the Purchase Date and all documented out-of-pocket costs and expenses of RBC Lender and its counsel incurred in connection with administering the RBC Credit Obligations or exercising rights and remedies with respect to the RBC Credit Obligations with respect to which CPL Canada, Holdco and CPL USA are obligated to reimburse RBC Lender; plus
- (ii) in the case of all outstanding, unreimbursed and non-cash collateralized letters of credit and letters of guarantee, an amount equal to 105% of the sum of the aggregate undrawn amount of all such then outstanding, unreimbursed and non-cash collateralized letters of credit and letters of guarantee, with such amount provided to RBC Lender as cash collateral on terms and conditions reasonably satisfactory to RBC Lender; provided that, RBC unconditionally agrees that in the event that any such cash collateral that has not been used by RBC Lender to reimburse any drawings made under such letters of credit and letters of guarantee shall be returned at such time as such letters of credit and letters of guarantee expire or are otherwise cancelled or returned for cancellation or are replaced by another letter of credit or cash collateral from another person; plus

(iii) in the event that the Deerfield Agent (on behalf of the Purchasing Creditors) exercises the Purchase Option to purchase any amount in excess of the Capped RBC Credit Obligations in accordance with Section 12, such amount in excess of the Capped RBC Credit Obligations and otherwise determined in accordance with subsections (a) and (b) immediately above.

**“Purchase Option Event”** means while the Deerfield Loan Obligations (or any portion thereof) remain outstanding, and the earlier of one or more of the following have occurred:

- (i) the RBC Credit Obligations under the RBC Credit Agreement shall have been accelerated pursuant to a Demand issued by RBC Lender in accordance with the terms of the RBC Documents;
- (ii) an Insolvency Event with respect to CPL Canada, Holdco, CPL USA, any other Credit Party or any of their Subsidiaries shall have occurred or shall have been commenced and which has not been abandoned, permanently stayed, withdrawn, annulled or otherwise terminated;
- (iii) the issuance of a Notice of Default by RBC Lender in respect of (A) a payment default in respect of principal or interest, or (B) the occurrence of a financial covenant breach which is continuing, in each case, under the RBC Credit Agreement or other RBC Document;
- (iv) any exercise of any enforcement rights or remedies or other rights and remedies available to RBC Lender with respect to the RBC Credit Obligations or the RBC Documents; or
- (v) at least 59 days have passed since the occurrence of any Event of Default under the Deerfield Loan Documents or the Deerfield Investor Documents related to the failure to pay any (A) principal, (B) any interest, (C) the transaction fee set forth in Section 2.9 of the Deerfield Loan Agreement or (D) or any other amounts, with respect to this clause (D) only, that are in excess of \$250,000 in the aggregate, in each case, in respect of the Deerfield Loan Obligations or Deerfield Investor Obligations.

**“RBC Credit Agreement”** means the credit agreement dated November 22, 2017 between CPL Canada, as borrower, RBC Lender, as lender, Holdco, as a guarantor, and CPL USA, as an unsecured guarantor, as amended by amendment no. 1 to credit agreement dated as of the date hereof, as same may be further amended, modified, supplemented, restated or replaced from time to time.

**“RBC Credit Obligations”** means any and all Indebtedness owed by CPL Canada, Holdco or CPL USA to RBC Lender and its affiliates arising under, in accordance with or pursuant to the RBC Documents. For greater certainty, “RBC Credit Obligations” shall include, without limitation, (i) all present and future debts, liabilities and obligations of CPL Canada, Holdco or CPL USA to RBC Lender arising from any amendment to or restatement or renewal of the RBC Credit Agreement or other RBC Documents including any increase in any operating or revolving line of credit thereunder (by way of overdraft or otherwise), or any new credit facilities

established in favour of CPL Canada or guaranteed by Holdco and CPL USA, and (ii) all costs and expenses of the sale, collection and realization of the RBC Lender Priority Collateral including the costs and expenses incurred by RBC Lender, its affiliates and their respective agents, representatives, advisors and appraisers, or by any Receiver appointed by RBC Lender, and including the documented legal fees and disbursements incurred by RBC Lender or any Receiver appointed by it and all accounting, consulting and professional fees, costs and expenses related thereto (collectively, the “**RBC Enforcement Costs**”).

“**RBC Documents**” means, collectively, the RBC Credit Agreement, the RBC Lender Security and all documents, instruments and agreements delivered in respect of the RBC Credit Agreement and the RBC Lender Security and all collateral documents related to the foregoing, as each such document may be amended, modified, supplemented, renewed or restated from time to time.

“**RBC Enforcement Costs**” shall have the meaning given in the definition to it above.

“**RBC Lender Collateral**” means the CPL Canada Collateral and the Holdco Collateral, in each case, that is either not (a) equity interests (or proceeds thereof) of any of Holdco’s subsidiaries (other than CPL Canada) and (b) proceeds (or from the disposition, conveyance, distribution or transfer) of any Collateral of any Credit Party (other than Holdco and CPL Canada).

“**RBC Lender Holdco Priority Collateral**” means, collectively, all Holdco Collateral that is either not (a) equity interests (or proceeds thereof) of any of its subsidiaries (other than CPL Canada) and (b) proceeds (or from the disposition, conveyance, distribution or transfer) of any Collateral of any other Credit Party.

“**RBC Lender CPL Canada Priority Collateral**” means, collectively, all CPL Canada Collateral that is not proceeds (or from the disposition, conveyance, distribution or transfer) of any Collateral of any other Credit Party.

“**RBC Lender Priority Collateral**” means, collectively, the RBC Lender CPL Canada Priority Collateral and the RBC Lender Holdco Priority Collateral.

“**RBC Lender Security**” means, collectively, (i) a general security agreement dated November 19, 2015 from each of CPL Canada and Holdco in favour of RBC Lender, (ii) a limited guarantee dated November 19, 2015 from Holdco in favour of RBC Lender in respect of the obligations of CPL Canada, (iii) a limited unsecured guarantee dated November 19, 2015 from CPL USA in favour of RBC Lender in respect of the obligations of CPL Canada, (iv) a postponement and assignment of claim dated November 19, 2015 from Holdco in favour of RBC Lender in respect of CPL Canada, (v) an assignment of insurance dated November 19, 2015 from CPL Canada in favour of RBC Lender, and (vi) an investment property pledge agreement dated as of the date hereof from Holdco in favour of RBC Lender in respect of all equity interests of CPL Canada, in each case, as may be amended, modified, supplemented, restated or replaced from time to time, together with any and all liens and security interests granted by CPL Canada and Holdco on the RBC Lender Collateral under the RBC Documents and any other security delivered or provided by CPL Canada and Holdco to RBC Lender under the RBC Documents from time to time as collateral security for the RBC Credit Obligations.

“**Receiver**” means a receiver, a manager, a receiver and manager, an interim receiver appointed under the *Bankruptcy and Insolvency Act* (Canada) or any other Bankruptcy Law, whether privately appointed or appointed by court order, any agent appointed by any Lender under its Security to exercise all or any of the remedies thereunder, a trustee in bankruptcy, a liquidator or a debtor-in-possession.

“**Repaid in Full**” means:

- (i) with respect to any Obligations:
  - (A) the indefeasible payment in full in cash of the principal of, and accrued (but unpaid) interest on, all such Obligations, and
  - (B) with respect to letters of credit or letter of guarantee, there are no outstanding letters of credit, letters of guarantee or similar instruments issued under the RBC Documents (or, with respect to outstanding undrawn letters of credit and letters of guarantee, delivery of (y) cash collateral in respect thereof not to exceed 105% of the sum of the aggregate amount of all outstanding undrawn letters of credit and letters of guarantee that have not been previously cash collateralized, or (z) if reasonably acceptable to RBC, backstop letters of credit or letters of guarantee);
- (ii) concurrently with each event described in clauses (A) and (B) in the paragraph (i) immediately above, the termination or cancellation of all credit facilities, commitments and obligations by each Lender to extend credit or other accommodations under the applicable Loan Documents (other than any provisions of such Loan Documents that expressly survive the termination thereof); and
- (iii) payment in full in cash of any other such Obligations (including, without limitation, any fees, expenses, costs or other amounts owing under the Loan Documents) that are due and payable at or prior to the time such principal and interest are paid.

“**Security**” means, collectively, the RBC Lender Security, the Deerfield Investor Security and the Deerfield Loan Security.

“**Subsidiary**” or “**Subsidiaries**” means, as to any person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such person. Unless the context otherwise requires, each reference to Subsidiaries herein shall be a reference to Subsidiaries of CPL USA.

For all purposes of this Agreement except as otherwise expressly provided for or unless the context otherwise requires:

- (a) the headings are for convenience of reference only and do not form part of this agreement nor are they intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;

- (b) except as otherwise provided herein, any reference to a currency herein is a reference to Canadian currency;
- (c) any reference to an entity shall include and be deemed to be a reference to any entity that is a successor to or permitted assignee of such entity;
- (d) words importing the masculine gender include the feminine gender or neuter gender and words in the singular include the plural and words importing the neuter gender include the masculine or feminine gender and words in plural include the singular;
- (e) “this Agreement”, “herein”, “hereof”, “hereby”, and other like expressions refer to this Agreement and all amendments thereto and not to any particular paragraph hereof; and
- (f) all accounting terms not otherwise defined herein have the meanings ordinarily assigned to them from time to time pursuant to Canadian generally accepted accounting principles.

## **2. Consent to Security / Exclusive Enforcement**

- (a) Each Lender hereby consents to the Security granted by each applicable Credit Party on or prior to the date hereof in favour of each other Lender under the Loan Documents, and hereby waives any default that the granting of such Security on or prior to the date hereof may have constituted under the terms of its agreements with any Credit Party (including, without limitation, the Loan Documents). Each Lender agrees that it will not, and hereby waives any right to, directly or indirectly, contest or support any other person in contesting, in any proceeding, the priority, validity or enforceability of any perfected Security granted by the applicable Credit Party on or prior to the date hereof under the applicable Loan Documents that is held by any other Lender, or the validity or enforceability of the priorities, rights or obligations established by this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of the Lenders to enforce this Agreement.
- (b) Until all of the RBC Credit Obligations are Repaid in Full, RBC Lender shall have the exclusive right to take and continue any enforcement action (including the appointment of a Receiver) with respect to the RBC Lender Priority Collateral (but not any other Collateral or Security), none of the Deerfield Secured Parties or the Deerfield Investors shall issue a notice of intention to enforce security under Section 244 of the *Bankruptcy and Insolvency Act* (Canada) to either of CPL Canada and Holdco and/or in respect of the RBC Lender Priority Collateral.
- (c) Until all of the Deerfield Investor Obligations are paid in full and all rights with under the Contingent Value Right have been terminated and the Deerfield Loan Obligations are Repaid in Full, the Deerfield Secured Parties (with respect to the Deerfield Loan Priority Collateral) and the Deerfield Investors, along with the Deerfield Secured Parties (with respect to the Deerfield Investor Collateral), shall

have the exclusive right to take and continue any enforcement action (including the appointment of a Receiver) with respect to such Deerfield Loan Priority Collateral and such Deerfield Investor Collateral, as applicable.

- (d) In respect of the RBC Lender Priority Collateral only, the security interests and liens granted in favour of RBC Lender will rank in priority to the security interests and liens granted on such RBC Lender Priority Collateral in favour of the Deerfield Secured Parties.
- (e) The security interests and liens granted in favour of any Deerfield Investor in respect of the Deerfield Investor Collateral will rank in priority to the security interests and liens granted in favour of RBC Lender in respect of the Deerfield Investor Collateral (if any).
- (f) The security interests and liens granted in favour of the Deerfield Secured Parties in respect of the Deerfield Loan Priority Collateral will rank in priority to the security interests and liens granted in favour of RBC Lender in respect of the Deerfield Loan Priority Collateral (if any).
- (g) In no event shall any Lender accept or take the benefit of security interests, liens or charges for Obligations now or hereafter owed to it that is contrary to the priorities set forth herein.
- (h) In no event shall RBC Lender or any of its affiliates take any Collateral or Security that it does not have as of the date hereof or make any Credit Party or Limited Guarantor a party to the RBC Documents (or make any such Credit Party or Limited Guarantor obligated thereunder) that is not a party thereto (or obligated thereunder) as of the date hereof.

To the extent CPL Canada forms, or causes to be formed, any direct or indirect Subsidiary which is Controlled by CPL Canada, all present and after-acquired property, assets and undertaking of such Subsidiary shall be subject to, and covered by the terms and conditions of this Agreement.

### **3. Communications Between Lenders**

From time to time upon request therefor by any Lender, acting reasonably, to the other Lenders, such other Lender shall advise the requesting Lender in writing of the particulars of the Indebtedness of any Credit Party to such other Lender under the Deerfield Loan Documents, the Deerfield Investor Documents or the RBC Documents, as applicable, and of all Security and Collateral held therefor. Each Credit Party hereby consents to the disclosure of all such information between the Lenders.

### **4. Notice of Default / Use Period**

- (a) The Deerfield Secured Parties may elect to, upon the occurrence and continuance of an Event of Default under the Deerfield Loan Agreement or any other Deerfield Loan Document and shall, prior to any Demand (but not as a pre-

condition to such Demand), issue to RBC Lender a Notice of Default (other than automatic acceleration of the Deerfield Loan Obligations upon any Insolvency Event, in which case no Notice of Default shall be required to be delivered and no other action shall be required). Except with respect to automatic acceleration of the Deerfield Loan Obligations upon any Insolvency Event, Deerfield Agent shall not exercise any rights as to realization or enforce payment of the Deerfield Loan Obligations solely with respect to the RBC Lender Priority Collateral unless and until a Notice of Default is issued in accordance with this Section. Thereafter, Deerfield Agent shall not exercise any rights as to realization upon or enforcement in relation to the RBC Lender Priority Collateral unless and until the requirements of Section 2(b) hereof have been satisfied. For greater clarity, the Deerfield Secured Parties exercising the Use Rights does not and shall not constitute realization upon or enforcement of the RBC Lender Priority Collateral. Deerfield Agent shall provide notice to the RBC Lender promptly upon foreclosing on the equity interests of Holdco pledged to the Deerfield Secured Parties under the Deerfield Loan Documents; provided that, no such notice shall be a condition, prerequisite or requirement to the Deerfield Secured Parties exercising any rights or remedies, or foreclosing, on the equity interests of Holdco.

- (b) Any Deerfield Investor may elect to, upon the occurrence and continuance of an Event of Default under the Deerfield Investor Documents and shall, prior to any Demand (but not as a pre-condition to such Demand), issue to RBC Lender a Notice of Default (other than automatic acceleration of the Deerfield Investor Obligations upon any Insolvency Event, in which case no Notice of Default shall be required to be delivered and no other action shall be required). Except with respect to automatic acceleration of the Deerfield Investor Obligations upon any Insolvency Event, no Deerfield Investor shall exercise any rights as to realization or enforce payment of the Deerfield Investor Obligations solely with respect to the RBC Lender Priority Collateral unless and until a Notice of Default is issued in accordance with this Section. Thereafter, no Deerfield Investor shall exercise any rights as to realization upon or enforcement in relation to the RBC Lender Priority Collateral unless and until the requirements of Section 2(b) hereof have been satisfied. For greater clarity, the Deerfield Secured Parties exercising the Use Rights does not and shall not constitute realization upon or enforcement of the RBC Lender Priority Collateral. The Deerfield Investors (or the Deerfield Agent on behalf of the Deerfield Investors when delivering the same for the Deerfield Secured Parties pursuant to the last sentence of Section 4(a) above) shall provide notice to the RBC Lender promptly upon foreclosing on the equity interests of Holdco pledged to the Deerfield Investors under the Deerfield Investor Documents; provided that, no such notice shall be a condition, prerequisite or requirement to the Deerfield Investors exercising any rights or remedies, or foreclosing, on the equity interests of Holdco.
- (c) RBC Lender may elect to, upon the occurrence and continuance of an Event of Default under the RBC Credit Agreement and shall, prior to any Demand (but not as a pre-condition to such Demand), issue to CPL Canada, Deerfield Agent and



each Deerfield Investor a Notice of Default. Except with respect to automatic acceleration of the RBC Credit Obligations upon any Insolvency Event, neither RBC nor RBC Lender shall exercise any rights as to realization or enforce payment of the RBC Credit Obligations unless and until a Notice of Default is issued in accordance with this Section. During any applicable Use Period (defined below) RBC Lender shall exercise any rights as to Demand, acceleration and/or realization or enforcement of payment of the RBC Credit Obligations in accordance and compliance with this Section 4 (including, without limitation, Section 4(d) below).

- (d) Any Deerfield Secured Party or any Deerfield Investor may elect, within five (5) days of receipt of a Notice of Default issued by RBC Lender, to give written notification (a “**Use Notice**”) to RBC Lender that such applicable Deerfield Secured Party or Deerfield Investor desires to exercise a use period with respect to the applicable Collateral over which such applicable Deerfield Secured Party or Deerfield Investor has priority pursuant to the terms of this Agreement, in which case, such applicable Deerfield Secured Party or Deerfield Investor may enter upon, access and/or occupy the relevant premises and be entitled to use the applicable Collateral (including, for certainty, the RBC Lender Priority Collateral over which RBC Lender has priority pursuant to the terms of this Agreement) for the period of time commencing on the date the Use Notice is issued to RBC Lender and ending on the expiration date specified in the Use Notice (such period not to exceed 90 days) (a “**Use Period**”) for the purpose of taking possession of, or otherwise enforcing its rights or remedies in respect of, the Deerfield Loan Priority Collateral over which it has priority pursuant to the terms of this Agreement and for the purposes of completing work in progress constituting (or providing value to) Deerfield Loan Priority Collateral (“**Use Rights**”). For the avoidance of doubt, the exercise of Use Rights by such applicable Deerfield Secured Party or Deerfield Investor providing a Use Notice shall not prevent RBC Lender or its representative or any court officer appointed on application by RBC Lender from exercising any remedies under the RBC Lender Security solely in respect of the RBC Lender Priority Collateral; provided that, notwithstanding the foregoing in this sentence, RBC Lender shall not enforce its security interests or otherwise exercise remedies or take enforcement actions in a manner that adversely affects or otherwise inhibits or interferes with the ability of the Deerfield Secured Parties or the Deerfield Investors to exercise Use Rights in accordance with this Section 4(d).
- (e) No Lender shall have any liability for any inadvertent failure to comply with this Section nor shall any failure to comply with this Section affect or impair the priorities established herein or impair or release the subordination and, except as expressly set out herein, the other benefits provided by this Agreement.

- (f) In exercising Use Rights during the Use Period, the applicable Deerfield Secured Party or Deerfield Investor providing such Use Notice shall:
- (i) take reasonable care of any RBC Lender Priority Collateral and shall be responsible to repair or replace any damaged (ordinary wear and tear excepted) RBC Lender Priority Collateral directly caused by such applicable Deerfield Secured Party or Deerfield Investor providing such Use Notice, its employees, agents, representatives, contractors or designees (collectively, the “**Use Period Parties**”) during the Use Period and all Use Period Parties shall comply with all applicable laws in the use and occupation of the RBC Lender Priority Collateral and the premises during the Use Period;
  - (ii) maintain or cause to be maintained insurance reasonably satisfactory to RBC Lender solely with respect to such RBC Lender Priority Collateral (to the extent that such insurance is not already in effect and to the extent RBC Lender reasonably requests in writing such insurance) during the Use Period;
  - (iii) pay to RBC Lender solely with respect to the RBC Lender Priority Collateral, to the extent applicable, all regularly scheduled payments of principal and interest during the Use Period that would have been payable by CPL Canada or Holdco, as applicable in the normal course under the terms of the RBC Documents had no Event of Default occurred and been continuing under the applicable Loan Documents; provided that, for greater certainty, RBC Lender has not received any such payments from any Credit Party or any other person; and
  - (iv) solely during the Use Period, pay all applicable realty taxes, lease payments (including, without limitation, in connection with real property leases and equipment leases and whether such payments are in respect of true leases or financing leases), utility and similar charges arising out of the use of the applicable premises where the RBC Lender Priority Collateral is located (and, in those instances where RBC Lender and its affiliates, agents and representatives have determined to shut down the operation of the business (except to the extent necessary to preserve and protect the RBC Lender Priority Collateral on a non-operating basis) at the location where the RBC Lender Priority Collateral is used, operated and/or located except for the Deerfield Agent and the Deerfield Investor requiring that such location continue to be used and operated solely for purposes of the Deerfield Secured Parties and the Deerfield Investor exercising its Use Rights in accordance with Section 4(d), payroll and related expenses for management, employees, contractors and agents whose services are required for such use and operation (in excess of the custodial, security and maintenance services being continued by RBC in its discretion) of the applicable premises where the RBC Lender Priority Collateral is located), in each case, to the extent such premises is one where such applicable

Deerfield Secured Party or Deerfield Investor providing such Use Notice has entered upon, accessed and/or occupied in connection with use of the RBC Lender Priority Collateral during the Use Period.

- (g) Notwithstanding Section 4(a), Section 4(b) or Section 4(c), during any Use Period, RBC Lender or its representative or any court officer appointed on application by RBC Lender shall have full access to the RBC Lender Priority Collateral and may exercise any and all rights under or in respect of the RBC Lender Security over or in relation to the RBC Lender Priority Collateral, including marketing and listing for sale the RBC Lender Priority Collateral; provided that such access, enforcement of right or action (i) does not adversely affect or otherwise inhibit or interfere with the Use Right provided under Section 4(d) of the applicable Deerfield Secured Party or Deerfield Investor and (ii) does not result in any delay to, impairment of or hindrance to, any Deerfield Secured Party or any Deerfield Investor in enforcing its respective rights in respect of the Deerfield Loan Priority Collateral or Deerfield Investor Collateral.
- (h) A Notice of Default given under Section 4(a), Section 4(b) or Section 4(c) shall be deemed to have been revoked or terminated: (i) upon satisfaction or cure prior to acceleration, if and to the extent capable of satisfaction or cure, of the Event of Default or Events of Default specified in the Notice of Default, (ii) upon written waiver of the Event of Default or Events of Default specified in the Notice of Default by the applicable Deerfield Secured Party or Deerfield Investor, or (iii) upon revocation in writing by the applicable Deerfield Secured Part or Deerfield Investor. Notice of such revocation or termination shall be provided to RBC Lender.

## **5. Application of Proceeds of Security Realization**

All payments received by any Lender, directly or indirectly, after any Demand for payment has been made on any Credit Party by any Lender under the applicable Loan Documents, or upon any Insolvency Event, whether by way of deposit, realization of Collateral or Security or otherwise, from any Credit Party or from any Receiver shall be applied and distributed as follows:

- (a) RBC Lender shall have first priority in the RBC Lender Priority Collateral in connection with all RBC Credit Obligations payable by CPL Canada to RBC Lender under or in connection with the RBC Documents.
- (b) The Deerfield Secured Parties shall have first priority in the Deerfield Loan Priority Collateral (other than the Deerfield Investor Collateral, which is governed by clause (c) directly below) in connection with all Deerfield Loan Obligations payable by the applicable Credit Party to the Deerfield Secured Parties under or in connection with the Deerfield Loan Documents.
- (c) The Deerfield Secured Parties and the Deerfield Investors shall have first priority in the Deerfield Investor Collateral in connection with all Deerfield Loan

Obligations or Deerfield Investor Obligations, as applicable, payable by CPL USA, Glasshouse USA, any Limited Guarantor or any other Credit Party organized in the United States (or any state therein or in the District of Columbia) to any Deerfield Investor or any Deerfield Secured Party under or in connection with the Deerfield Investor Documents or the Deerfield Loan Documents, as applicable.

- (d) The Deerfield Secured Parties shall have second priority in the RBC Lender Priority Collateral in connection with all Deerfield Loan Obligations payable by CPL Canada, Holdco or any other Credit Party to the Deerfield Secured Parties under or in connection with the Deerfield Loan Documents.

For the avoidance of doubt, as between the Lenders, amounts received by any Lender in respect of:

- (i) the RBC Lender Priority Collateral shall be applied (A) first, in payment of all RBC Enforcement Costs until paid in full, (B) second, in payment of all outstanding RBC Credit Obligations until Repaid in Full, up to (but not in excess of) the Capped RBC Credit Obligations Amount, (C) third, in payment of outstanding Deerfield Loan Obligations, until Repaid in Full, and (D) fourth, in payment of any RBC Credit Obligations in excess of the Capped RBC Credit Obligations Amount (to the extent there are any remaining RBC Credit Obligations then outstanding), until Repaid in Full;
- (ii) the Deerfield Loan Priority Collateral (other than the Deerfield Investor Priority Collateral) shall be applied first, in payment of all outstanding Deerfield Loan Obligations, until Repaid in Full; and
- (iii) the Deerfield Investor Collateral shall be applied ratably in payment of all Deerfield Investor Obligations, until paid in full and all rights with under the Contingent Value Right have been terminated, and Deerfield Loan Obligations (until Repaid in Full).

The parties hereto shall stand possessed of any proceeds of realization or disposition of Collateral in trust for the other parties in accordance with the terms of this Agreement.

## **6. Insurance Proceeds**

All insurance proceeds received by any Credit Party, a Receiver, or by a Lender after a Demand for payment has been made on such Credit Party by a Lender under the applicable Loan Documents, or upon the occurrence of an Insolvency Event in respect of the uncollectibility of or loss of or damage to any of the Collateral, shall be dealt with in accordance with Section 5 hereof as proceeds of realization or disposition of the property or assets insured and the Lender having priority over such Collateral to which such insurance relates shall have the right to settle any policy or approve any award with respect thereto.

## **7. Effect of Discharge, Invalidity or Subordination of Security**

Nothing herein contained shall be construed as entitling any Lender to receive any of the proceeds of realization or disposition of any of the Collateral in respect of which or to the extent

it does not have any security (or does not have a security interest or lien in such Collateral) or in respect of which or to the extent its security is invalid or unenforceable as against third parties. If any person, other than a Lender, shall have a claim to the proceeds of disposition of any of Collateral in priority to or on a parity with one Lender but not in priority to or on a parity with the other Lender, then this Agreement shall not apply so as to diminish the rights (as such rights would have been but for this Agreement) of such other Lender to the proceeds of disposition of such property or assets; provided that to the extent such Lender receiving such proceeds of disposition on such Collateral does not have priority with respect to such Collateral over the other Lenders under this Agreement, then such Lender hereby agrees to promptly turn over (and, in any event, within 10 days of the receipt thereof) to the Lenders with such priority over such Collateral under this Agreement the net cash proceeds thereof received by such Lender without any such proceeds turned over by such Lender reducing any amount of the Obligations owed to such Lender by any applicable Credit Party and its affiliates under the applicable Loan Documents.

## **8. Priority**

The parties hereto agree to the ordering of the priorities, postponements and subordinations provided for in this Agreement and to the extent necessary to effect the result and distributions contemplated herein and the same shall apply and be effective notwithstanding:

- (a) the fact that any rule of law or any statute may alter or vary the priorities set forth in this Agreement;
- (b) the actual order of creation, grant, execution, delivery, registration, filing or crystallization of or under the Collateral or Security or the filing of any financing statement or other document or instrument with respect thereto;
- (c) the actual order or time of attachment or perfection of any security interest constituted by or related to any of the Collateral or Security;
- (d) the time of any advance or other extension of credit or the incurrence of any of the indebtedness, obligation or liabilities with respect to any of the Obligations;
- (e) the time of the default in respect of any of the Collateral, Security, Demand or notice, the making of any Demand or giving of any notice or the failure to give any notice;
- (f) any priority granted by principle of law or in any statute, including the PPSA;
- (g) any Obligations or Loan Documents or any lack of validity, legality, completeness or enforceability thereof; or
- (h) any failure of, or delay by any Lender:
  - (i) to assert any claim or demand or to enforce any right, power or remedy against any Credit Party under the applicable Loan Documents, any applicable law or otherwise; or

- (ii) to exercise any right, power or remedy against any Credit Party, the Collateral, the Security or any other collateral securing any Obligations; and/or
- (iii) any other circumstance which might otherwise constitute a defense available to, or a legal or equitable discharge of, or otherwise prejudicially affect the priorities herein provided.

## 9. Possession or Control of Collateral

Solely for the purpose of assisting any Lender in perfecting the security interest and lien granted in the Collateral of such Lender securing the Obligations owed to such Lender, each Lender hereby agrees to hold any such Collateral that is in such Lender's possession or control as a gratuitous bailee for the other Lenders. The Lenders do not make any representation or warranty regarding any perfection or possession or otherwise with respect to any Collateral and shall not have any duty or liability to the other Lender or person whatsoever arising out of this Section 9.

## 10. Rights as Unsecured Creditors

So long as not in contravention of any other term or provision of this Agreement, any Lender may exercise any rights and remedies that could be exercised by an unsecured creditor in accordance with the terms of the applicable Loan Documents and applicable law, and are not based on the status of such Lender as a secured creditor, provided that, solely as between RBC Lender on the one hand, and Deerfield Secured Creditors and Deerfield Investors on the other hand (but, for the avoidance of doubt, not with respect to any other creditors) (i) in the case of RBC Lender, no action is taken to enforce such unsecured creditor rights and remedies against or in respect of the Credit Parties (other than CPL Canada and Holdco) and the Deerfield Loan Priority Collateral, and (ii) in the case of the Deerfield Secured Creditors and Deerfield Investors, no action is taken to enforce such unsecured creditor rights and remedies against or in respect of CPL Canada and Holdco and the RBC Lender Priority Collateral.

## 11. General

- (a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each party hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.
- (b) Severability. Each provision of this Agreement is intended to be severable and if any provision is illegal or invalid, such illegality or invalidity shall not affect the validity of this Agreement or the remaining provisions.
- (c) Counterparts. This Agreement may be executed in any number of counterparts or by facsimile or PDF electronic counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and

the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

- (d) Further Assurances. The parties hereto agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable or as may be reasonably requested by any Lender in order to give full effect to this Agreement and every part thereof.
- (e) Termination. This Agreement shall continue in force until terminated in writing by the mutual consent of the parties hereto.
- (f) Assignment. This Agreement shall enure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto. No Lender will assign any of its rights under any of the Loan Documents or Security, as applicable, unless the assignee first agrees in writing to be bound by the provisions of this Agreement in its place and stead as if such assignee were originally a party hereto, and any prohibited assignment shall be absolutely void *ab initio*.
- (g) Consent of the Credit Parties. Each Credit Party, by its execution hereof, hereby agrees and concurs with all the provisions of this Agreement.
- (h) Dealings with the Credit Parties. Each of the Lenders may, acting reasonably, grant time, renewals, extensions, releases and discharges to, accept compositions from and otherwise deal with the Credit Parties and others as it sees fit without notice to the other and without prejudice to or in any way limiting or affecting any Security, the Collateral or the priorities or other rights, benefits and obligations created herein.
- (i) Entire Agreement. This Agreement (together with the EDC Intercreditor Agreement) contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those set forth in this agreement. This Agreement supersedes any previous agreements and undertakings, both written and oral, between its parties or any of them in respect of its subject matter; provided however that for greater certainty this Agreement does not supersede the EDC Intercreditor Agreement. No amendment, restatement, supplement, modification or termination of this Agreement shall be effective unless in writing and signed by each of the Lenders party hereto.
- (j) EDC Intercreditor Agreement. Notwithstanding anything to the contrary in this Agreement, this Agreement does not set forth any priorities, rights or obligations regarding the EDC Loan Obligations (as defined in the EDC Intercreditor Agreement), the EDC Security (as defined in the EDC Intercreditor Agreement) or any collateral held by EDC, which, in each case, is instead addressed, governed and controlled by the EDC Intercreditor Agreement.

- (k) Communications. Any notice or other communication in connection with this agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee or sent by facsimile or email, at or to the address or facsimile number or email address of the addressee set out opposite its name below or to such other address or addresses or facsimile number or email address as any of the parties may from time to time designate to the other parties in such manner.

In the case of RBC Lender:

Royal Bank of Canada  
6880 Financial Drive, 2nd Floor Link  
Mississauga, Ontario L5N 7Y5

Attention: Senior Account Manager  
Fax: (905) 286-7262

In the case of Deerfield Agent:

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017

Facsimile: (212) 599-3075  
E-mail: dclark@deerfield.com  
Attn: David J. Clark, Esq.

With a copy to (which shall not be deemed to constitute notice):

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017

E-mail: jisler@deerfield.com  
Attn: Jonathan Isler

and

Katten Muchin Rosenman LLP  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067

Email: kristopher.ring@kattenlaw.com and mark.wood@kattenlaw.com  
Attn: Kristopher J. Ring  
Attn: Mark D. Wood



In the case of any Deerfield Investor:

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017

Facsimile: (212) 599-3075  
E-mail: dclark@deerfield.com  
Attn: David J. Clark, Esq.

With a copy to (which shall not be deemed to constitute notice):

Deerfield Management Company, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017

E-mail: jisler@deerfield.com  
Attn: Jonathan Isler

and

Katten Muchin Rosenman LLP  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067

Email: kristopher.ring@kattenlaw.com and mark.wood@kattenlaw.com  
Attn: Kristopher J. Ring  
Attn: Mark D. Wood

In the case of each of the Credit Parties:

Contract Pharmaceuticals Limited Canada  
7600 Danbro Crescent  
Mississauga, Ontario L5N 6L6

Attention: Chief Executive Officer  
Fax: (905) 821-7602

Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Business Day and such delivery was made before 4:00 p.m. on such day (unless otherwise acknowledged by the receiving party); otherwise, it shall be deemed to have been validly and effectively given on the Business Day next following such date of delivery. Any communication which is transmitted by telefacsimile or email shall be deemed to have been validly and effectively given on the date of transmission if such date is a Business Day and such transmission was made

before 4:00 p.m. on such day (unless otherwise acknowledged by the receiving party); otherwise, it shall be deemed to have been validly and effectively given on the Business Day next following such date of transmission.

- (1) Future References to Intercreditor Agreement. On and after the date of this Agreement, each reference in any Deerfield Loan Document, any Deerfield Investor Document and any RBC Document or any related document to the “Intercreditor Agreement”, “thereunder”, “thereof”, or words of like import referring to the Intercreditor Agreement, shall mean and be a reference to this Agreement and/or the EDC Intercreditor Agreement, as the context requires.

## 12. Deerfield Purchase Option

- (a) Upon the occurrence of a Purchase Option Event, the Deerfield Secured Parties shall have the opportunity to purchase all (but not less than all), upon payment of the Purchase Price, of the RBC Credit Obligations (other than amounts in excess of the Capped RBC Credit Obligations Amount; provided that the Deerfield Secured Parties at their sole option shall have the right to purchase any amounts in excess of the Capped RBC Credit Obligations Amount) pursuant to this Section 12 (the “**Purchase Option**”) on the following terms and conditions:
  - (i) The Deerfield Agent (on behalf of the applicable Deerfield Secured Parties) may provide a written request to RBC Lender (a “**Purchase Option Information Request**”) in accordance with Section 11(k), on or before the 50th day of the Option Period, requesting the following information (A) the outstanding and unpaid amount of the RBC Credit Obligations (with a separate subcategory of such RBC Credit Obligations that are in excess of the Capped RBC Credit Obligations Amounts) and the Purchase Price, (B) a list of the RBC Lender Security, and (C) deposit account particulars including, for greater certainty, the deposit account number, bank ID and transit number, routing number, SWIFT Code and branch address (all such information being the “**Purchase Option Information**”).
  - (ii) RBC Lender shall deliver the requested Purchase Option Information to the Deerfield Agent within ten (10) days of the issuance of a Purchase Option Information Request.
  - (iii) The Deerfield Agent (on behalf of the applicable Deerfield Secured Parties) must give written notice signed by the Deerfield Agent (on behalf of the Deerfield Secured Parties) (a “**Purchase Notice**”) of the intention to exercise the Purchase Option to RBC Lender (with a copy to CPL Canada which shall not be a pre-condition to delivery of the Purchase Notice) in accordance with Section 11(k) hereof on a date on or before the end of the Option Period;

- (iv) The Purchase Notice shall be irrevocable by the Deerfield Agent (on behalf of the applicable Deerfield Secured Parties) upon delivery by the Deerfield Agent to RBC Lender, except to the extent (i) the dollar amount of the RBC Credit Obligations or the Capped RBC Credit Obligations Amounts provided by RBC Lender to the Deerfield Agent in response to a Purchase Option Information Request is incorrect or incomplete by more than \$250,000 or (ii) the RBC Lender Security list provided by the RBC Lender in response to a Purchase Option Information Request is incorrect or incomplete in a manner that is materially adverse to any of the Deerfield Secured Parties or any of the RBC Lender Security has been released, assigned, disposed of, leased, licensed or transferred, in case of each of items (i) or (ii), such Purchase Notice shall be revocable at the sole option of the Deerfield Agent and which such Option Period shall begin anew upon the Deerfield Agent receiving all of the corrected and completed Purchase Option Information.
- (v) With respect to any Purchase Option Event, the Purchase Option related to such Purchase Option Event shall automatically expire with no further action required by any person if the Deerfield Agent (on behalf of the applicable Deerfield Secured Parties) fails to deliver a Purchase Notice on or before the last day of the Option Period for such Purchase Option Event (after giving effect to the completion of any new Option Period for such Purchase Option Event that is provided due to incorrect or incomplete Purchase Option Information as outlined in Section 12(a)(iv)(i) and 12(a)(iv)(ii) above).
- (vi) The Purchase Notice shall (A) be signed by the Deerfield Agent (on behalf of the applicable Deerfield Secured Parties committing to such purchase (the “**Purchasing Creditors**”)) and indicate the percentage of the RBC Credit Obligations (other than amounts in excess of the Capped RBC Credit Obligations Amount, unless the Purchasing Creditors, in their sole option, agree to purchase such excess amounts) to be purchased by each Purchasing Creditor (which aggregate commitments must add up to 100% of the Purchase Price or, if the Purchasing Creditors agreed to purchase amounts in excess of the Capped RBC Credit Obligations Amount, such excess amount in addition to the Purchase Price as set forth in clause (iii) of the definition of “Capped RBC Credit Obligations Amount”), (B) specify that it is a Purchase Notice delivered pursuant to Section 12 of this Agreement, (C) specify the date upon which the purchase contemplated thereby is to be completed (such date subject to the condition set out in Section 12(a)(iv) and Section 12(a)(vii) below), and (D) specify that the purchase offer contained therein is irrevocable (other than in those instances set out above in Section 12(a)(ii), in which case, such Purchase Notice is revocable).
- (vii) The Purchasing Creditors shall have fifteen (15) Business Days after the Purchase Notice was received, or deemed to be received, by RBC Lender

in accordance with Section 11(k) (such fifteen (15) Business Day period, the “**Purchase Period**”) to complete the purchase of all (but not less than all) the RBC Credit Obligations (other than amounts in excess of the Capped RBC Credit Obligations Amount, unless the Purchasing Creditors, in their sole option, agree to purchase such excess amounts) contemplated by the Purchase Notice (the completion date of such purchase, the “**Purchase Date**”).

- (viii) In the event that the RBC Credit Obligations are Repaid in Full by CPL Canada to RBC Lender prior to the Purchase Date, then the Purchase Option, the Purchase Notice, and the purchase by the Purchasing Creditors contemplated by this Section 12 shall have no further force and effect.
- (ix) During the Purchase Period, neither RBC nor RBC Lender shall take any further steps to realize upon, or otherwise foreclose or liquidate any of the RBC Lender Priority Collateral or initiate any new, further or continuing realization or enforcement steps or otherwise exercise any rights or remedies or take any other actions except to the extent necessary for RBC Lender to (A) preserve its rights and remedies and to protect its liens in respect of the RBC Lender Priority Collateral, and (B) in the event that there is a material deterioration in the RBC Lender Priority Collateral from such use (as reasonably determined by RBC Lender), preserve and protect the value of the RBC Lender Priority Collateral;
- (x) During the Purchase Period (but only until the earlier of (1) the later of (I) the Business Day before the Purchase Option Information has been provided by the RBC Lender to the Deerfield Agent and (II) the Business Day before any written supplement of the Purchase Option Information has been provided by the RBC Lender to the Deerfield Agent, and (2) the Business Day before the Purchase Notice is delivered to the RBC Lender), RBC Lender may continue to make revolving loans available to CPL Canada; provided that, borrowings available to CPL Canada under the RBC Credit Agreement shall be limited to the lesser of: (A) 115% of the outstanding borrowings under the RBC Credit Agreement as at the commencement of the Purchase Period, and (B) the lesser of (y) the maximum credit limit then in effect under and as defined in the RBC Credit Agreement plus (z) \$1,500,000.
- (xi) If at the time RBC Lender receives a Purchase Notice from the Deerfield Agent, RBC Lender has already previously entered into one or more binding agreements of purchase and sale with a third party purchaser in respect of all or any part of the RBC Lender Priority Collateral, or RBC Lender or any Receiver has already sold or disposed of such RBC Lender Priority Collateral, then RBC Lender shall (A) be entitled to complete all such purchase and sale transactions and (B) apply the proceeds thereof in accordance with Section 5 hereof.

- (xii) A Purchase Notice will be ineffective if it is received by RBC Lender after the occurrence giving rise to the Purchase Option Event is waived, cured or otherwise ceases to exist.
  
- (b) On the Purchase Date, RBC Lender shall, subject to any required approval of any governmental authority, if any, sell to the Deerfield Agent (on behalf of the Purchasing Creditors) all (but not less than all) of the RBC Credit Obligations (other than the amounts in excess of the Capped RBC Credit Obligations Amount, unless the Purchasing Creditors in their sole discretion have agreed in writing to purchase such excess amounts) upon the following terms and conditions:
  - (i) The Purchasing Creditors shall pay to RBC Lender, pursuant to the wire instructions included in the Purchase Option Information, in immediately available funds the Purchase Price;
  
  - (ii) The Purchasing Creditors shall remit to RBC Lender an amount equal to the Purchase Price by wire transfer pursuant to the wire instructions included in the Purchase Option Information in immediately available funds. RBC Lender hereby acknowledges and agrees that the transfer or wiring of the Purchase Price and any other amounts to RBC Lender will be made strictly on the basis of the wire instructions provided by RBC Lender in the Purchase Option Information, even if the wire instructions so provided by RBC Lender are inaccurate or incorrect. It being understood and agreed that in the event that any part of such wire instructions provided by RBC Lender in the Purchase Option Information is inaccurate or incorrect, RBC Lender hereby agrees that the Purchase Price and all other amounts paid by the Deerfield Agent or the Purchasing Creditors to RBC Lender will be deemed to have been correctly made and delivered to RBC Lender and RBC Lender shall be fully liable for any and all losses, costs and expenses arising therefrom. RBC Lender agrees to cooperate in correcting any error, incorrectness, inaccuracy or omission with respect to the wire instructions included in the Purchase Option Information and the Deerfield Agent and the Purchasing Creditors agree to use commercially reasonable efforts (upon the reasonable written request of RBC Lender) to cooperate in locating the applicable person the Purchase Price incorrectly wired; provided that to the extent that both (y) any amounts previously sent by the Purchasing Creditors in accordance with the inaccurate or incorrect wire instructions provided by RBC Lender have been returned to the Purchasing Creditors and (z) the Deerfield Agent and the Purchasing Creditors have since received accurate and correct wire instructions from RBC Lender, such returned amounts shall then be paid over to RBC Lender using such corrected wire instructions provided by RBC Lender in the form received by the Purchasing Creditors (with such payment subject to the same caveats as set forth herein with respect to any inaccurate or incorrect wire instructions provided by RBC Lender). Interest and fees shall be calculated to but excluding the Purchase Date if the amounts so paid by the Purchasing Creditors to the

bank account designated in the wires instructions included in the Purchase Option Information provided by RBC Lender are received in such bank account prior to 2:00 p.m., Toronto, Canada time, and interest shall be calculated to and including such Purchase Date if the amounts so paid by the Purchasing Creditors to such bank account are received in such bank account after 2:00 p.m., Toronto, Canada time; and

- (iii) The Purchasing Creditors agree to reimburse RBC Lender for any unpaid documented loss, cost, damage or expense resulting from the granting of provisional credit for any cheques, wire or ACH transfers that are reversed or not final or other payments provisionally credited to the RBC Credit Obligations (other than amounts in excess of the Capped RBC Credit Obligations Amount) under the RBC Documents and as to which RBC Lender have not yet received final payment as of the Purchase Date.
- (c) Any purchase of the RBC Credit Obligations pursuant to this Section 12 shall, except as provided below, be expressly made without representation or warranty of any kind by RBC Lender as to the RBC Credit Obligations, the Collateral, the RBC Documents, and any liens in respect thereof or otherwise, and without recourse to RBC Lender. RBC Lender, as to itself only, shall represent and warrant only as to (i) the principal amount of the RBC Credit Obligations being sold by it and the amount of the Purchase Price and that the principal amount of the RBC Credit Obligations being sold and the Purchase Price do not include any amounts of RBC Credit Obligations in excess of the Capped RBC Credit Obligations Amount (unless the Purchasing Creditors have otherwise agreed in writing to purchase such excess amounts in accordance with this Section 12), (ii) that it has not created any lien on, or sold any participation in, any RBC Credit Obligations being sold by it, (iii) that RBC Lender owns the RBC Credit Obligations being sold by it (and no other person or entity has any rights (including, without limitation, any participation rights) with respect thereto or liens thereon) and has the right and authority to assign and transfer the RBC Credit Obligations being assigned and transferred by it and its assignment and purchase agreement has been duly authorized, executed and delivered by it and is binding and enforceable against it and no other person or entity owns or has any rights to the RBC Credit Obligations or any other obligations under the RBC Obligations, (iv) the RBC Lender Security list provided by the RBC Lender in response to a Purchase Option Information Request is accurate, correct and complete in all material respects and none of the RBC Lender Security has been released, assigned, disposed of, leased, licensed or transferred, (v) RBC Lender and its affiliates have not subordinated (by right of payment, lien or otherwise) any of the RBC Credit Obligations (or any of the security interests and liens granted by any of the Credit Parties with respect thereto) and RBC Lender has not entered into any intercreditor or subordination agreement with any person or entity with respect to the RBC Credit Obligations (or the security interests and liens granted by any of the Credit Parties with respect thereto) except for the EDC Intercreditor Agreement as in effect on the date of this Agreement, and (vi) RBC and RBC Lender shall acknowledge and confirm that it has no claim against the

Deerfield Agent, the Purchasing Creditors, their affiliates and/or related funds and parties in respect of information that is not known by RBC Lender but that is or may be known by the Deerfield Agent and/or the Purchasing Creditors.

- (d) In connection with any purchase of the RBC Credit Obligations pursuant to this Section 12, RBC Lender agrees to (1) enter into and deliver to the Purchasing Creditors on the Purchase Date, as a condition to closing, an assignment agreement in a form reasonably acceptable to each of RBC Lender and the Deerfield Agent and, at the expense of CPL Canada, RBC Lender shall deliver all possessory collateral (if any), together with any necessary endorsements and other documents (including any applicable stock powers or bond powers) and all of the RBC Lender Security, then in its possession or in the possession of its agent or bailee, or turn over control as to any pledged collateral, deposit accounts or securities accounts of which it or its agent or bailee then has control, as the case may be, to any person designated by the Deerfield Agent to act as the successor RBC Lender and otherwise take such actions and execute and deliver such agreements, instruments and documents as may be reasonably appropriate or reasonably requested by the Deerfield Agent (on behalf of the Purchasing Creditors) to effect an orderly transition to any person designated by the Deerfield Agent (on behalf of the Purchasing Creditors) to act as the successor RBC Lender, and (2) take such actions reasonably requested by the Deerfield Agent or any Purchasing Creditor that are required by EDC under the EDC Intercreditor Agreement to permit or allow such purchase of such RBC Credit Obligations. In connection with any purchase of the RBC Credit Obligations pursuant to this Section 12, as a condition to closing such purchase, Deerfield Agent agrees, substantially concurrently with such purchase, to assume and accede to RBC Lender's rights and obligations under the EDC Intercreditor Agreement in accordance with and as required under the terms thereof (but, for the avoidance of doubt, only with respect to the amount of RBC Credit Obligations that are not in excess of the Capped RBC Credit Obligations Amount (unless the Purchasing Creditors have otherwise agreed in writing to purchase such excess amounts in accordance with this Section 12)), in accordance with Section 12(f) thereof, provided that, the RBC Lender and the Deerfield Agent (on behalf of the Purchasing Creditors) agrees that, in the event that the RBC Credit Obligations purchased in accordance with this Section 12 exceed the Capped RBC Credit Obligations Amount they shall enter into such amendments to the EDC Intercreditor Agreement as may be required in order to reflect that (i) such excess RBC Credit Obligations shall rank behind the Deerfield Loan Obligations, the Deerfield Investor Obligations and the RBC Credit Obligations purchased by the Purchasing Creditors and (ii) RBC Lender remains a party to the EDC Intercreditor Agreement with respect to the RBC Credit Obligations in excess of the Capped RBC Credit Obligations Amount.
- (e) CPL Canada, Holdco and CPL USA each acknowledge and agree that if the Deerfield Agent (on behalf of the Purchasing Creditors) completes the exercise of the Purchase Option, then the obligations of RBC Lender owed to them under all credit facilities and other accommodation provided by RBC Lender to CPL

Canada under the RBC Documents shall be fully cancelled and terminated effective on the Purchase Date (other than those representations, covenants and indemnifications which expressly survive termination under RBC Documents).

- (f) For greater certainty, with respect to any Purchase Option Event, if the Deerfield Agent (on behalf of the Purchasing Creditors) does not complete the purchase of the RBC Credit Obligations with respect to such Purchase Option Event on the later of the (i) the Purchase Date and (ii) the end of the Option Period for such Purchase Option Event (after giving effect to the additional fifteen (15) Business Day period after giving effect to the delivery of any Purchase Notice and any renewed Option Period for such Purchase Option Event set forth in this Section 12), RBC Lender shall be able to proceed with its remedies against CPL Canada, Holdco, CPL USA and the RBC Lender Priority Collateral without regards to any restrictions imposed by this Section 12 with respect to such Purchase Option Event.
- (g) In the event that the Deerfield Agent (on behalf of the Purchasing Creditors) does not exercise the Purchase Option in respect of those amounts in excess of the Capped RBC Credit Obligations (the “**Non Purchased RBC Credit Obligations**”), the Deerfield Secured Parties, the Deerfield Investor, the Purchasing Creditors and RBC Lender each acknowledge, confirm and agree that all such Non Purchased RBC Credit Obligations shall continue to be secured at all times by the RBC Lender Security (as purchased by the Deerfield Agent (on behalf of the Purchasing Creditors)) and all proceeds of realization in respect of the RBC Lender Priority Collateral shall be paid in accordance with Section 5.
- (h) The Credit Parties each acknowledge that RBC Lender and the Deerfield Secured Parties shall have the right to exercise and consummate the Purchase Option in accordance with the terms and conditions of this Agreement, and the Credit Parties shall not have any consent or approval rights in connection with such transaction (notwithstanding any provision in the RBC Documents, if any, to the contrary).

### **13. Court Appointed Receiver**

Each of the Deerfield Secured Parties and Deerfield Investors acknowledge, confirm and agree that a court appointed Receiver (even if appointed upon the application of RBC Lender) is not an agent of RBC Lender and once appointed by the Court acts independently and without instruction from RBC Lender.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]**



IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

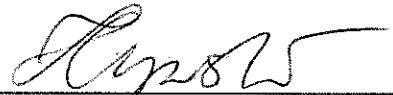
**RBC:**

**ROYAL BANK OF CANADA**

By: 

Name: JIM GLASSFORD

Title: SR. CAM

By: 

Name: IVONA CHYZEWSKI

Title: VP CFS

**DEERFIELD AGENT AND DEERFIELD INVESTOR:**

**DEERFIELD PRIVATE DESIGN FUND IV,  
L.P.**

By: Deerfield Mgmt IV, L.P., General Partner

By: J.E. Flynn Capital IV, LLC, General Partner

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

Name: David J. Clark

Title: Authorized Signatory

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

**RBC:**

**ROYAL BANK OF CANADA**

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

Name:

Title:

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

Name:

Title:

**DEERFIELD AGENT AND DEERFIELD INVESTOR:**

**DEERFIELD PRIVATE DESIGN FUND IV,  
L.P.**

By: Deerfield Mgmt IV, L.P., General Partner

By: J.E. Flynn Capital IV, LLC, General Partner

By: David J. Clark

Name: David J. Clark

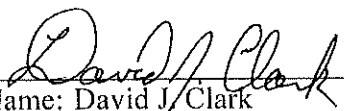
Title: Authorized Signatory

**DEERFIELD INVESTOR:**

**DEERFIELD PRIVATE DESIGN FUND III,  
L.P.**

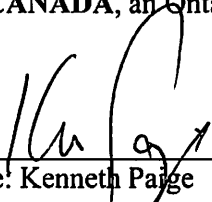
By: Deerfield Mgmt III, L.P., General Partner

By: J.E. Flynn Capital III, LLC, General Partner

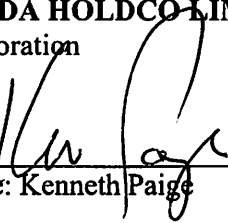
By:  \_\_\_\_\_  
Name: David J. Clark  
Title: Authorized Signatory

**CREDIT PARTIES:**

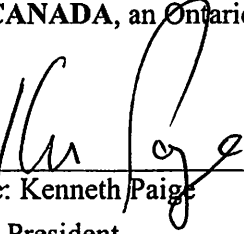
**GLASSHOUSE PHARMACEUTICALS  
LIMITED CANADA**, an Ontario  
corporation

By:   
Name: Kenneth Paige  
Title: President

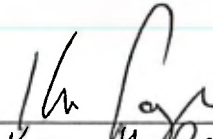
**CPL CANADA HOLDCO LIMITED**, an  
Ontario corporation

By:   
Name: Kenneth Paige  
Title: President

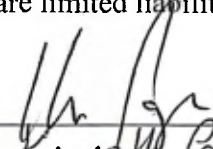
**CONTRACT PHARMACEUTICALS  
LIMITED CANADA**, an Ontario  
corporation

By:   
Name: Kenneth Paige  
Title: President

**CONTRACT PHARMACEUTICALS LIMITED**, a Delaware limited liability company

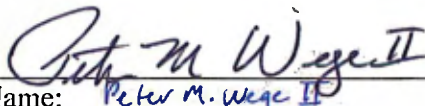
By:   
Name: Kenneth Paige  
Title: CEO

**GLASSHOUSE PHARMACEUTICALS LLC**, a Delaware limited liability company

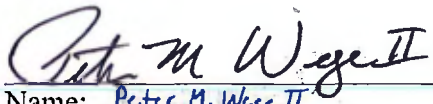
By:   
Name: Kenneth Paige  
Title: CEO

**DEERFIELD LIMITED**  
**GUARANTORS:**

**MOODOOS CPL, LLC**, a Michigan limited liability company

By:   
Name: Peter M. Wege II  
Title: President

**GREYLOCK CPL, LLC**, a Michigan  
limited liability company

By:   
Name: Peter M. Weje II  
Title: President

**EDC Intercreditor Agreement**

[Agreement Follows]

**INTERCREDITOR AGREEMENT**

**THIS AGREEMENT** made as of the 6<sup>th</sup> day of December, 2018.

BETWEEN:

**ROYAL BANK OF CANADA**, as lender under the RBC Credit Agreement (defined below) ("**RBC**")

- and -

**EXPORT DEVELOPMENT CANADA**, as lender under the EDC Loan Agreements (defined below) ("**EDC**")

- and -

**DEERFIELD PRIVATE DESIGN FUND IV, L.P.**, as Agent for itself and the lenders and other secured parties under the Deerfield Loan Agreement (defined below) (in such capacity, together with its successors and assigns in such capacity, "**Deerfield Agent**")

- and -

**CONTRACT PHARMACEUTICALS LIMITED CANADA** ("**CPL Canada**");

**WHEREAS** RBC has made or will make available revolving credit facilities to CPL Canada which facilities are secured by the Collateral;

**AND WHEREAS** EDC has made or will make available non-revolving term credit facilities and a revolving credit facility to CPL Canada, which facilities are secured by the Collateral, including without limitation, the EDC Priority Collateral;

**AND WHEREAS** Deerfield Secured Parties have made available non-revolving term credit facilities to Glasshouse Pharmaceuticals Limited Canada ("**Glasshouse**"), an affiliate of CPL Canada, which facilities are guaranteed by CPL Canada and certain other persons and entities and secured by the Collateral, including without limitation, the EDC Priority Collateral;

**AND WHEREAS** RBC, EDC and Deerfield Agent wish to enter into this Agreement on the terms set out herein;

**NOW THEREFORE** for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged by the undersigned, each of the undersigned hereby agrees as hereinafter set forth:



## 1. Interpretation

The following expressions used in this Agreement (including the preamble and recitals hereto) have the following respective meanings:

“**Collateral**” means all present and after-acquired property, assets and undertaking of CPL Canada.

“**Deerfield Documents**” means, collectively, the Deerfield Loan Agreement, the General Security Agreement and Guarantee dated as of December 6, 2018 granted by Glasshouse, CPL Canada Holdco Limited and CPL Canada in favour of Deerfield Agent, the Intellectual Property Security Agreement granted by Glasshouse and CPL Canada Holdco Limited in favour of Deerfield Agent, the Deerfield Security and all documents, instruments and agreements delivered in respect of the Deerfield Loan Agreement and the Deerfield Security and all collateral documents and all other documents, instruments, blocked account agreements and other agreements related to the foregoing, as each such document, instrument and agreement may be amended, modified, supplemented, renewed, refinanced or restated from time to time. For the avoidance of doubt, the “Deerfield Documents” shall not include the “Contingent Value Rights” (as defined in the Deerfield Loan Agreement).

“**Deerfield Lenders**” means the lenders party to the Deerfield Loan Agreement from time to time or such other persons or entities that provide loans or other financial accommodations to CPL Canada from time to time under the Deerfield Loan Agreement or other Deerfield Documents.

“**Deerfield Loan Agreement**” means the Facility Agreement dated as of December 6, 2018 between Glasshouse, as borrower, CPL Canada, as guarantor, Deerfield Agent and the Deerfield Lenders, as the same may be amended, modified, supplemented, restated or replaced from time to time.

“**Deerfield Loan Obligations**” means any and all Indebtedness and “Obligations” (as defined in the Deerfield Loan Agreement) owed by CPL Canada, Glasshouse or any of their respective affiliates to Deerfield Agent, any Deerfield Lenders or any of their respective affiliates arising under or pursuant to the Deerfield Documents. For greater certainty, “Deerfield Loan Obligations” shall include, without limitation, all present and future debts, liabilities and obligations (including, without limitation, “Obligations” (as defined in the Deerfield Loan Agreement)) of CPL Canada to Deerfield Agent arising from any amendment, supplement or modification to or restatement or renewal of the Deerfield Loan Agreement or other Deerfield Documents including any increase in any term loan thereunder (by way of overdraft or otherwise), any additional extensions of term loans or other loans, or any new credit facilities established in favour of Glasshouse or CPL Canada. For the avoidance of doubt, the “Deerfield Loan Obligations” shall not include any obligations under the Contingent Value Rights (as defined in the Deerfield Loan Agreement).

“**Deerfield Secured Parties**” means Deerfield Agent, the Deerfield Lenders and their affiliates and other persons and entities holding Deerfield Loan Obligations.

**“Deerfield Security”** means, collectively, the Deerfield Documents and any and all liens and security interests granted by CPL Canada on CPL Canada’s assets under the Deerfield Documents, collateral provided by CPL Canada under the Deerfield Documents, security delivered by CPL Canada to Deerfield Agent or any other Deerfield Secured Party from time to time as collateral security for the Deerfield Obligations (including, without limitation, the “Collateral” (as defined in the Deerfield Loan Agreement)), but for greater certainty shall not include the security delivered (or liens or security interests granted or collateral provided) by Glasshouse or any of CPL Canada’s other affiliates to Deerfield Agent or any other Deerfield Secured Party from time to time.

**“Demand”** means a demand made by either EDC under any of the EDC Documents, by RBC under any of the RBC Documents, or by any Deerfield Secured Party under the Deerfield Documents for payment of the Obligations of CPL Canada owing to RBC, EDC or any Deerfield Secured Party, as the case may be, and the acceleration, if applicable, of all related indebtedness and liability.

**“EDC Documents”** means, collectively, the EDC Loan Agreements, the EDC Security and all documents, instruments and agreements delivered in respect of the EDC Loan Agreements and the EDC Security and all collateral documents related to the foregoing, as each such document may be amended, modified, supplemented, renewed or restated from time to time.

**“EDC Loan Agreements”** means, collectively, (i) the letter loan agreement dated as of March 6, 2018 with respect to EDC Loan No. 880-65706 between CPL Canada, as borrower, and EDC, as lender, and others, as guarantors, as the same may be amended, modified, supplemented, restated or replaced from time to time, and (ii) the letter loan agreement dated as of August 15, 2014 with respect to EDC Loan No. 880-58863 between CPL Canada, as borrower, and EDC, as lender, and others, as guarantors, as the same may be amended, modified, supplemented, restated or replaced from time to time.

**“EDC Loan Obligations”** means any and all Indebtedness owed by CPL Canada to EDC arising under or pursuant to the EDC Documents, in an aggregate principal amount not to exceed \$16,000,000 at any time outstanding.

**“EDC Priority Collateral”** means all Equipment (as such term is defined in the PPSA) of CPL Canada, including all machinery, equipment, tools, fixtures, fittings, apparatus, furniture, motor vehicles and other tangible (corporeal) personal (movable) property (other than Inventory) (as such term is defined in the PPSA), and all parts, accessories, proceeds (including insurance proceeds) and accessions and substitutions thereto, and also including all books, records or contracts relating to any of the foregoing.

**“EDC Security”** means (a) that certain general security agreement, dated March 6, 2018, between CPL Canada and EDC in respect of any EDC Loan Obligations under the agreement described in clause (i) of the definition of “EDC Loan Agreements” and any EDC Documents related thereto and (b) that certain general security agreement dated as of October 28, 2015, by CPL Canada in favor of EDC in respect of any EDC Loan Obligations under the agreement described in clause (ii) of the definition of “EDC Loan Agreements” and any EDC Documents

related thereto, in each case of clause (a) and clause (b), as the same may be amended, modified, supplemented, restated or replaced from time to time.

“**Event of Default**” means (i) in the case of EDC, (A) any default, event of default or breach of any term, condition or covenant specified in the EDC Loan Agreements or in any of the EDC Documents entitling EDC to demand or accelerate (or have the right to demand or accelerate) payment of any of the EDC Loan Obligations, (B) a failure by CPL Canada to pay any amount due and owing (whether by demand or otherwise in accordance with the EDC Documents) by EDC or (C) a Demand by EDC or the taking of any action or proceeding by RBC or Deerfield to realize upon or foreclose on the Collateral upon the occurrence and continuance of an Event of Default; (ii) in the case of RBC, (A) any default, event of default or breach of any term, condition or covenant specified in the RBC Credit Agreement or in any of the RBC Documents entitling RBC to demand or accelerate (or to have the right to demand or accelerate) payment of any of the RBC Credit Obligations, (B) a failure by CPL Canada to pay any amount due on demand by RBC, or (C) a Demand by RBC or the taking of any action or proceeding by EDC to realize upon or foreclose on the Collateral upon the occurrence and continuance of an Event of Default; and (iii) in the case of the Deerfield Secured Parties, (A) any default, event of default or breach of any term, condition, representation, warranty, covenant or other provision in the Deerfield Loan Agreement, the other Deerfield Documents or in any of the Deerfield Security entitling any Deerfield Secured Party to demand or accelerate (or to have the right to demand or accelerate) payment of any of the Deerfield Loan Obligations, (B) a failure by CPL Canada to pay any amount due and owing (whether by demand or otherwise in accordance with the Deerfield Documents) to any Deerfield Secured Party or (C) a Demand by any Deerfield Secured Party or the taking of any action or proceeding by EDC to realize upon or foreclose on the Collateral upon the occurrence and continuance of an Event of Default.

“**Indebtedness**” means any and all loans, obligations, liabilities and indebtedness of any kind, nature and description owed by CPL Canada to a Lender, including principal, interest, charges, fees, costs, expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise arising under any of the RBC Documents, the EDC Documents or the Deerfield Documents, as applicable.

“**Insolvency Event**” means the occurrence of any of the following events:

- (i) if CPL Canada shall make a general assignment for the benefit of creditors or any proceedings shall be instituted by or petition filed by CPL Canada seeking an order for relief on behalf of any of them, as debtor, or to adjudicate any of them a bankrupt or insolvent, or seeking liquidation, winding-up reorganization, reorganization, arrangement, adjustment or composition of any of them or any of their respective debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a Receiver, trustee, custodian or similar official for any of them or any substantial part of their respective property and assets or any of them shall take any corporate action to authorize any of the actions set forth in this paragraph;

- (ii) if any proceeding or petition shall be instituted or filed against CPL Canada seeking to adjudicate any of them a bankrupt or insolvent, or seeking liquidation, winding-up reorganization, reorganization, arrangement, adjustment or composition of any of them or their respective debts under any law relating to bankruptcy, insolvency reorganization or relief of debtors, or seeking appointment of a Receiver, trustee, custodian or similar official for any of them or for any substantial part of their respective property and assets and such proceedings are not or are no longer being contested in good faith by appropriate proceedings and, even if such proceeding is being contested, no longer than 60 days from the institution of such first-mentioned proceeding; and
- (iii) if a Receiver, liquidator, trustee, sequestrator or other person or officer with like powers is appointed, whether appointed privately or by court order, with respect to, or an encumbrancer take possession of, or forecloses or retains, or sells, or otherwise disposes of, or otherwise proceeds to enforce security over, all or substantially all of the property or assets of CPL Canada.

**“Insolvency Legislation”** means the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada) or any other law (whether foreign or otherwise) relating to bankruptcy, insolvency, liquidation, receivership, winding-up, reorganization, arrangement, adjustment, composition or relief of debtors and any similar statute or law in any jurisdiction.

**“Lenders”** means, collectively, RBC, EDC and each Deerfield Secured Party, and **“Lender”** means any one of them as the context may require.

**“Loan Documents”** means, collectively, the Deerfield Documents, the EDC Documents and the RBC Documents.

**“Notice of Default”** means a notice of an Event of Default or Events of Default issued by (i) EDC to CPL Canada, RBC and Deerfield Agent related to any of the EDC Loan Agreements or other EDC Documents in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement, (ii) RBC to CPL Canada, EDC and Deerfield Agent related to the RBC Credit Agreement or other RBC Documents in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement and (iii) Deerfield Agent to CPL Canada, EDC and RBC related to the Deerfield Loan Agreement or other Deerfield Documents in accordance with the terms hereof and specifying that such notice is issued pursuant to the terms of this Agreement. Each Notice of Default shall describe the Event of Default in reasonable detail.

**“Obligations”** means, collectively, the RBC Credit Obligations, the EDC Loan Obligations and the Deerfield Loan Obligations.

“**person**” means any natural person, individual, partnership, joint venture, corporation, trust, limited liability company, limited company, joint stock company, unincorporated organization, government entity or any political subdivision or agency thereof, or any other entity.

“**PPSA**” means the *Personal Property Security Act* (Ontario), as amended.

“**Receiver**” means a receiver, a manager, a receiver and manager, an interim receiver appointed under the *Bankruptcy and Insolvency Act* (Canada), whether privately appointed or appointed by court order, any agent appointed by any Lender under its Security to exercise all or any of the remedies thereunder, a trustee in bankruptcy, a liquidator or a debtor-in-possession.

“**RBC Credit Agreement**” means the credit agreement dated November 22, 2017 between CPL Canada, as borrower, RBC, as lender, and others, as guarantors, as amended by amendment no. 1 to credit agreement dated as of the date hereof, as same may be further amended, modified, supplemented, restated or replaced from time to time.

“**RBC Credit Obligations**” means any and all Indebtedness owed by CPL Canada to RBC or any of its affiliates arising under or pursuant to the RBC Documents. For greater certainty, “RBC Credit Obligations” shall include, without limitation, all present and future debts, liabilities and obligations of CPL Canada to RBC arising from any amendment to or restatement or renewal of the RBC Credit Agreement or other RBC Documents including any increase in any operating or revolving line of credit thereunder (by way of overdraft or otherwise), or any new credit facilities established in favour of CPL Canada.

“**RBC Documents**” means, collectively, the RBC Credit Agreement, the RBC Security and all documents, instruments and agreements delivered in respect of the RBC Credit Agreement and the RBC Security and all collateral documents related to the foregoing, as each such document may be amended, modified, supplemented, renewed or restated from time to time.

“**RBC/Deerfield Intercreditor Agreement**” means an intercreditor agreement dated as of December 6, 2018 between RBC, Deerfield Agent, CPL Canada and the other persons and entities party thereto, as may be amended, restated, supplemented or otherwise modified from time to time and at any time.

“**RBC/Deerfield Priority Collateral**” means all Collateral and Security other than the EDC Priority Collateral. For the avoidance of doubt, the “RBC/Deerfield Priority Collateral” includes, among other things, all stock, equity interests, instruments, promissory notes, chattel paper, money, cash, cash equivalents, accounts, accounts receivable, intellectual property, contract rights, documents, deposit accounts, securities accounts, commodities accounts, letter-of-credit rights, commercial tort claims, financial assets, intangible property, supporting obligations, books and records related to the foregoing, insurance proceeds related to the foregoing and proceeds related to the foregoing.

“**RBC/Deerfield Priority Loan Obligations**” means, collectively, the RBC Credit Obligations and the Deerfield Loan Obligations.

“**RBC/Deerfield Priority Parties**” means, collectively, RBC and the Deerfield Secured Parties.

“**RBC Security**” means, collectively, (i) a general security agreement dated November 19, 2015 from each of CPL Canada in favour of RBC Lender, and (ii) an assignment of insurance dated November 19, 2015 from CPL Canada in favour of RBC Lender, in each case, as may be amended, modified, supplemented, restated or replaced from time to time, together with any and all liens and security interests granted by CPL Canada under the RBC Documents and any other security delivered or provided by CPL Canada to RBC from time to time as collateral security for the RBC Credit Obligations)).

“**Security**” means, collectively, the RBC Security, the EDC Security and the Deerfield Security.

For all purposes of this Agreement except as otherwise expressly provided for or unless the context otherwise requires:

- (a) the headings are for convenience of reference only and do not form part of this agreement nor are they intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;
- (b) except as otherwise provided herein, any reference to a currency herein is a reference to Canadian currency;
- (c) any reference to an entity shall include and be deemed to be a reference to any entity that is a successor to or permitted assignee of such entity;
- (d) words importing the masculine gender include the feminine gender or neuter gender and words in the singular include the plural and words importing the neuter gender include the masculine or feminine gender and words in plural include the singular;
- (e) “this Agreement”, “herein”, “hereof”, “hereby”, and other like expressions refer to this Agreement and all amendments thereto and not to any particular paragraph hereof; and
- (f) all accounting terms not otherwise defined herein have the meanings ordinarily assigned to them from time to time pursuant to Canadian generally accepted accounting principles.

## **2. Consent to Security / Exclusive Enforcement**

- (a) Each Lender hereby consents to the Security granted on or prior to the date hereof by CPL Canada in favour of the other Lender under the Debt Documents, and hereby waives any default that the granting of such Security on or prior to the date hereof may have constituted under the terms of its agreements with CPL Canada (including, without limitation, the Debt Documents). Each Lender agrees that it will not, and hereby waives any right to, directly or indirectly, contest or support any other person in contesting, in any proceeding, the priority, validity or enforceability of any perfected Security granted by CPL Canada on or prior to the date hereof under the applicable Debt Documents that is held by any other Lender, or the validity or enforceability of the priorities, rights or obligations

established by this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of the Lenders to enforce this Agreement.

- (b) Until all of the EDC Loan Obligations are repaid, EDC shall have the exclusive right to take and continue any enforcement action (including the appointment of a Receiver) with respect to the EDC Priority Collateral. Until all of the RBC Credit Obligations are repaid, as between EDC, on the one hand, and any RBC/Deerfield Priority Party on the other hand, the RBC/Deerfield Priority Parties shall have the exclusive right to take and continue any enforcement action (including the appointment of a Receiver) with respect to the RBC/Deerfield Priority Collateral.
- (c) The security interests and liens granted in favour of EDC in respect of the EDC Priority Collateral will rank in priority to the security interests and liens granted in favour of the RBC/Deerfield Priority Parties in respect of the EDC Priority Collateral.
- (d) The security interests and liens granted in favour of the RBC/Deerfield Priority Parties in respect of the RBC/Deerfield Priority Collateral will rank higher in priority to the security interests and liens granted in favour of EDC in respect of the RBC/Deerfield Priority Collateral.
- (e) In no event shall any Lender accept or take the benefit of security interests, liens or charges for Obligations now or hereafter owed to it that is contrary to the priorities set forth herein.

### **3. Communications Between Lenders**

From time to time upon request therefor by any Lender, acting reasonably, to the other Lenders, such other Lenders shall advise the requesting Lender in writing of the particulars of the Indebtedness of CPL Canada to such other Lender under the Loan Documents, as applicable, and of all Security held therefor. CPL Canada hereby consents to the disclosure of all such information between the Lenders.

### **4. Notice of Default / Use Period**

- (a) EDC may elect to, upon the occurrence and continuance of an Event of Default under any of the EDC Loan Agreements and shall, prior to and as a precondition to any Demand, issue to CPL Canada a Notice of Default and shall concurrently deliver to RBC and Deerfield Agent a copy of such Notice of Default. EDC may not exercise any rights as to Demand, acceleration and/or realization or enforce payment of the EDC Loan Obligations or any other amounts owed to EDC under the EDC Documents unless and until a Notice of Default is issued in accordance with this Section and any applicable Use Period (as defined below) has elapsed. Any of the RBC/Deerfield Priority Parties may elect to, upon the occurrence and during the continuance of an Event of Default under the RBC Credit Agreement or the Deerfield Documents, as applicable, and shall, prior to and as a precondition to any Demand by such RBC/Deerfield Priority Party, issue to CPL

Canada a Notice of Default and shall concurrently deliver to EDC and the other RBC/Deerfield Priority Parties a copy of such Notice of Default.

- (b) Any RBC/Deerfield Priority Party may elect, within five (5) days of receipt of a Notice of Default issued by EDC, to give written notification (the “**Use Notice**”) to EDC and the other RBC/Deerfield Priority Parties that such RBC/Deerfield Priority Party desires to exercise a use period with respect to the Collateral, in which case, such RBC/Deerfield Priority Party may enter upon, access and/or occupy the relevant premises and be entitled to use the Collateral (including, for certainty, but without limitation, the EDC Priority Collateral) for the period of time commencing on the date the Use Notice is issued to EDC and the other RBC/Deerfield Priority Parties and ending on the expiration date specified in the Use Notice (such period not to exceed 90 days) (the “**Use Period**”) for the purpose of taking possession of, or otherwise enforcing its rights or remedies in respect of, the RBC/Deerfield Priority Collateral (including, for greater certainty, appointing a Receiver). For the avoidance of doubt, such RBC/Deerfield Priority Party providing such Use Notice is responsible to make arrangements with the landlord of any applicable leased premises for its access to and occupation of such leased premises.
- (c) No Lender shall have any liability for any inadvertent failure to comply with this Section nor shall any failure to comply with this Section affect or impair the priorities established herein or impair or release the subordination and, except as expressly set out herein, the other benefits provided by this Agreement.
- (d) During the Use Period, the applicable RBC/Deerfield Priority Party shall:
  - (i) take reasonable care of any EDC Priority Collateral and shall be responsible to repair or replace any damaged (ordinary wear and tear excepted) EDC Priority Collateral directly caused by such RBC/Deerfield Priority Party providing such Use Notice, its employees, agents, representatives, contractors or designees (collectively, the “**Use Period Parties**”) during the Use Period and all Use Period Parties shall comply with all applicable laws in the use and occupation of the Collateral and the premises during the Use Period;
  - (ii) maintain or cause to be maintained insurance reasonably satisfactory to EDC (to the extent that such insurance is not already in effect and to the extent EDC reasonably requests such insurance) during the Use Period;
  - (iii) pay to EDC all regularly scheduled payments of principal and interest during the Use Period that would have been payable by CPL Canada in the normal course under the terms of the EDC Loan Agreements had no Event of Default occurred and be continuing under the applicable EDC Loan Agreement(s); provided that, for greater certainty, EDC has not received any such payments from CPL Canada or any other person; and



- (iv) solely during the Use Period, pay all applicable realty taxes, lease payments, utility and similar charges arising out of the use of the applicable premises where the Collateral is located, to the extent such premises is one where such applicable RBC/Deerfield Priority Party has entered upon, accessed and/or occupied in connection with use of the Collateral during the Use Period.
- (e) Notwithstanding Section 4(a), during the Use Period, EDC may market and list for sale the EDC Priority Collateral; provided that such action (i) does not interfere with the RBC/Deerfield Priority Parties' Use Right and (ii) does not result in any delay to, impairment of or hindrance to, any RBC/Deerfield Priority Party in enforcing its respective rights in respect of the RBC/Deerfield Priority Collateral.
- (f) EDC or its representative shall have the right to inspect EDC Priority Collateral at the beginning of the Use Period and, upon two (2) days prior notice to each of the RBC/Deerfield Priority Parties, to conduct further periodic inspections throughout the Use Period so long as such inspections do not delay, impair or otherwise interfere with the enforcement of any RBC/Deerfield Priority Party's rights in respect of the RBC/Deerfield Priority Collateral.
- (g) A Notice of Default given under Section 4(a) shall be deemed to have been revoked or terminated: (i) upon satisfaction or cure prior to acceleration, if and to the extent capable of satisfaction or cure, of the Event of Default or Events of Default specified in the Notice of Default, (ii) upon waiver of the Event of Default or Events of Default specified in the Notice of Default by such applicable RBC/Deerfield Priority Party or EDC, as applicable, or (iii) upon revocation in writing by such applicable RBC/Deerfield Priority Party or EDC, as applicable, of such Notice of Default. Notice of such revocation or termination shall be provided to each RBC/Deerfield Priority Party by EDC.

## **5. Application of Proceeds of Security Realization**

All payments received by any Lender, directly or indirectly, after any Demand for payment has been made on CPL Canada by any Lender under the applicable Loan Documents after an Event of Default has occurred and is continuing or upon any Insolvency Event, whether by way of deposit, realization of Security or otherwise, from CPL Canada or from any Receiver shall be applied and distributed as follows:

- (a) As between EDC, on the one hand, and the RBC/Deerfield Priority Parties, on the other hand, EDC shall have first priority in the EDC Priority Collateral in connection with all amounts payable by CPL Canada to EDC under or in connection with the EDC Documents.
- (b) As between the RBC/Deerfield Priority Parties, on the one hand, and EDC, on the other hand, the RBC/Deerfield Priority Parties shall have first priority in all RBC/Deerfield Priority Collateral in connection with all amounts payable by CPL

Canada, Glasshouse or any of their affiliates to any of the RBC/Deerfield Priority Parties under or in connection with the RBC Documents or the Deerfield Documents.

For the avoidance of doubt, as between EDC, on the one hand, and the RBC/Deerfield Priority Parties, on the other hand, amounts received by any Lender in respect of:

- (i) the EDC Priority Collateral shall be applied (A) first, in payment of all EDC Loan Obligations, until paid in full, and (B) second, in payment of the RBC/Deerfield Priority Loan Obligations, in the manner and in accordance with the priorities set out in the RBC/Deerfield Intercreditor Agreement, until paid in full; and
- (ii) all RBC/Deerfield Priority Collateral shall be applied (A) first, in payment of all RBC/Deerfield Priority Loan Obligations, in the manner and in accordance with the priorities set out in the RBC/Deerfield Intercreditor Agreement, until paid in full, and (B) second, in payment of EDC Loan Obligations.

The parties hereto shall stand possessed of any proceeds of realization or disposition of Collateral in trust for the other parties in accordance with the terms of this Agreement.

## **6. Insurance Proceeds**

All insurance proceeds received by CPL Canada, a Receiver, or by a Lender after a Demand for payment has been made on CPL Canada by a Lender under the applicable Loan Documents after an Event of Default has occurred and is continuing, or upon the occurrence of an Insolvency Event in respect of the uncollectibility of or loss of or damage to any of the Collateral, shall be dealt with in accordance with Section 5 hereof as proceeds of realization or disposition of the property or assets insured and the Lender having priority over such Collateral to which such insurance relates shall have the right to settle any policy or approve any award with respect thereto.

## **7. Effect of Discharge, Invalidity or Subordination of Security**

Nothing herein contained shall be construed as entitling any Lender to receive any of the proceeds of realization or disposition of any of the Collateral in respect of which or to the extent it does not have any security (or does not have a security interest or lien in such Collateral) or in respect of which or to the extent its security is invalid or unenforceable as against third parties. If any person, other than a Lender, shall have a claim to the proceeds of disposition of any of Collateral in priority to or on a parity with one Lender but not in priority to or on a parity with the other Lender, then this Agreement shall not apply so as to diminish the rights (as such rights would have been but for this Agreement) of such other Lender to the proceeds of disposition of such property or assets; provided that to the extent such Lender receiving such proceeds of disposition on such Collateral does not have priority with respect to such Collateral over the other Lenders under this Agreement, then such Lender hereby agrees to promptly turn over (and, in any event, within 10 days of the receipt thereof) to the Lenders with such priority over such Collateral under this Agreement the net cash proceeds thereof received by such Lender without any such proceeds turned over by such Lender reducing any amount of the Obligations owed to such Lender by CPL Canada and its affiliates under the applicable Loan Documents.

## **8. Priority**

The parties hereto agree to the ordering of the priorities, postponements and subordinations provided for in this Agreement and to the extent necessary to effect the result and distributions contemplated herein and the same shall apply and be effective notwithstanding:

- (a) the fact that any rule of law or any statute may alter or vary the priorities set forth in this Agreement;
- (b) the actual order of creation, grant, execution, delivery, registration, filing or crystallization of or under the Security or the filing of any financing statement or other document or instrument with respect thereto;
- (c) the actual order or time of attachment or perfection of any security interest constituted by or related to any of the Security;
- (d) the time of any advance or other extension of credit or the incurrence of any of the indebtedness, obligation or liabilities with respect to any of the Obligations;
- (e) the time of the default in respect of any of the Security, Demand or notice, the making of any Demand or giving of any notice or the failure to give any notice;
- (f) any priority granted by principle of law or in any statute, including the PPSA;
- (g) any Obligations or Loan Documents or any lack of validity, legality, completeness or enforceability thereof;
- (h) any failure of, or delay by, RBC, EDC or any Deerfield Secured Party:
  - (i) to assert any claim or demand or to enforce any right, power or remedy against CPL Canada under the applicable Loan Documents, any applicable law or otherwise; or
  - (ii) to exercise any right, power or remedy against CPL Canada the Security or any other collateral securing the Obligations; and/or
  - (iii) any other circumstance which might otherwise constitute a defense available to, or a legal or equitable discharge of, or otherwise prejudicially affect the priorities herein provided.

## **9. RBC Accounts**

EDC shall not be entitled, notwithstanding anything to the contrary in this Agreement, to make a claim against any monies which are deposited in or disbursed from any account of CPL Canada maintained with any RBC/Deerfield Priority Party, except for:

- (a) monies deposited in any accounts designated as trust accounts by CPL Canada for the benefit of EDC;

- (b) monies, over which EDC Security has priority pursuant to this Agreement, deposited after the time all of the RBC/Deerfield Priority Parties have received written notice from EDC that:
  - (i) EDC has issued notice that it intends to enforce EDC Security against CPL Canada; or
  - (ii) EDC is entitled to such monies pursuant to this Agreement;
- (c) monies, over which EDC has priority pursuant to this Agreement, which are deposited after the applicable RBC/Deerfield Priority Party has issued a notice that it intends to enforce the RBC Security or Deerfield Security, as applicable; or
- (d) monies, which are proceeds of the EDC Security, if the applicable RBC/Deerfield Priority Party has express actual knowledge thereof.

#### **10. Possession or Control of Collateral**

Solely for the purpose of assisting any Lender in perfecting the security interest and lien granted in the Collateral of such Lender securing the Obligations owed to such Lender, each Lender hereby agrees to hold any such Collateral that is in such Lender's possession or control as a gratuitous bailee for the other Lenders. The Lenders do not make any representation or warranty regarding any perfection or possession or otherwise with respect to any Collateral and shall not have any duty or liability to the other Lender or person whatsoever arising out of this Section 10.

#### **11. Rights as Unsecured Creditors**

So long as not in contravention of any other term or provision of this Agreement, any Lender may exercise any rights and remedies that could be exercised by an unsecured creditor in accordance with the terms of the applicable Loan Documents and applicable law, and are not based on the status of such Lender as a secured creditor.

#### **12. General**

- (a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and each party hereto irrevocably attorns to the jurisdiction of the courts of the Province of Ontario.
- (b) Severability. Each provision of this Agreement is intended to be severable and if any provision is illegal or invalid, such illegality or invalidity shall not affect the validity of this Agreement or the remaining provisions.
- (c) Counterparts. This Agreement may be executed in any number of counterparts or by facsimile or PDF electronic counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this

Agreement to produce or account for more than one such counterpart. Each party executing this Agreement by facsimile or PDF electronic counterpart shall provide two originally executed counterparts to each of the other parties within ten (10) business days of its delivery of its facsimile or PDF electronic counterpart, but any failure or delay in so doing shall not derogate in any way from the sufficiency or effectiveness of that party having electronically transmitted its executed copy and any such failure or delay shall not be a breach of this Agreement by such party.

- (d) Further Assurances. The parties hereto agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable or as may be reasonably requested by any Lender in order to give full effect to this Agreement and every part thereof.
- (e) Termination. This Agreement shall continue in force until terminated in writing by the mutual consent of the parties hereto.
- (f) Assignment. This Agreement shall enure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto. No Lender will assign any of its rights under any of the RBC Documents, EDC Documents, Deerfield Documents or Security, as applicable, unless the assignee first agrees in writing to be bound by the provisions of this Agreement in its place and stead as if such assignee were originally a party hereto, and any prohibited assignment shall be absolutely void *ab initio*.
- (g) Consent of CPL Canada. CPL Canada, by its execution hereof, hereby agrees and concurs with all the provisions of this Agreement.
- (h) Dealings with CPL Canada. Each of the Lenders may, acting reasonably, grant time, renewals, extensions, releases and discharges to, accept compositions from and otherwise deal with CPL Canada and others as it sees fit without notice to the other and without prejudice to or in any way limiting or affecting any Security, the Collateral or the priorities or other rights, benefits and obligations created herein.
- (i) Entire Agreement. This Agreement contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those set forth in this agreement. This Agreement amends, restates and replaces that certain intercreditor agreement dated as of November 19, 2015 among CPL Canada, EDC and RBC in its entirety and supersedes any previous agreements and undertakings, both written and oral, between its parties or any of them in respect of its subject matter. No amendment, restatement, supplement, modification or termination of this Agreement shall be effective unless in writing and signed by each of the Lenders hereto; provided that, for the avoidance of doubt, no amendment, restatement, supplement, modification or termination of this

Agreement shall require the written consent or approval of CPL Canada. CPL Canada shall have no rights under this Agreement.

- (j) Agreement Between RBC/Deerfield Priority Parties. Notwithstanding anything to the contrary in this Agreement, with respect to the RBC/Deerfield Priority Parties only, this Agreement does not set forth any rights or obligations regarding the RBC/Deerfield Priority Loan Obligations, the RBC Security, the Deerfield Security or the Collateral granted or held by RBC or any Deerfield Secured Party under the RBC Documents or Deerfield Documents, which, in each case, is instead addressed, governed and controlled by the RBC/Deerfield Intercreditor Agreement.
- (k) Communications. Any notice or other communication in connection with this agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee or sent by facsimile or email, at or to the address or facsimile number or email address of the addressee set out opposite its name below or to such other address or addresses or facsimile number or email address as any of the parties may from time to time designate to the other parties in such manner.

In the case of RBC:

Royal Bank of Canada  
6880 Financial Drive, 2nd Floor Link  
Mississauga, Ontario L5N 7Y5

Attention: Senior Account Manager  
Fax: (905) 286-7262

In the case of EDC:

Export Development Canada  
150 Slater Street  
Ottawa, Ontario K1A 1K3

Attention: Loan Services  
Fax: (613) 598-2514

In the case of Deerfield Agent:

Deerfield Private Design Fund IV, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017  
Facsimile: (212) 599-3075  
E-mail: dclark@deerfield.com  
Attn: David J. Clark, Esq.

With a copy to (which shall not be deemed to constitute notice):

Deerfield Private Design Fund IV, L.P.  
780 Third Avenue, 37<sup>th</sup> Floor  
New York, NY 10017  
E-mail: jisler@deerfield.com  
Attn: Jonathan Isler  
and

Katten Muchin Rosenman LLP  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067  
Email: <mailto:kristopher.ring@kattenlaw.com> and [mark.wood@kattenlaw.com](mailto:mark.wood@kattenlaw.com)  
Attn: Kristopher J. Ring  
Attn: Mark D. Wood

In the case of CPL Canada:

Contract Pharmaceuticals Limited Canada  
7600 Danbro Crescent  
Mississauga, Ontario L5N 6L6

Attention: Chief Executive Officer  
Fax: (905) 821-7602


Any communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a business day and such delivery was made before 4:00 p.m. on such day (unless otherwise acknowledged by the receiving party); otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. Any communication which is transmitted by telefacsimile or email shall be deemed to have been validly and effectively given on the date of transmission if such date is a business day and such transmission was made before 4:00 p.m. on such day (unless otherwise acknowledged by the receiving party); otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of transmission.


- (1) Future References to Intercreditor Agreement. On and after the date of this Agreement, each reference in any EDC Document, any RBC Document, and Deerfield Document or any related document to the “Intercreditor Agreement”, “thereunder”, “thereof”, or words of like import referring to the Intercreditor Agreement, shall mean and be a reference to this Agreement.

**[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

**ROYAL BANK OF CANADA**

By:   
Name: Jim GLASSFORD  
Title: SR. CAM

By:   
Name: IVONA CHYZELSKI  
Title: VP CFS

**EXPORT DEVELOPMENT CANADA**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:




**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first written above.


**ROYAL BANK OF CANADA**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXPORT DEVELOPMENT CANADA**

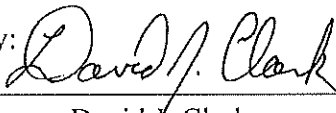
By:  \_\_\_\_\_  
Name: Susana Cherry  
Title: Senior Financing Manager

By:  \_\_\_\_\_  
Name: KEVAN CHURCHMAN  
Title: REGIONAL FINANCING MANAGER

**DEERFIELD PRIVATE DESIGN FUND  
IV, L.P., solely in its capacity as Deerfield  
Agent**

By: Deerfield Mgmt IV, L.P., General  
Partner

By: J.E. Flynn Capital IV, LLC, General  
Partner

By: 

Name: David J. Clark

Title: Authorized Signatory

**CONTRACT PHARMACEUTICALS  
LIMITED CANADA**

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

Name:

Title:

**DEERFIELD PRIVATE DESIGN FUND  
IV, L.P.**, solely in its capacity as Deerfield  
Agent

By: Deerfield Mgmt IV, L.P., General  
Partner

By: J.E. Flynn Capital IV, LLC, General  
Partner

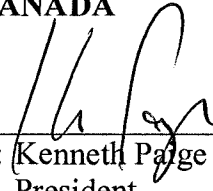
By:

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Name: David J. Clark  
Title: Authorized Signatory

**CONTRACT PHARMACEUTICALS  
LIMITED CANADA**

By:



---

Name: Kenneth Page  
Title: President

**THIS IS EXHIBIT "J"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits

## DIP FINANCING TERM SHEET

**Dated as of December 14, 2023**

**WHEREAS** Contract Pharmaceuticals Limited Canada (the “**Borrower**”) has requested and the DIP Lender (as defined below) has agreed to provide financing to the Borrower during the pendency of the Obligors’ (as defined below) proceedings under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) to be commenced before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) and any foreign recognition proceedings in respect thereof commenced by the Obligors in their reasonable discretion and in consultation with the Monitor and the DIP Lender (collectively, the “**CCAA Proceedings**”), such financing to be provided in accordance with the terms and conditions set out herein;

**AND WHEREAS**, the DIP Lender has agreed to provide financing in order to fund certain obligations of the Obligors during the CCAA Proceedings and the Obligors’ pursuit of the SISP (as defined below);

**NOW THEREFORE**, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** Contract Pharmaceuticals Limited Canada
  
2. **GUARANTORS:** Contract Pharmaceuticals Limited, CPL Canada Holdco Limited, Glasshouse Pharmaceuticals Limited Canada and Glasshouse Pharmaceuticals LLC (collectively, the “**Guarantors**” and each individually a “**Guarantor**”).
  
3. **DIP LENDER:** Deerfield Private Design Fund IV, L.P., as agent for itself and Deerfield Private Design Fund III, L.P. (collectively, the “**DIP Lender**”).
  
4. **DEFINED TERMS:** Unless otherwise defined herein, capitalized words and phrases used in this DIP Financing Term Sheet have the meanings given thereto in Schedule A hereto. Unless otherwise noted, all references to currency, “dollars” or “\$” shall be deemed to refer to United States dollars.
  
5. **DIP FACILITY;  
DRAWDOWNS:** A senior secured debtor-in-possession, interim, non-revolving multiple draw credit facility (the “**DIP Facility**”) up to a maximum principal amount of \$6,000,000 (the “**Facility Amount**”), subject to the terms and conditions contained herein.

The DIP Facility shall be made available to the Borrower by way of:

(a) an initial advance (the “**Initial Advance**”) in a principal amount of \$1,500,000; and

(b) one or more subsequent advances (each a “**Subsequent Advance**”) in an aggregate principal amount of up to \$6,000,000, provided that the sum of the Initial Advance and the Subsequent Advances shall not exceed the Facility Amount. The timing for each Subsequent Advance shall be determined by the Borrower and the DIP Lender based on the Borrower’s funding needs and in accordance with the DIP Budget.

The Initial Advance shall be advanced to the Borrower by the DIP Lender by wire transfer within one (1) Business Day of the date on which the Initial Advance Conditions are satisfied or waived by the DIP Lender.

Each Subsequent Advance shall be advanced by the DIP Lender to the Borrower by wire transfer within three (3) Business Days of the date on which the Borrower delivers to the DIP Lender a request in writing in respect of such Subsequent Advance, provided that the Subsequent Advance Conditions are satisfied or waived by the DIP Lender.

## 6. INTEREST:

Interest shall be payable in cash on the aggregate outstanding principal of the Facility Amount from the date of the funding thereof at a rate equal to 12.5% *per annum*, compounded monthly and payable monthly in arrears in cash on the last Business Day of each month.

All interest and fees shall be computed on the basis of a year of 365 days (or a 366 day year, in the case of a leap year), provided that whenever a rate of interest or fee hereunder is calculated on the basis of a year (the “**deemed year**”) that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee rate shall be expressed as a yearly rate by multiplying such rate of interest or fee by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

The parties shall comply with the following provisions to ensure that no receipt by the DIP Lender of any payments under this DIP Financing Term Sheet would result in a breach of section 347 of the *Criminal Code* (Canada):

- (a) If any provision of this DIP Financing Term Sheet would obligate the Borrower to make any payment to the DIP Lender of an amount that constitutes “interest”, as such term is defined in the *Criminal Code* (Canada) and referred to in this section as “**Criminal Code Interest**”, during any one-year period after the date of the funding of the Initial Advance in an amount or calculated at a rate which would result in the receipt by the DIP Lender of Criminal Code Interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a “**Criminal Rate**”), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the DIP Lender during such one-year period of Criminal Code Interest at a Criminal Rate, and the adjustment shall be effected, to the extent necessary, as follows:
  - (i) *first*, by reducing the amount or rate of interest required to be paid to the DIP Lender during such one-year period; and
  - (ii) *thereafter*, by reducing any other amounts (other than costs and expenses) (if any) required to be paid to the DIP Lender during such one-year period which would constitute Criminal Code Interest.
- (b) Any amount or rate of Criminal Code Interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any portion of the DIP Facility remains outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code Interest shall be *pro-rated* over the period commencing on the date of the advance of the Facility Amount and ending on the relevant Maturity Date (as may be extended by the

DIP Lender from time to time under this DIP Financing Term Sheet).

**7. DEFAULT INTEREST**

After the occurrence of any Event of Default which is continuing and either (i) of which the DIP Lender had no knowledge or (ii) if the DIP Lender did have knowledge, in respect of which the DIP Lender has provided notice to the Obligors, the interest rate otherwise applicable hereunder shall increase by an additional 2.0% *per annum* on all amounts owing hereunder until indefeasibly paid in full in cash.

**8. COMMITMENT FEE**

The Borrower shall pay to the DIP Lender a commitment fee (the “**Commitment Fee**”) equal to (i) 3.0% of the principal amount of the Initial Advance, earned on the commencement of the CCAA Proceedings *plus* (ii) 3.0% of the remaining Facility Amount (excluding, for certainty, the principal amount of the Initial Advance), which shall be earned in full upon the granting of the Amended Order approving borrowings up to the Facility Amount. The Commitment Fee shall be secured by the DIP Lender Charge and the entirety of the Commitment Fee shall be paid in cash on the Maturity Date.

**9. COSTS AND EXPENSES**

The Borrower shall be liable to reimburse, without duplication, the DIP Lender and the lenders under the Pre-Filing Debt Agreement for all reasonable and documented out-of-pocket expenses (including reasonable and documented fees and expenses of DIP Lender’s Canadian and US legal counsel and one financial advisor) in connection with negotiating and documenting the DIP Facility, preparing for, and participating in the CCAA Proceedings and the SISP, and the on-going monitoring, administration and enforcement of the DIP Facility, (the “**DIP Lender Expenses**”). For greater certainty, the DIP Lender Expenses shall not be subject to any cap including any amount contemplated in the DIP Budget and shall not form part of the calculation of any variances under the DIP Budget.

**10. PURPOSE AND PERMITTED PAYMENTS:**

The Borrower shall use proceeds of the DIP Facility solely for the following purposes, in each case in accordance with the Initial Order or the Amended Order, as applicable:

- (a) to pay (i) the DIP Lender Expenses in accordance with Section 9 hereof, (ii) the reasonable and documented financial advisory fees of SSG and



legal fees and expenses of the Borrower in accordance with the DIP Budget (subject to the Permitted Variance), (iii) the reasonable and documented fees and expenses of the Monitor and its legal counsel and (iv) the reasonable and documented legal fees and expenses of EDC and RBC;

- (b) to pay other fees and interest owing to the DIP Lender under this DIP Financing Term Sheet; and
- (c) to fund the Borrower's and the other Obligors' general corporate and working capital purposes, including, funding the CCAA Proceedings and the pursuit of the SISP, in accordance with the DIP Budget (subject to the Permitted Variance).

The Borrower may use the proceeds of the DIP Facility to pay pre-filing obligations with the consent of the Monitor and the DIP Lender, acting reasonably to the extent such payments are authorized by the Initial Order or the Amended Order.

**11. CONDITIONS  
PRECEDENT TO INITIAL  
ADVANCE:**

The DIP Lender's obligation to fund the Initial Advance to the Borrower is subject to the satisfaction or waiver by the DIP Lender of the following conditions precedent (the "**Initial Advance Conditions**"):

- (a) The Obligors shall have executed and delivered this DIP Financing Term Sheet;
- (b) The Obligors shall have provided to the DIP Lender a draft copy of all material documents to be served and/or filed in connection with its application for the Initial Order at least two (2) Business Days (or as soon as is reasonably practicable in the relevant circumstances) before the earlier of service and filing thereof to permit review by the DIP Lender and its legal advisors, unless otherwise consented to in writing by the DIP Lender, which material documents shall include the proposed Initial Order attached hereto as Schedule C, and all such material documents shall be in form and substance satisfactory to the DIP Lender;
- (c) The Court shall have entered the Initial Order in substantially the form of Schedule C hereto, which

shall include the grant by the Court of a charge in favour of the DIP Lender (the “**DIP Lender Charge**”) on the Collateral, securing all obligations owing to the DIP Lender hereunder including, without limitation, all principal, interest and fees owing to the DIP Lender and the DIP Lender Expenses (collectively, the “**DIP Financing Obligations**”), provided that the amount of such DIP Lender Charge shall not exceed \$1,500,000, plus interest, fees and costs, pursuant to the Initial Order;

- (d) Upon the granting of the DIP Lender Charge pursuant to the Initial Order, there shall be no Liens ranking *pari passu* with or in priority to the DIP Lender Charge over the property and assets of the Obligors, other than the Permitted Priority Liens;
- (e) All representations and warranties contained in this Term Sheet shall be true and correct on the date of such requested Initial Advance with the same effect as if made on and as of such date;
- (f) No Event of Default shall have occurred or will occur as a result of the Initial Advance; and
- (g) All DIP Lender Expenses incurred in connection with the establishment of the DIP Facility and invoiced by no later than one (1) Business Day prior to the funding of the Initial Advance shall have been paid in full as and to the extent required under Section 9 (which expenses may be deducted from the Initial Advance).

**12. CONDITIONS  
PRECEDENT TO EACH  
SUBSEQUENT ADVANCE:**

The DIP Lender’s obligation to fund each Subsequent Advance requested by the Borrower is subject to the satisfaction or waiver by the DIP Lender of the following conditions precedent (the “**Subsequent Advance Conditions**”):

- (a) The Obligors shall have provided to the DIP Lender a draft copy of all material documents to be served and/or filed in connection its motion for the Amended Order and the SISP Order at least two (2) Business Days (or as soon as is reasonably practicable in the relevant circumstances) before the earlier of service and filing thereof to permit review

by the DIP Lender and its legal advisors, unless otherwise consented to in writing by the DIP Lender, which material documents shall include the proposed Amended Order and SISP Order attached hereto as Schedule D and Schedule F, respectively, and all such material documents shall be in form and substance satisfactory to the DIP Lender;

- (b) At the comeback motion in respect of the Amended Order and the SISP Order (the “**Comeback Motion**”), the Court shall have issued (i) the Amended Order in substantially the form of Schedule D hereto, including as necessary to provide that the DIP Lender Charge shall be increased to the Facility Amount and shall have priority over all Liens in respect of the Collateral other than the Permitted Priority Liens and (ii) the SISP Order in substantially the form of Schedule F hereto;
- (c) The Amended Order and the SISP Order shall not have been stayed, vacated or otherwise amended, restated or modified without the consent of the DIP Lender, acting reasonably;
- (d) There shall be no Liens ranking *pari passu* or in priority to the DIP Lender Charge in respect of the Collateral other than the Permitted Priority Liens;
- (e) All representations and warranties contained in this Term Sheet shall be true and correct in all material respects on the date of such requested Subsequent Advance with the same effect as if made on and as of such date (except where expressly made with reference to a specified prior date);
- (f) No Event of Default shall have occurred or will occur as a result of the Subsequent Advance; and
- (g) All DIP Lender Expenses incurred in connection with the DIP Facility and invoiced by no later than one (1) Business Day prior to the funding of the Subsequent Advance shall have been paid in full as and to the extent required under Section 9 (which expenses may be deducted from the Subsequent Advance).

**13. DIP FACILITY SECURITY:**

All obligations of the Obligors to the DIP Lender hereunder (including, for certainty, the Guarantors' guarantee obligations in respect thereof pursuant to Section 24) shall be secured by the DIP Lender Charge, which DIP Lender Charge shall have priority over all Liens in respect of the Collateral other than the Permitted Priority Liens.

The DIP Financing Term Sheet, the Initial Order and the Amended Order shall create valid security interests in, and Liens on, the Collateral purported to be covered thereby, which security interests and Liens shall be perfected security interests and Liens, prior to all other Liens in respect of the Collateral other than the Permitted Priority Liens.

**14. REPAYMENT:**

The DIP Facility shall be repayable in full on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured or waived in writing, and a demand for repayment in writing having been made in accordance with Section 23 in respect thereof; (ii) the consummation of a transaction pursuant to the SISF or a plan of compromise or arrangement under the CCAA; and (iii) April 30, 2024 (the earliest of such dates being the "**Maturity Date**"). The Maturity Date may be extended from time to time at the request of the Borrower and with the prior written consent of the DIP Lender for such period and on such terms and conditions as the Borrower and the DIP Lender may agree, provided that any material amendments to the terms and conditions shall be also be subject to the prior written consent of the Monitor.

**15. DIP BUDGET AND VARIANCE REPORTING:**

Attached as Schedule B hereto is a copy of the agreed initial DIP Budget as in effect on the date hereof, which the DIP Lender acknowledges and agrees has been reviewed and approved by the DIP Lender, and is in form and substance satisfactory to the DIP Lender. Such DIP Budget shall be the DIP Budget referenced in this DIP Financing Term Sheet until such time as a revised DIP Budget has been approved by the DIP Lender in writing in accordance with this Section 15.

The Borrower may update and propose a revised DIP Budget to the DIP Lender no more frequently than every two (2) weeks (unless otherwise consented to in writing by the DIP Lender), in each case to be delivered to the DIP Lender and to the Monitor, no earlier than the Friday of the second week following the date of the delivery of the prior DIP Budget. If the DIP Lender, acting reasonably, determines that the

proposed revised DIP Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Borrower and the Monitor stating that the proposed revised DIP Budget is not acceptable and setting out the reasons why such revised DIP Budget is not acceptable, and until the Borrower has delivered a revised DIP Budget acceptable to the DIP Lender, the prior DIP Budget shall remain in effect. In the event that the DIP Lender does not deliver to the Borrower written notice within three (3) Business Days after receipt by it of a proposed revised DIP Budget in accordance with this Section 15 that such proposed revised DIP Budget is not acceptable to the DIP Lender, such proposed revised DIP Budget shall automatically and without further action be deemed to have been accepted by the DIP Lender and become the DIP Budget for the purposes hereof.

At any time, the latest DIP Budget accepted by the DIP Lender (or which has not been designated as not acceptable by the DIP Lender by written notice to the Borrower, as provided above), shall be the DIP Budget for the purpose of this DIP Financing Term Sheet.

On the last Business Day of every week following the date of the Initial Order, the Borrower shall deliver to the DIP Lender's financial advisor, a variance report with respect to the period ending on the last Business Day immediately preceding week (the "**Variance Report**") setting forth actual receipts and disbursements on a weekly and cumulative basis since the beginning of the period covered by the then-current DIP Budget, in each case as against the then-current DIP Budget, and setting forth all the variances in comparison to the amounts set forth in respect thereof in the DIP Budget. Each such Variance Report shall be promptly discussed with the DIP Lender and its financial advisor within two (2) Business Days of delivery thereof or such later date as may be agreed by the DIP Lender, acting reasonably.

**16. PREPAYMENTS:**

The Borrower may, without premium or penalty, prepay any amounts outstanding under the DIP Facility at any time prior to the Maturity Date.

**17. CCAA PLAN**

Any plan of compromise or arrangement under the CCAA advanced by any Obligor or all of them in the CCAA Proceedings shall (i) have the result of paying in full in cash

all amounts owing under this DIP Financing Term Sheet, or (ii) otherwise be acceptable to the DIP Lender.

**18. CURRENCY:**

If any payment is received by the DIP Lender hereunder in a currency other than United States dollars, or, if for the purposes of obtaining judgment in any court it is necessary to convert a sum due in United States dollars (the “**Original Currency**”) into another currency (the “**Other Currency**”), the parties hereby agree, to the fullest extent permitted by Applicable Law, that the rate of exchange used shall be the rate at which the DIP Lender is able to purchase the Original Currency with the Other Currency after any premium and costs of exchange on the Business Day preceding that on which such payment is made or final judgment is given.

**19. REPRESENTATIONS AND WARRANTIES:**

Each Obligor represents and warrants to the DIP Lender, upon which the DIP Lender is relying in entering into this DIP Financing Term Sheet:

- (a) The transactions contemplated by this DIP Financing Term Sheet:
  - (i) are within the corporate power of such Obligor;
  - (ii) have been duly authorized, executed and delivered by such Obligor;
  - (iii) shall constitute legal, valid and binding obligations of such Obligor, enforceable against such Obligor in accordance with their terms;
  - (iv) upon the granting of the Initial Order, do not require any authorization from, the consent or approval of, registration or filing with, or any other action by, any governmental authority or any third party; and
  - (v) will not violate the organizational documents of such Obligor or any Applicable Law.
- (b) The Collateral is free and clear of all Liens other than Permitted Liens;
- (c) None of the reports, financial statements, certificates or other written information furnished by or on behalf of the Obligors to the DIP Lender or its advisors in connection with the negotiation of this DIP Financing Term Sheet or delivered with

respect thereto (as modified or supplemented by other information so furnished), contains any misstatement of material fact or omits to state any material fact necessary to make the statements therein, taken as a whole, in the light of the circumstances under which it was made, not materially misleading; provided that to the extent any such reports, financial statements, certificates or other written information therein was based upon or constitutes a forecast or projection, each Obligor represents only that it has acted in good faith and utilized assumptions believed by it to be reasonable at the time made (it being understood that any such forecasts or projections are subject to significant uncertainties and contingencies, many of which are beyond such Obligor's control, that no assurance can be given that any such forecasts or projections will be realized and that actual results may differ from any such forecasts or projections and such differences may be material);

- (d) Such Obligor acknowledges and confirms that the Pre-Filing Debt and Security Documents are enforceable obligations and the amounts due and owing thereunder are, as of the date of this DIP Financing Term Sheet and as the case may be, properly due and owing and the security interests granted thereunder continue to create valid and perfected security interests in the Collateral, subject in all cases to the stay of proceedings and other provisions set out in the Initial Order, the Amended Order and any other Court Order;
- (e) The business operations of such Obligor have been and will continue to be conducted in compliance with Applicable Law except to the extent otherwise provided by the Initial Order, the Amended Order and any other Court Order;
- (f) There are no material business operations or assets of any Obligor conducted or located in the United States, as the case may be;
- (g) Neither such Obligor, nor any of its affiliated entities, nor, to the knowledge of such Obligor and its affiliated entities, any director, officer, employee, agent, affiliate or representative thereof,

is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Target and the Investment Bank List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction;

- (h) Such Obligor has obtained all material licences and permits required for the operation of its business, which licences and permits remain in full force and effect and no proceedings have been commenced or threatened to revoke or amend any of such licences or permits;
- (i) Such Obligor owns, or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights that are reasonably necessary for the operation of its business;
- (j) Such Obligor maintains adequate insurance coverage, as is customary with companies in the same or similar business (except with respect to directors' and officers' insurance in respect of which no representation is made regarding adequacy of coverage) of such type, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;
- (k) Such Obligor has maintained and paid current its obligations for payroll, source deductions, harmonized, goods and services and retail sales tax, and all other applicable taxes, and is not in arrears of its statutory obligations to pay or remit any amount in respect of these obligations;
- (l) Such Obligor is not aware of any introduction, amendment, repeal or replacement of any Applicable Law being made or proposed which



could reasonably be expected to have a material adverse effect on such Obligor or its businesses;

- (m) Other than as stayed pursuant to the Initial Order or the Amended Order, as applicable, there is not now pending or, to the knowledge of any of the senior officers or directors of such Obligor, threatened against such Obligor, nor has such Obligor received notice in respect of, any material claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal, Governmental Authority or regulatory body;
- (n) All material contracts to which such Obligor is a party are in full force and effect and are valid, binding and enforceable in accordance with their terms and, other than with respect to the RBC Credit Agreement, the EDC Credit Agreement and the Pre-Filing Debt Agreement, such Obligor has no knowledge of any default that has occurred and is continuing thereunder (other than those defaults arising as a result of the commencement of the CCAA Proceedings);
- (o) Such Obligor does not have any defined benefit pension plans or similar plans providing for defined post-retirement payments; and
- (p) Such Obligor has not entered into any material transaction or other written contractual relationship with any related party except as permitted under the Pre-Filing Debt Agreement.

**20. AFFIRMATIVE COVENANTS:**

For so long as the DIP Financing Obligations remain outstanding, each Obligor agrees to do, or cause to be done, the following, unless otherwise consented to or waived in writing by the DIP Lender, acting reasonably:

- (a) Serve its materials for the Comeback Motion on all parties reasonably requested by the DIP Lender's legal counsel, including all secured parties that did not receive notice of the application for the Initial Order and shall include a motion by the Borrower requesting that the Court order that the DIP Lender Charge shall rank in priority to the Liens of any such

secured parties that did not receive notice of the application for the Initial Order;

- (b) (i) Provide representatives of the DIP Lender with reasonable access to its books, records, and financial information, and (ii) cause management, SSG and legal counsel of the Obligors, to cooperate with reasonable requests for information by the DIP Lender and its advisors, in each case subject to solicitor-client privilege, all Court Orders and applicable privacy laws and the Borrower's confidentiality obligations to third parties, in connection with matters reasonably related to the DIP Facility, or compliance by the Obligors with their obligations under this DIP Financing Term Sheet and subject in all cases to any restrictions in respect thereof under the SISP and the SISP Order in the event that the DIP Lender is, or may be, a participant in the SISP Process;
- (c) Without duplication, deliver to the DIP Lender the reporting and other information required pursuant to the Pre-Filing Debt Agreement and this DIP Financing Term Sheet including, without limitation, the Variance Reports at the times set out herein;
- (d) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Obligors, the CCAA Proceedings and any proceedings commenced in the United States in respect of any Obligor pursuant to Applicable Laws, if any;
- (e) Use the proceeds of the DIP Facility only in accordance with Section 10 and in accordance with the restrictions set out herein and consistent with the DIP Budget subject to the Permitted Variance;
- (f) Comply with the provisions of the Initial Order, the Amended Order, the SISP Order and all other orders of the Court entered in connection with the CCAA Proceedings (collectively, the "**Court Orders**" and each a "**Court Order**");
- (g) Promptly notify the DIP Lender upon becoming aware of the occurrence of any Event of Default;

- (h) Comply in all material respects with Applicable Law, except if otherwise required or permitted in accordance with any Court Order;
- (i) Take all actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or vacating to the extent that such appeal, reversal, modification, amendment, stay, or vacating might materially adversely affect the rights and interests of the DIP Lender;
- (j) Comply with the DIP Budget subject to the Permitted Variance;
- (k) Provide the DIP Lender's legal counsel with draft copies of all court materials (including motions, applications and proposed orders) that any Obligor intends to file in the CCAA Proceedings at least two (2) Business Days (or as soon as is reasonably practicable in the relevant circumstances) in advance of the service of such materials to the service list in respect of the CCAA Proceedings; provided that all such filings by the Obligors shall be in form and substance reasonably acceptable to the DIP Lender and its legal counsel;
- (l) Take all actions necessary or available to defend the Court Orders from any appeal, reversal, modifications, amendment, stay or being vacated, to the extent, if successful, such appeal reversal, modification, amendment, stay or vacation would reasonably be expected to be adverse to the interests of the DIP Lender;
- (m) Adhere in all material respects to the SISP and SISP Milestones;
- (n) At all times maintain adequate insurance coverage of such kind and in such amounts and against such risks as is customary for the business of such Obligor with financially sound and reputable insurers, in such amounts and against such risks as is prudent for a business of its nature with financially sound and reputable insurers and that contain reasonable coverage and scope;

- (o) Execute and deliver, and cause each other Obligor to execute and deliver such loan and collateral security documentation including, without limitation, such security agreements, financing statements, discharges, opinions or other documents and information, if required or desirable in the DIP Lender's and its counsel's reasonable discretion, upon the DIP Lender's request, it being acknowledged that no such documentation or other actions are required in connection with the Initial Advance; and
- (p) Promptly provide notice to the DIP Lender and its counsel, and keep them otherwise apprised, of any material developments in respect of any material contract, and of any material notices, orders, decisions, letters, or other documents, materials, information or correspondence received from any regulatory authority having jurisdiction over such Obligor.

**21. NEGATIVE COVENANTS:** For so long as any Advances remain outstanding, each Obligor covenants and agrees not to do, or cause not to be done, the following, unless otherwise consented to or waived in writing by the DIP Lender, acting reasonably:

- (a) Transfer, lease or dispose of all or any part of its property, assets or undertaking outside of the ordinary course of business, except such asset sales or dispositions as are permitted pursuant to the Court Orders, and which have been approved by the DIP Lender, acting reasonably;
- (b) Permit the transfer of any funds advanced in connection with this DIP Financing Term Sheet to any affiliate of an Obligor that is not an Obligor without the prior written consent of the DIP Lender;
- (c) Make any payment, including, without limitation, any payment of principal, interest or fees, in respect of pre-filing indebtedness, or in respect of any other pre-filing liabilities, other than with the consent of the Monitor and the DIP Lender, acting reasonably, in such amounts as are permitted to be paid pursuant to the Initial Order and the Amended Order and provided that the aggregate amount of all such pre-

filing amounts shall not exceed the aggregate amount set out in the DIP Budget;

- (d) Create or permit to exist any indebtedness other than (A) the indebtedness existing as of the date hereof, (B) the DIP Financing Obligations and (C) post-filing trade payables or other obligations incurred in the ordinary course of business in accordance with the DIP Budget (subject to the Permitted Variance);
- (e) Make any loans, grants of financial assistance, distribution, dividend, return of capital or other distribution in respect of, or any redemption of, equity securities (in cash, securities or other property or otherwise);
- (f) Make any investments or acquisitions whether direct or indirect, other than as reflected in the DIP Budget, provided that each Obligor may make intercompany advances to any other Obligor in order to fund such other Obligors' obligations to the extent permitted to be paid in accordance with Section 10;
- (g) Challenge, or support any other Person's challenge of, the Pre-Filing Debt and Security Documents, the DIP Lender Charge and claims of the DIP Lender under and in connection with this DIP Financing Term Sheet;
- (h) Create or permit to exist any Liens on any of its properties or assets other than the Permitted Liens;
- (i) Amalgamate, consolidate with or merge into or sell all or substantially all of its assets to another entity, or change its corporate or capital structure (including their organizational documents) or enter into any agreement committing to such actions except in connection with the SISF;
- (j) Seek, obtain, support, make or permit to be made any Court Order or any change, amendment or modification to any Court Order, in each case that is adverse to the DIP Lender's interest, except with the prior written consent of the DIP Lender;
- (k) Without the prior written consent of the DIP Lender in its sole discretion, cease to carry on their business

or activities or any material component thereof as currently being conducted or modify or alter in any material manner the nature and type of their operations or business;

- (l) Amend any of its organizational documents, its name, fiscal year end or accounting standards; or
- (m) Seek, or consent to the appointment of, a receiver or trustee in bankruptcy or any similar official in any jurisdiction.

## 22. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events shall constitute an event of default (each an “**Event of Default**”) under this DIP Financing Term Sheet:

- (a) Failure by the Borrower to pay: (i) principal when such amounts become due under this DIP Financing Term Sheet; (ii) interest or other amounts within two (2) Business Days of such amounts becoming due under this DIP Financing Term Sheet; or (iii) costs, fees and expenses of the DIP Lender in accordance with Section 9 hereof within five (5) Business Days of receiving an invoice therefor;
- (b) Failure by the Borrower to (i) meet any SISP Milestone, (ii) deliver any Variance Report within one (1) Business Day of the date set out therefor in Section 15 or (iii) perform or comply with any of the other covenants set out herein (other than as set out in paragraph (a) above or in items (i) and (ii) of this paragraph (b) and such failure remains unremedied for five (5) days following receipt of notice thereof from the DIP Lender;
- (c) Any representation or warranty by the Borrower made in this DIP Financing Term Sheet is or proves to be incorrect or misleading in any material respect as of the date made;
- (d) Issuance of a Court Order: (i) dismissing the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against any Obligor or the Collateral, the appointment of a receiver, interim receiver or similar official, an assignment in bankruptcy, or the making of a bankruptcy order against or in respect

of any Obligor, in each case which order is not stayed pending appeal thereof, and other than in respect of a non-material asset not required for the operations of the Obligors' business; (ii) granting any other Lien in respect of the Collateral that is senior in priority to or *pari passu* with the DIP Lender Charge other than as permitted pursuant to this DIP Financing Term Sheet (including, for greater certainty, any Permitted Priority Liens), or (iii) staying, reversing, vacating or otherwise modifying this DIP Financing Term Sheet or the DIP Lender Charge, in each case unless otherwise consented to in writing by the DIP Lender;

- (e) Unless otherwise consented to in writing by the DIP Lender, the expiry without further extension of the stay of proceedings provided for in the Initial Order or the Amended Order, as applicable;
- (f) As at the due date of any Variance Report, there shall exist a negative variance from the DIP Budget in excess of 15% (excluding from such calculation any variance in the DIP Lender Expenses and/or the fees and expenses payable to the Monitor and its counsel) (the "**Permitted Variance**") in either (i) consolidated receipts or (ii) consolidated disbursements, in each case on a cumulative basis since the beginning of the period covered by the then-current DIP Budget;
- (g) The denial or repudiation by the Borrower or any other Obligor of the legality, validity, binding nature or enforceability of this DIP Financing Term Sheet;
- (h) The Initial Order is not granted on or before December 15, 2023; or
- (i) The Amended Order and SISP Order are not granted on or before December 22, 2023.

### 23. REMEDIES:

Upon the occurrence of an Event of Default, the DIP Lender may (i) immediately terminate its commitments hereunder, and (ii) upon not less than four 4 Business Days' prior written notice to the Obligors and the Monitor, and otherwise subject to the provisions of the Court Orders, declare the DIP Financing Obligations to be immediately due and

payable and may thereafter, exercise any and all of its rights and remedies against the Obligors or the Collateral under or pursuant to this DIP Financing Term Sheet and the DIP Lender Charge, including, without limitation:

- (a) apply to a court for appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any Obligor and for the appointment of a trustee in bankruptcy of any Obligor;
- (b) set-off or consolidate any amounts then owing by the DIP Lender to the Obligors against the obligations of any such Obligor to the DIP Lender (in its capacity as such) hereunder; and
- (c) exercise all such other rights and remedies under Applicable Law.

**24. GUARANTEE:**

The Guarantors hereby absolutely and unconditionally, jointly and severally, guarantee and agree to be liable for the full and indefeasible payment and performance when due of the DIP Financing Obligations. The guarantee contained in this Section 24 is a guarantee of payment and not of collection.

Each Guarantor agrees that, following an Event of Default, and subject to Section 23, the DIP Lender need not attempt to collect any DIP Financing Obligations from the Borrower or any other Person or to realize upon any Collateral, but may require such Guarantor to make immediate payment of all of the DIP Financing Obligations to the DIP Lender when due.

The liability of the Guarantors under the guarantee contained in this Section 24 is continuing, absolute and unconditional and will not be affected by any act, omission, event or circumstance that might constitute a legal or equitable defence to or a discharge, limitation or reduction of the liability of the Guarantors hereunder, other than the indefeasible payment in full of the DIP Financing Obligations, and any and all such legal and equitable defences (other than the indefeasible payment in full of the DIP Financing Obligations) are hereby expressly waived by each Guarantor.

**25. INDEMNITY AND RELEASE**

The Obligors absolutely and unconditionally, jointly and severally, agree to indemnify and hold harmless the DIP



Lender and its directors, officers, employees, advisors (including legal counsel) and agents (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings, claims, losses, damages and liabilities of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against any Indemnified Person as a result of or arising out of or in any way related to the DIP Facility or this DIP Financing Term Sheet and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other reasonable out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim; provided, however, the Obligors shall not be obligated to indemnify any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross or intentional fault or intentional breach of such Indemnified Person as finally determined by a court of competent jurisdiction, or (y) to the extent arising from any dispute solely among Indemnified Persons other than any claims arising out of any act or omission on the part of the Obligors. The Obligors shall not be responsible or liable to any Indemnified Person or any other person for consequential damages, loss of profits or punitive damages.

- 26. FURTHER ASSURANCES:** The Obligors shall, at their expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents and things as the DIP Lender may reasonably request for the purpose of giving effect to this DIP Financing Term Sheet.
- 27. ENTIRE AGREEMENT;  
CONFLICT:** This DIP Financing Term Sheet, including the schedules hereto, constitutes the entire agreement between the parties relating to the subject matter hereof.
- 28. AMENDMENTS,  
WAIVERS, ETC.:** No amendment of any provision of the this DIP Financing Term Sheet shall be effective unless agreed to in writing by the Borrower and the DIP Lender and, in the case of any material amendment, the Monitor.
- 29. ASSIGNMENT:** The DIP Lender may, with the consent of the Borrower (which consent shall not be required during the existence of any Event of Default hereunder), assign this DIP Financing Term Sheet and its rights and obligations hereunder, in whole or in part, to any Person (subject in all cases to

(i) providing the Monitor with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of such assigning DIP Lender hereunder and (ii) the assignee entering into an agreement with the Borrower, in form and substance reasonably acceptable to the Borrower and the Monitor, to confirm such assignment). Neither this DIP Financing Term Sheet nor any right or obligation hereunder may be assigned by any Obligor. Notwithstanding the foregoing, the DIP Lender shall, in its sole discretion, be permitted to assign this DIP Financing Term Sheet and its rights and obligations hereunder, in whole or in part, to an affiliate or managed fund of the DIP Lender (or any of them), provided that in no event shall the DIP Lender (or any of them) be relieved of its obligations hereunder as a result of such assignment unless such assignee agrees in writing to become party to and become bound hereunder as a DIP Lender.

**30. SEVERABILITY:**

Any provision in this DIP Financing Term Sheet which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**31. NO THIRD PARTY BENEFICIARY:**

No person, other than the Obligors and the DIP Lender is entitled to rely upon this DIP Financing Term Sheet and the parties expressly agree that this DIP Financing Term Sheet does not confer rights upon any other party.

**32. COUNTERPARTS AND ELECTRONIC SIGNATURES:**

This DIP Financing Term Sheet may be executed in any number of counterparts and by electronic transmission including “pdf”, DocuSign or other electronic format, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

**33. NOTICES:**

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the such Person at its address set out on its signature page hereof, provided that any notice to any Guarantor shall be well and sufficiently given if delivered personally or sent to the Borrower at its address set out on its signature page hereof. Any such notice, request or other

communication hereunder shall be concurrently sent to the Monitor.

Any such notice, request or other communication shall be deemed to be given and received when received, unless received after 5:00 Eastern Time or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.

**34. GOVERNING LAW:**

This DIP Financing Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

*[signature pages follow]*

IN WITNESS HEREOF, the parties hereby execute this DIP Financing Term Sheet as at the date first above mentioned.

**DIP LENDERS:**

**Address:**

345 Park Avenue South  
New York, NY 10010

**Attention:**

Lawrence Atinsky and Jonathan Isler

**Email:**

[latinsky@deerfield.com](mailto:latinsky@deerfield.com) and  
[jisler@deerfield.com](mailto:jisler@deerfield.com)

**With a copy to:**

Bennett Jones LLP  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Attention:**

Sean Zweig, Jesse Mighton and Aiden Nelms

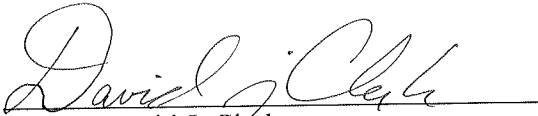
**Email:**

[zweigs@bennettjones.com](mailto:zweigs@bennettjones.com);  
[nelmsa@bennettjones.com](mailto:nelmsa@bennettjones.com)  
[mightonj@bennettjones.com](mailto:mightonj@bennettjones.com); and

**DEERFIELD PRIVATE DESIGN FUND III,  
L.P.**

By: Deerfield Mgmt III, L.P., General Partner

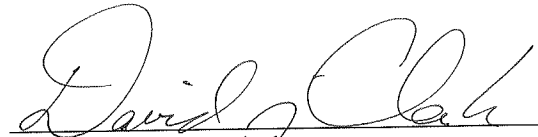
By: J.E. Flynn Capital III, LCC, General Partner

Per:   
Name: David J. Clark  
Title: Authorized Signatory

**DEERFIELD PRIVATE DESIGN FUND IV,  
L.P.**

By: Deerfield Mgmt IV, L.P., General Partner

By: J.E. Flynn Capital IV, LCC, General Partner

Per:   
Name: David J. Clark  
Title: Authorized Signatory

**BORROWER:**

**Address:**

7600 Danbro Cres.  
Mississauga, ON L5N 6L6

**Attention:**

Jan Sahai

**Email:**

[Jsahai@cplltd.com](mailto:Jsahai@cplltd.com)

**With a copy to:**

Goodmans LLP  
333 Bay Street, Suite 3400  
Toronto, Ontario, M5H 2S7

**Attention:**


Chris Armstrong and Dan Dedic

**Email:**

[carmstrong@goodmans.ca](mailto:carmstrong@goodmans.ca); and  
[ddedic@goodmans.ca](mailto:ddedic@goodmans.ca)

**CONTRACT PHARMACEUTICALS  
LIMITED CANADA**

Per:



Name: Jan Sahai


Title: Chief Executive Officer

**GUARANTORS:**


**CONTRACT PHARMACEUTICALS  
LIMITED**

Per:   
Name: Jan Sahai  
Title: Chief Executive Officer


**CPL CANADA HOLDCO LIMITED**

Per:   
Name: Jan Sahai  
Title: Chief Executive Officer

**GLASSHOUSE PHARMACEUTICALS  
LIMITED CANADA**

Per:   
Name: Jan Sahai  
Title: Chief Executive Officer

**GLASSHOUSE PHARMACEUTICALS LLC**

Per:   
Name: Jan Sahai  
Title: Chief Executive Officer

## SCHEDULE A

### DEFINED TERMS

“**Administration Charge**” means an administration charge in an aggregate amount not to exceed (i) 375,000 pursuant to the Initial Order and (ii) \$600,000 pursuant to the Amended Order, which shall rank in priority to the D&O Charge, the KERP Charge, the FA Charge, the Senior Priority Lender Liens and the DIP Lender Charge.

“**Advance**” means the Initial Advance and each Subsequent Advance.

“**Amended Order**” means an amended and restated Initial Order made by the Court at the comeback hearing, which shall be substantially in the form of Schedule D hereto.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations and all applicable official directives, orders, judgments and decrees of any Governmental Authority having the force of law and binding on such Person.

“**Borrower**” has the meaning given thereto in the Recitals.

“**Business Day**” means any day other than a Saturday, Sunday or any other day in which banks in Toronto, Ontario and New York, New York are not open for business.

“**CCAA**” has the meaning given thereto in the Recitals.

“**CCAA Proceedings**” has the meaning given thereto in the Recitals.

“**Collateral**” means all of the Obligors’ now owned or existing or hereafter acquired, created or arising and wherever located, assets and property and their estate, real or personal, tangible or intangible, now owned or hereafter acquired, whether arising before or after the Initial Order, including, without limitation, all permits, contracts, general intangibles, instruments, equipment, accounts, and documents, all goods, inventory and fixtures, all documents, cash, cash equivalents, chattel paper, letters of credit and letter of credit rights, investment property, money, insurance, receivables, receivables records, deposit accounts, collateral support, supporting obligations and instruments, all interests in leaseholds and real properties, all patents, copyrights, trademarks, tradenames and other intellectual property, all equity interests, all books and records relating to the foregoing, all other personal and real property of each Obligor, and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.

“**Comeback Motion**” has the meaning given thereto in Section 12(b).

“**Court**” has the meaning given thereto in the Recitals.

“**Court Order**” and “**Court Orders**” have the meanings given thereto in Section 20(f).

“**Criminal Code Interest**” has meaning given thereto in Section 6.

“**Criminal Rate**” has meaning given thereto in Section 6.

“**Designated Jurisdiction**” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“**DIP Budget**” means the weekly financial projections prepared by the Borrower covering the period commencing on the week ending December 15, 2023 and ending on the week ending March 29, 2024, which are initially attached as Schedule B, and which may be amended from time to time in accordance with Section 15.

“**DIP Facility**” has the meaning given thereto in Section 5.

“**DIP Financing Obligations**” has the meaning given thereto in Section 11.

“**DIP Lender**” has the meaning given thereto in Section 3.

“**DIP Lender Charge**” has the meaning given thereto in Section 11(c).

“**D&O Charge**” means a directors and officers liability charge in an amount not to exceed (i) \$1,801,000 pursuant to the Initial Order and (ii) \$2,306,000 pursuant to the Amended Order, which shall rank in priority to the KERP Charge, the FA Charge, the Senior Priority Lender Liens and the DIP Lender Charge, and behind the Administration Charge.

“**EDC**” means Export Development Canada, as lender under the EDC Credit Agreement.

“**EDC Credit Agreement**” means the credit agreement dated as of March 6, 2018 between EDC and the Borrower, as amended from time to time to the date hereof.

“**Event of Default**” has the meaning given thereto in Section 22.

“**FA Charge**” means a charge in favour of SSG pursuant to the Amended Order in respect of the success fee in connection with the completion of a successful refinancing, sale or restructuring transaction which may become properly due and payable under SSG’s engagement letter in connection with the SISP, which shall rank in priority to the Senior Priority Lender Liens and the DIP Lender Charge, and behind the Administration Charge, the D&O Charge and the KERP Charge, and which shall, for certainty, exclude the amount of any work fee or similar amounts secured pursuant to the Administration Charge.

“**Facility Amount**” has the meaning given thereto in Section 5.

“**Filing Date**” means the date of commencement of the CCAA Proceedings.

“**Guarantor**” and “**Guarantors**” has the meaning given thereto in Section 2.

“**Governmental Authority**” means any federal, provincial, state, municipal, local or other government, governmental or public department, commission, board, bureau, agency or



instrumentality, domestic or foreign and any subdivision, agent, commission, board or authority of any of the foregoing.

“**Initial Advance**” has the meaning given thereto in Section 5.

“**Initial Advance Conditions**” has the meaning given thereto in Section 11.

“**Initial Advance Conditions**” has the meaning given thereto in Section 11.

“**Initial Order**” means an initial order of the Court pursuant to which the Borrower shall commence the CCAA Proceedings, which shall be substantially in the form of Schedule C hereto.

“**KERP Charge**” means a key employee retention program charge pursuant to the Amended Order in an amount not to exceed \$998,311 which shall rank in priority to the FA Charge, the Senior Priority Lender Liens and the DIP Lender Charge, and behind the Administration Charge and the D&O Charge.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts, deemed trusts (statutory or otherwise), encumbrances and security interests of every kind and nature whatsoever.

“**Maturity Date**” has the meaning given thereto in Section 14.

“**Monitor**” means KSV Restructuring Inc., as the court-appointed monitor in the CCAA Proceedings pursuant to the Initial Order.

“**Obligors**” means, collectively, the Borrower and the Guarantors and “**Obligor**” means each of them individually.

“**OFAC**” means Office of Foreign Assets Control of the United States Department of the Treasury.

“**Original Currency**” has the meaning given thereto in Section 18.

“**Other Currency**” has the meaning given thereto in Section 18.

“**Permitted Liens**” means (i) the DIP Lender Charge; (ii) any charges created under the Initial Order or other Court Order; (iii) validly perfected Liens existing prior to the date hereof; (iv) inchoate statutory Liens arising after the Filing Date in respect of any accounts payable arising after the Filing Date in the ordinary course of business, subject to the obligation to pay all such amounts as and when due; and (v) the Permitted Priority Liens.

“**Permitted Priority Liens**” means (i) the Administration Charge, (ii) the D&O Charge, (iii) the KERP Charge, (iv) the FA Charge, (v) the Senior Priority Lender Liens, (vi) Liens in favour of secured parties that did not receive notice of the application for the Initial Order, provided that if, upon motion by the Borrower pursuant to the Comeback Motion, the Court enters a further order providing that the DIP Lender Charge shall rank in priority to such secured parties’ Liens, such Liens shall no longer constitute Permitted Priority Liens and (vii) any amounts payable by the Borrower for wages, vacation pay, employee deductions, sales tax, excise tax, tax payable pursuant to Part IX of the *Excise Tax Act* (Canada) (net of input credits), income tax and workers

compensation claims, in the case of this item (vii) solely to the extent such amounts are given priority by Applicable Law.

**“Permitted Variance”** has the meaning given thereto in Section 22(f).

**“Person”** means an individual, partnership, corporation, business trust, joint stock company, limited liability company, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

**“Pre-Filing Debt Agreement”** means the facility agreement dated as of December 6, 2018 between Glasshouse Pharmaceuticals Limited Canada, as borrower, Deerfield Private Design Fund IV, L.P., as administrative agent, and the lenders and guarantors party thereto, including any other document or agreement delivered in connection therewith and all amendments, modifications, schedules, and addenda thereto to the date hereof.

**“Pre-Filing Debt and Security Documents”** means, collectively, the Pre-Filing Debt Facility Agreement, the “Security Agreements” and the other “Loan Documents” (each as defined in the Pre-Filing Debt Facility Agreement), including any other document or agreement delivered in connection therewith and all amendments, modifications, schedules, and addenda thereto to the date hereof.

**“RBC”** means Royal Bank of Canada as lender under the RBC Credit Agreement, or any successor thereto.

**“RBC Credit Agreement”** means the facility agreement dated as of November 22, 2017 between the Borrower, RBC, CPL Canada Holdco Limited and Contract Pharmaceuticals Limited, as amended from time to time to the date hereof.

**“Sanctions”** means any sanction administered or enforced by the United States government, including OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury (**“HMT”**) or other Governmental Authority or relevant sanction authority.

**“Senior Priority Lender Liens”** means (i) the Liens in favour of RBC granted in connection with the RBC Credit Agreement and (ii) the Liens in favour of EDC granted in connection with the EDC Credit Agreement.

**“SSG”** means SSG Capital Advisors, LLC, as financial advisor to the Obligors.

**“SISP”** means the refinancing, sale and investment solicitation process substantially in the form attached as Schedule E hereto, to be approved by the SISP Order.

**“SISP Milestones”** means the milestones set out in paragraph 7 of the SISP.

**“SISP Order”** means an order of the Court approving the SISP, which shall be substantially in the form of Schedule F hereto.

**“Subsequent Advance”** has the meaning given thereto in Section 5.

**“Subsequent Advance Conditions”** has the meaning given thereto in Section 12.

**“Variance Report”** has the meaning given thereto in Section 15.

**SCHEDULE B**  
**INITIAL DIP BUDGET**

See attached.

Contract Pharmaceuticals Limited  
**Projected Statement of Cash Flows**  
For the Period Ending March 29, 2024  
(Unaudited; C\$000s)

	Note	Week Ending															Total
		22-Dec-23	29-Dec-23	05-Jan-24	12-Jan-24	19-Jan-24	26-Jan-24	02-Feb-24	09-Feb-24	16-Feb-24	23-Feb-24	01-Mar-24	08-Mar-24	15-Mar-24	22-Mar-24	29-Mar-24	
Receipts	1																
Collection of Accounts Receivable	2	1,589	831	1,538	1,511	2,725	1,735	1,259	1,788	1,734	1,230	2,114	757	691	1,119	1,900	22,521
Total Receipts		1,589	831	1,538	1,511	2,725	1,735	1,259	1,788	1,734	1,230	2,114	757	691	1,119	1,900	22,521
Disbursements																	
Production costs	3	944	867	1,037	1,033	1,167	944	837	833	817	894	837	833	817	894	817	13,574
Payroll	4	27	1,010	27	1,010	27	1,010	27	1,010	27	1,010	27	1,010	27	1,010	27	7,283
Capital expense	5	100	-	-	-	200	-	-	-	200	-	-	-	200	-	-	700
Rent	6	-	-	151	-	-	-	151	-	-	-	151	-	-	-	-	452
Other operating expenses	7	87	57	170	49	170	57	194	49	140	230	200	49	140	79	469	2,141
Contingency		50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	750
Total Operating disbursements		1,208	1,984	1,435	2,142	1,614	2,061	1,259	1,942	1,234	2,184	1,265	1,942	1,234	2,033	1,363	24,900
Net Cash Flow before the Undernoted		381	(1,153)	103	(631)	1,111	(326)	(0)	(153)	500	(954)	849	(1,185)	(543)	(914)	536	(2,379)
Professional Fees	8	709	497	327	225	152	260	240	240	185	263	263	225	553	137	2,524	6,799
Net Cash Flow		(328)	(1,650)	(224)	(856)	959	(586)	(240)	(393)	316	(1,217)	586	(1,410)	(1,096)	(1,051)	(1,988)	(9,178)
Opening Cash balance	9	1,347	3,059	1,409	1,185	1,689	2,648	2,063	1,823	1,429	1,745	1,888	2,474	2,425	2,009	1,638	1,347
Net Cash Flow		(328)	(1,650)	(224)	(856)	959	(586)	(240)	(393)	316	(1,217)	586	(1,410)	(1,096)	(1,051)	(1,988)	(9,178)
DIP proceeds	10	2,040	-	-	1,360	-	-	-	-	-	1,360	-	1,360	680	680	680	8,160
Closing cash balance		3,059	1,409	1,185	1,689	2,648	2,063	1,823	1,429	1,745	1,888	2,474	2,425	2,009	1,638	330	330

The above financial projections are based on management's assumptions detailed in Appendix "1-1".  
The note references correspond to the assumption numbers shown in Appendix "1-1".

Contract Pharmaceuticals Limited

Appendix "1-1"

**Notes to Projected Statement of Cash Flows**

For the Period Ending March 29, 2024

(Unaudited; C\$000s)

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**Purpose and General Assumptions**

1. The purpose of the projection is to present a forecast of the cash flow of Contract Pharmaceuticals Limited, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada, and Glasshouse Pharmaceuticals LLC (collectively, the "Applicants") for the period December 15, 2023 to March 29, 2024 (the "Period").

**Hypothetical**

2. Represents projected collections of current and future accounts receivable.

**Most Probable**

3. Includes costs related to the production and manufacturing of pharmaceutical products.
4. Includes payroll and benefits for all of the Applicants' employees.
5. Represents costs incurred for general maintenance and upkeep of production equipment.
6. Represents occupancy costs, including rent, for the Applicants' leased premises in Mississauga, ON.
7. Represents general operating costs, including sales and marketing, software, administrative costs, overhead costs, DIP Facility fees and interest, and other sundry items.
8. Includes the estimated payments to the Monitor, its legal counsel, the Applicants' Canadian and US legal counsel, the Financial Advisor, the DIP Lender's legal counsel, and the DIP Lender's financial advisor.
9. Opening cash reflected as of December 13, 2023.
10. Reflects projected DIP funding to be provided by the DIP Lender, as defined and pursuant to the terms of the DIP Term Sheet, converted at a rate of \$1.36.

**SCHEDULE C**  
**FORM OF INITIAL ORDER**

See attached.

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 15 <sup>TH</sup>
	)	
JUSTICE PENNY	)	DAY OF DECEMBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA,  
GLASSHOUSE PHARMACEUTICALS LIMITED CANADA,  
AND GLASSHOUSE PHARMACEUTICALS LLC**

(the “**Applicants**”)

**INITIAL ORDER**

**THIS APPLICATION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), for an Initial Order was heard this day by videoconference via zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto (the “**Sahai Affidavit**”), and the pre-filing report of the proposed monitor, KSV Restructuring Inc. (“**KSV**”) dated December 14, 2023, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, counsel for KSV, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of Canada (“**RBC**”), and counsel for Export Development Canada (“**EDC**”), and the other parties listed on the counsel slip, and on reading the consent of KSV to act as the monitor (in such capacity, the “**Monitor**”),



## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sahai Affidavit.

## **APPLICATION**

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicants:

- (a) shall be entitled to continue to utilize the central cash management system currently in place as described in the Sahai Affidavit (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or

otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement (a “**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; and

- (b) shall be entitled to continue to use the corporate credit cards in place with American Express and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.

6. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reimbursable expenses and director fees and expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) all charge-backs and rebates due and owing or relating to their customers in the normal course of the applicable Applicant’s business;
- (c) with the prior written consent of the Monitor and the DIP Lender (as defined below), amounts owing for goods and services actually supplied to any of the Applicants, prior to the date of this Order; and
- (d) the fees and disbursements of any Assistants retained or employed by any of the Applicants at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to any of the Applicants on or following the date of this Order.

8. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the applicable Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges

arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and the landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

11. **THIS COURT ORDERS** that each Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding CA\$250,000 in any one transaction or CA\$1,000,000 in the aggregate, all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

## **NO PROCEEDINGS AGAINST THE APPLICANTS, THEIR BUSINESS OR THEIR PROPERTY**

12. **THIS COURT ORDERS** that until and including December 22, 2023, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”, and collectively, “**Proceedings**”) shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the

Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

13. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the Applicants to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll services, benefit services, contract manufacturing services, accounting services, insurance, transportation services, warehouse and logistics services, utility or other services to the Business or any of the Applicants,

are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and each applicable Applicant and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

16. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants (the “**Directors and Officers**”) with respect to any claim against the Directors or Officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE**

18. **THIS COURT ORDERS** that the Applicants shall indemnify the Directors and Officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with

respect to any Director or Officer, the obligation or liability was incurred as a result of the Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

19. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of CA\$1,801,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 18 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

20. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 18 of this Order.

#### **APPOINTMENT OF MONITOR**

21. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

22. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender, its counsel and its financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender, its counsel and its financial advisor on a periodic basis as agreed with the DIP Lender;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

23. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

24. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario



*Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

25. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

26. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor’s appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

27. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) on such terms as the parties may agree and, in addition, the Monitor, counsel to the Monitor and counsel to the Applicants are authorized to maintain their respective retainers, if any, provided by the

Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

28. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants, and the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$375,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such advisors, both before and after the making of this Order in respect of these proceedings; provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

#### **DIP FINANCING**

30. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow and provide guarantees, as the case may be, under a credit facility from Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P. (in such capacity, the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of US\$1,500,000 unless permitted by further Order of this Court.

31. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated as of December [14], 2023 in the form attached to the Sahai Affidavit with such minor modifications or amendments that may be agreed to by the parties and consented to by the Monitor (the “**DIP Term Sheet**”).

32. **THIS COURT ORDERS** that each of the Applicants is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security

documents, guarantees and other definitive documents (collectively, including the DIP Term Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

33. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$1,500,000 plus interest, fees and expenses, unless permitted by further Order of the Court, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 36 and 38 hereof.

34. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an Event of Default (as defined in the DIP Term Sheet) under the Definitive Documents, the DIP Lender, subject to the notice requirements under the Definitive Documents, may cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender’s Charge, make demand, accelerate payment and give other notices, or, upon four (4) business days notice to the Applicants and the Monitor, exercise any and all other rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender’s Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the Applicants and for the appointment of a trustee in bankruptcy of any of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Applicants or the Property.

35. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

36. **THIS COURT ORDERS** that the priorities of the Directors’ Charge, the Administration Charge, and the DIP Lender’s Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CA\$375,000);

Second – Directors’ Charge (to the maximum amount of CA\$1,801,000); and

Third – DIP Lender’s Charge (to the maximum amount of US\$1,500,000, plus interest, fees and expenses).

37. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

38. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; provided that (i) the Charges shall rank behind Encumbrances in favour of any Person who is a “secured creditor” as defined in the CCAA who has not been served with the Notice of Application for this Order and (ii) the DIP Lender’s Charge shall rank behind the Encumbrances on the Property in favour of RBC and EDC. The Applicants and the beneficiaries

of the Charges shall be entitled to seek priority of the Charges ahead of any Encumbrances over which the Charges may not have obtained priority pursuant to this Order on a subsequent motion including, without limitation, at the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby; provided that the DIP Lender's Charge shall continue to rank behind the Encumbrances on the Property in favour of RBC and EDC.

39. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the applicable Charges, or further Order of this Court.

40. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and the DIP Lender shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any of them is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

41. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property lease.

#### **FOREIGN PROCEEDINGS**

42. **THIS COURT ORDERS** that Contract Pharmaceuticals Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

43. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, to the extent considered necessary by the Applicants, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 .

#### **SERVICE AND NOTICE**

44. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than CA\$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

45. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

commercial/) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/cpl>.

46. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission or electronic message to the Applicants’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. (Toronto Time) (or the next business day following the date of forwarding thereof if sent on a non business day) (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. (Toronto Time); or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

47. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies thereof by electronic message (including by e-mail) to the Applicants’ creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

**COMEBACK HEARING**

48. **THIS COURT ORDERS** that the comeback motion in these CCAA proceedings shall be heard on December [22], 2023 (the “**Comeback Hearing**”).

**GENERAL**

49. **THIS COURT ORDERS** that any interested party (including the Applicants) may apply to this Court to vary or amend this Order at the Comeback Hearing on not less than three (3) calendar days’ notice to the service list in these proceedings and any other Persons likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 36 and 38 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.

50. **THIS COURT ORDERS** that, notwithstanding paragraph 49 of this Order, the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder or in the interpretation of this Order.

51. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

52. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

53. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative



body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

54. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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

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

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL  
CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED  
CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

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**INITIAL ORDER**

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Lawyers for the Applicants

**SCHEDULE D**  
**FORM OF AMENDED ORDER**

See attached.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	[FRIDAY], THE [22] <sup>ND</sup>
	)	
JUSTICE PENNY	)	DAY OF DECEMBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA,  
GLASSHOUSE PHARMACEUTICALS LIMITED CANADA,  
AND GLASSHOUSE PHARMACEUTICALS LLC**

(the “Applicants”)

**AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order Dated December 15, 2023)**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), for an Amended and Restated Initial Order was heard this day by videoconference via zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto (the “**Sahai Affidavit**”), the Pre-Filing Report of KSV Restructuring Inc. (“**KSV**”), in its capacity as the proposed monitor of the Applicants dated December 14, 2023, and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) dated December [●], 2023 (the “**First Report**”), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of

Canada (“**RBC**”), and counsel for Export Development Canada (“**EDC**”), and the other parties listed on the counsel slip, and on reading the consent of KSV to act as the Monitor,

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sahai Affidavit.
3. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the “date of this Order”, “the date hereof” or similar phrases refer to the date the Initial Order of this Court was granted in the within proceedings, being December 15, 2023.

### **APPLICATION**

4. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

5. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

### **POSSESSION OF PROPERTY AND OPERATIONS**

6. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively

“**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that the Applicants:

- (a) shall be entitled to continue to utilize the central cash management system currently in place as described in the Sahai Affidavit or, with the prior written consent of the Monitor and the DIP Lender (as defined below), replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under a Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; and
- (b) shall be entitled to continue to use the corporate credit cards in place with American Express and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.

8. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reimbursable expenses and director fees and expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

- (b) all charge-backs and rebates due and owing or relating to their customers in the normal course of the applicable Applicant's business;
- (c) with the prior written consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to any of the Applicants, prior to the date of this Order; and
- (d) the fees and disbursements of any Assistants retained or employed by any of the Applicants at their standard rates and charges.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to any of the Applicants on or following the date of this Order.

10. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or

collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

11. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the applicable Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and the landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.



**RESTRUCTURING**

13. **THIS COURT ORDERS** that each Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding CA\$250,000 in any one transaction or CA\$1,000,000 in the aggregate;
- (b) disclaim such of its arrangements or agreements of any nature whatsoever with whomever, whether oral or written, as such Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

14. **THIS COURT ORDERS** that the applicable Applicants shall provide each of the relevant landlords with notice of the applicable Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the applicable Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the

disclaimer of the lease shall be without prejudice to the applicable Applicant's claim to the fixtures in dispute.

15. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS, THEIR BUSINESS OR THEIR PROPERTY**

16. **THIS COURT ORDERS** that until and including [March 22], 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors

(including counsel) or other representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the Applicants to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll services, benefit services, contract manufacturing services, accounting services, insurance, transportation services, warehouse and logistics services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and each applicable Applicant and the Monitor, or as may be ordered by this Court.

**NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

**NO PRE-FILING VS POST-FILING SET-OFF**

21. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (i) are or may become due to an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from an Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to an Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the applicable Applicant and the Monitor or further Order of this Court.

**PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants (the “**Directors and Officers**”) with respect to any claim against the Directors or Officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

**DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE**

23. **THIS COURT ORDERS** that the Applicants shall indemnify the Directors and Officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with

respect to any Director or Officer, the obligation or liability was incurred as a result of the Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

24. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of CA\$2,306,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 45 and 47 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

#### **APPOINTMENT OF MONITOR**

26. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender, its counsel and its financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender, its counsel and its financial advisor on a periodic basis as agreed with the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

29. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a

pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor’s appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and

directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) on such terms as the parties may agree and, in addition, the Monitor, counsel to the Monitor and counsel to the Applicants are authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$600,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such advisors, both before and after the making of this Order in respect of these proceedings; provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **APPROVAL OF FINANCIAL ADVISOR AGREEMENT**

35. **THIS COURT ORDERS** that the Agreement dated as of December 12, 2023, engaging the Financial Advisor and attached as Exhibit “K” to the Sahai Affidavit (the “**Financial Advisor Agreement**”), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved and the Applicant is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Financial Advisor Agreement.

36. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Financial Advisor Charge**”) on the Property as security solely for the Transaction Fee earned and payable pursuant to the terms of the Financial Advisor



Agreement. The Financial Advisor Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **KEY EMPLOYEE RETENTION PLAN**

37. **THIS COURT ORDERS** that the key employee retention plan (the “**KERP**”), as described in the Sahai Affidavit, is hereby authorized and approved, and the Applicants are authorized to make the payments contemplated under the KERP in accordance with the terms and conditions of the KERP.

38. **THIS COURT ORDERS** that the key employee beneficiaries under the KERP shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$998,311, unless permitted by further Order of this Court, to secure any payments to the key employee beneficiaries under the KERP. The KERP Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **DIP FINANCING**

39. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow and provide guarantees, as the case may be, under a credit facility from Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P. (in such capacity, the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of US\$6,000,000 unless permitted by further Order of this Court.

40. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated as of December [14], 2023 in the form attached to the Sahai Affidavit with such minor modifications or amendments that may be agreed to by the parties and consented to by the Monitor (the “**DIP Term Sheet**”).

41. **THIS COURT ORDERS** that each of the Applicants is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, including the DIP Term

Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$6,000,000 plus interest, fees and expenses, unless permitted by further Order of the Court, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 45 and 47 hereof.

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an Event of Default (as defined in the DIP Term Sheet) under the Definitive Documents, the DIP Lender, subject to the notice requirements under the Definitive Documents, may cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender’s Charge, make demand, accelerate payment and give other notices, or, upon four (4) business days notice to the Applicants and the Monitor, exercise any and all other rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender’s Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the Applicants and for the appointment of a trustee in bankruptcy of any of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Applicants or the Property.

44. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. **THIS COURT ORDERS** that the priorities of the Directors’ Charge, the Administration Charge, the KERP Charge, the Financial Advisor Charge, and the DIP Lender’s Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CA\$600,000);

Second – Directors’ Charge (to the maximum amount of CA\$2,306,000);

Third – KERP Charge (to the maximum amount of CA\$998,311);

Fourth – Financial Advisor Charge; and

Fifth – DIP Lender’s Charge (to the maximum amount of US\$6,000,000, plus interest, fees and expenses).

46. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of

perfection or attachment; provided that the DIP Lender's Charge shall rank behind the Encumbrances on the Property in favour of RBC and EDC.

48. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the applicable Charges, or further Order of this Court.

49. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and the DIP Lender shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any of them is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent

conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

50. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property lease.

#### **FOREIGN PROCEEDINGS**

51. **THIS COURT ORDERS** that Contract Pharmaceuticals Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

52. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, to the extent considered necessary by the Applicants, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 .

#### **SERVICE AND NOTICE**

53. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than CA\$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

54. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O.

1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/cpl>.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission or electronic message to the Applicants’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. (Toronto Time) (or the next business day following the date of forwarding thereof if sent on a non business day) (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. (Toronto Time); or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

56. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies thereof by electronic message (including by e-mail) to the Applicants’ creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

57. **THIS COURT ORDERS** that any interested party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further order of this Court, provide the service list in these proceedings with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the

grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consultation with the Applicants.

**[SEALING**

58. **THIS COURT ORDERS that the Confidential Appendix to the First Report shall be sealed and kept confidential pending further order of this Court.]**

**GENERAL**

59. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder or in the interpretation of this Order.

60. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. **THIS COURT ORDERS** that the Initial Order of this Court dated December 15, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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

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

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL  
CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED  
CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
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Lawyers for the Applicants

**SCHEDULE E**

**SISP**

See attached.

## Sale and Investment Solicitation Process for Contract Pharmaceuticals Limited

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1. On December 15, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”), among other things: (i) granting Contract Pharmaceuticals Limited, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada (“**Glasshouse Canada**”), and Glasshouse Pharmaceuticals LLC (collectively, the “**Applicants**”) relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”); and (ii) approving the Applicants’ ability to borrow under an interim debtor-in-possession financing facility pursuant to a DIP Financing Term Sheet dated December [14], 2023 (the “**DIP Agreement**”) with Deerfield Private Design Fund IV, L.P. (“**DPDF IV**”), as agent for itself and Deerfield Private Design Fund III, L.P. (together in such capacity, the “**DIP Lender**”) providing borrowings of up to US\$6,000,000 (the “**DIP**”).
2. On December [22], 2023, the Court granted: (i) an order amending and restating the Initial Order (the “**ARIO**”); and (ii) an order (the “**SISP Approval Order**”) that, among other things, authorized the Applicants to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO or the SISP Approval Order, as applicable. Copies of the ARIO and the SISP Approval Order can be found at the following URL: <https://www.ksvadvisory.com/experience/case/cpl> (the “**Monitor’s Website**”).
3. This SISP sets out the manner in which: (a) binding bids for a refinancing, sale or other strategic investment or transaction involving the business, assets and/or equity of the Applicants (the “**Opportunity**”), will be solicited from interested parties; (b) any such bids received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought.
4. The SISP shall be conducted by the Applicants with the assistance of SSG Capital Advisors, LLC (in such capacity, the “**Financial Advisor**”) under the oversight of KSV Restructuring Inc. in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”).
5. Parties who wish to have their bids considered must participate in the SISP.
6. The Applicants, with the assistance of the Financial Advisor and under the oversight of the Monitor, will:
  - (a) disseminate marketing materials and a process letter (which letter shall, among other things, direct recipients to the Monitor’s Website for a copy of this SISP) to potentially interested parties identified by the Applicants, with the assistance of the

Financial Advisor and in consultation with the Monitor and the DIP Lender, or any other interested party who contacts the Applicants, the Financial Advisor or the Monitor;

- (b) solicit interest from interested parties with a view to such parties entering into non-disclosure agreements (each an “**NDA**”) (parties shall only obtain access to the virtual data room (the “**VDR**”) and be permitted to participate in the SISP if they execute an NDA, in form and substance satisfactory to the Applicants; provided that those parties that have already executed an NDA with the Applicants shall not be required to execute a further NDA provided that such prior NDA has not expired or will not expire during the SISP);
  - (c) provide interested parties who have executed an NDA with: (i) a confidential information memorandum in respect of the Opportunity; and (ii) access to the VDR containing diligence information in respect of the Opportunity and such other diligence opportunities as the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor, consider advisable;
  - (d) request that interested parties submit a non-binding letter of intent (“**LOI**”) that meets the requirements set forth in Section 8 below by the LOI Deadline (as defined below); and
  - (e) request that such parties submit a binding offer that meets at least the requirements set forth in Section 9 below, as determined by the Applicants, in consultation with the Monitor (each a “**Qualified Bid**”), by the Qualified Bid Deadline (as defined below).
7. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Applicant, in consultation with the Monitor (provided that in the case of any extension by more than three days for any individual milestone, or seven days in the aggregate, or for any extension of the Outside Date, the consent of the DIP Lender shall also be required):
- (a) the Court issues the SISP Approval Order approving the SISP – by no later than December 22, 2023;
  - (b) the Applicants, with the assistance of the Financial Advisor, commence the solicitation process by no later than January 8, 2024, it being understood that the Applicants and the Financial Advisor, in consultation with the Monitor, shall be at liberty to provide marketing materials and commence discussions with interested parties prior to such date as they consider appropriate;
  - (c) deadline to submit a non-binding LOI – by no later than 2:00 p.m. (Toronto time) on February 8, 2024 (the “**LOI Deadline**”);
  - (d) deadline to submit a Qualified Bid – by no later than 2:00 p.m. (Toronto time) on February 29, 2024 (the “**Qualified Bid Deadline**”);

- (e) deadline to select a Qualified Bid as the successful bid (the “**Successful Bid**”) – by no later than 2:00 p.m. (Toronto time) on March 12, 2024;
  - (f) Approval Order (as defined below) hearing – by no later than March 22, 2024, subject to Court availability; and
  - (g) closing of the Successful Bid – as soon thereafter as possible and, in any event, by no later than April 30, 2024 (the “**Outside Date**”).
8. Any interested party who wishes to submit an LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Applicants, in consultation with the Monitor, may waive strict compliance with any one or more of the requirements specified below):
- (a) it sets forth the identity of the interested party, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the interested party’s financial wherewithal to complete a transaction pursuant to the SISP;
  - (b) it sets forth the principal terms of the proposed transaction, including: (i) the nature of the proposed transaction (e.g. refinancing, sale, investment, etc.); (ii) the purchase price or other consideration offered in connection with the transaction, including material assumed liabilities; (iii) a description of any conditions or approvals required and any additional due diligence required for the interested party to make a final binding bid; (iv) all conditions to closing that the interested party may wish to impose on the closing of the transaction; (v) proposed treatment of the Applicants’ employees; (vi) any other terms or conditions that the interested party believes are material to the transaction; and (vii) any other information as may be reasonably requested by the Applicants, in consultation with the Monitor; and
  - (c) it is received by the Applicants and the Monitor by no later than the LOI Deadline at the email addresses specified on Schedule “A” hereto.
9. In order to constitute a Qualified Bid, a bid must comply with the following:
- (a) it provides for consideration, payable in full on closing of the Transaction (the “**Consideration Value**”), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
  - (b) as part of the Consideration Value, it provides cash consideration sufficient to pay on closing: (i) any obligations in connection with the charges granted by the Court in the Applicants’ CCAA proceedings and any obligations in priority thereto; and (ii) the amount necessary to fund a wind-up of the Applicants’ CCAA proceedings and any further proceedings or wind-up costs in respect of the Applicants;
  - (c) it contemplates closing of the Transaction by not later than the Outside Date;

- (d) it contains:
  - (i) duly executed binding Transaction document(s);
  - (ii) the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - (iii) a redline to the form of any transaction agreement made available by the Applicants in the VDR;
  - (iv) evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - (v) disclosure of any past or current connections or agreements with the Applicants, any known, potential, prospective bidder participating in the SISP, or any current or former officer, manager, director, member or known current or former equity security holder of any of the Applicants; and
  - (vi) such other information as may be reasonably requested by the Applicants or the Monitor;
- (e) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- (f) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of: (i) closing of the Successful Bid; or (ii) closing of the Back-Up Bid;
- (g) it provides written evidence of the bidder's ability to fully fund and consummate the Transaction and satisfy its obligations under the Transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- (h) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (i) it is not conditional upon:
  - (i) approval from the bidder's board of directors (or comparable governing body) or equityholder(s);

- (ii) the outcome of any due diligence by the bidder; or
  - (iii) the bidder obtaining financing;
- (j) it includes an acknowledgment and representation that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its bid, and has relied solely upon its own independent review, investigation and inspection in making its bid; (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicants, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors (including legal counsel) and other representatives, regarding the proposed Transaction, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed Transaction documents; (iii) is making its bid on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Applicants, the Financial Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed Transaction documents; (iv) is bound by this SISP and the SISP Approval Order; and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- (k) it specifies any regulatory or other third-party approvals the bidder anticipates would be required to complete the Transaction (including the anticipated timing necessary to obtain such approvals);
- (l) it includes full details of the bidder’s intended treatment of the Applicants’ stakeholders under or in connection with the proposed bid, including the Applicants’ secured creditors, unsecured creditors, employees, customers, suppliers, contractual counterparties and equity holders;
- (m) it is accompanied by a cash deposit (the “**Deposit**”) by wire transfer of immediately available funds in an amount equal to at least 10% of the Consideration Value, which Deposit shall be retained by the Monitor in an interest-bearing trust account in accordance with the terms hereof;
- (n) it includes a statement that the bidder will bear its own costs and expenses (including all legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- (o) it is received by the Applicants, with a copy to the Financial Advisor and the Monitor, by the Qualified Bid Deadline at the email addresses specified on Schedule “A” hereto.

10. The Applicants, in consultation with the Financial Advisor, the Monitor and the DIP Lender, may in their sole discretion waive compliance with any one or more of the requirements specified in Section 9 above and deem a non-compliant bid to be a Qualified Bid, provided that the Applicants shall not waive compliance with the requirements specified in subsections 9(b) or 9(c) without the consent of the DIP Lender.
11. If one or more Qualified Bids has been received by the Applicants on or before the Qualified Bid Deadline, the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor and the DIP Lender, may:
  - (a) negotiate with one or more of the bidders who submitted a Qualified Bid, including requesting that such bidder improve or otherwise modify the terms of its Qualified Bid (and any such improved or modified Qualified Bid submitted by a bidder shall be deemed to be a Qualified Bid hereunder for all purposes);
  - (b) (x) considering the factors set out in Section 9 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or release of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the bidder's ability to close a Transaction by not later than the Outside Date (including factors such as: the Transaction structure and execution risk; conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the benefit to the Applicants and their stakeholders, and (vi) any other factors the directors or officers of Applicants may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the "**Consideration Factors**"); and (y) designate any Qualified Bid received to be the highest or otherwise best bid in the SISP (as may be designated pursuant to this subsection 11(b), the "**Successful Bid**" and the bidder making such bid, the "**Successful Bidder**"); or
  - (c) having regard to the Consideration Factors, designate any Qualified Bid received as the Back-Up Bid.
12. Except to the extent otherwise authorized by the Court, notwithstanding any other provision hereof no bid may be designated as a Successful Bid or Back-up Bid unless (x) it will pay out in cash on closing all principal, interest, fees and costs outstanding under the facility agreement dated as of December 6, 2018, between Glasshouse Canada, as borrower, DPDF IV, as administrative agent, and the lenders and guarantors party thereto (as amended, modified, supplemented and scheduled from time to time, the "**Facility Agreement**") or (y) it is consented to by DPDF IV.
13. Following selection of the Successful Bid, if any, the Applicants, with the assistance of their advisors, and in consultation with the Monitor and the DIP Lender, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive



agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicants in consultation with the Monitor, the Applicant shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the Applicants to complete the transactions contemplated thereby, as applicable, and authorizing the applicable Applicants to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the Transaction contemplated in such Successful Bid (each, an “**Approval Order**”). If the Successful Bid is not consummated in accordance with its terms, the Applicant shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.

14. The highest Qualified Bid may not necessarily be accepted by the Applicants. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicants, with the written consent of the Monitor, reserve the right to deal with one or more bidders to the exclusion of others, to accept a Qualified Bid for different parts of the Opportunity or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.
15. If a Successful Bid is selected and an Approval Order authorizing the consummation of the Transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the Transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable bidder by the Monitor as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Approval Order or such earlier date as may be determined by the Applicants, with the consent of the Monitor; provided, the Deposit in respect of any Back-Up Bid shall not be returned to the applicable bidder until the closing of the Successful Bid.
16. The Applicants and the Monitor shall be permitted, in their discretion, to provide general updates and information in respect of the SISP to any creditor (each a “**Creditor**”) and its legal and financial advisors, if applicable, on a confidential basis, upon: (a) the irrevocable confirmation in writing from such Creditor that it will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Applicants in form and substance satisfactory to the Applicants and the Monitor. The DIP Lender and DPDF IV have irrevocably confirmed that they will not submit any bid in the SISP (provided that they may credit bid following the termination of the SISP), and as such the Applicant and Monitor shall consult and provide all information (subject to solicitor-client privilege) in respect of the SISP to the DIP Lender and its legal and financial advisors.
17. Any amendments to this SISP may only be made by the Applicants with the written consent of the Monitor and the DIP Lender or by further order of the Court.

18. Any secured lender of the Applicants shall have the right to credit bid their secured debt against the assets secured thereby up to the full face value of such secured lender's claims, including principal, interest and any other obligations owing to such secured lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Applicants in priority to its secured debt (including as contemplated by subsection 9(b) hereof); and (ii) pay appropriate consideration for any assets of the Applicants which are contemplated to be acquired and that are not subject to such secured lender's security; provided, however, that the DIP Lender and DPDF IV have confirmed they shall not credit bid unless and until the SISP is terminated.
19. The Applicants, following consultation with the Monitor and the DIP Lender, may at any time prior to the Qualified Bid Deadline bring a motion in the CCAA proceedings for approval of a 'stalking horse' bid in the SISP.
20. The Monitor will oversee the conduct of the SISP and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out herein and in the SISP Approval Order, and is entitled to receive all information in relation to the SISP.

**SCHEDULE “A”: E-MAIL ADDRESSES FOR DELIVERY OF BIDS**

To the counsel for the Applicants:

[carmstrong@goodmans.ca](mailto:carmstrong@goodmans.ca); [eaxell@goodmans.ca](mailto:eaxell@goodmans.ca); [jlinde@goodmans.ca](mailto:jlinde@goodmans.ca)

with a copy to the Financial Advisor:

[mchesen@ssgca.com](mailto:mchesen@ssgca.com); [mkarlson@ssgca.com](mailto:mkarlson@ssgca.com); [alamm@ssgca.com](mailto:alamm@ssgca.com);

and with a copy to the Monitor and legal counsel to the Monitor:

[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com); [rjacobs@cassels.com](mailto:rjacobs@cassels.com); [jbellissimo@cassels.com](mailto:jbellissimo@cassels.com).

**SCHEDULE F**  
**FORM OF SISP ORDER**

See attached.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	[FRIDAY], THE [22] <sup>TH</sup>
	)	
JUSTICE PENNY	)	DAY OF DECEMBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

(the “Applicants”)

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in the form attached hereto as Schedule “A” (the “SISP”) and certain related relief, was heard this day by videoconference via Zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto, and the pre-filing report dated December 14, 2023, of the proposed monitor, KSV Restructuring Inc. (“KSV”), and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the “Monitor”) dated December [●], 2023 (the “First Report”), and on hearing the submissions of counsel for the Applicants, counsel for KSV, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of Canada, and counsel for Export Development Canada, and the other parties listed on the counsel slip,

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated December [22], 2023 (the “**ARIO**”), or the SISP, as the case may be.

## **SALE AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Applicants and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicants and the Monitor are hereby authorized and directed to do all things reasonably necessary to perform their respective obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.

4. **THIS COURT ORDERS** that the Applicants, the Monitor, and their respective affiliates, partners, directors, officers, employees, financial advisors, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of any such person (with respect to such person alone), in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.

5. **THIS COURT ORDERS** that in overseeing the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

6. **THIS COURT ORDERS** that the Applicants and the Monitor may from time to time apply to this Court for advice and directions in connection with the SISP or the implementation thereof.

#### **PIPEDA**

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions, the Applicants, the Monitor and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement (each, a “**SISP Participant**”) and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Applicants, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Applicants or the Monitor. Any bidder with a Successful Bid shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other

personal information to the Applicants, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants or the Monitor.

## **GENERAL**

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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**SCHEDULE “A”**

**SALE AND INVESTMENT SOLICITATION PROCESS**

**[ATTACHED]**

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

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

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL  
CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED  
CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**SISP APPROVAL ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

**Christopher Armstrong** (LSO# 55148B)  
carmstrong@goodmans.ca

**Erik Axell** (LSO# 853450)  
eaxell@goodmans.ca

**Jennifer Linde** (LSO# 86996A)  
jlinde@goodmans.ca

Tel: (416) 979-2211  
Fax: (416) 979-1234

Lawyers for the Applicants

**THIS IS EXHIBIT "K"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits



December 12, 2023

Jan Sahai  
Chief Executive Officer  
Contract Pharmaceuticals Limited  
7600 Danbro Crescent  
Mississauga, ON L5N 6L6

Dear Jan:

This agreement (“Engagement Agreement”) will serve as the contract between Contract Pharmaceuticals Limited and its affiliates (collectively, “CPL” or the “Company”) and SSG Advisors, LLC (“SSG” or “Advisor”) regarding the retention of SSG as investment banker to CPL for the purposes outlined in this Engagement Agreement. This Engagement Agreement supersedes the Engagement Agreement between the Company and SSG signed and dated November 9, 2023 in its entirety. SSG’s responsibilities hereunder involve providing investment banking services to the Company, on an exclusive basis, focusing on: (i) the review of private placement alternatives to CPL, if any, including raising debt and/or equity capital (the “Financing”); and/or (ii) the sale of all or part of CPL (the “Sale”) to any party; and/or (iii) the restructuring of CPL’s balance sheet with existing stakeholders (“Restructuring”).

A. **SSG’s Role**

1. Advisor’s role in connection with the Financing will include the following:
  - Prepare an information memorandum describing CPL, including but not limited to its historical performance and prospects, existing contracts, marketing and sales, labor force, management, and financial projections;
  - Compile a data room of any necessary and appropriate documents related to the Financing;
  - Develop and maintain a list of suitable potential lenders and investors who will be contacted on a discreet and confidential basis after approval by the Company;
  - Coordinate the execution of confidentiality agreements for potential lenders and investors wishing to review the information memorandum;
  - Assist the Company in coordinating site visits for interested lenders and investors and work with the management team to develop appropriate presentations for such visits;
  - Solicit competitive offers from potential lenders and investors;

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- Advise and assist the Company in structuring the Financing and negotiating the lending agreements; and
  - Otherwise assist the Company and its other professionals, as necessary, through closing on a best efforts basis.
2. Advisor's role in connection with the Sale will include the following:
- Prepare an information memorandum describing CPL, including but not limited to, its historical performance and prospects, including existing contracts, marketing and sales, labor force, management, financial projections involving starting up the business;
  - Compile a data room of any necessary and appropriate documents related to the Sale;
  - Develop and maintain a list of suitable potential buyers who will be contacted on a discreet and confidential basis after approval by the Company;
  - Coordinate the execution of confidentiality agreements for potential buyers wishing to review the information memorandum;
  - Assist the Company in coordinating site visits for interested buyers and work with the management team to develop appropriate presentations for such visits;
  - Solicit competitive offers from potential buyers;
  - Advise and assist the Company in structuring the sale and negotiating the transaction agreements; and
  - Otherwise assist the Company and its other professionals, as necessary, through closing on a best efforts basis.
3. Advisors' role in connection with a Restructuring will include the following:
- SSG, on a best efforts basis, shall assist the Company in the negotiation with various stakeholders in the Company (the "Existing Stakeholders"), including, but not limited to any of the Company's shareholders, lenders (including Deerfield Capital Management Company or any of its affiliates, affiliated funds or funds under management (collectively, "Deerfield")), and unsecured creditors in regard to a possible Restructuring Transaction of existing claims and equity as well as corporate governance.

In performing the services described above, the Company will furnish or cause to be furnished to SSG such information as SSG reasonably believes appropriate to the execution

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of its engagement hereunder (all such information so furnished being the “Information”). CPL represents to SSG that all Information furnished by it or its agents will be complete and correct in all material respects, to the best of its knowledge, and that until the expiration of SSG’s engagement hereunder, it will advise the Company and SSG as soon as practicable of the occurrence of any event or any other change known by it or its agents that results in the Information ceasing to be complete and correct in all material respects. The Company recognizes and confirms that SSG: (a) will use and rely primarily on the Information and on information available from generally recognized public sources in performing the services contemplated hereby without having independently verified any of the same; (b) does not assume responsibility for accurateness or completeness of the Information and such other information, provided such Information is not materially modified by SSG; and (c) will not make an appraisal of any of the assets or liabilities of CPL.

The Company and SSG agree that SSG shall be its exclusive investment banker in connection to any Transaction undertaken with respect to CPL during the Engagement Term, as defined below, of the Engagement Agreement. The Company agrees that, during the Engagement Term, SSG shall have the exclusive authority to initiate and conduct discussions and assist and advise the Company in its negotiations with all prospective lenders, investors and purchasers. In that regard, the Company agrees to identify to SSG: (a) all prospective lenders, investors and purchasers, who have been in contact with CPL prior to the date hereof; and (b) all prospective lenders, investors and purchasers who come in contact with the Company during the Engagement Term.

SSG will consult with and advise the Company with respect to the financial aspects of any proposed Transaction, including price, terms and conditions of a Transaction. SSG will not, however, have any authority to bind the Company with respect to any proposed Transaction. Likewise, nothing contained herein shall require the Company to accept the terms of any proposal and the Company shall at all times have the right in its sole and absolute discretion to reject any proposed Transaction regardless of the terms proposed.

**B. SSG’s Compensation – All Amounts in US Dollars**

As compensation for providing the foregoing services, SSG shall receive the following:

1. **Monthly Fees.** Monthly fees (the “Monthly Fees”) of \$35,000 per month payable beginning on upon the execution of this Engagement Agreement and payable on the 15<sup>th</sup> of each month thereafter during the Engagement Term. SSG will credit fifty percent (50%) of the first two (2) Monthly Fees paid against any Transaction Fees collected as provided herein.
2. **Financing Fee.** Upon the closing of a Financing Transaction to any party, SSG shall be entitled to a fee (“Financing Fee”) payable in cash, in federal funds via wire transfer or certified check, at and as a condition of closing of such Financing equal to the greater of (a) three and one quarter percent (3.25%) of the committed Financing, regardless of whether the Company chose to draw down the full amount of the committed Financing or (b) \$750,000.

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However, in the event that Debtor-in-Possession (“DIP”) financing is raised, SSG shall be entitled to a one percent (1.0%) Financing Fee (“DIP Financing Fee”). SSG shall credit one hundred percent (100%) of the DIP Financing Fee against a Transaction Fee.

Further, in the event the Financing is provided by Great Rock Capital, SSG shall only be entitled to a Financing Fee equal to fifty percent (50%) of the Financing Fee, as calculated above.

3. **Sale Fee.** Upon the Closing of a Sale Transaction to any party, SSG shall be entitled to a fee (the “Sale Fee”), payable in cash, in federal funds via wire transfer or certified check, at and as a condition of closing such Sale, equal to the greater of (a) three and one quarter percent (3.25%) of the Total Consideration (as such term is hereafter defined) or (b) \$750,000.

In the event that Deerfield (or an entity under Deerfield’s direct or indirect control) is the purchaser in a Sale Transaction via a credit bid of the secured indebtedness owing by the Company to Deerfield (a “Credit Bid”), the Sale Fee shall be reduced to \$650,000; provided, however, that if a third party bidder makes a binding offer for a Sale Transaction in excess of the Credit Bid and Deerfield elects to proceed with an increased Credit Bid, then the Sale Fee shall be payable in full in accordance with Section B 3., above, without discount.

4. **Restructuring Fee.** Upon the closing of a Restructuring Transaction, SSG shall be entitled to a fee (“Restructuring Fee”) payable in cash, in federal funds via wire transfer or certified check, at and as a condition of closing of such Restructuring Transaction equal to \$650,000.
5. For the avoidance of doubt, under no circumstances will a Transaction result in more than one Transaction Fee being payable, even if a Financing Transaction or Restructuring Transaction results in a change of control of the Company or vice versa. However, the Company shall be obligated to pay SSG the greater of all of the Transaction Fees, as calculated above.
6. In addition to the foregoing Monthly Fees and Transaction Fees noted above, irrespective of whether or not a Transaction is consummated, SSG will be entitled to reimbursement for all of SSG’s reasonable and documented out-of-pocket expenses, incurred in connection with the subject matter of this Engagement Agreement during the Engagement Term, provided that such expenses will not exceed \$1,500 per month without the written authorization of the Company.

### C. **Definitions**

For the purpose of this Engagement Agreement:

**Financing Transaction** means funds received by CPL from any senior debt, secured subordinated debt, unsecured subordinated debt or non-control equity from any lender or

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investor including Deerfield, provided that it shall not include funds received by CPL from any existing equity holder of the Company.

**Sale Transaction** means and includes any transaction involving the sale or transfer, directly or indirectly, of all or substantially all of the assets, secured debt or equity of CPL to any party, including Deerfield.

**Restructuring Transaction** means and includes any restructuring of existing and prospective Company stakeholder claims, including, but not limited to, the Company's secured lenders, unsecured claims, and equity holders.

**Total Consideration** shall mean the purchase price paid for the equity or assets or secured debt, or any portion of either, plus the assumption or payoff of interest-bearing indebtedness, without duplication.

For purposes of computing any fees payable to SSG hereunder, non-cash consideration shall be valued as follows: (a) publicly traded securities shall be valued at the average of their closing prices (as reported in The Wall Street Journal) for the five (5) trading days prior to the closing of the Sale Transaction; and (b) any other non-cash consideration shall be valued at the fair market value thereof as determined in good faith by the Company and SSG. If such aggregate consideration may be increased by contingent payments such as an "earnout" or other monetary agreement in the transaction, the portion of SSG's fee relating thereto shall be calculated and paid when and as such contingent payments or other monetary amounts are received.

**Transaction** shall mean and include a Sale or Financing or Restructuring, as determined above.

**Transaction Fee** shall mean and include a Sale Fee or Financing Fee or Restructuring Fee, as applicable.

D. **Term of Engagement**

This Engagement Agreement shall remain in force (the "Engagement Term") through April 30, 2024, and may thereafter be terminated by either party upon ten (10) days prior written notice to the other; provided, however, that either party may terminate this Engagement Agreement by written notice immediately upon the closing of a Transaction. Upon the termination of this Engagement Agreement, neither party shall have any further obligations to the other except that: (a) termination of the Engagement Agreement shall not affect SSG's right to indemnification under the Indemnification paragraph below; (b) the Company shall remain obligated to pay SSG any unpaid Monthly Fees and to reimburse SSG for any expenses incurred through the date of the termination of the Engagement Agreement as provided in Section D; and (c) if a Transaction is consummated with any party within nine (9) months ("Trailer Term") of the termination of this Engagement Agreement, the Company shall remain obligated to pay a Transaction Fee, as calculated above. Sections B, C, D, E, F and G (entitled Compensation, Definitions, Term of Engagement, Indemnification, Miscellaneous, and Scope of Duties, respectively) of this



December 12, 2023

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Engagement Agreement shall survive the expiration or termination of this Engagement Agreement indefinitely.

E. **Indemnification**

The Company hereby acknowledges and agrees to the indemnification arrangements between the parties hereto as described on Attachment A hereto, which Attachment is incorporated herein and forms an integral part hereof.

F. **Miscellaneous**

No fee payable to any other financial advisor or finder by CPL or the Company in connection with the subject matter of this Engagement Agreement shall reduce or otherwise affect any fee payable to SSG hereunder. This Engagement Agreement sets forth the entire understanding of the parties relating to the subject matter hereof and supersedes and cancels any prior communications, understandings and agreements between the parties hereto. This Engagement Agreement cannot be modified or changed, nor can any of its provisions be waived, except by written agreement signed by both parties. The benefits of this Engagement Agreement shall inure to the respective successors and assigns of the parties hereto and of the Indemnified Parties and their respective successors, assigns and representatives, and the obligations and liabilities assumed in this Engagement Agreement by the parties hereto shall be binding upon their respective successors and assigns. This Engagement Agreement may be executed in any number of counterparts, which counterparts, taken together, shall constitute one and the same Engagement Agreement.

G. **Scope of Duties**

The Company hereby acknowledges and agrees that: (a) it has retained SSG for the purposes set forth in this Engagement Agreement and that the rights and obligations of the parties hereto are contractual in nature; and (b) SSG has not made any warranties or guarantees of any nature with respect to the success or satisfactory conclusion of any Transaction or as to the economic, financial or other results which may be obtained or experienced by the Company as a result thereof. Both the Company and SSG disclaim any intention to impose fiduciary duties or obligations on the other by virtue of the engagement contemplated by this Engagement Agreement and no other person or entity shall have any rights or obligations hereunder except as expressly provided herein.

H. **Other Matters**

The Company agrees that SSG has the right, following the Transaction closing, to place advertisements in financial and other newspapers and journals at its own expense describing its services to the Company hereunder.

December 12, 2023

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In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), SSG is required to obtain, verify and record information that identifies its clients, which information may include the name and address of the Company, CPL and its senior management team as well as other information that will allow SSG to properly identify its clients. Additionally, SSG maintains important disclosures on the web site [www.ssgca.com](http://www.ssgca.com). These disclosures may be updated periodically on an as-needed basis. The Company agrees to accept and receive all of these disclosures by electronically accessing the website referenced above and acknowledges that printed hard copies of these disclosures are available upon request by contacting SSG directly at (610) 940-1094.

I. **Restructuring Proceedings**

In the event that the Company commences a formal restructuring, including pursuant to a filing pursuant to the *Companies' Creditors Arrangement Act* (Canada) or any similar legislation, the Company agrees it shall seek approval of this Engagement Agreement by the Court and a Court-ordered priority charge (or similar analogous protection) to secure the Transaction Fee payable hereunder, such charge to rank junior to the Administration Charge, Directors' Charge and KERP Charge to be sought from the Court, but senior to any other charge to be sought and any other encumbrance on the Company's property.

J. **Securities Platform**

All transactions involving the sale or purchase of any security (as defined by the Securities Exchange Act of 1934 or the rules and regulations promulgated there under) are offered through SSG Capital Advisors, LLC. ("SCA"), an affiliated Pennsylvania corporation and registered Broker-Dealer in good standing with the Financial Industry Regulatory Authority ("FINRA") and the Securities Investor Protection Corporation ("SIPC"). Principals of SSG are registered representatives of SCA. Therefore, SCA is included collectively as "SSG" with all the rights and obligations thereto under the terms of this Engagement Agreement.

To the extent a Transaction Fee is payable to SSG in connection with Transaction constituting the purchase or sale of any security (as defined by the Securities Exchange Act of 1934 or the rules and regulations promulgated there under), such Transaction Fee shall be specifically paid to SCA. Under no circumstance will Company be obligated to pay a fee in an aggregate amount in excess of the amount provided in this Engagement Agreement. Payment of the fee to SCA shall constitute and be deemed payment of the fee in this Engagement Agreement.

SSG and SCA represent and warrant that any and all duties performed hereunder, and all compensation to be received, in each case by SCA and/or SSG will be in accordance with applicable law, including without limitation, Canadian and United States securities laws and regulations on broker-dealers.


Any amendment, modification or other changes to this Engagement Agreement must be in writing and signed by both parties to be enforceable.

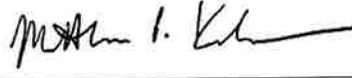
December 12, 2023

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Please indicate your acceptance of the foregoing by executing and returning the enclosed copy of this letter.

**SSG ADVISORS, LLC**

By:   
Mark E. Chesen  
Managing Director

By:   
Matthew P. Karlson  
Managing Director

ACCEPTED:

**CONTRACT PHARMACEUTICALS LIMITED**

By:   
Jan Sahai  
Chief Executive Officer

Date: Dec 13. 2023

December 12, 2023

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**ATTACHMENT A  
INDEMNIFICATION PROVISIONS**

The Company agrees to indemnify, defend and hold harmless SSG, SCA, their affiliates, the respective partners, members, directors, officers, agents and employees of SSG, SCA, and their affiliates and each other person, if any, controlling SSG, SCA, and their affiliates (the foregoing being referred to herein individually as an "Indemnified Party" and collectively as the "Indemnified Parties") from and against any and all losses, claims, damages, liabilities or costs, as and when incurred, to which such Indemnified Party may become subject to or which are asserted against any Indemnified Party asserted by third parties to the Engagement Agreement, directly or indirectly, in any way related to SSG performing services for or on behalf of the Company under the Engagement Agreement of which this Attachment A forms a part, including, without limitation, in connection with: (a) any act or omission by the Company or any act or omission taken by an Indemnified Party at the specific direction of the Company or (b) an Indemnified Party's reliance on materials furnished by the Company to SSG or SCA.

Notwithstanding the foregoing paragraph, the Company shall have no obligation to indemnify the Indemnified Parties, or provide contribution or reimbursement to the Indemnified Parties, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from any of the Indemnified Parties' gross negligence, fraud, willful misconduct, breach of fiduciary duty, if any, bad faith, or self-dealing; (ii) for a contractual dispute in which the Company alleges the breach of the Indemnified Parties' contractual obligations, unless a Court of competition jurisdiction (the "**Court**") determines that indemnification, contribution, or reimbursement would be permissible under applicable law; or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by the Court, after notice and a hearing, to be a claim or expense for which the Indemnified Parties should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Agreement.

The Company agrees that reliance by SSG on any publicly-available information, which SSG verifies with the Company, the information supplied by the Company to SSG in connection with said Engagement Agreement, or any directions furnished by the Company, on which SSG wholly relies, shall not constitute negligence, bad faith or willful misconduct by SSG.

The provisions of this Attachment A shall survive any termination of said Engagement Agreement.

**THIS IS EXHIBIT "L"  
TO THE AFFIDAVIT OF JAN SAHAI  
SWORN BEFORE ME OVER VIDEOCONFERENCE  
THIS 14<sup>th</sup> DAY OF DECEMBER, 2024**

*Erik Apell*

---

Commissioner for Taking Affidavits

## Sale and Investment Solicitation Process for Contract Pharmaceuticals Limited

---

1. On December 15, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”), among other things: (i) granting Contract Pharmaceuticals Limited, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada (“**Glasshouse Canada**”), and Glasshouse Pharmaceuticals LLC (collectively, the “**Applicants**”) relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”); and (ii) approving the Applicants’ ability to borrow under an interim debtor-in-possession financing facility pursuant to a DIP Financing Term Sheet dated December [14], 2023 (the “**DIP Agreement**”) with Deerfield Private Design Fund IV, L.P. (“**DPDF IV**”), as agent for itself and Deerfield Private Design Fund III, L.P. (together in such capacity, the “**DIP Lender**”) providing borrowings of up to US\$6,000,000 (the “**DIP**”).
2. On December [22], 2023, the Court granted: (i) an order amending and restating the Initial Order (the “**ARIO**”); and (ii) an order (the “**SISP Approval Order**”) that, among other things, authorized the Applicants to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO or the SISP Approval Order, as applicable. Copies of the ARIO and the SISP Approval Order can be found at the following URL: <https://www.ksvadvisory.com/experience/case/cpl> (the “**Monitor’s Website**”).
3. This SISP sets out the manner in which: (a) binding bids for a refinancing, sale or other strategic investment or transaction involving the business, assets and/or equity of the Applicants (the “**Opportunity**”), will be solicited from interested parties; (b) any such bids received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought.
4. The SISP shall be conducted by the Applicants with the assistance of SSG Capital Advisors, LLC (in such capacity, the “**Financial Advisor**”) under the oversight of KSV Restructuring Inc. in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”).
5. Parties who wish to have their bids considered must participate in the SISP.
6. The Applicants, with the assistance of the Financial Advisor and under the oversight of the Monitor, will:
  - (a) disseminate marketing materials and a process letter (which letter shall, among other things, direct recipients to the Monitor’s Website for a copy of this SISP) to potentially interested parties identified by the Applicants, with the assistance of the

Financial Advisor and in consultation with the Monitor and the DIP Lender, or any other interested party who contacts the Applicants, the Financial Advisor or the Monitor;

- (b) solicit interest from interested parties with a view to such parties entering into non-disclosure agreements (each an “**NDA**”) (parties shall only obtain access to the virtual data room (the “**VDR**”) and be permitted to participate in the SISP if they execute an NDA, in form and substance satisfactory to the Applicants; provided that those parties that have already executed an NDA with the Applicants shall not be required to execute a further NDA provided that such prior NDA has not expired or will not expire during the SISP);
  - (c) provide interested parties who have executed an NDA with: (i) a confidential information memorandum in respect of the Opportunity; and (ii) access to the VDR containing diligence information in respect of the Opportunity and such other diligence opportunities as the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor, consider advisable;
  - (d) request that interested parties submit a non-binding letter of intent (“**LOI**”) that meets the requirements set forth in Section 8 below by the LOI Deadline (as defined below); and
  - (e) request that such parties submit a binding offer that meets at least the requirements set forth in Section 9 below, as determined by the Applicants, in consultation with the Monitor (each a “**Qualified Bid**”), by the Qualified Bid Deadline (as defined below).
7. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Applicant, in consultation with the Monitor (provided that in the case of any extension by more than three days for any individual milestone, or seven days in the aggregate, or for any extension of the Outside Date, the consent of the DIP Lender shall also be required):
- (a) the Court issues the SISP Approval Order approving the SISP – by no later than December 22, 2023;
  - (b) the Applicants, with the assistance of the Financial Advisor, commence the solicitation process by no later than January 8, 2024, it being understood that the Applicants and the Financial Advisor, in consultation with the Monitor, shall be at liberty to provide marketing materials and commence discussions with interested parties prior to such date as they consider appropriate;
  - (c) deadline to submit a non-binding LOI – by no later than 2:00 p.m. (Toronto time) on February 8, 2024 (the “**LOI Deadline**”);
  - (d) deadline to submit a Qualified Bid – by no later than 2:00 p.m. (Toronto time) on February 29, 2024 (the “**Qualified Bid Deadline**”);

- (e) deadline to select a Qualified Bid as the successful bid (the “**Successful Bid**”) – by no later than 2:00 p.m. (Toronto time) on March 12, 2024;
  - (f) Approval Order (as defined below) hearing – by no later than March 22, 2024, subject to Court availability; and
  - (g) closing of the Successful Bid – as soon thereafter as possible and, in any event, by no later than April 30, 2024 (the “**Outside Date**”).
8. Any interested party who wishes to submit an LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Applicants, in consultation with the Monitor, may waive strict compliance with any one or more of the requirements specified below):
- (a) it sets forth the identity of the interested party, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the interested party’s financial wherewithal to complete a transaction pursuant to the SISP;
  - (b) it sets forth the principal terms of the proposed transaction, including: (i) the nature of the proposed transaction (e.g. refinancing, sale, investment, etc.); (ii) the purchase price or other consideration offered in connection with the transaction, including material assumed liabilities; (iii) a description of any conditions or approvals required and any additional due diligence required for the interested party to make a final binding bid; (iv) all conditions to closing that the interested party may wish to impose on the closing of the transaction; (v) proposed treatment of the Applicants’ employees; (vi) any other terms or conditions that the interested party believes are material to the transaction; and (vii) any other information as may be reasonably requested by the Applicants, in consultation with the Monitor; and
  - (c) it is received by the Applicants and the Monitor by no later than the LOI Deadline at the email addresses specified on Schedule “A” hereto.
9. In order to constitute a Qualified Bid, a bid must comply with the following:
- (a) it provides for consideration, payable in full on closing of the Transaction (the “**Consideration Value**”), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
  - (b) as part of the Consideration Value, it provides cash consideration sufficient to pay on closing: (i) any obligations in connection with the charges granted by the Court in the Applicants’ CCAA proceedings and any obligations in priority thereto; and (ii) the amount necessary to fund a wind-up of the Applicants’ CCAA proceedings and any further proceedings or wind-up costs in respect of the Applicants;
  - (c) it contemplates closing of the Transaction by not later than the Outside Date;



- (d) it contains:
  - (i) duly executed binding Transaction document(s);
  - (ii) the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - (iii) a redline to the form of any transaction agreement made available by the Applicants in the VDR;
  - (iv) evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - (v) disclosure of any past or current connections or agreements with the Applicants, any known, potential, prospective bidder participating in the SISF, or any current or former officer, manager, director, member or known current or former equity security holder of any of the Applicants; and
  - (vi) such other information as may be reasonably requested by the Applicants or the Monitor;
- (e) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- (f) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of: (i) closing of the Successful Bid; or (ii) closing of the Back-Up Bid;
- (g) it provides written evidence of the bidder's ability to fully fund and consummate the Transaction and satisfy its obligations under the Transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- (h) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (i) it is not conditional upon:
  - (i) approval from the bidder's board of directors (or comparable governing body) or equityholder(s);

- (ii) the outcome of any due diligence by the bidder; or
  - (iii) the bidder obtaining financing;
- (j) it includes an acknowledgment and representation that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its bid, and has relied solely upon its own independent review, investigation and inspection in making its bid; (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicants, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors (including legal counsel) and other representatives, regarding the proposed Transaction, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed Transaction documents; (iii) is making its bid on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Applicants, the Financial Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed Transaction documents; (iv) is bound by this SISP and the SISP Approval Order; and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- (k) it specifies any regulatory or other third-party approvals the bidder anticipates would be required to complete the Transaction (including the anticipated timing necessary to obtain such approvals);
- (l) it includes full details of the bidder’s intended treatment of the Applicants’ stakeholders under or in connection with the proposed bid, including the Applicants’ secured creditors, unsecured creditors, employees, customers, suppliers, contractual counterparties and equity holders;
- (m) it is accompanied by a cash deposit (the “**Deposit**”) by wire transfer of immediately available funds in an amount equal to at least 10% of the Consideration Value, which Deposit shall be retained by the Monitor in an interest-bearing trust account in accordance with the terms hereof;
- (n) it includes a statement that the bidder will bear its own costs and expenses (including all legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- (o) it is received by the Applicants, with a copy to the Financial Advisor and the Monitor, by the Qualified Bid Deadline at the email addresses specified on Schedule “A” hereto.

10. The Applicants, in consultation with the Financial Advisor, the Monitor and the DIP Lender, may in their sole discretion waive compliance with any one or more of the requirements specified in Section 9 above and deem a non-compliant bid to be a Qualified Bid, provided that the Applicants shall not waive compliance with the requirements specified in subsections 9(b) or 9(c) without the consent of the DIP Lender.
11. If one or more Qualified Bids has been received by the Applicants on or before the Qualified Bid Deadline, the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor and the DIP Lender, may:
  - (a) negotiate with one or more of the bidders who submitted a Qualified Bid, including requesting that such bidder improve or otherwise modify the terms of its Qualified Bid (and any such improved or modified Qualified Bid submitted by a bidder shall be deemed to be a Qualified Bid hereunder for all purposes);
  - (b) (x) considering the factors set out in Section 9 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or release of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the bidder's ability to close a Transaction by not later than the Outside Date (including factors such as: the Transaction structure and execution risk; conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the benefit to the Applicants and their stakeholders, and (vi) any other factors the directors or officers of Applicants may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the "**Consideration Factors**"); and (y) designate any Qualified Bid received to be the highest or otherwise best bid in the SISP (as may be designated pursuant to this subsection 11(b), the "**Successful Bid**" and the bidder making such bid, the "**Successful Bidder**"); or
  - (c) having regard to the Consideration Factors, designate any Qualified Bid received as the Back-Up Bid.
12. Except to the extent otherwise authorized by the Court, notwithstanding any other provision hereof no bid may be designated as a Successful Bid or Back-up Bid unless (x) it will pay out in cash on closing all principal, interest, fees and costs outstanding under the facility agreement dated as of December 6, 2018, between Glasshouse Canada, as borrower, DPDF IV, as administrative agent, and the lenders and guarantors party thereto (as amended, modified, supplemented and scheduled from time to time, the "**Facility Agreement**") or (y) it is consented to by DPDF IV.
13. Following selection of the Successful Bid, if any, the Applicants, with the assistance of their advisors, and in consultation with the Monitor and the DIP Lender, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive

agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicants in consultation with the Monitor, the Applicant shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the Applicants to complete the transactions contemplated thereby, as applicable, and authorizing the applicable Applicants to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the Transaction contemplated in such Successful Bid (each, an “**Approval Order**”). If the Successful Bid is not consummated in accordance with its terms, the Applicant shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.

14. The highest Qualified Bid may not necessarily be accepted by the Applicants. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicants, with the written consent of the Monitor, reserve the right to deal with one or more bidders to the exclusion of others, to accept a Qualified Bid for different parts of the Opportunity or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.
15. If a Successful Bid is selected and an Approval Order authorizing the consummation of the Transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the Transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable bidder by the Monitor as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Approval Order or such earlier date as may be determined by the Applicants, with the consent of the Monitor; provided, the Deposit in respect of any Back-Up Bid shall not be returned to the applicable bidder until the closing of the Successful Bid.
16. The Applicants and the Monitor shall be permitted, in their discretion, to provide general updates and information in respect of the SISP to any creditor (each a “**Creditor**”) and its legal and financial advisors, if applicable, on a confidential basis, upon: (a) the irrevocable confirmation in writing from such Creditor that it will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Applicants in form and substance satisfactory to the Applicants and the Monitor. The DIP Lender and DPDF IV have irrevocably confirmed that they will not submit any bid in the SISP (provided that they may credit bid following the termination of the SISP), and as such the Applicant and Monitor shall consult and provide all information (subject to solicitor-client privilege) in respect of the SISP to the DIP Lender and its legal and financial advisors.
17. Any amendments to this SISP may only be made by the Applicants with the written consent of the Monitor and the DIP Lender or by further order of the Court.

18. Any secured lender of the Applicants shall have the right to credit bid their secured debt against the assets secured thereby up to the full face value of such secured lender's claims, including principal, interest and any other obligations owing to such secured lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Applicants in priority to its secured debt (including as contemplated by subsection 9(b) hereof); and (ii) pay appropriate consideration for any assets of the Applicants which are contemplated to be acquired and that are not subject to such secured lender's security; provided, however, that the DIP Lender and DPDF IV have confirmed they shall not credit bid unless and until the SISP is terminated.
19. The Applicants, following consultation with the Monitor and the DIP Lender, may at any time prior to the Qualified Bid Deadline bring a motion in the CCAA proceedings for approval of a 'stalking horse' bid in the SISP.
20. The Monitor will oversee the conduct of the SISP and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out herein and in the SISP Approval Order, and is entitled to receive all information in relation to the SISP.

**SCHEDULE "A": E-MAIL ADDRESSES FOR DELIVERY OF BIDS**

To the counsel for the Applicants:

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with a copy to the Financial Advisor:

[mchesen@ssgca.com](mailto:mchesen@ssgca.com); [mkarlson@ssgca.com](mailto:mkarlson@ssgca.com); [alamm@ssgca.com](mailto:alamm@ssgca.com);

and with a copy to the Monitor and legal counsel to the Monitor:

[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com); [rjacobs@cassels.com](mailto:rjacobs@cassels.com); [jbellissimo@cassels.com](mailto:jbellissimo@cassels.com).

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

Court File No. CV-23-00711401-00CL

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE  
PHARMACEUTICALS LLC**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**AFFIDAVIT OF JAN SAHAI**  
(sworn December 14, 2023)

**GOODMANS LLP**

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Lawyers for the Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 22 <sup>ND</sup>
	)	
JUSTICE PENNY	)	DAY OF DECEMBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA,  
GLASSHOUSE PHARMACEUTICALS LIMITED CANADA,  
AND GLASSHOUSE PHARMACEUTICALS LLC**

(the “**Applicants**”)

**AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order Dated December 15, 2023)**

**THIS MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), for an Amended and Restated Initial Order was heard this day by videoconference via zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto (the “**Sahai Affidavit**”), the Pre-Filing Report of KSV Restructuring Inc. (“**KSV**”), in its capacity as the proposed monitor of the Applicants dated December 14, 2023, and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) dated December [●], 2023 (the “**First Report**”), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of



Canada (“**RBC**”), and counsel for Export Development Canada (“**EDC**”), and the other parties listed on the counsel slip, and on reading the consent of KSV to act as the Monitor,

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sahai Affidavit.
3. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the “date of this Order”, “the date hereof” or similar phrases refer to the date the Initial Order of this Court was granted in the within proceedings, being December 15, 2023.

### **APPLICATION**

4. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

### **PLAN OF ARRANGEMENT**

5. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

### **POSSESSION OF PROPERTY AND OPERATIONS**

6. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively

“**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that the Applicants:

- (a) shall be entitled to continue to utilize the central cash management system currently in place as described in the Sahai Affidavit or, with the prior written consent of the Monitor and the DIP Lender (as defined below), replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under a Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; and
- (b) shall be entitled to continue to use the corporate credit cards in place with American Express and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.

8. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reimbursable expenses and director fees and expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

- (b) all charge-backs and rebates due and owing or relating to their customers in the normal course of the applicable Applicant's business;
- (c) with the prior written consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to any of the Applicants, prior to the date of this Order; and
- (d) the fees and disbursements of any Assistants retained or employed by any of the Applicants at their standard rates and charges.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to any of the Applicants on or following the date of this Order.

10. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or

collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

11. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the applicable Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and the landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

**RESTRUCTURING**

13. **THIS COURT ORDERS** that each Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding CA\$250,000 in any one transaction or CA\$1,000,000 in the aggregate;
- (b) disclaim such of its arrangements or agreements of any nature whatsoever with whomever, whether oral or written, as such Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

14. **THIS COURT ORDERS** that the applicable Applicants shall provide each of the relevant landlords with notice of the applicable Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the applicable Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the

disclaimer of the lease shall be without prejudice to the applicable Applicant's claim to the fixtures in dispute.

15. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS, THEIR BUSINESS OR THEIR PROPERTY**

16. **THIS COURT ORDERS** that until and including March 22, 2024, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**", and collectively, "**Proceedings**") shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

17. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors

(including counsel) or other representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the Applicants to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll services, benefit services, contract manufacturing services, accounting services, insurance, transportation services, warehouse and logistics services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and each applicable Applicant and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **NO PRE-FILING VS POST-FILING SET-OFF**

21. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (i) are or may become due to an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from an Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to an Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the applicable Applicant and the Monitor or further Order of this Court.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants (the “**Directors and Officers**”) with respect to any claim against the Directors or Officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for the payment or performance of such obligations, until a Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE**

23. **THIS COURT ORDERS** that the Applicants shall indemnify the Directors and Officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with



respect to any Director or Officer, the obligation or liability was incurred as a result of the Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

24. **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of CA\$2,306,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 45 and 47 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

#### **APPOINTMENT OF MONITOR**

26. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender, its counsel and its financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender, its counsel and its financial advisor on a periodic basis as agreed with the DIP Lender;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

29. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively,

“**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor’s appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the

Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) on such terms as the parties may agree and, in addition, the Monitor, counsel to the Monitor and counsel to the Applicants are authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$600,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such advisors, both before and after the making of this Order in respect of these proceedings; provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **APPROVAL OF FINANCIAL ADVISOR AGREEMENT**

35. **THIS COURT ORDERS** that the Agreement dated as of December 12, 2023, engaging the Financial Advisor and attached as Exhibit “K” to the Sahai Affidavit (the “**Financial Advisor Agreement**”), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved and the Applicant is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Financial Advisor Agreement.

36. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Financial Advisor Charge**”) on the Property as security solely for the Transaction Fee earned and payable pursuant to the terms of the Financial Advisor

Agreement. The Financial Advisor Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **KEY EMPLOYEE RETENTION PLAN**

37. **THIS COURT ORDERS** that the key employee retention plan (the “**KERP**”), as described in the Sahai Affidavit and the First Report, is hereby authorized and approved, and the Applicants are authorized to make the payments contemplated under the KERP in accordance with the terms and conditions of the KERP.

38. **THIS COURT ORDERS** that the key employees under the KERP shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$998,311, unless permitted by further Order of this Court, to secure any payments to the key employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **DIP FINANCING**

39. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow and provide guarantees, as the case may be, under a credit facility from Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P. (in such capacity, the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of US\$6,000,000 unless permitted by further Order of this Court.

40. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated as of December 14, 2023 in the form attached to the Sahai Affidavit with such minor modifications or amendments that may be agreed to by the parties and consented to by the Monitor (the “**DIP Term Sheet**”).

41. **THIS COURT ORDERS** that each of the Applicants is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, including the DIP Term

Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$6,000,000 plus interest, fees and expenses, unless permitted by further Order of the Court, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 45 and 47 hereof.

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an Event of Default (as defined in the DIP Term Sheet) under the Definitive Documents, the DIP Lender, subject to the notice requirements under the Definitive Documents, may cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender’s Charge, make demand, accelerate payment and give other notices, or, upon four (4) business days notice to the Applicants and the Monitor, exercise any and all other rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender’s Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the Applicants and for the appointment of a trustee in bankruptcy of any of the Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Applicants or the Property.

44. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. **THIS COURT ORDERS** that the priorities of the Directors’ Charge, the Administration Charge, the KERP Charge, the Financial Advisor Charge, and the DIP Lender’s Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CA\$600,000);

Second – Directors’ Charge (to the maximum amount of CA\$2,306,000);

Third – KERP Charge (to the maximum amount of CA\$998,311);

Fourth – Financial Advisor Charge; and

Fifth – DIP Lender’s Charge (to the maximum amount of US\$6,000,000, plus interest, fees and expenses).

46. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of

perfection or attachment; provided that the DIP Lender's Charge shall rank behind the Encumbrances on the Property in favour of RBC and EDC.

48. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the applicable Charges, or further Order of this Court.

49. **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and the DIP Lender shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any of them is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent



conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

50. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property lease.

#### **FOREIGN PROCEEDINGS**

51. **THIS COURT ORDERS** that Contract Pharmaceuticals Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

52. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, to the extent considered necessary by the Applicants, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 .

#### **SERVICE AND NOTICE**

53. **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than CA\$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

54. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "**Guide**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O.

1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/cpl>.

55. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission or electronic message to the Applicants’ creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. (Toronto Time) (or the next business day following the date of forwarding thereof if sent on a non business day) (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. (Toronto Time); or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

56. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies thereof by electronic message (including by e-mail) to the Applicants’ creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

57. **THIS COURT ORDERS** that any interested party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further order of this Court, provide the service list in these proceedings with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the

grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consultation with the Applicants.

### **SEALING**

58. **THIS COURT ORDERS** that the Confidential Appendix to the First Report shall be sealed and kept confidential pending further order of this Court.

### **GENERAL**

59. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder or in the interpretation of this Order.

60. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. **THIS COURT ORDERS** that the Initial Order of this Court dated December 15, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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

Court File No. CV-23-00711401-00CL

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL  
CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED  
CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
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Lawyers for the Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 22 <sup>nd</sup>
	)	
JUSTICE PENNY	)	DAY OF DECEMBER, 2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

(the “**Applicants**”)

**SISP APPROVAL ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, for an order, *inter alia*, approving the Sale and Investment Solicitation Process in the form attached hereto as Schedule “A” (the “**SISP**”) and certain related relief, was heard this day by videoconference via Zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto, and the pre-filing report dated December 14, 2023, of the proposed monitor, KSV Restructuring Inc. (“**KSV**”), and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”) dated December [●], 2023 (the “**First Report**”), and on hearing the submissions of counsel for the Applicants, counsel for KSV, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of Canada, and counsel for Export Development Canada, and the other parties listed on the counsel slip,

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated December [22], 2023 (the “**ARIO**”), or the SISP, as the case may be.

## **SALE AND INVESTMENT SOLICITATION PROCESS**

3. **THIS COURT ORDERS** that the SISP is hereby approved and the Applicants and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicants, the Financial Advisor and the Monitor are hereby authorized and directed to do all things reasonably necessary to perform their respective obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.

4. **THIS COURT ORDERS** that the Applicants, the Financial Advisor, the Monitor, and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of any such person (with respect to such person alone), in performing their obligations under the SISP, as determined by this Court in a final order that is not subject to appeal or other review.

5. **THIS COURT ORDERS** that in overseeing the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

6. **THIS COURT ORDERS** that the Applicants and the Monitor may from time to time apply to this Court for advice and directions in connection with the SISP or the implementation thereof.

### **PIPEDA**

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 and any similar legislation in any other applicable jurisdictions, the Applicants, the Monitor and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement (each, a “**SISP Participant**”) and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation for the purpose of effecting a Transaction, and, if it does not complete a Transaction, shall return all such information to the Applicants, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Applicants or the Monitor. Any bidder with a Successful Bid shall maintain and protect the privacy of such information and, upon closing of the Transaction(s) contemplated in the Successful Bid(s), shall be entitled to use the personal information provided to it that is related to the Business and/or the Property acquired pursuant to the SISP in a manner that is in all material respects identical to the prior use of such information by the Applicants, and shall return all other



personal information to the Applicants, or ensure that all other personal information is destroyed and provide confirmation of its destruction if requested by the Applicants or the Monitor.

## **GENERAL**

8. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal and regulatory or administrative bodies, having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor, and their respective agents in carrying out the terms of this Order. All courts, tribunals and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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**SCHEDULE "A"**

**SALE AND INVESTMENT SOLICITATION PROCESS**

**[ATTACHED]**

## Sale and Investment Solicitation Process for Contract Pharmaceuticals Limited

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1. On December 15, 2023, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”), among other things: (i) granting Contract Pharmaceuticals Limited, CPL Canada Holdco Limited, Contract Pharmaceuticals Limited Canada, Glasshouse Pharmaceuticals Limited Canada (“**Glasshouse Canada**”), and Glasshouse Pharmaceuticals LLC (collectively, the “**Applicants**”) relief pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”); and (ii) approving the Applicants’ ability to borrow under an interim debtor-in-possession financing facility pursuant to a DIP Financing Term Sheet dated December 14, 2023 (the “**DIP Agreement**”) with Deerfield Private Design Fund IV, L.P. (“**DPDF IV**”), as agent for itself and Deerfield Private Design Fund III, L.P. (together in such capacity, the “**DIP Lender**”) providing borrowings of up to US\$6,000,000 (the “**DIP**”).
2. On December [22], 2023, the Court granted: (i) an order amending and restating the Initial Order (the “**ARIO**”); and (ii) an order (the “**SISP Approval Order**”) that, among other things, authorized the Applicants to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof. Capitalized terms that are not otherwise defined herein have the meanings ascribed to them in the ARIO or the SISP Approval Order, as applicable. Copies of the ARIO and the SISP Approval Order can be found at the following URL: <https://www.ksvadvisory.com/experience/case/cpl> (the “**Monitor’s Website**”).
3. This SISP sets out the manner in which: (a) binding bids for a refinancing, sale or other strategic investment or transaction involving the business, assets and/or equity of the Applicants (the “**Opportunity**”), will be solicited from interested parties; (b) any such bids received will be addressed; (c) any Successful Bid (as defined below) will be selected; and (d) Court approval of any Successful Bid will be sought.
4. The SISP shall be conducted by the Applicants with the assistance of SSG Capital Advisors, LLC (in such capacity, the “**Financial Advisor**”) under the oversight of KSV Restructuring Inc. in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the “**Monitor**”).
5. Parties who wish to have their bids considered must participate in the SISP.
6. The Applicants, with the assistance of the Financial Advisor and under the oversight of the Monitor, will:
  - (a) disseminate marketing materials and a process letter (which letter shall, among other things, direct recipients to the Monitor’s Website for a copy of this SISP) to potentially interested parties identified by the Applicants, with the assistance of the

Financial Advisor and in consultation with the Monitor and the DIP Lender, or any other interested party who contacts the Applicants, the Financial Advisor or the Monitor;

- (b) solicit interest from interested parties with a view to such parties entering into non-disclosure agreements (each an “**NDA**”) (parties shall only obtain access to the virtual data room (the “**VDR**”) and be permitted to participate in the SISP if they execute an NDA, in form and substance satisfactory to the Applicants; provided that those parties that have already executed an NDA with the Applicants shall not be required to execute a further NDA provided that such prior NDA has not expired or will not expire during the SISP);
  - (c) provide interested parties who have executed an NDA with: (i) a confidential information memorandum in respect of the Opportunity; and (ii) access to the VDR containing diligence information in respect of the Opportunity and such other diligence opportunities as the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor, consider advisable;
  - (d) request that interested parties submit a non-binding letter of intent (“**LOI**”) that meets the requirements set forth in Section 8 below by the LOI Deadline (as defined below); and
  - (e) request that such parties submit a binding offer that meets at least the requirements set forth in Section 9 below, as determined by the Applicants, in consultation with the Monitor (each a “**Qualified Bid**”), by the Qualified Bid Deadline (as defined below).
7. The SISP shall be conducted subject to the terms hereof and the following key milestones, which milestones may be extended by the Applicant, in consultation with the Monitor (provided that in the case of any extension by more than three days for any individual milestone, or seven days in the aggregate, or for any extension of the Outside Date, the consent of the DIP Lender shall also be required):
- (a) the Court issues the SISP Approval Order approving the SISP – by no later than December 22, 2023;
  - (b) the Applicants, with the assistance of the Financial Advisor, commence the solicitation process by no later than January 8, 2024, it being understood that the Applicants and the Financial Advisor, in consultation with the Monitor, shall be at liberty to provide marketing materials and commence discussions with interested parties prior to such date as they consider appropriate;
  - (c) deadline to submit a non-binding LOI – by no later than 2:00 p.m. (Toronto time) on February 8, 2024 (the “**LOI Deadline**”);
  - (d) deadline to submit a Qualified Bid – by no later than 2:00 p.m. (Toronto time) on February 29, 2024 (the “**Qualified Bid Deadline**”);

- (e) deadline to select a Qualified Bid as the successful bid (the “**Successful Bid**”) – by no later than 2:00 p.m. (Toronto time) on March 12, 2024;
  - (f) Approval Order (as defined below) hearing – by no later than March 22, 2024, subject to Court availability; and
  - (g) closing of the Successful Bid – as soon thereafter as possible and, in any event, by no later than April 30, 2024 (the “**Outside Date**”).
8. Any interested party who wishes to submit an LOI in the SISP must submit an LOI that complies with the following criteria (it being understood that the Applicants, in consultation with the Monitor, may waive strict compliance with any one or more of the requirements specified below):
- (a) it sets forth the identity of the interested party, including its contact information, full disclosure of its direct and indirect principals and equity holders, and information as to the interested party’s financial wherewithal to complete a transaction pursuant to the SISP;
  - (b) it sets forth the principal terms of the proposed transaction, including: (i) the nature of the proposed transaction (e.g. refinancing, sale, investment, etc.); (ii) the purchase price or other consideration offered in connection with the transaction, including material assumed liabilities; (iii) a description of any conditions or approvals required and any additional due diligence required for the interested party to make a final binding bid; (iv) all conditions to closing that the interested party may wish to impose on the closing of the transaction; (v) proposed treatment of the Applicants’ employees; (vi) any other terms or conditions that the interested party believes are material to the transaction; and (vii) any other information as may be reasonably requested by the Applicants, in consultation with the Monitor; and
  - (c) it is received by the Applicants and the Monitor by no later than the LOI Deadline at the email addresses specified on Schedule “A” hereto.
9. In order to constitute a Qualified Bid, a bid must comply with the following:
- (a) it provides for consideration, payable in full on closing of the Transaction (the “**Consideration Value**”), and provides a detailed sources schedule that identifies, with specificity, the composition of the Consideration Value and any assumptions that could reduce the net consideration payable including details of any material liabilities that are being assumed or being excluded;
  - (b) as part of the Consideration Value, it provides cash consideration sufficient to pay on closing: (i) any obligations in connection with the charges granted by the Court in the Applicants’ CCAA proceedings and any obligations in priority thereto; and (ii) the amount necessary to fund a wind-up of the Applicants’ CCAA proceedings and any further proceedings or wind-up costs in respect of the Applicants;
  - (c) it contemplates closing of the Transaction by not later than the Outside Date;

- (d) it contains:
  - (i) duly executed binding Transaction document(s);
  - (ii) the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
  - (iii) a redline to the form of any transaction agreement made available by the Applicants in the VDR;
  - (iv) evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
  - (v) disclosure of any past or current connections or agreements with the Applicants, any known, potential, prospective bidder participating in the SISF, or any current or former officer, manager, director, member or known current or former equity security holder of any of the Applicants; and
  - (vi) such other information as may be reasonably requested by the Applicants or the Monitor;
- (e) it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until closing of the Successful Bid; provided, that if such bid is not selected as the Successful Bid or as the next-highest or otherwise best Qualified Bid as compared to the Successful Bid (such bid, the "**Back-Up Bid**") it shall only remain irrevocable until selection of the Successful Bid;
- (f) it provides that the bid will serve as a Back-Up Bid if it is not selected as the Successful Bid and if selected as the Back-Up Bid it will remain irrevocable until the earlier of: (i) closing of the Successful Bid; or (ii) closing of the Back-Up Bid;
- (g) it provides written evidence of the bidder's ability to fully fund and consummate the Transaction and satisfy its obligations under the Transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full Consideration Value and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the bidder in connection with the Successful Bid;
- (h) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- (i) it is not conditional upon:
  - (i) approval from the bidder's board of directors (or comparable governing body) or equityholder(s);

- (ii) the outcome of any due diligence by the bidder; or
  - (iii) the bidder obtaining financing;
- (j) it includes an acknowledgment and representation that the bidder: (i) has had an opportunity to conduct any and all required due diligence prior to making its bid, and has relied solely upon its own independent review, investigation and inspection in making its bid; (ii) is not relying upon any written or oral statements, representations, promises, warranties, conditions, or guaranties whatsoever, whether express or implied (by operation of law or otherwise), made by any person or party, including the Applicants, the Financial Advisor, the Monitor and their respective employees, officers, directors, agents, advisors (including legal counsel) and other representatives, regarding the proposed Transaction, this SISP, or any information (or the completeness of any information) provided in connection therewith, except as expressly stated in the proposed Transaction documents; (iii) is making its bid on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Applicants, the Financial Advisor, the Monitor or any of their respective employees, officers, directors, agents, advisors and other representatives, except to the extent set forth in the proposed Transaction documents; (iv) is bound by this SISP and the SISP Approval Order; and (v) is subject to the exclusive jurisdiction of the Court with respect to any disputes or other controversies arising under or in connection with the SISP or its bid;
- (k) it specifies any regulatory or other third-party approvals the bidder anticipates would be required to complete the Transaction (including the anticipated timing necessary to obtain such approvals);
- (l) it includes full details of the bidder’s intended treatment of the Applicants’ stakeholders under or in connection with the proposed bid, including the Applicants’ secured creditors, unsecured creditors, employees, customers, suppliers, contractual counterparties and equity holders;
- (m) it is accompanied by a cash deposit (the “**Deposit**”) by wire transfer of immediately available funds in an amount equal to at least 10% of the Consideration Value, which Deposit shall be retained by the Monitor in an interest-bearing trust account in accordance with the terms hereof;
- (n) it includes a statement that the bidder will bear its own costs and expenses (including all legal and advisor fees) in connection with the proposed Transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
- (o) it is received by the Applicants, with a copy to the Financial Advisor and the Monitor, by the Qualified Bid Deadline at the email addresses specified on Schedule “A” hereto.

10. The Applicants, in consultation with the Financial Advisor, the Monitor and the DIP Lender, may in their sole discretion waive compliance with any one or more of the requirements specified in Section 9 above and deem a non-compliant bid to be a Qualified Bid, provided that the Applicants shall not waive compliance with the requirements specified in subsections 9(b) or 9(c) without the consent of the DIP Lender.
11. If one or more Qualified Bids has been received by the Applicants on or before the Qualified Bid Deadline, the Applicants, with the assistance of the Financial Advisor and in consultation with the Monitor and the DIP Lender, may:
  - (a) negotiate with one or more of the bidders who submitted a Qualified Bid, including requesting that such bidder improve or otherwise modify the terms of its Qualified Bid (and any such improved or modified Qualified Bid submitted by a bidder shall be deemed to be a Qualified Bid hereunder for all purposes);
  - (b) (x) considering the factors set out in Section 9 of the SISP and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or release of liabilities not otherwise accounted for in (i) above, (iii) the likelihood of the bidder's ability to close a Transaction by not later than the Outside Date (including factors such as: the Transaction structure and execution risk; conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, (v) the benefit to the Applicants and their stakeholders, and (vi) any other factors the directors or officers of Applicants may, consistent with their fiduciary duties, reasonably deem relevant (collectively, the "**Consideration Factors**"); and (y) designate any Qualified Bid received to be the highest or otherwise best bid in the SISP (as may be designated pursuant to this subsection 11(b), the "**Successful Bid**" and the bidder making such bid, the "**Successful Bidder**"); or
  - (c) having regard to the Consideration Factors, designate any Qualified Bid received as the Back-Up Bid.
12. Except to the extent otherwise authorized by the Court, notwithstanding any other provision hereof no bid may be designated as a Successful Bid or Back-up Bid unless (x) it will pay out in cash on closing all principal, interest, fees and costs outstanding under the facility agreement dated as of December 6, 2018, between Glasshouse Canada, as borrower, DPDF IV, as administrative agent, and the lenders and guarantors party thereto (as amended, modified, supplemented and scheduled from time to time, the "**Facility Agreement**") or (y) it is consented to by DPDF IV.
13. Following selection of the Successful Bid, if any, the Applicants, with the assistance of their advisors, and in consultation with the Monitor and the DIP Lender, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the milestones set out in Section 7. Once the necessary definitive



agreement(s) with respect to a Successful Bid have been finalized, as determined by the Applicants in consultation with the Monitor, the Applicant shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the Applicants to complete the transactions contemplated thereby, as applicable, and authorizing the applicable Applicants to: (a) enter into any and all necessary agreements and related documentation with respect to the Successful Bid; (b) undertake such other actions as may be necessary to give effect to such Successful Bid; and (c) implement the Transaction contemplated in such Successful Bid (each, an “**Approval Order**”). If the Successful Bid is not consummated in accordance with its terms, the Applicant shall be authorized, but not required, to elect that the Back-Up Bid (if any) is the Successful Bid.

14. The highest Qualified Bid may not necessarily be accepted by the Applicants. The Applicants, with the written consent of the Monitor and the DIP Lender, reserve the right not to accept any Qualified Bid or to otherwise terminate the SISP. The Applicants, with the written consent of the Monitor, reserve the right to deal with one or more bidders to the exclusion of others, to accept a Qualified Bid for different parts of the Opportunity or to accept multiple Qualified Bids and enter into definitive agreements in respect of all such bids.
15. If a Successful Bid is selected and an Approval Order authorizing the consummation of the Transaction contemplated thereunder is granted by the Court, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the Transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid will be returned to the applicable bidder by the Monitor as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Approval Order or such earlier date as may be determined by the Applicants, with the consent of the Monitor; provided, the Deposit in respect of any Back-Up Bid shall not be returned to the applicable bidder until the closing of the Successful Bid.
16. The Applicants and the Monitor shall be permitted, in their discretion, to provide general updates and information in respect of the SISP to any creditor (each a “**Creditor**”) and its legal and financial advisors, if applicable, on a confidential basis, upon: (a) the irrevocable confirmation in writing from such Creditor that it will not submit any bid in the SISP; and (b) such Creditor executing a confidentiality agreement or undertaking with the Applicants in form and substance satisfactory to the Applicants and the Monitor. The DIP Lender and DPDF IV have irrevocably confirmed that they will not submit any bid in the SISP (provided that they may credit bid following the termination of the SISP), and as such the Applicant and Monitor shall consult and provide all information (subject to solicitor-client privilege) in respect of the SISP to the DIP Lender and its legal and financial advisors.
17. Any amendments to this SISP may only be made by the Applicants with the written consent of the Monitor and the DIP Lender or by further order of the Court.

18. Any secured lender of the Applicants shall have the right to credit bid their secured debt against the assets secured thereby up to the full face value of such secured lender's claims, including principal, interest and any other obligations owing to such secured lender; provided that any such secured lender shall be required to: (i) pay in full in cash any obligations of the Applicants in priority to its secured debt (including as contemplated by subsection 9(b) hereof); and (ii) pay appropriate consideration for any assets of the Applicants which are contemplated to be acquired and that are not subject to such secured lender's security; provided, however, that the DIP Lender and DPDF IV have confirmed they shall not credit bid unless and until the SISP is terminated.
19. The Applicants, following consultation with the Monitor and the DIP Lender, may at any time prior to the Qualified Bid Deadline bring a motion in the CCAA proceedings for approval of a 'stalking horse' bid in the SISP.
20. The Monitor will oversee the conduct of the SISP and, without limitation to that supervisory role, the Monitor will participate in the SISP in the manner set out herein and in the SISP Approval Order, and is entitled to receive all information in relation to the SISP.

**SCHEDULE “A”: E-MAIL ADDRESSES FOR DELIVERY OF BIDS**

To the counsel for the Applicants:

[carmstrong@goodmans.ca](mailto:carmstrong@goodmans.ca); [eaxell@goodmans.ca](mailto:eaxell@goodmans.ca); [jlinde@goodmans.ca](mailto:jlinde@goodmans.ca)

with a copy to the Financial Advisor:

[mchesen@ssgca.com](mailto:mchesen@ssgca.com); [mkarlson@ssgca.com](mailto:mkarlson@ssgca.com); [alamm@ssgca.com](mailto:alamm@ssgca.com);

and with a copy to the Monitor and legal counsel to the Monitor:

[ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com); [rjacobs@cassels.com](mailto:rjacobs@cassels.com); [jbellissimo@cassels.com](mailto:jbellissimo@cassels.com).

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

Court File No. CV-23-00711401-00CL

**AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS LIMITED, CPL  
CANADA HOLDCO LIMITED, CONTRACT PHARMACEUTICALS LIMITED  
CANADA, GLASSHOUSE PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

**SISP APPROVAL ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
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Lawyers for the Applicants

Court File No. — CV-23-00711401-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE — ) ~~WEEKDAY~~ FRIDAY, THE # 22<sup>ND</sup>  
 )  
 JUSTICE — PENNY ) DAY OF ~~MONTH~~ DECEMBER,  
 ) 20~~YR~~2023

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF ~~[APPLICANT'S NAME]~~ (the  
"Applicant") CONTRACT PHARMACEUTICALS LIMITED,  
CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND  
GLASSHOUSE PHARMACEUTICALS LLC**

(the "Applicants")

**AMENDED AND RESTATED INITIAL ORDER  
(Amending Initial Order Dated December 15, 2023)**

**THIS ~~APPLICATION~~ MOTION**, made by the ~~Applicant~~ Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCA"), for an Amended and Restated Initial Order was heard this day ~~at 330 University Avenue, Toronto, Ontario~~ by videoconference via zoom.

**ON READING** the affidavit of ~~[NAME]~~ Jan Sahai sworn ~~[DATE]~~ December 14, 2023, and the Exhibits thereto (the "Sahai Affidavit"), the Pre-Filing Report of KSV Restructuring Inc. ("KSV"), in its capacity as the proposed monitor of the Applicants dated December 14, 2023, and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the "Monitor") dated December [●], 2023 (the "First Report"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given

notice, and on hearing the submissions of counsel for ~~[NAMES], no one appearing for [NAME]~~ <sup>+Include names of secured creditors or other persons who must be served before certain relief in this model Order</sup> ~~although duly served as appears from the affidavit of service of [NAME] sworn~~ may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2)

[DATE] the Applicants, counsel for the Monitor, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of Canada (“RBC”), and counsel for Export Development Canada (“EDC”), and the other parties listed on the counsel slip, and on reading the consent of [MONITOR’S NAME] KSV to act as the Monitor,

### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application Motion and the Application Motion Record is hereby abridged and validated<sup>2</sup> so that this Application Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sahai Affidavit.

3. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the “date of this Order”, “the date hereof” or similar phrases refer to the date the Initial Order of this Court was granted in the within proceedings, being December 15, 2023.

### **APPLICATION**

4. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that the ~~Applicant is a company~~ Applicants are companies to which the CCAA applies.

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~~may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

~~<sup>2</sup>If service is effected in a manner other than as authorized by the Ontario *Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.~~

~~PLAN OF ARRANGEMENT~~ PLAN OF ARRANGEMENT

5. ~~3.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall have the authority to file and may, subject to further ~~order~~ Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

**POSSESSION OF PROPERTY AND OPERATIONS**

6. ~~4.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall remain in possession and control of ~~its~~ their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the ~~Applicant~~ Applicants shall continue to carry on business in a manner consistent with the preservation of ~~its~~ their business (the "Business") and the Property. The ~~Applicant is~~ Applicants are authorized and empowered to continue to retain and employ the employees, consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by ~~it~~ them, with liberty to retain such further Assistants as ~~it deems~~ they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. ~~5.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants:

- (a) shall be entitled to continue to utilize the central cash management system<sup>3</sup> currently in place as described in the ~~Affidavit of [NAME] sworn [DATE] or~~ Sahai Affidavit or, with the prior written consent of the Monitor and the DIP Lender (as defined below), replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ~~Applicant~~ Applicants of funds transferred, paid, collected or otherwise dealt

<sup>3</sup>~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter company transfers of cash.~~

with in the Cash Management System, ~~shall;~~ (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ~~Applicant~~Applicants, pursuant to the terms of the documentation applicable to the Cash Management System,; and ~~shall~~(iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under ~~the~~a Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.~~;~~ and

(b) shall be entitled to continue to use the corporate credit cards in place with American Express and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.

8. ~~6.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

(a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reimbursable expenses and director fees and expenses payable prior to, on, or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;~~and~~

(b) all charge-backs and rebates due and owing or relating to their customers in the normal course of the applicable Applicant's business;

(c) with the prior written consent of the Monitor and the DIP Lender, amounts owing for goods and services actually supplied to any of the Applicants, prior to the date of this Order; and

(d) ~~(b)~~ the fees and disbursements of any Assistants retained or employed by ~~the Applicant in respect of these proceedings,~~any of the Applicants at their standard rates and charges.

9. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the ~~Applicant~~Applicants shall be entitled but not required to pay all reasonable expenses incurred



~~by the Applicant~~ in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to ~~the Applicant~~ any of the Applicants on or following the date of this Order.

10. ~~8.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by any of the ~~Applicant~~ Applicants in connection with the sale of goods and services by any of the ~~Applicant~~ Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the ~~Applicant~~ Applicants.

11. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for~~ **resiliated**<sup>4</sup> in accordance with the CCAA, the applicable Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, ~~twice monthly in equal payments~~ monthly on the first ~~and fifteenth~~ day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and the landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the ~~Applicant~~ Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicant Applicants to any of ~~its~~ their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~ the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

13. ~~11.~~ **THIS COURT ORDERS** that ~~the~~ each Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

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<sup>4</sup>The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding CA\$•250,000 in any one transaction or CA\$•1,000,000 in the aggregate~~;~~<sup>5</sup>;
- (b) disclaim such of its arrangements or agreements of any nature whatsoever with whomever, whether oral or written, as such Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (c) ~~(b)~~ terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate~~;~~ and
- (d) ~~(e)~~ pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing~~;~~;

all of the foregoing to permit the ~~Applicant~~Applicants to proceed with an orderly restructuring of the Business ~~(the "Restructuring")~~.

14. ~~12.~~ **THIS COURT ORDERS** that the ~~Applicant~~applicable Applicants shall provide each of the relevant landlords with notice of the applicable Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the applicable Applicant disclaims ~~for-resiliates~~ the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the

<sup>5</sup>Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.

notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~for resiliation~~ of the lease shall be without prejudice to the ~~Applicant's~~Applicant's claim to the fixtures in dispute.

15. ~~13.~~ **THIS COURT ORDERS** that if a notice of disclaimer ~~for resiliation~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~for resiliation~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~for resiliation~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve ~~such~~the landlord of its obligation to mitigate any damages claimed in connection therewith.

**NO PROCEEDINGS AGAINST THE ~~APPLICANT OR THE~~APPLICANTS, THEIR BUSINESS OR THEIR PROPERTY**

16. ~~14.~~ **THIS COURT ORDERS** that until and including ~~[DATE—MAX. 30 DAYS]~~March 22, 2024, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding", and collectively, "Proceedings") shall be commenced or continued against or in respect of any of the ApplicantApplicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of ~~the Applicant~~any of the Applicants or their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

17. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the ApplicantApplicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the ApplicantApplicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the ApplicantApplicants to carry on any business which ~~the Applicant is~~ they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH RIGHTS**

18. ~~16.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the ApplicantApplicants, except with the prior written consent of the ApplicantApplicants and the Monitor, or leave of this Court.

**CONTINUATION OF SERVICES**

19. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the ApplicantApplicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll services, benefit services, contract manufacturing services, accounting services, insurance, transportation services, warehouse and logistics services, utility or other services to the Business or any of the ApplicantApplicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by ~~the Applicant, and that the Applicant~~ any of the

Applicants or exercising any other remedy provided under the agreements or arrangements, and that the Applicants shall be entitled to the continued use of ~~its~~their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and each ~~of the~~applicable Applicant and the Monitor, or as may be ordered by this Court.

### NON-DEROGATION OF RIGHTS

20. ~~18.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of ~~lease~~leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.<sup>6</sup>

### NO PRE-FILING VS POST-FILING SET-OFF

21. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (i) are or may become due to an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from an Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to an Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the applicable Applicant and the Monitor or further Order of this Court.

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<sup>6</sup>~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

## PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. ~~19.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by ~~subsection~~ Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of ~~the Applicant~~ any of the Applicants (the “Directors and Officers”) with respect to any claim against the ~~directors or officers~~ Directors or Officers that arose before the date hereof and that relates to any obligations of any of the Applicant Applicants whereby the ~~directors or officers~~ Directors and Officers are alleged under any law to be liable in their capacity as ~~directors or officers~~ the Directors and Officers for the payment or performance of such obligations, until a ~~compromise or arrangement~~ Plan in respect of the ~~Applicant~~ Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~ Applicants or this Court.

## DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

23. ~~20.~~ **THIS COURT ORDERS** that the ~~Applicant~~ Applicants shall indemnify ~~its directors and officers~~ the Directors and Officers against obligations and liabilities that they may incur as ~~directors or officers of the Applicant~~ a director or officer of any of the Applicants after the commencement of the within proceedings,<sup>7</sup> except to the extent that, with respect to any ~~officer~~ Director or ~~director~~ Officer, the obligation or liability was incurred as a result of the ~~director's or officer's~~ Director’s or Officer’s gross negligence or wilful misconduct (the “D&O Indemnity”).

24. ~~21.~~ **THIS COURT ORDERS** that the ~~directors and officers of the Applicant~~ Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the “Directors’ Charge”)<sup>8</sup> on the Property, which charge shall not exceed an aggregate amount of CA\$●2,306,000, unless permitted by further Order of this Court, as security for the

<sup>7</sup>The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors’ Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.

<sup>8</sup>Section 11.51(3) provides that the Court may not make this security/charging order if in the Court’s opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

~~indemnity~~D&O Indemnity provided in paragraph ~~{20}~~23 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{38}~~45 and ~~{40}~~47 herein.

25. ~~22.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary; ~~(a)~~ no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and ~~(b)~~ the ~~Applicant's directors and officers~~Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}~~23 of this Order.

#### APPOINTMENT OF MONITOR

26. ~~23.~~ **THIS COURT ORDERS** that ~~{MONITOR'S NAME}~~KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the ~~Applicant~~Applicants with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant and its~~Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the ~~Monitor's~~Monitor's functions.

27. ~~24.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the ~~Applicant's~~Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant, in its Applicants, in their~~ dissemination, to the DIP Lender ~~and its counsel on a [TIME INTERVAL] basis, its counsel and its financial advisor~~ of financial and other



- information as agreed to between the ~~Applicant~~Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis ~~to be~~as agreed with the DIP Lender;
- (d) advise the ~~Applicant in its~~Applicants in their preparation of the ~~Applicant's~~Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender ~~and~~, its counsel and its financial advisor on a periodic basis, ~~but not less than [TIME INTERVAL], or as otherwise as~~ agreed ~~to by~~with the DIP Lender;
- (e) advise the ~~Applicant in its~~Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~Applicants, to the extent that is necessary to adequately assess the ~~Applicant's~~Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. ~~25.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

29. ~~26.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “Possession”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “Environmental Legislation”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the ~~Monitor's~~Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. ~~27.~~ **THIS COURT ORDERS** ~~that~~ that the Monitor shall provide any creditor of the ~~Applicant~~Applicants and the DIP Lender with information provided by the ~~Applicant~~Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the ~~Applicant~~Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the ~~Applicant~~Applicants may agree.

31. ~~28.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of ~~its~~the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

32. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor ~~and,~~ counsel to the ~~Applicant~~ Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the ~~Applicant~~ Applicants as part of the costs of these proceedings. The ~~Applicant is~~ Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor ~~and,~~ counsel for the ~~Applicant on a [TIME INTERVAL] basis~~ Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) on such terms as the parties may agree and, in addition, the ~~Applicant is hereby authorized to pay to the~~ Monitor, counsel to the Monitor, ~~—~~ and counsel to the ~~Applicant, retainers in the amount[s] of \$● [,~~ Applicants are authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. ~~30.~~ **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any, and the Applicant's counsel~~ counsel to the Applicants and the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of CA\$●600,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such ~~counsel~~ advisors, both before and after the making of this Order in respect of these proceedings; provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs ~~[38]~~ 45 and ~~[40]~~ 47 hereof.

### APPROVAL OF FINANCIAL ADVISOR AGREEMENT

35. **THIS COURT ORDERS** that the Agreement dated as of December 12, 2023, engaging the Financial Advisor and attached as Exhibit "K" to the Sahai Affidavit (the "Financial Advisor Agreement"), and the retention of the Financial Advisor under the terms thereof, is

hereby ratified and approved and the Applicant is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Financial Advisor Agreement.

36. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Financial Advisor Charge**”) on the Property as security solely for the Transaction Fee earned and payable pursuant to the terms of the Financial Advisor Agreement. The Financial Advisor Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### KEY EMPLOYEE RETENTION PLAN

37. **THIS COURT ORDERS** that the key employee retention plan (the “**KERP**”), as described in the Sahai Affidavit and the First Report, is hereby authorized and approved, and the Applicants are authorized to make the payments contemplated under the KERP in accordance with the terms and conditions of the KERP.

38. **THIS COURT ORDERS** that the key employees under the KERP shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$998,311, unless permitted by further Order of this Court, to secure any payments to the key employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **DIP FINANCING**

39. ~~32.~~ **THIS COURT ORDERS** that the ~~Applicant is~~ Applicants are hereby authorized and empowered to obtain and borrow and provide guarantees, as the case may be, under a credit facility from ~~[DIP LENDER'S NAME]~~ (Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P. (in such capacity, the “**DIP Lender**”)) in order to finance the ~~Applicant's~~ Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of US\$●6,000,000 unless permitted by further Order of this Court.

40. ~~33.~~ **THIS COURT ORDERS** ~~THAT~~ that such credit facility shall be on the terms and subject to the conditions set forth in the ~~commitment letter~~ DIP Term Sheet between the

Applicant~~Applicants~~ and the DIP Lender dated as of ~~[DATE]~~ ~~(the "Commitment Letter")~~, ~~filed~~ December 14, 2023 in the form attached to the Sahai Affidavit with such minor modifications or amendments that may be agreed to by the parties and consented to by the Monitor (the "DIP Term Sheet").

41. ~~34.~~ **THIS COURT ORDERS** that each of the ~~Applicant~~Applicants is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, ~~the~~ "including the DIP Term Sheet, the "Definitive Documents""), as are contemplated by the ~~Commitment Letter~~DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the ~~Applicant is~~Applicants are hereby authorized and directed to pay and perform all of ~~its~~their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the ~~Commitment Letter and the~~ Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. ~~35.~~ **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which ~~DIP Lender's~~charge shall not exceed an aggregate amount of US\$6,000,000 plus interest, fees and expenses, unless permitted by further Order of the Court, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs ~~{38}~~45 and ~~{40}~~47 hereof.

43. ~~36.~~ **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an ~~event of default~~Event of Default (as defined in the DIP Term Sheet) under the Definitive Documents ~~or the DIP Lender's Charge~~, the DIP Lender, ~~upon 30 days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter,~~subject to the notice requirements under the Definitive Documents ~~and the DIP Lender's Charge, including without limitation, to,~~ may cease

making advances to the ~~Applicant~~Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the ~~Applicant~~Applicants against the obligations of the ~~Applicant~~Applicants to the DIP Lender under the ~~Commitment Letter, the~~ Definitive Documents or the DIP Lender's Charge, ~~to~~ make demand, accelerate payment and give other notices, or, upon four (4) business days notice to the Applicants and the Monitor, exercise any and all other rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender's Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the ~~Applicant~~Applicants and for the appointment of a trustee in bankruptcy of any of the ~~Applicant~~Applicants; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the ~~Applicant~~Applicants or the Property.

44. ~~37.~~ **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any ~~plan of arrangement or compromise~~Plan filed by the ~~Applicant~~Applicants under the CCAA, or any proposal filed by the ~~Applicant~~Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. ~~38.~~ **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the KERP Charge, the Financial Advisor Charge, and the DIP Lender's Charge (collectively, the "Charges"), as among them, shall be as follows<sup>9</sup>:

<sup>9</sup>~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

First – Administration Charge (to the maximum amount of CA\$●600,000);

Second – ~~DIP Lender's Charge; and~~ Directors' Charge (to the maximum amount of CA\$2,306,000);

Third – ~~Directors'~~ KERP Charge (to the maximum amount of CA\$●998,311);

Fourth – Financial Advisor Charge; and

Fifth – DIP Lender's Charge (to the maximum amount of US\$6,000,000, plus interest, fees and expenses).

46. ~~39.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge (collectively, the "Charges")~~ shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. ~~40.~~ **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge~~ Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person notwithstanding the order of perfection or attachment; provided that the DIP Lender's Charge shall rank behind the Encumbrances on the Property in favour of RBC and EDC.

48. ~~41.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the ~~Applicant~~ Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~ Charges, unless the ~~Applicant~~ Applicants also ~~obtains~~ obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~ applicable Charges, or further Order of this Court.

49. ~~42.~~ **THIS COURT ORDERS** that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, Charges and~~ the Definitive Documents ~~and the DIP Lender's Charge~~ shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargess") and ~~or~~ the DIP Lender ~~thereunder~~ shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds any of the ApplicantApplicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the ~~Commitment Letter or the~~ Definitive Documents shall create or be deemed to constitute a breach by any of the ApplicantApplicants of any Agreement to which ~~it~~ any of them is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~ApplicantApplicants~~ entering into the ~~Commitment Letter~~ DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the ~~ApplicantApplicants~~ pursuant to this Order, ~~the Commitment Letter or~~ the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.



50. ~~43.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the ~~Applicant's~~Applicants' interest in such real property ~~leases~~lease.

### FOREIGN PROCEEDINGS

51. **THIS COURT ORDERS** that Contract Pharmaceuticals Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the “Foreign Representative”) in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

52. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, to the extent considered necessary by the Applicants, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 .

### **SERVICE AND NOTICE**

53. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in ~~[newspapers specified by the Court]~~the Globe and Mail, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the ApplicantApplicants of more than ~~CA\$1000~~1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with ~~Section~~Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

54. ~~45.~~ **THIS COURT ORDERS** that the ~~E-Service Protocol of the~~Guide Concerning Commercial List E-Service (the “~~Protocol~~Guide”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-commercial/) shall be valid

and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “Rules of Civil Procedure”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph ~~21~~13 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ~~“@”~~: <https://www.ksvadvisory.com/experience/case/cpl>.

55. ~~46.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the ~~Protocol~~Guide or the CCAA and the regulations thereunder is not practicable, the ~~Applicant and~~Applicants, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding ~~true~~ copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission or electronic message to the ~~Applicant's~~Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown ~~on~~in the books and records of the ~~Applicant~~Applicants and that any such service or distribution ~~by courier, personal delivery or facsimile transmission~~ shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. (Toronto Time) (or the next business day following the date of forwarding thereof if sent on a non business day) (ii) the next business day following the date of forwarding thereof, or if sent by ordinary mail, courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. (Toronto Time); or (iii) on the third business day after mailing following the date of forwarding thereof, if sent by ordinary mail.

56. **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation,

and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

57. **THIS COURT ORDERS** that any interested party wishing to object to the relief sought in a motion brought by the Applicants or the Monitor in these CCAA proceedings shall, subject to further order of this Court, provide the service list in these proceedings with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consultation with the Applicants.

### SEALING

58. **THIS COURT ORDERS** that the Confidential Appendix to the First Report shall be sealed and kept confidential pending further order of this Court.

### **GENERAL**

59. ~~47.~~ **THIS COURT ORDERS** that the ~~Applicant~~Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of ~~its~~their powers and duties hereunder or in the interpretation of this Order.

60. ~~48.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the ~~Applicant~~Applicants, the Business or the Property.

61. ~~49.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in

any foreign proceeding, or to assist the ~~Applicant~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

62. ~~50.~~ **THIS COURT ORDERS** that each of the ~~Applicant~~Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

~~51. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.~~

63. ~~52.~~ **THIS COURT ORDERS** that the Initial Order of this Court dated December 15, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. ~~Eastern Standard/Daylight Time~~(Toronto Time) on the date of this Order without the need for entry or filing.

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

Court File No. CV-23-00711401-00CL

AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE  
PHARMACEUTICALS LLC

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE <del>15<sup>TH</sup></del> <u>22<sup>ND</sup></u>
JUSTICE PENNY	)	DAY OF DECEMBER, 2023
	)	

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA,  
GLASSHOUSE PHARMACEUTICALS LIMITED CANADA,  
AND GLASSHOUSE PHARMACEUTICALS LLC**

(the “**Applicants**”)

**AMENDED AND RESTATED INITIAL ORDER**  
**(Amending Initial Order Dated December 15, 2023)**

**THIS ~~APPLICATION~~ MOTION**, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), for an Amended and Restated Initial Order was heard this day by videoconference via zoom.

**ON READING** the affidavit of Jan Sahai sworn December 14, 2023, and the Exhibits thereto (the “**Sahai Affidavit**”), ~~and the pre-filing report of the proposed monitor,~~ Pre-Filing Report of KSV Restructuring Inc. (“KSV”), in its capacity as the proposed monitor of the Applicants dated December 14, 2023, and the first report of KSV as the Court-appointed monitor of the Applicants (in such capacity, the “Monitor”) dated December [●], 2023 (the “**First Report**”), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, counsel for ~~KSV~~ the Monitor, counsel for Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P., counsel for Royal Bank of Canada (“**RBC**”), and

counsel for Export Development Canada (“EDC”), and the other parties listed on the counsel slip, and on reading the consent of KSV to act as the ~~monitor (in such capacity, the “Monitor”)~~,

## SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Application~~Motion and the ~~Application~~Motion Record is hereby abridged and validated so that this ~~Application~~Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sahai Affidavit.

3. **THIS COURT ORDERS** that, for the avoidance of doubt, references in this Order to the “date of this Order”, “the date hereof” or similar phrases refer to the date the Initial Order of this Court was granted in the within proceedings, being December 15, 2023.

## APPLICATION

4. ~~3.~~**THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

## PLAN OF ARRANGEMENT

5. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further Order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## POSSESSION OF PROPERTY AND OPERATIONS

6. ~~4.~~**THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, licenses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and the Property. The Applicants are authorized and empowered to continue to retain and employ the employees,



consultants, contractors, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. ~~5.~~ **THIS COURT ORDERS** that the Applicants:

- (a) shall be entitled to continue to utilize the central cash management system currently in place as described in the Sahai Affidavit or, with the prior written consent of the Monitor and the DIP Lender (as defined below), replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall: (i) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System; (ii) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System; and (iii) be, in its capacity as provider of the Cash Management System, an unaffected creditor under ~~any plan of compromise or arrangement (a “a Plan”)~~ with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; and
- (b) shall be entitled to continue to use the corporate credit cards in place with American Express and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.

8. ~~6.~~ **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, reimbursable expenses and director fees and expenses payable prior to, on, or

after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

- (b) all charge-backs and rebates due and owing or relating to their customers in the normal course of the applicable Applicant's business;
- (c) with the prior written consent of the Monitor and the DIP Lender ~~(as defined below)~~, amounts owing for goods and services actually supplied to any of the Applicants, prior to the date of this Order; and
- (d) the fees and disbursements of any Assistants retained or employed by any of the Applicants at their standard rates and charges.

9. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to any of the Applicants on or following the date of this Order.

10. ~~8.~~ **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by any of the Applicants in connection with the sale of goods and services by any of the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by any of the Applicants.

11. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the applicable Applicant shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicants or the making of this Order) or as otherwise may be negotiated between the applicable Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, monthly on the first day of each month, in advance (but not in arrears) or, with the prior written consent of the Monitor and the DIP Lender, at such other time intervals and dates as may be agreed to between the applicable Applicant and the landlord, in the amounts set out in the applicable lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

12. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (i) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (ii) to grant no security interests, trust, liens, charges or

encumbrances upon or in respect of any of the Property; and (iii) to not grant credit or incur liabilities except in the ordinary course of the Business.

## RESTRUCTURING

13. ~~11.~~ **THIS COURT ORDERS** that each Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding CA\$250,000 in any one transaction or CA\$1,000,000 in the aggregate, ~~all of~~;
- (b) disclaim such of its arrangements or agreements of any nature whatsoever with whomever, whether oral or written, as such Applicant deems appropriate, in accordance with Section 32 of the CCAA;
- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business.

14. **THIS COURT ORDERS** that the applicable Applicants shall provide each of the relevant landlords with notice of the applicable Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the applicable Applicant on at least two (2) days notice to such landlord and any such secured

creditors. If the applicable Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the applicable Applicant's claim to the fixtures in dispute.

15. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the applicable Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS, THEIR BUSINESS OR THEIR PROPERTY**

16. ~~12.~~ THIS COURT ORDERS that until and including ~~December~~ March 22, ~~2023~~ 2024, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding", and collectively, "Proceedings") shall be commenced or continued against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended pending further Order of this Court.

## NO EXERCISE OF RIGHTS OR REMEDIES

17. ~~13.~~ **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, organization, governmental unit, body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any of the Applicants or the Monitor, or any of their respective employees, advisors (including counsel) or other representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower any of the Applicants to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

## NO INTERFERENCE WITH RIGHTS

18. ~~14.~~ **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Applicants, except with the prior written consent of the Applicants and the Monitor, or leave of this Court.

## CONTINUATION OF SERVICES

19. ~~15.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, cash management services, payroll services, benefit services, contract manufacturing services, accounting services, insurance, transportation services, warehouse and logistics services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by any of the Applicants or exercising any other remedy provided under the agreements or arrangements, and that the Applicants shall be entitled to the continued use of their current

premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with the normal payment practices of the applicable Applicant or such other practices as may be agreed upon by the supplier or service provider and each applicable Applicant and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

20. ~~16.~~ **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **NO PRE-FILING VS POST-FILING SET-OFF**

21. **THIS COURT ORDERS** that no Person shall be entitled to set off any amounts that: (i) are or may become due to an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due from an Applicant in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from an Applicant in respect of obligations arising prior to the date hereof with any amounts that are or may become due to an Applicant in respect of obligations arising on or after the date of this Order, each without the consent of the applicable Applicant and the Monitor or further Order of this Court.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, and except as permitted by Subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants (the “**Directors and Officers**”) with respect to any claim against the Directors or Officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the Directors and Officers are alleged under any law to be liable in their capacity as the Directors and Officers for

the payment or performance of such obligations, until a Plan in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

23. ~~18.~~ **THIS COURT ORDERS** that the Applicants shall indemnify the Directors and Officers against obligations and liabilities that they may incur as a director or officer of any of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any Director or Officer, the obligation or liability was incurred as a result of the Director's or Officer's gross negligence or wilful misconduct (the "**D&O Indemnity**").

24. ~~19.~~ **THIS COURT ORDERS** that the Directors and Officers shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of CA\$~~1,801,000~~2,306,000, unless permitted by further Order of this Court, as security for the D&O Indemnity provided in paragraph ~~18~~23 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~36~~45 and ~~38~~47 herein.

25. ~~20.~~ **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (i) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and (ii) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~18~~23 of this Order.

### **APPOINTMENT OF MONITOR**

26. ~~21.~~ **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor



with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. ~~22.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender, its counsel and its financial advisor of financial and other information as agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis as agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender, its counsel and its financial advisor on a periodic basis as agreed with the DIP Lender;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) ~~(e)~~ have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

- (h) ~~(f)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) ~~(g)~~ perform such other duties as are required by this Order or by this Court from time to time.

28. ~~23.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part thereof.

29. ~~24.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. ~~25.~~ **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has

been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

31. ~~26.~~ **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor, its directors, officers, employees, counsel and other representatives acting in such capacities shall incur no liability or obligation as a result of the Monitor's appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

32. ~~27.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) shall be paid their reasonable fees and disbursements, whether incurred prior to, on or subsequent to the date of this Order, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and the Financial Advisor (solely as it relates to its monthly work fee and disbursements) on such terms as the parties may agree and, in addition, the Monitor, counsel to the Monitor and counsel to the Applicants are authorized to maintain their respective retainers, if any, provided by the Applicants prior to the commencement of these proceedings, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

33. ~~28.~~ **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicants, and the Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of CA\$~~375,000~~600,000, unless permitted by further Order of this Court, as security for their professional fees and disbursements incurred at the standard rates and charges

of the Monitor and such advisors, both before and after the making of this Order in respect of these proceedings; provided however that any Transaction Fee earned by the Financial Advisor shall not be secured by the Administration Charge. The Administration Charge shall have the priority set out in paragraphs 3645 and 3847 hereof.

#### APPROVAL OF FINANCIAL ADVISOR AGREEMENT

35. **THIS COURT ORDERS** that the Agreement dated as of December 12, 2023, engaging the Financial Advisor and attached as Exhibit “K” to the Sahai Affidavit (the “Financial Advisor Agreement”), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved and the Applicant is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Financial Advisor Agreement.

36. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**Financial Advisor Charge**”) on the Property as security solely for the Transaction Fee earned and payable pursuant to the terms of the Financial Advisor Agreement. The Financial Advisor Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### KEY EMPLOYEE RETENTION PLAN

37. **THIS COURT ORDERS** that the key employee retention plan (the “**KERP**”), as described in the Sahai Affidavit and the First Report, is hereby authorized and approved, and the Applicants are authorized to make the payments contemplated under the KERP in accordance with the terms and conditions of the KERP.

38. **THIS COURT ORDERS** that the key employees under the KERP shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of CA\$998,311, unless permitted by further Order of this Court, to secure any payments to the key employees under the KERP. The KERP Charge shall have the priority set out in paragraphs 45 and 47 hereof.

**DIP FINANCING**

39. ~~30.~~ **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow and provide guarantees, as the case may be, under a credit facility from Deerfield Private Design Fund IV, L.P. and Deerfield Private Design Fund III, L.P. (in such capacity, the “**DIP Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of US\$~~1,500,000~~6,000,000 unless permitted by further Order of this Court.

40. ~~31.~~ **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet between the Applicants and the DIP Lender dated as of December 14, 2023 in the form attached to the Sahai Affidavit with such minor modifications or amendments that may be agreed to by the parties and consented to by the Monitor (the “**DIP Term Sheet**”).

41. ~~32.~~ **THIS COURT ORDERS** that each of the Applicants is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, including the DIP Term Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

42. ~~33.~~ **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$~~1,500,000~~6,000,000 plus interest, fees and expenses, unless permitted by further Order of the Court, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs ~~36~~45 and ~~38~~47 hereof.

43. ~~34.~~ **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an Event of Default (as defined in the DIP Term Sheet) under the Definitive Documents, the DIP Lender, subject to the notice requirements under the Definitive Documents, may cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Definitive Documents or the DIP Lender's Charge, make demand, accelerate payment and give other notices, or, upon four (4) business days notice to the Applicants and the Monitor, exercise any and all other rights and remedies against the Applicants or the Property under or pursuant to the Definitive Documents and the DIP Lender's Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against any of the Applicants and for the appointment of a trustee in bankruptcy of any of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Applicants or the Property.

44. ~~35.~~ **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. ~~36.~~ **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the KERP Charge, the Financial Advisor Charge, and the DIP Lender's Charge (collectively, the "Charges"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CA\$~~375,000~~600,000);

Second – Directors’ Charge (to the maximum amount of CA\$~~1,801,000~~2,306,000); ~~and~~

Third – KERP Charge (to the maximum amount of CA\$998,311);

Fourth – Financial Advisor Charge; and

~~Third~~Fifth – DIP Lender’s Charge (to the maximum amount of US\$~~1,500,000~~6,000,000, plus interest, fees and expenses).

46. ~~37.~~ **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. ~~38.~~ **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person notwithstanding the order of perfection or attachment; provided that ~~(i) the Charges shall rank behind Encumbrances in favour of any Person who is a “secured creditor” as defined in the CCAA who has not been served with the Notice of Application for this Order and (ii) the DIP Lender’s Charge shall rank behind the Encumbrances on the Property in favour of RBC and EDC. The Applicants and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of any Encumbrances over which the Charges may not have obtained priority pursuant to this Order on a subsequent motion including, without limitation, at the Comeback Hearing (as defined below), on notice to those Persons likely to be affected thereby; provided that the DIP Lender’s Charge shall continue to rank behind the Encumbrances on the Property in favour of RBC and EDC.~~

48. ~~39.~~ **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant

any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the applicable Charges, or further Order of this Court.

49. ~~40.~~ **THIS COURT ORDERS** that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and the DIP Lender shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any of them is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

50. ~~41.~~ **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property lease.



## FOREIGN PROCEEDINGS

51. ~~42.~~ **THIS COURT ORDERS** that Contract Pharmaceuticals Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the “**Foreign Representative**”) in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

52. ~~43.~~ **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, to the extent considered necessary by the Applicants, in any jurisdiction outside of Canada, including in the United States pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 .

## SERVICE AND NOTICE

53. ~~44.~~ **THIS COURT ORDERS** that the Monitor shall: (i) without delay, publish in the Globe and Mail, a notice containing the information prescribed under the CCAA; and (ii) within five (5) days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any of the Applicants of more than CA\$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Subsection 23(1)(a) of the CCAA and the regulations made thereunder.

54. ~~45.~~ **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-commercial/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended (the “**Rules of Civil Procedure**”). Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be

established in accordance with the Protocol with the following URL:  
<https://www.ksvadvisory.com/experience/case/cpl>.

55. ~~46.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide or the CCAA and the regulations thereunder is not practicable, the Applicants, the Monitor and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission or electronic message to the Applicants' creditors or other interested parties at their respective addresses (including e-mail addresses) as last shown in the books and records of the Applicants and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or prior to 5:00 p.m. (Toronto Time) (or the next business day following the date of forwarding thereof if sent on a non business day) (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. (Toronto Time); or (iii) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

56. ~~47.~~ **THIS COURT ORDERS** that the Applicants, the Monitor and each of their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies thereof by electronic message (including by e-mail) to the Applicants' creditors or other interested parties and their advisors, as applicable. For greater certainty, any such service or distribution shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of subsection 3(c) of the *Electronic Commerce Protection Regulations* (SOR/2013-221).

**COMEBACK HEARING**

~~48. THIS COURT ORDERS that the comeback motion in these CCAA proceedings shall be heard on December 22, 2023 (the "Comeback Hearing").~~

**GENERAL**

57. ~~49.~~ **THIS COURT ORDERS** that any interested party (~~including wishing to object to the relief sought in a motion brought by~~ the Applicants) ~~may apply to~~ or the Monitor in these CCAA proceedings shall, subject to further order of this Court ~~to vary or amend this Order at the Comeback Hearing on not less than three (3) calendar days' notice to,~~ provide the service list in these proceedings ~~and any other Persons likely to be affected by the Order sought; provided, however, that the Chargees shall be entitled to rely on this Order as granted and on the Charges and priorities set forth in paragraphs 36 and 38 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.~~ with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto Time) on the date that is two (2) days prior to the date such motion is returnable (the "Objection Deadline"). The Monitor shall have the ability to extend the Objection Deadline after consultation with the Applicants.

**SEALING**

58. **THIS COURT ORDERS** that the Confidential Appendix to the First Report shall be sealed and kept confidential pending further order of this Court.

**GENERAL**

59. ~~50.~~ **THIS COURT ORDERS** that, ~~notwithstanding paragraph 49 of this Order,~~ the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties hereunder or in the interpretation of this Order.

60. ~~51.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, the Business or the Property.

61. ~~52.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in

carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

62. ~~53.~~ **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

63. ~~54.~~ **THIS COURT ORDERS** that the Initial Order of this Court dated December 15, 2023 is hereby amended and restated pursuant to this Order, and this Order and all of its provisions are effective as of 12:01 a.m. (Toronto Time) on the date of this Order without the need for entry or filing.

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

Court File No. CV-23-00711401-00CL

AND IN THE MATTER OF AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF CONTRACT PHARMACEUTICALS  
LIMITED, CPL CANADA HOLDCO LIMITED, CONTRACT  
PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE  
PHARMACEUTICALS LLC

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

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

Court File No. CV-23-00711401-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
CONTRACT PHARMACEUTICALS LIMITED, CPL CANADA HOLDCO LIMITED,  
CONTRACT PHARMACEUTICALS LIMITED CANADA, GLASSHOUSE  
PHARMACEUTICALS LIMITED CANADA, AND GLASSHOUSE  
PHARMACEUTICALS LLC**

Applicants

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

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**MOTION RECORD  
(Returnable December 22, 2023)**

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