

**ENTERED**

COURT FILE NUMBER

2101-04670

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

BANK OF MONTREAL

RESPONDENTS

TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, and TRADESMEN ENTERPRISES INC.COM  
April 15 2021  
Justice Romaine

COURT FILE NUMBER

BK01-95189

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

MATTER

IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND*  
*INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF  
TRADESMEN ENTERPRISES LIMITED PARTNERSHIPAND IN THE MATTER OF THE NOTICE OF INTENTION TO  
MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND*  
*INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF  
TRADESMEN ENTERPRISES INC.

DOCUMENT

**AFFIDAVIT**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENTJosef G.A. Kruger, Q.C. / Jack R. Maslen  
Borden Ladner Gervais LLP  
1900, 520 3<sup>rd</sup> Ave. S.W.  
Calgary, AB T2P 0R3  
Telephone: (403) 232-9563 / 9790  
Facsimile: (403) 266-1395  
Email: JKruger@blg.com / JMAslen@blg.com  
File No. 407500.000127

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**AFFIDAVIT OF ZACHARY NEWMAN****Sworn on April 6, 2021**

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I, **ZACHARY NEWMAN**, of the City of Calgary, in the Province of Alberta, banker, **SWEAR AND SAY THAT:**

1. I am the Director, Special Accounts Management Unit, at the Applicant, Bank of Montreal (“**BMO**”), and I am charged with overseeing credit facilities made available to the Respondent, Tradesmen Enterprises Limited Partnership (“**Tradesmen LP**” or the “**Borrower**”). As such, I have personal knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated I verily believe the same to be true.
2. As detailed below, on February 1, 2021, each of Tradesmen LP and Tradesmen Enterprises Inc. (“**Tradesmen Inc.**” or the “**Guarantor**”, and together with Tradesmen LP “**Tradesmen**”) filed a Notice of Intention to Make a Proposal (an “**NOI**”), pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”) bearing Alberta Court of Queen’s Bench (“**Court**”) File No. BK01-095189 (the “**NOI Proceedings**”).
3. The NOI Proceedings will expire on April 16, 2021 and I am advised by Tradesmen that it no longer intends to make a proposal to creditors or to extend the NOI Proceedings. Tradesmen made that decision following discussions between it and BMO with respect to the most efficient structure to continue pursuing the Litigation (as defined below).
4. Consequently, BMO has filed an application (the “**Application**”) for an order appointing KSV Restructuring Inc. (“**KSV**”) as the receiver and manager (the “**Receiver**”) over all of the current and future assets, undertakings and properties (the “**Property**”) of Tradesmen LP and Tradesmen Inc. I make this Affidavit in support of the Application.
5. In swearing this Affidavit, I do not intend to waive any solicitor-client, litigation or common interest privilege in respect of the Litigation, or at all, and I expressly maintain and preserve all such privileges that may exist.
6. This Affidavit has been sworn during the COVID-19 pandemic. In an effort to streamline the amount of paper being physically produced, I have intentionally only appended critical documents as exhibits.

7. I am authorized to swear this Affidavit on behalf of BMO.

#### **A. THE PARTIES**

8. BMO is a bank formed under Schedule I of the *Bank Act*, SC 1991, c 46, and carries on business in the Province of Alberta, and elsewhere across Canada, with offices located in the City of Calgary.
9. I have reviewed an Alberta partnership search report for Tradesmen LP and believe it is a limited partnership, registered under the laws of the Province of Alberta, with Tradesmen Inc. as its general partner.
10. I have also reviewed an Alberta corporate search report for Tradesmen Inc. and believe it is a corporation, registered pursuant to the laws of the Province of Alberta, with its registered address in Calgary, Alberta.
11. Prior to the NOI Proceedings, Tradesmen carried on business in Western Canada as a general contractor, specializing in mining and oil and gas facilities construction.

#### **B. BACKGROUND**

##### *The Loan Agreement*

12. Tradesmen LP, as borrower, and BMO, as lender, entered into a loan agreement dated as of April 16, 2013 (the "**Loan Agreement**"). Pursuant to the Loan Agreement, BMO agreed to advance to Tradesmen LP certain credit facilities.
13. As security for Tradesmen LP's obligations to BMO under the Loan Agreement, Tradesman LP delivered to BMO a security agreement dated April 17, 2013, whereby Tradesmen LP granted to BMO a security interest and charge over all of its present and future property and assets, real and personal, moveable or immovable of whatever nature and kind (the "**Borrower GSA**"). A true copy of the Borrower GSA is attached hereto as **Exhibit "A"**.
14. As further security for Tradesmen LP's obligation to BMO under the Loan Agreement, Tradesmen Inc. provided BMO a guarantee dated as of April 17, 2013, pursuant to which Tradesmen Inc. gave an unlimited and continuing guarantee of all of Tradesmen LP's present and future debts and liabilities to BMO (the "**Tradesmen Inc. Guarantee**"). Tradesmen Inc.'s obligations as Guarantor arise immediately upon demand for payment by BMO in writing. A true copy of the Tradesmen Inc. Guarantee is attached hereto as **Exhibit "B"**.

15. To secure its obligations under the Tradesmen Inc. Guarantee, Tradesmen Inc. also delivered to BMO a security agreement dated April 17, 2013, whereby Tradesmen Inc. granted to BMO a security interest and charge over all of its present and future property and assets, real and personal, moveable or immovable of whatever nature and kind (the “**Guarantor GSA**”). A true copy of the Guarantor GSA is attached hereto as **Exhibit “C”**.
16. Subject only to certain Court-created charges in the NOI Proceedings, by virtue of the Borrower GSA and the Guarantor GSA (the “**GSAs**”), BMO holds a first-ranking security interest over all of the Property.
17. BMO security interests in the Property are registered with the Alberta Personal Property Registry (“**PPR**”), pursuant to the provisions of the *Personal Property Security Act*, RSA 2000, c P-7 (the “**PPSA**”), being:
  - (a) Registration No. 13041222344 (registration of the Borrower GSA);
  - (b) Registration No. 13041222383 (registration of a land charge in respect of Tradesmen LP);
  - (c) Registration No. 13041222221 (registration of the Guarantor GSA); and
  - (d) Registration No. 13041222300 (registration of a land charge in respect of Tradesmen Inc.).
18. The GSAs provide that Tradesmen shall be in default upon the occurrence and during the continuance of any “Event of Default” as defined in the Loan Agreement. Upon such an unremedied default, BMO is entitled under the GSAs to declare all of the obligations secured by the GSAs to be immediately due and payable, and may proceed to realize on its security by, *inter alia*:
  - (a) appointing by instrument a receiver;
  - (b) entering upon and leasing or selling the whole or any portion of the collateral; and
  - (c) otherwise proceeding to realize on its security and to enforce its rights by any method not prohibited by law.

***The Restated Loan Agreement***

19. After April 2013, Tradesmen LP and BMO amended, restated and extended the credit facilities provided to Tradesmen LP under the Loan Agreement from time to time.
20. Ultimately, by a fourth amended and restated loan agreement (the “**Restated Loan Agreement**”) dated as of July 6, 2020, BMO agreed to make available to Tradesmen LP, *inter alia*:
- (a) a demand revolving credit facility (“**Facility 1**”) up to \$23,000,000;
  - (b) a corporate MasterCard credit facility (“**Facility 2**”) up to \$200,000;
  - (c) a treasury risk management facility up to \$500,000 deemed risk as calculated by BMO; and
  - (d) a demand letter of credit facility up to \$15,000,000, which was guaranteed by Export Development Canada (“**EDC**”) pursuant to the terms and conditions of an EDC account performance security guarantee issued by EDC to BMO on July 31, 2017 (the “**EDC Account PSG**”);
- (collectively, the “**Pre-NOI Facilities**”).
21. Under the Restated Loan Agreement, Tradesmen LP covenanted and agreed, *inter alia*:
- (a) to punctually pay all obligations owing under the Restated Loan Agreement when due;
  - (b) to do all things necessary to defend, protect and maintain its property from all material adverse claims where the failure to do so in the opinion of BMO, acting reasonably, could be expected to have a material adverse effect on the business, financial condition, operations, property or assets of Tradesmen (a “**Material Adverse Effect**”);
  - (c) to not terminate, cancel or suspend any “Material Contract” as such term is defined in the Restated Loan Agreement, including any contracts made between Tradesmen LP and any third party, which could, if terminated, result in a Material Adverse Effect to Tradesmen;
  - (d) to perform its obligations under all Material Contracts and all other agreements relating to the Property;

- (e) that any breach or contravention of any term or condition of the Restated Loan Agreement or any other loan document would constitute a “Default”; and
  - (f) that notwithstanding anything contained in the Restated Loan Agreement, BMO was entitled to, in its sole discretion and for any reason, and at any time, demand repayment of any or all obligations under any of the Pre-NOI Facilities.
22. Tradesmen LP’s obligations in respect of the Pre-NOI Facilities were secured by various security (collectively, the “**Security**”), namely:
- (a) operating loan agreement(s) executed by Tradesmen LP;
  - (b) a power of attorney and agreement regarding banker’s acceptances executed by Tradesmen LP;
  - (c) indemnity agreements with respect to letters of credit executed by Tradesmen LP;
  - (d) a MasterCard indemnity agreement executed by Tradesmen LP;
  - (e) the GSAs;
  - (f) the Tradesmen Inc. Guarantee;
  - (g) an insurance binder letter addressed to BMO identifying all applicable policies of insurance held by Tradesmen LP and Tradesmen Inc. and confirming BMO as a first loss payee;
  - (h) landlord consents and agreements with landlords of applicable leased premises of Tradesmen LP and Tradesmen Inc. where all books and records of Tradesmen LP and Tradesmen Inc. are located (as applicable);
  - (i) the EDC Account PSG;
  - (j) a guarantee for indebtedness from each of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership, and PEF 2010 (C) Limited Partnership (collectively, the “**PEF LPs**”), dated July 6, 2020, pursuant to which the PEF LPs jointly and severally provided a continuing guarantee of all of Tradesmen LP’s present and future debts and liabilities to BMO under the Restated Loan Agreement up to specified aggregate amounts (the

“**Fulcrum Guarantee**”). The PEF LPs and their general partner, Fulcrum Capital Partners Inc., share common management with Tradesmen;

- (k) a subordination and standstill agreement, made July 6, 2020, among the PEF LPs, Tradesmen and BMO, whereby the PEF LPs agreed to defer, postpone and subordinate all indebtedness and claims they may have against Tradesmen to those of BMO as the senior creditor; and
  - (l) an updated insurance binder letter addressed to BMO identifying all applicable policies of insurance held by Tradesmen LP and Tradesmen Inc. and confirming BMO as a first loss payee.
23. A true copy of the Restated Loan Agreement is attached hereto as **Exhibit “D”**.

### C. **TECK CONTRACT**

24. Based on information and documents provided by Tradesmen to BMO, I believe that in May 2019, Tradesmen LP and Teck Coal Limited (“**Teck**”) entered into a works agreement (the “**Teck Contract**”). The Teck Contract pertained to the Fording River Operations Active Water Treatment Facility South (the “**Project**”), located near Elkford, British Columbia, which Teck owns.
25. At a high-level, and based on discussions with Tradesmen’s management and a review of the relevant records, I believe that:
- (a) under the Teck Contract, Tradesmen LP was engaged by Teck to supply, install and complete the structural, mechanical and piping scope for the Project; and
  - (b) as compensation for the performance of its various works, Tradesmen LP was to be paid a total estimated contract price of approximately \$32 million, which Teck and Tradesmen LP have since amended and increased, pursuant to change orders or other agreements, such that the total estimated contract price is now approximately \$101 million or more.
26. The Teck Contract has reflected all or substantially all of Tradesmen’s active business since May 2019.

27. By letter of January 11, 2021, Teck gave notice to Tradesmen LP that it was terminating the Teck Contract due to alleged breaches by Tradesmen LP. On the same day, Tradesmen LP gave a notice of default to Teck.
28. Since then, I understand that Tradesmen has filed builders' lien claims, pursuant to British Columbia's *Builders' Lien Act*, SBC 1997, c 45 in respect of the Project. These liens now exceed \$52 million.

#### **D. DEFAULTS AND DEMANDS**

29. Since in or around January 2021, Tradesmen LP committed various defaults under, or has otherwise breached, the Restated Loan Agreement, the Borrower GSA and such other Security as applicable, by:
  - (a) allowing borrowings under Facility 1 to fall into an overdraft position, by more than \$1.2 million, and failing to make payment of the overdraft amount;
  - (b) the termination of the Teck Contract effective as of January 11, 2021, a Material Contract, resulting in an event or circumstance which in the sole, reasonable opinion of BMO constitutes a Material Adverse Effect; and
  - (c) failing to meet its liabilities generally as they become due and becoming insolvent.
30. As a result, on January 14, 2021, BMO issued a formal and final demand to Tradesmen LP (the "**Tradesmen LP Demand**") for payment in full of all amounts due and owing by Tradesmen LP to BMO which then totalled \$25,941,648.81 together with interest and charges continuing to accrue thereon (the "**January Indebtedness**").
31. In the same correspondence, BMO delivered to Tradesmen LP (the "**Tradesmen LP NOI**") a Notice of Intention to Enforce Security under section 244 of the BIA. Attached hereto and marked as **Exhibit "E"** are true copies of the Tradesmen LP Demand and the Tradesmen LP NOI.
32. As a further result of Tradesmen LP's defaults or breaches, the Tradesmen Inc. Guarantee became enforceable, and concurrent with its issuance of the Tradesmen LP Demand and the Tradesmen LP NOI, on January 14, 2021, BMO issued a formal and final demand to Tradesmen Inc. for payment in full of the January Indebtedness (the "**Tradesmen Inc. Demand**"). In the same correspondence,



BMO also delivered to Tradesmen Inc. a Notice of Intention to Enforce Security under section 244 of the BIA (the “**Tradesmen Inc. NOI**”). Attached hereto and marked as **Exhibit “F”** are true copies of the Tradesmen Inc. Demand and the Tradesmen Inc. NOI.

## E. TRADESMEN NOI PROCEEDINGS

### *Generally*

33. With the loss of the Teck Contract, Tradesmen experienced a severe liquidity crisis, which included defaults on its obligations to BMO under the Restated Loan Agreement and Security.
34. On February 1, 2021 (the “**Filing Date**”), each of Tradesmen LP and Tradesmen Inc. then filed NOIs, pursuant to section 50.4(1) of the BIA. Attached hereto and marked as **Exhibit “G”** are true copies are Tradesmen’s Certificates of NOI filings.
35. KSV was appointed as the proposal trustee (the “**Proposal Trustee**”) for the NOI Proceedings, and BMO agreed to support the NOI Proceedings.
36. As set out in pleadings and materials filed in the NOI Proceedings, since the Filing Date, *inter alia*:
  - (a) Tradesmen filed a Notice of Civil Claim in the Supreme Court of British Columbia, on February 24, 2021, against Teck and others, in respect of the termination of the Teck Contract, the builders’ liens claims and/or other amounts due and owing to Tradesmen in respect of the Project (the “**Litigation**”);
  - (b) Tradesmen obtained an Order, pronounced on March 2, 2021 (the “**Extension Order**”), which extended the time within which it was required to file a proposal to its creditors from March 3, 2021 to April 16, 2021 (the “**NOI Expiry**”). An effect of the Extension Order was that the stay of proceedings under section 69(1) of the BIA (the “**Stay Period**”) was also extended to April 16, 2021;
  - (c) Tradesmen and BMO entered into, among other things, an amended and restated interim financing agreement, dated as of March 2, 2021 (the “**Interim Financing Agreement**”), whereby BMO agreed to make available to Tradesmen LP a senior secured super-priority, interim, revolving credit facility, for the purposes of the NOI Proceedings, up to a maximum principal amount of \$2.8 million (the “**Interim Facility**”). Pursuant to an amended and restated Order, pronounced on March 2, 2021 (the “**Interim Finance**”

**Order**”), the Court authorized Tradesmen to borrow under the Interim Facility and granted to BMO a super priority charge on all of the Property (subject only to an administration charge) to secure the performance of all obligations of Tradesmen to BMO under the Interim Financing Agreement (the “**Interim Financing Charge**”). A true copy of the Interim Finance Order, which appends the Interim Financing Agreement, is attached hereto as **Exhibit “H”**;

- (d) Tradesmen entered into a liquidation services agreement (the “**Liquidation Agreement**”) with Ritchie Bros Auctioneers (Canada) Ltd. (the “**Liquidator**”), whereby the Liquidator would conduct auctions to sell Tradesmen’s fixed assets no longer needed by Tradesmen as it has ceased all going concern business. By an Order pronounced on March 16, 2021, the Court approved the Liquidation Agreement and all transactions contemplated thereunder, and directed that assets sold by the Liquidator as agent for Tradesmen shall vest free and clear in the name of purchasers; and
- (e) Tradesmen reduced its workforce to nine employees from over 600 employees in or around early January 2021.

***Present Status of NOI Proceedings***

- 37. Given the winding-down efforts since the commencement of the NOI Proceedings, Tradesmen’s principal or only substantial asset is now the Litigation. Tradesmen has no going concern business or means to re-commence any going concern business.
- 38. Further, based on my review of the materials filed in the NOI Proceedings, and having regard to the nature of the disputes involved, I believe that the Litigation is likely to be a lengthy, complex and document intensive process, given that:
  - (a) there are tens of millions of dollars in dispute between Tradesmen and Teck;
  - (b) the Litigation concerns over 900 change order requests of Tradesmen in respect of the Project;
  - (c) there are or may be several substantial builders’ lien or trust claims made by Tradesmen’s sub-contractors; and

- (d) Teck has strongly denied any liability to Tradesmen and has intervened in the NOI Proceedings to make this position known.
39. BMO and Tradesmen have engaged in discussions with respect to the most efficient structure to continue pursuing the Litigation in light of all the foregoing. As a result of those discussions, I now believe that Tradesmen no longer intends, or will be unable, to make a proposal to creditors before the NOI Expiry. Thus, I believe Tradesmen will be deemed to have made an assignment into bankruptcy on or about April 17, 2021.
40. Tradesmen's anticipated assignment into bankruptcy constitutes a "Material Adverse Change" and "Event of Default" under the Interim Financing Agreement. Accordingly, BMO's rights and remedies under the Interim Financing Agreement, including its security under the Interim Financing Charge, are now enforceable.

***Current Indebtedness to BMO***

41. As of March 30, 2021, the total amount due and owing by Tradesmen LP to BMO, and guaranteed by Tradesmen Inc., totalled \$19,414,771.54, together with interest and charges continuing to accrue thereon (the "**Current Indebtedness**"). The Current Indebtedness is comprised of the following amounts:
- (a) \$2,361,942.06 owing under the Interim Facility;
  - (b) \$17,024,682.26 owing under Facility 1 (after being reduced by amounts paid by the PEF LPs to BMO under the Fulcrum Guarantee); and
  - (c) \$28,147.22 under Facility 2.

**F. APPOINTMENT OF RECEIVER**

***Urgent Need for Receiver***

42. In light of the facts and circumstances described above, I do verily believe that it is now just, convenient, and indeed necessary, for the Court to appoint KSV as Receiver over the Property. In particular:

- (a) Tradesmen is insolvent and will be deemed to be bankrupt on or about April 17, 2021;
  - (b) there is an urgent need to preserve the Property that is subject to BMO's Security, particularly since the Stay Period will soon terminate;
  - (c) Tradesmen no longer has any ongoing business, has only 11 employees, and its primary or only asset is the Litigation;
  - (d) the Litigation will be a lengthy, complex, and document intensive process, which will require funding and a structure for funding;
  - (e) the appointment of a Receiver will enable the Litigation to be pursued in the most orderly fashion, which will minimize administrative costs;
  - (f) there will be material prejudice to creditors, including in the form of additional administrative costs and delays, if a receivership is delayed. Similarly, the appointment of a Receiver will maximize recoveries for creditors;
  - (g) BMO has the right to appoint a Receiver under the GSAs;
  - (h) KSV is the Proposal Trustee and is familiar with the affairs of Tradesmen;
  - (i) BMO is and has acted in good faith at all times; and
  - (j) as of March 30, 2021, BMO is owed \$2,361,942.06 in respect the Interim Facility and \$17,052,829.48 in respect of the Pre-NOI Facilities, which are secured against the Property. If a Receiver is not appointed, and the Litigation is not pursued effectively, there is a real risk BMO will suffer a large shortfall on its security.
43. Notably, Tradesmen consents to the Application, and executed a Consent Receivership Order on April 5, 2021, a true copy of which is attached hereto as **Exhibit "T"**.
44. I do verily believe there is no other process available to BMO in the circumstances that would enable it to adequately protect its interests, other than a receivership.

***Lifting of Stay***

45. For the same reasons, I do verily believe that it is just and equitable for the Court to lift the stay of proceeding in the NOI Proceedings, to permit BMO to make the Application.

46. BMO, as Tradesmen’s primary secured-lender and the interim financier of the NOI Proceedings, will suffer material prejudice if a Receiver is not appointed and, among other things, the Litigation is not pursued in the most efficient, effective and streamlined manner.

*Funding of Receivership*


47. BMO’s present intention is to fund the activities of the Receiver through Receiver’s certificates. Given the heightened risk BMO will undertake by making any such additional advances, it is just and equitable for those amounts to be secured by a super-priority charge in the receivership.

48. As of the date hereof, BMO is undertaking its internal processes for approval to fund the Receiver and I expect such approvals will be obtained prior to the hearing for the Application.

**G. CONCLUSION**

49. I make this Affidavit in support of the Application by BMO for a Receiver and for no other improper purpose.

SWORN BEFORE ME at Calgary, Alberta )  
this 6<sup>th</sup> day of April 2021 )

  
\_\_\_\_\_)  
A Commissioner for Oaths in and for the )  
Province of Alberta )

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

  
\_\_\_\_\_)  
**ZACHARY NEWMAN**

This is Exhibit "A" referred to in the affidavit of

**ZACHARY NEWMAN**

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Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**In and for Alberta**  
**Student-At-Law, Notary Public**

## SECURITY AGREEMENT

### TRADESMEN ENTERPRISES LIMITED PARTNERSHIP

Tradesmen Enterprises Limited Partnership (the “**Debtor**”) hereby enters into this Security Agreement with Bank of Montreal (the “**Bank**”) for valuable consideration and as security for the repayment of all present and future indebtedness of the Debtor to the Bank and interest thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, of the Debtor to the Bank, including without limitation, pursuant to a loan agreement dated as of April 16, 2013 made between the Debtor and the Bank (as the same may be amended, restated or replaced from time to time, the “**Loan Agreement**”) and any interest swaps entered into between the Debtor and the Bank or any affiliate of the Bank (all of the indebtedness, interest, liabilities and obligations of the Debtor to the Bank being hereinafter collectively called the “**Obligations**”). This Security Agreement is entered into pursuant to and is governed by the Alberta *Personal Property Security Act* (“**PPSA**”) insofar as it affects personal property located in Alberta.

1. The Debtor hereby represents and warrants to the Bank that it only has assets located at the locations in Alberta and elsewhere which are listed and described in Exhibit “A” attached hereto.

2. The Debtor hereby represents and warrants to the Bank that it legally owns the serial numbered personal property at the locations in Alberta and elsewhere which are listed and described in Exhibit “B” attached hereto.

3. The Debtor hereby represents and warrants to the Bank that it legally owns the real property at the locations in Alberta and elsewhere which are listed and described in Exhibit “C” attached hereto.

4. The Debtor hereby represents and warrants to the Bank that it leases the real property at the locations in Alberta and elsewhere which are listed and described in Exhibit “D” attached hereto.

5. The Debtor hereby:

(a) mortgages and charges to the Bank as and by way of a fixed and specific mortgage and charge, and grants to the Bank a security interest in, all its present and future goods and any proceeds therefrom, including without limitation, all fixtures, building materials, leased goods, plant, machinery, tools, furniture and any equipment now or hereafter owned or acquired, and any goods specifically listed or otherwise described in any Schedule hereto;

(b) mortgages and charges to the Bank, and grants to the Bank a security interest in, all its present and future inventory and any proceeds therefrom, including without limitation, all raw materials, goods in process, work in progress, materials used or consumed in business, finished goods and packaging material and goods acquired or held for sale or lease or furnished under contracts of rental or service;

(c) assigns, transfers and sets over to the Bank and grants to the Bank a security interest in, all its present and future intangibles, chattel paper, investment property, documents of title, instruments and money, and any proceeds therefrom, including without limitation, all its present and future book debts and other accounts receivable, monetary obligations, contract rights and other choses in action of every kind or nature now due or hereafter to become due, including insurance rights arising from or out of the assets referred to in subparagraphs (a) and (b) above; and

(d) charges in favour of the Bank as and by way of a floating charge its undertaking and all its present and future property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, including without limitation, client lists, client records and client files (other than property and assets hereby validly assigned or subjected to a specific mortgage and charge and to the exceptions hereinafter contained).

List all premises and asset locations, by schedule, if necessary

Attach a schedule, if goods and/or equipment are to be listed

For the purposes of this Security Agreement, the goods, inventory, intangibles, chattel paper, investment property, documents of title, instruments, money, undertaking and all other property and assets of the Debtor referred to in this section 5 are hereinafter sometimes collectively called the “**Collateral**”.

6. The Collateral is on the date hereof primarily situate or located at the location(s) set out in sections 1-4 and Exhibits “A”, “B”, “C” and “D” hereof but may from time to time be located at other premises of the Debtor. The Collateral may also be located at other places while in transit to and from such locations and premises; and the Collateral may from time to time be situated or located at any other place when on lease or consignment to any lessee or consignee from the Debtor. The Collateral shall not be removed from the locations in the Exhibits without the prior written consent of the Bank.

7. It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor, is hereby or shall be excepted out of the mortgages, charges and security interests hereby created, but the Debtor shall stand possessed of the reversion of one day remaining in the Debtor in respect of any such term of years, for the time being demised, as aforesaid upon trust to assign and dispose of the same as any purchaser of such term of years shall direct. There shall also be excluded from the security created by subparagraph 5(d) after-acquired consumer goods of the Debtor other than when subject to purchase money security interests in favour of the Bank, and other than accessions.

8. Notwithstanding section 5 of this Security Agreement, to the extent the security interests, mortgage, and charges expressed to be created by this Security Agreement (collectively, the “**Security Interests**”) relates to any agreements, contracts, franchises, rights, leases, leasehold property, licences or permits (or rights thereunder), contract rights or intellectual property rights forming part of the Collateral which by their terms or by the terms of any instrument or agreement relating thereto may not be charged without the consent or approval of some other person, the Security Interest shall not become effective to the extent it relates to such Collateral until, but shall become effective immediately when, all consents and approvals required from such person or persons in respect of the creation of the Security Interest have been obtained, but the Debtor shall (subject to the foregoing) hold its respective rights and interests therein in trust for the Bank, to the extent possible without creating a default under any instrument or agreement constituting, governing or otherwise relating to any such Collateral, and shall not amend, terminate or dispose of any right or interest in any such Collateral except as expressly permitted hereunder or as the Agent may otherwise agree. The Debtor shall use commercially reasonable efforts to promptly obtain the consents necessary for each Security Interest to become effective.

9. The Debtor:

(a) shall not without the prior written consent of the Bank sell or dispose of any of the Collateral other than that described in subparagraph 5(b) above which may be sold only in the ordinary course of business and for the purpose of carrying on the same; and if the amounts of any of the Collateral of the type referred to in subparagraph 5(c) above or any proceeds arising from the Collateral of the type described in subparagraphs 5(a) and 5(b) above shall be paid to the Debtor, the Debtor shall receive the same as trustee for the Bank and forthwith pay over the same to the Bank. The Debtor shall not without the prior written consent of the Bank create any liens upon or assign or transfer as security or pledge or hypothecate as security or create a security interest in the Collateral except to the Bank, other than such encumbrances as are permitted by the Bank as contemplated in the Loan Agreement. The Debtor agrees that the Bank may at any time after an unremedied default require any account debtor of the Debtor to make payment to the Bank and the Bank may take control of any proceeds referred to in subparagraphs 5(a), 5(b) and 5(c) hereof and may hold all amounts received from any account debtors and any proceeds as cash collateral as part of the Collateral and as security for the Obligations of the Debtor to the Bank; and

(b) covenants not to substitute or modify any of the Debtor's rights under any Collateral of the type listed in subparagraph 5(c) above without the written consent of the Bank, and any substitution or modification not consented to may at the option of the Bank be treated as an act of default hereunder.

10. The Debtor shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, transfers, assignments, security agreements and assurances as the Bank may reasonably require for the better granting, transferring, assigning, charging, setting over, assuring and confirming unto the Bank the property and assets hereby mortgaged and charged



or subjected to security interests or intended so to be or which the Debtor may hereafter become bound to mortgage, charge, transfer, assign or subject to a security interest in favour of the Bank and for the better accomplishing and effectuating of this Security Agreement.

11. The Debtor shall at all times have and maintain insurance over the Collateral against risks of fire (including so-called extended coverage), theft, and also against such other risks as the Bank may reasonably require in writing, containing such terms, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Bank. The Debtor shall duly and seasonably pay all premiums and other sums payable for maintaining such insurance and shall cause the insurance money thereunder to be payable to the Bank as its interest hereunder may appear and shall, if required, furnish the Bank with certificates or other evidence satisfactory to the Bank of compliance with the foregoing insurance provisions.

12. The Debtor shall keep proper books of account and shall at all times upon request by the Bank furnish the Bank with such information concerning the Collateral and the Debtor's affairs and business as the Bank may reasonably request, including financial statements, lists of inventory and equipment and lists of accounts receivable showing the amounts owing upon each account and securities therefor and copies of all financial statements, books and accounts, invoices, letters, papers and other documents in any way evidencing or relating to the account. The Debtor shall permit the Bank at all reasonable times to enter onto its premises to inspect and copy its books, and to inspect the Collateral.

13. The Debtor shall be in default under this Security Agreement upon the occurrence and during the continuance of any "Event of Default" as defined in the Loan Agreement.

14. Upon any unremedied default under this Security Agreement, the Bank may declare any or all of the Obligations to be immediately due and payable and may proceed to realize the security hereby constituted and to enforce its rights by any method not prohibited by law, including by the appointment by instrument in writing of a receiver or receivers of the subject matter of such security or any part thereof and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Bank or not, and the Bank may remove any receiver or receivers so appointed and appoint another or others in his or their stead; or by proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers, or by sale of the Collateral or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relative to the Debtor. Any such receiver or receivers so appointed shall have power to take possession of the Collateral or any part thereof and if appointed a receiver-manager the power to carry on the business of the Debtor, and to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor, and to further charge the Collateral in priority to the security constituted by this Security Agreement as security for money so borrowed, and to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine. In exercising any powers any such receiver or receivers shall act as agent or agents for the Debtor and the Bank shall not be responsible for his or their actions, unless such actions were not taken in good faith.

In addition, the Bank may enter upon and lease or sell the whole or any portion of the Collateral, subject to applicable law.

Any such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Bank in its discretion may seem advantageous and such sale may take place whether or not the Bank has taken possession of such property and assets.

No remedy for the realization of the security hereof or for the enforcement of the rights of the Bank shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination and the Bank may exercise any one or more of such remedies in respect of all or any portion of the Collateral as the Bank deems fit. The term "**receiver**" as used in this Security Agreement includes a receiver and manager.

15. The Bank shall not be responsible for any loss or damage to the Collateral, save and except where caused by the gross negligence or wilful misconduct of the Bank, and the Bank shall not be obliged to preserve rights against other persons, keep the Collateral identifiable or repair, process or prepare the Collateral for disposition, and shall only be liable to account for funds (net of costs of collection, realization and sale, including solicitor and his own client legal costs), actually received by the Bank.

16. Any receiver-manager appointed by the Bank may carry on the business of the Debtor, and in addition to any powers or rights granted by law, a receiver or receiver-manager may, but shall be under no obligation to:

- (a) exercise any power or right granted to the Bank hereunder;
- (b) enter upon any premises under the control of the Debtor and take possession of the Collateral by any method not prohibited by law;
- (c) borrow money by charge against the Collateral for the preservation, processing, maintenance or preparation for sale of the Collateral, or for any other purpose;
- (d) realize on and dispose of the Collateral by any method not prohibited by law, and on any terms, whether to the highest bidder or not and whether in the ordinary course of the Debtor's business or not;
- (e) execute deeds, enter contracts and otherwise act as the attorney of the Debtor in dealing with the Collateral;
- (f) institute, defend, compromise, settle or continue any proceedings relating to the Collateral;
- (g) generally, to do any act necessary or convenient to the realization of the Collateral that the Debtor itself could have done.

17. Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Bank may see fit, and the Bank shall at all times and from time to time have the right to change any appropriation as the Bank may see fit.

18. The Debtor agrees to pay all reasonable expenses, including solicitor's fees as between a solicitor and his own client and disbursements and the remuneration of any receiver appointed hereunder, incurred by the Bank in the preparation, perfection and enforcement of this Security Agreement or the Obligations, or in the holding, repairing, processing or preparing for disposition and disposing of the Collateral, with interest at the rate provided in the obligations, and the payment of such expenses shall be secured hereby.

19. The Bank may waive any default herein referred to; provided always that no act or omission by the Bank in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom:

(a) to the extent not prohibited by law, the Debtor hereby waives its rights, if any, under all provisions of law that would in any manner, limit, restrict or otherwise affect the Bank's rights and remedies hereunder or impose any additional obligations on the Bank. The Debtor waives the right to receive any amount which it may now or hereafter be entitled to receive (whether by way of damages, fine, penalty or otherwise) by reason of the failure of the Bank to deliver to the Debtor a copy of any financing statement or any verification statement issued by any registry that confirms registration of a financing statement relating to this Security Agreement.

(b) the Debtor hereby authorizes the Bank to provide information to any person who requests information under Section 18 of the PPSA or similar legislation and the Bank will not be required to investigate whether or not the inquiring person is in fact a person entitled to request information pursuant to Section 18 of the PPSA or similar legislation.

(c) to the full extent that it may lawfully do so, the Debtor hereby:

- (i) waives and disclaims any benefit of, and shall not have or assert any right under any statute or rule of law pertaining to, the marshalling of assets or any other matter whatever, to defeat, reduce or affect the rights of the Bank under the terms of this Security Agreement to a sale of the Collateral or any part thereof or for the collection of all amounts secured hereby;
- (ii) agrees that it shall not have or assert any right or equity of redemption or any right under any statute or otherwise to redeem the Collateral or any part thereof after the completion of the sale hereunder to any person whether such sale is by the Bank, any receiver or otherwise, notwithstanding, that the Bank may have purchased same;
- (iii) agrees that the *Land Contracts (Actions) Act* (Saskatchewan) shall have no application to any action (as defined in such Act) with respect to the charges; and
- (iv) agrees that the *Limitation of Civil Rights Act* (Saskatchewan) shall have no application to:
  - (A) this Security Agreement or any instrument or agreement in implementation hereof;
  - (B) any security interest or security for the payment of money made, given or created pursuant to this Security Agreement or such instruments or agreements;
  - (C) any agreement or instrument entered into at any time hereafter by the Debtor renewing or extending or collateral to this Security Agreement; or
  - (D) the rights, powers or remedies of the Bank or any receiver under any of the foregoing agreements or instruments.

20. The Debtor acknowledges that value has been given, that the Debtor has rights in the Collateral and that the parties have not agreed to postpone the time for attachment of any security interest in this Security Agreement.

21. The security hereof is in addition to and not in substitution for any other security now or hereafter held by the Bank and shall be general and continuing security notwithstanding that the Obligations of the Debtor shall at any time or from time to time be fully satisfied or paid.

22. Nothing herein shall obligate the Bank to make any advance or loan or further advance or loan or to renew any note or extend any time for payment of any indebtedness or liability of the Debtor to the Bank.

23. This Security Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Debtor and the Bank.

24. This Security Agreement is a security agreement within the meaning of the Alberta PPSA and does not constitute an acknowledgement of any particular indebtedness or liability of the Debtor to the Bank.

25. This Security Agreement will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, without giving effect to the conflict of law principles thereof. Without prejudice to the ability of the Bank to enforce this Security Agreement in any other proper jurisdiction, Debtor hereby irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Alberta, or any appellate court thereof, for the purposes of this Security Agreement.

26. In construing this Security Agreement, terms herein shall have the same meaning as defined in the Alberta PPSA, unless the context otherwise requires. The word "Debtor", the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in

which such words are used depending upon whether the Debtor is one or more individuals, corporations or partnerships and, if more than one, this Security Agreement shall apply and be binding upon each of them severally. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation and, where the Debtor is a partnership, any new partnership resulting from the admission of new partners or any other change in the Debtor, including, without limiting the generality of the foregoing, the death of any or all of the partners.

27. The Debtor waives receipt of any financing statement registered by the Bank and any confirmation of registration.

28. The Debtor acknowledges receipt of a copy of this Security Agreement.

29. To the extent that any provision of this Security Agreement conflicts with or is inconsistent with any provisions of the Loan Agreement, the Loan Agreement shall govern and prevail to resolve such conflict or inconsistency in any and all circumstances, such that the provisions of the Loan Agreement shall be paramount to and supersede the provisions of this Security Agreement.

30. When all Obligations are fully paid, satisfied and cancelled, the Bank shall, upon the Debtor's request, provide a release to the Debtor of this Security Agreement at the Debtor's sole cost and expense.

IN WITNESS WHEREOF this Security Agreement has been executed by the authorized officer(s) of the Debtor on the 17<sup>th</sup> day of APRIL, 2013.

**TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP**  
By its General Partner, TRADESMEN  
ENTERPRISES INC.

Per:

  
Name: GRAHAM FLATER  
Title: DIRECTOR

c/s

To be signed by Debtor;  
if Debtor is a  
Corporation with a  
corporate seal affix  
corporate seal and  
ensure signatures are  
authorized, Debtor's  
name should be typed

Required only for a  
Corporation

EXHIBIT "A"

ASSET LOCATION SCHEDULE

Location of Collateral:

Alberta

All of the Debtor's assets are located at the following municipal addresses, except for those tangible assets that are located on a temporary basis on a customer's job location, e.g. well site, which varies from time to time:

#101 and 102, 11302 – 98 Avenue  
Grande Prairie, Alberta T8V 8H4

721081 Range Road 52  
Grande Prairie, Alberta

4102 99 Street  
Grande Prairie, Alberta T8W 5A8

15215 89 Street  
Grande Prairie, Alberta T8V 2N6

15101 89 Street  
Grande Prairie, Alberta T8V 2N6

British Columbia

Nil

Saskatchewan

Nil

**EXHIBIT "B"**

**SERIAL NUMBERED  
GOODS**

<b>Year</b>	<b>Make</b>	<b>Model</b>	<b>Serial/VIN Number</b>	<b>Description</b>	<b>Location</b>
2005	Carelift	10k Zoom Boom ('11 RPO)	B10056T208350E	Forklift	See Note 1*
2007	Carelift	8000lbs Zoom Boom ('11 RPO)	B8044T250770H	Forklift	See Note 1*
-	JLG	G10 – SS Turbo 10k lbs Zoom Boom ('11 RPO)	0160039895	Forklift	See Note 1*
2007	JLG	G10 55A	0160031760	Forklift	See Note 1*
2006	Carelift	10056 Zoom	B10056T210850M	Forklift	See Note 1*
2007	Genie	Z60 Knuckle Boom	Z6007-8067	Crane	See Note 1*
-	-	-	1260G06062	Office Trailer – G.N.S. Industrial Trailer Services	See Note 1*
-	-	-	1260G06064	Office Trailer – G.N.S. Industrial Trailer Services	See Note 1*
-	Atco	8 x 30	030970739	Trailer	See Note 1*
-	Trail Pro	24' Hiboy	2T9HC62786T166174	Trailer	See Note 1*
2010	GMC	Sierra SLT2500	1GT4K1BG3AF152431	Truck	See Note 1*
2011	GMC	3500HD Z71	1GT423CG5BF195874	Truck	See Note 1*
2012	GMC	SLT2500	1GT121EG0CF139850	Truck	See Note 1*
2012	GMC	Sierra SLE2500	1GT220CG1CZ304921	Truck	See Note 1*
2012	GMC	Sierra SLE2500	1GT120CG4CF134079	Truck	See Note 1*
2012	GMC	Sierra SLE1500	3GTP2VE72CG304569	Truck	See Note 1*
2011	GMC	Sierra 1500	3GTP2VE32BG403677	Truck	See Note 1*
2011	GMC	Sierra Denali3500	1GT426C86BF254568	Truck	See Note 1*
-	-	-	S6003-9138	Aerial Platform	See Note 1*
-	-	-	Z8007-1661	Aerial Platform	See Note 1*
-	-	-	Z8008-2196	Aerial Platform	See Note 1*
2004	Genie	2646	GS4604-60087	Electric Scissor	See Note 1*
2005	Dodge	-	3D7MS48C55G816485	Truck	See Note 1*
-	-	-	4RACS27238N061994	Trailer	See Note 1*
2008	GMC	3500	1GTHK33638F193980	Truck	See Note 1*

2011	Trailtech	-	4ZEPS2027B1005405	Trailer	See Note 1*
2006	Trail Pro	20' utility	2T9HC62706T166750	Trailer	See Note 1*
2007	-	F550	1FDAX57P97EA43146	Picker Truck	See Note 1*
-	-	-	2TTMT21016R?60875	Office Trailer	See Note 1*
-	Caterpillar	236B2	CAT0236BVHEN08086	Skid-steer loader	See Note 1*
-	Case	750K	CAL003321	Crawler	See Note 1*
2010	GMC	Sierra	3GTRKXE29AG231691	Truck	See Note 1*
2010	GMC	Sierra	3GTRKVE39AG226701	Truck	See Note 1*
2009	Doepker	53 ft scissor neck	2DESNSZ3091022552	Trailer	See Note 1*
2011	GMC	Sierra 3500	3GTRKXE29AG231691	Truck	See Note 1*
2011	GMC	Sierra 3500	3GTRKVE39AG226701	Truck	See Note 1*
2007	Ford	F350	1FDWX37P77EB04682	Picker Truck (Note: Capital Lease)	See Note 1*
-	-	-	2TTMT21076R060878	Office Trailer	See Note 1*
	Trail Pro	18' Hiboy	2T9HC526X6T166823	Trailer	See Note 1*
2006	Ford	F450 1 Ton	1FDXF47P16ED32785	Truck	See Note 1*
-	Caterpillar	236B	CAT0236BCHEN04725	Skid-steer loader	See Note 1*
-	Ford	F350	1FDWX37P67EB04642	Picker Truck	See Note 1*
-	Caterpillar	236B	CAT0236BCHEN05258	Skid-steer loader	See Note 1*
-	Case	750K	CAL003332	Crawler	See Note 1*
2011	GMC	Sierra SLE 3500	1GT523CG3BZ113532	Truck	See Note 1*
2011	GMC	-	1GD423CG9BF164011	Picker Truck	See Note 1*
2011	GMC	-	1GD423CG2BF164285	Picker Truck	See Note 1*
-	Trail Pro	24' Hiboy	2T9HC82758T166161	Trailer	See Note 1*
2007	Doepker	50' Tri-Axle	2DEPFZ3871021172	Trailer	See Note 1*
2011	Doepker	42' Tri-Axle	2DEPTFZ34B1027259	Trailer	See Note 1*
-	John Deere	-	1T0326DKCCG227949	Skid-steer loader	See Note 1*
-	-	24' Load Trail	4ZEPS2425D1033748	Trailer – Quapp Equipment Ltd.	See Note 1*
2012	GMC	Sierra SLT 1500	3GTP2WE77CG307490	Truck	See Note 1*
-	Genie	45' Knuckle Boom Diesel 4WD	Z452511A-42085	Lift	See Note 1*
2011	GMC	Sierra	1GT422CGXBF184444	Truck	See Note 1*
-	-	45' DSL 9,000lbs 4WD	0160020634	Telehandler	See Note 1*
1997	Western Star	25 ton	2WLPDCCJ5VK946493	Crane Truck	See Note 1*
2007	Kenworth	30 ton sleeper boom	1XKDDBEX97R989966	Truck	See Note 1*
1998	Western Star	4964FX T/A	2WKPDDCJ3WK951932	Truck	See Note 1*
2006	Freightliner	-	1FVRA6CK96LV48661	Winch Truck	See Note 1*
-	Hitachi	-	FF01V4Q030902	Excavator	See Note 1*
-	Hitachi	-	FF01V4Q031032	Excavator	See Note 1*
-	Hitachi	-	1FFASROXVA0820162	Excavator	See Note 1*

**Note 1:** All of the Debtor's assets are located at the following municipal addresses, except for those tangible assets that are located on a temporary basis on a customer's job location, e.g. well site, which varies from time to time:

#101 and 102, 11302 – 98 Avenue  
Grande Prairie, Alberta T8V 8H4

721081 Range Road 52  
Grande Prairie, Alberta

4102 99 Street  
Grande Prairie, Alberta T8W 5A8

15215 89 Street  
Grande Prairie, Alberta T8V 2N6

15101 89 Street  
Grande Prairie, Alberta T8V 2N6



EXHIBIT "C"

REAL PROPERTY

<b>Legal</b>	<b>Civic</b>
The North West Quarter of Section Eleven (11) Township Seventy Two (72) Range Five (5) West of the Sixth Meridian Containing 64.7 Hectares (160 Acres) More Or Less Excepting Thereout:     Hectares (Acres) More or Less A) Plan 0123350 – Road   2.649    6.55 Excepting Thereout All Mines And Minerals And The Right To Work The Same	721081 Range Road 52 Grande Prairie, Alberta

**EXHIBIT "D"**

**LEASED PROPERTY**

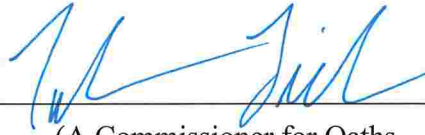
<b>Lessor</b>	<b>Date of Lease</b>	<b>Municipal Address</b>	<b>Legal Description</b>
Lankris Investments Inc.	May, 2011	#101, 102 and 103, 11302 – 98 Avenue Grande Prairie, Alberta T8V 8H4	Descriptive Plan 0226847, Block 6, Lot 6A, Excepting thereout all mines and minerals
Lankris Investments Inc. ( <i>landlord</i> ) Tradesmen Enterprises G.P. Inc ( <i>sublandlord</i> ) Enermax Services Inc. ( <i>subtenant</i> )	August 3, 2011	Unit 103, 11302 – 98 Avenue, Grande Prairie, Alberta T8V 8H4	Descriptive Plan 0226847, Block 6, Lot 6A, excepting thereout all mines and minerals
A-1 Amalgamation Ltd.	April 19, 2010	4102 99 Street Grande Prairie, Alberta T8W 5A8	Plan 7822861, Lot 28, Excepting thereout all mines and minerals, Area: 2.81 hectares (6.94 acres) more or less
Prairie Alta Investments Ltd.	November 8, 2012 and accepted November 13, 2012	15215 89 Street Grande Prairie, Alberta T8V 2N6	Plan 0721615, Block 5, Lot 4, Excepting thereout all mines and minerals, Area: 2.333 hectares (5.76 acres) more or less
Prairie Alta Investments Ltd.	November 8, 2012 and accepted November 13, 2012	15101 89 Street Grande Prairie, Alberta T8V 2N6	Plan 0721615, Block 5, Lot 5, Excepting thereout all mines and minerals, Area: 2.331 hectares (5.76 acres) more or less

This is Exhibit "B" referred to in the affidavit of

**ZACHARY NEWMAN**

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Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

**Guarantee for Indebtedness of an Incorporated Company**

To BANK OF MONTREAL:

IN CONSIDERATION of Bank of Montreal (the "Bank") dealing with **TRADESMEN ENTERPRISES LIMITED PARTNERSHIP** (the "Customer"), the undersigned hereby jointly and severally (solidarily in the Province of Québec) guarantees payment to the Bank of all present and future debts and liabilities in any currency, direct, indirect, contingent or otherwise, matured or not, including interest thereon, now or at any time, due or owing to the Bank from or by the Customer or by any successor of the Customer, whether arising from dealings between the Bank and the Customer or from other dealings or proceedings by which the Bank may be or become in any manner whatever a creditor of the Customer, wherever incurred and whether incurred by the Customer as principal or surety, alone or jointly with any other person, or otherwise howsoever. The liability of the undersigned (or each undersigned, if more than one), under this Guarantee, is limited to the aggregate amount of **UNLIMITED Dollars UNLIMITED** plus interest thereon at a rate of **3.0** per cent per annum above the Bank's prime interest rate in effect from time to time, from and including the date of demand until payment, and legal or other costs, charges and expenses. The liability of the undersigned to make payment under this Guarantee shall arise immediately after demand for payment under this Guarantee has been made in writing by the Bank on the undersigned or any one of them, if more than one. The term "prime interest rate" means the floating annual rate of interest established from time to time by the Bank as the base rate it uses to determine rates of interest on Canadian dollar loans to customers in Canada and designated as Prime Rate.

IT IS AGREED that no change in the name, objects, capital stock, ownership, control or constitution of the Customer shall in any way affect the liability of the undersigned with respect to transactions occurring either before or after any such change. If the Customer amalgamates with one or more other corporations this Guarantee shall continue and apply to all debts and liabilities owing to the Bank by the corporation continuing from the amalgamation. The Bank shall not be required to inquire into or confirm the powers of the Customer or any of its directors or other agents acting or purporting to act on its behalf, and all amounts, liabilities, advances, renewals and credits in fact incurred, borrowed or obtained from the Bank shall be deemed to form part of the debts and liabilities hereby guaranteed, notwithstanding whether incurring such debts or liabilities exceeded the powers of the Customer or of its directors or agents, or was in any way irregular, defective or improper.

IT IS FURTHER AGREED that the undersigned shall be liable to the Bank in respect of all debts and liabilities, subject to the limitation, if any, set forth in the first paragraph of this Guarantee, stated to be owing to the Bank by the Customer under any agreement entered into by the Customer with respect to such debts and liabilities, notwithstanding whether any such agreement or any provision thereof is invalid, void, illegal, or unenforceable and notwithstanding whether such agreement was properly completed, entered into or authorized. Subject to the limitation, if any, set forth in the first paragraph of this Guarantee, the undersigned shall indemnify and save the Bank harmless from any losses which may arise by virtue of any debts and liabilities stated to be owing to the Bank by the Customer under any agreement entered into by the Customer with respect to such debts and liabilities, or any other agreement relating to any of the foregoing, being or becoming for any reason whatsoever in whole or in part (a) void, voidable, null, *ultra vires*, illegal, invalid, ineffective or otherwise unenforceable in accordance with its terms, or (b) released or discharged by operation of law (all of the foregoing being an "Indemnifiable Circumstance"). For greater certainty, the losses shall include the amount of all debts and liabilities owing to the Bank by the Customer which would have been payable by the Customer but for the Indemnifiable Circumstance. Nothing set out herein shall be interpreted as requiring any debts or liabilities which are hereby guaranteed to be documented by written agreement between the Bank and the Customer.

IT IS FURTHER AGREED that the Bank, without the consent of the undersigned and without exonerating in whole or in part the undersigned, may grant time, renewals, extensions, indulgences, releases and discharges to, may abstain from taking, perfecting or realizing upon security from, may release security to, may accept compositions from, and may otherwise change the terms of any of the debts and liabilities hereby guaranteed and otherwise deal with, the Customer and all other persons (including any other undersigned and any other guarantor) and security, as the Bank may see fit. No loss or diminution of any security received by the Bank from the Customer or others, whether the loss or diminution is due to the fault of the Bank or otherwise, shall in any way limit or lessen the liability of the undersigned under this Guarantee. All dividends, compositions, and amounts received by the Bank from the Customer or from any other person or estate capable of being applied by the Bank in reduction of the debts and liabilities hereby guaranteed, shall be regarded for all purposes as payments in gross, and the Bank shall be entitled to prove against the estate of the Customer upon any insolvency or winding-up in respect of the whole of said debts and liabilities, and the undersigned shall have no right to be subrogated to the Bank in respect of any such proof until the Bank has received from such estate payment in full of its claim with interest.

AND IT IS FURTHER AGREED that this shall be a continuing guarantee, and shall guarantee any ultimate balance owing to the Bank, including all costs, charges and expenses which the Bank may incur in enforcing or obtaining payment of amounts due to the Bank from the Customer either alone or in conjunction with any other person or otherwise howsoever, or attempting to do so. The Bank shall not be obliged to seek recourse against the Customer or any other person or realize upon any security it may hold before being entitled to payment from the undersigned of all debts and liabilities hereby guaranteed. The undersigned hereby renounces the benefits of discussion and division. The undersigned renounces claiming or setting up against the Bank any right which such undersigned may have to be subrogated in any of the rights, hypothecs, privileges and other security held from time to time by the Bank. The undersigned may terminate the further liability of such terminating party under this continuing Guarantee by providing ninety days' prior written notice to be given to the Bank. The liability of such terminating party shall continue under this Guarantee during such 90-day period, notwithstanding the death or insanity of such terminating party. After the expiry of such 90-day period, the terminating party shall be released from this Guarantee with respect to debts and liabilities arising after the expiry of such 90-day period but shall remain liable under this Guarantee in respect of all debts and liabilities owing to the Bank prior to the expiry of such 90-day period and also in respect of any contingent or future liabilities incurred to or by the Bank on or before such date which mature thereafter. Termination by the undersigned or the executors, liquidators, administrators or legal representatives of such undersigned shall not terminate the liability hereunder of any other undersigned. If after such termination any payment from the Customer must be returned to the Customer, or any successor or representative of the Customer, for any reason (including the designation of such payment as a mistake or as a preference following the bankruptcy of the Customer), then this

Guarantee shall continue after the termination as if such payment had not been made. A written statement from any manager or acting manager of the Bank purporting to show the amount at any particular time due and payable to the Bank, and guaranteed by this Guarantee, shall be conclusive evidence as against the undersigned that such amount is at such time so due and payable to the Bank and is guaranteed hereby. Each of the executors, liquidators, administrators and legal representatives of the undersigned shall immediately give notice in writing to the Bank of the death of such undersigned.

In the  
Province of  
Quebec  
in which  
the  
Customer's  
account with  
the Bank is  
kept at the time  
this Guarantee is  
given

THIS CONTRACT shall be construed in accordance with the laws of the Province of Alberta and for the purpose of legal proceedings this contract shall be deemed to have been made in the said province and to be performed there, and the courts of that province shall have non-exclusive jurisdiction over all disputes which may arise under this contract, provided always that nothing herein contained shall prevent the Bank from proceeding at its election against the undersigned in the courts of any other province or country.

IF ANY PROVISION of this Guarantee is determined to be unenforceable, prohibited, invalid or illegal, it shall be severed from this Guarantee solely to the extent of such unenforceability, prohibition, invalidity or illegality and the remainder of such provision and the remainder of this Guarantee shall be unaffected thereby. The liability of the undersigned under this Guarantee shall not be terminated if this Guarantee is held to be unenforceable against any other undersigned.

ALL DEBTS AND LIABILITIES present and future of the Customer to the undersigned are hereby assigned (to the extent permitted by applicable law) to the Bank and postponed to the debts and liabilities of the Customer to the Bank and all such amounts paid to the undersigned or its assigns shall be received on behalf of and in trust for the Bank and shall immediately be paid over to the Bank. Any request by the undersigned to the Bank for useful information respecting the content and the terms and conditions of the debts and liabilities of the Customers hereby guaranteed or the progress made in their performance, shall be made in writing by such undersigned to the Bank.

THE UNDERSIGNED acknowledges that this Guarantee has been delivered free of any conditions and that no representations have been made to the undersigned affecting the liability of the undersigned under this Guarantee save as may be specifically embodied herein and agrees that this Guarantee is in addition to and not in substitution for any other guarantees now or subsequently held by the Bank.

THE UNDERSIGNED represents and warrants that (i) it fully understands the provisions of this Guarantee and its obligations hereunder; (ii) it has been afforded the opportunity to engage independent legal counsel, at its own expense, to explain the provisions of this Guarantee and its obligations hereunder; and (iii) it has either engaged legal counsel in connection with its execution of this Guarantee or has decided, at its sole discretion, not to do so.

THE UNDERSIGNED agrees, without limitation of the rights of the Bank under applicable law, that the Bank may apply any amounts owing to, or sum standing to the credit of, the undersigned with any office, branch, subsidiary or affiliate of the Bank to the payment when due of any amount owing by the undersigned hereunder. For this purpose, the Bank may convert any such amount or sum into the currency of the amount owing hereunder at a rate of exchange at which the Bank could purchase the relevant currency on the relevant date acting in good faith.

THIS GUARANTEE shall remain in effect notwithstanding any change in the circumstances having led the undersigned to execute this Guarantee and notwithstanding the termination of or a change in the office or duties of such undersigned or in any relationship between such undersigned and the Customer.

THE UNDERSIGNED acknowledges and agrees that the Bank may make a claim or demand payment hereunder notwithstanding any limitation period regarding such claim or demand set forth in the *Limitations Act, 2002* (Ontario) or under any other applicable law with similar effect and, to the maximum extent permitted by applicable law, any limitations periods set forth in such act or applicable law are hereby explicitly excluded or, if excluding such limitations periods is not permitted by such act or applicable law, are hereby extended to the maximum limitation period permitted by such act or applicable law. For greater certainty, the undersigned acknowledges and agrees that this Guarantee is a "business agreement" as defined under Section 22 of the *Limitations Act, 2002* (Ontario).

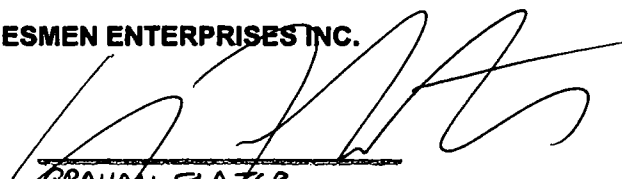
IN THIS GUARANTEE, unless the context otherwise requires, references to the undersigned shall be interpreted as referring to each of the undersigned if there is more than one undersigned.

It is the express wish of the parties hereto that this agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

This clause  
applies to  
the Province  
of Québec  
only

DATED as of APRIL 17, 2013.

If signed by corporation or other entity (e.g. partnership):

**TRADESMEN ENTERPRISES INC.**  
  
By: \_\_\_\_\_  
Name: GRAHAM FLATER  
Title: DIRECTOR

Registered trade-marks of Bank of Montreal

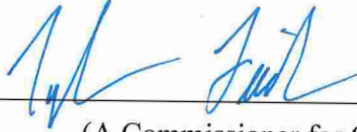
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This is Exhibit "C" referred to in the affidavit of

**ZACHARY NEWMAN**

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Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

**SECURITY AGREEMENT****TRADESMEN ENTERPRISES INC.**

Tradesmen Enterprises Inc. (the “**Debtor**”) hereby enters into this Security Agreement with Bank of Montreal (the “**Bank**”) for valuable consideration and as security for the repayment of all present and future indebtedness of the Debtor to the Bank and interest thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, of the Debtor to the Bank, including without limitation, pursuant to a letter loan agreement dated as of April 16, 2013 made between the Bank and Tradesmen Enterprises Limited Partnership, as borrower, of which the Debtor is a guarantor of the obligations of the borrower (as the same may be amended, restated or replaced from time to time, the “**Loan Agreement**”) and any interest swaps entered into between the Debtor and the Bank or any affiliate of the Bank (all of the indebtedness, interest, liabilities and obligations of the Debtor to the Bank being hereinafter collectively called the “**Obligations**”). This Security Agreement is entered into pursuant to and is governed by the *Alberta Personal Property Security Act* (“**PPSA**”) insofar as it affects personal property located in Alberta.

1. The Debtor hereby represents and warrants to the Bank that it only has assets located at the locations in Alberta and elsewhere which are listed and described in Exhibit “A” attached hereto.

2. The Debtor hereby represents and warrants to the Bank that it legally owns the serial numbered personal property at the locations in Alberta and elsewhere which are listed and described in Exhibit “B” attached hereto.

3. The Debtor hereby represents and warrants to the Bank that it legally owns the real property at the locations in Alberta and elsewhere which are listed and described in Exhibit “C” attached hereto.

4. The Debtor hereby represents and warrants to the Bank that it leases the real property at the locations in Alberta and elsewhere which are listed and described in Exhibit “D” attached hereto.

5. The Debtor hereby:

(a) mortgages and charges to the Bank as and by way of a fixed and specific mortgage and charge, and grants to the Bank a security interest in, all its present and future goods and any proceeds therefrom, including without limitation, all fixtures, building materials, leased goods, plant, machinery, tools, furniture and any equipment now or hereafter owned or acquired, and any goods specifically listed or otherwise described in any Schedule hereto;

(b) mortgages and charges to the Bank, and grants to the Bank a security interest in, all its present and future inventory and any proceeds therefrom, including without limitation, all raw materials, goods in process, work in progress, materials used or consumed in business, finished goods and packaging material and goods acquired or held for sale or lease or furnished under contracts of rental or service;

(c) assigns, transfers and sets over to the Bank and grants to the Bank a security interest in, all its present and future intangibles, chattel paper, investment property, documents of title, instruments and money, and any proceeds therefrom, including without limitation, all its present and future book debts and other accounts receivable, monetary obligations, contract rights and other choses in action of every kind or nature now due or hereafter to become due, including insurance rights arising from or out of the assets referred to in subparagraphs (a) and (b) above; and

(d) charges in favour of the Bank as and by way of a floating charge its undertaking and all its present and future property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, including

List all premises and asset locations, by schedule, if necessary

Attach a schedule, if goods and/or equipment are to be listed

without limitation, client lists, client records and client files (other than property and assets hereby validly assigned or subjected to a specific mortgage and charge and to the exceptions hereinafter contained).

For the purposes of this Security Agreement, the goods, inventory, intangibles, chattel paper, investment property, documents of title, instruments, money, undertaking and all other property and assets of the Debtor referred to in this section 5 are hereinafter sometimes collectively called the "Collateral".

6. The Collateral is on the date hereof primarily situate or located at the location(s) set out in sections 1-4 and Exhibits "A", "B", "C" and "D" hereof but may from time to time be located at other premises of the Debtor. The Collateral may also be located at other places while in transit to and from such locations and premises; and the Collateral may from time to time be situated or located at any other place when on lease or consignment to any lessee or consignee from the Debtor. The Collateral shall not be removed from the locations in the Exhibits without the prior written consent of the Bank.

7. It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor, is hereby or shall be excepted out of the mortgages, charges and security interests hereby created, but the Debtor shall stand possessed of the reversion of one day remaining in the Debtor in respect of any such term of years, for the time being demised, as aforesaid upon trust to assign and dispose of the same as any purchaser of such term of years shall direct. There shall also be excluded from the security created by subparagraph 5(d) after-acquired consumer goods of the Debtor other than when subject to purchase money security interests in favour of the Bank, and other than accessions.

8. Notwithstanding section 5 of this Security Agreement, to the extent the security interests, mortgage, and charges expressed to be created by this Security Agreement (collectively, the "Security Interests") relates to any agreements, contracts, franchises, rights, leases, leasehold property, licences or permits (or rights thereunder), contract rights or intellectual property rights forming part of the Collateral which by their terms or by the terms of any instrument or agreement relating thereto may not be charged without the consent or approval of some other person, the Security Interest shall not become effective to the extent it relates to such Collateral until, but shall become effective immediately when, all consents and approvals required from such person or persons in respect of the creation of the Security Interest have been obtained, but the Debtor shall (subject to the foregoing) hold its respective rights and interests therein in trust for the Bank, to the extent possible without creating a default under any instrument or agreement constituting, governing or otherwise relating to any such Collateral, and shall not amend, terminate or dispose of any right or interest in any such Collateral except as expressly permitted hereunder or as the Agent may otherwise agree. The Debtor shall use commercially reasonable efforts to promptly obtain the consents necessary for each Security Interest to become effective.

9. The Debtor:

(a) shall not without the prior written consent of the Bank sell or dispose of any of the Collateral other than that described in subparagraph 5(b) above which may be sold only in the ordinary course of business and for the purpose of carrying on the same; and if the amounts of any of the Collateral of the type referred to in subparagraph 5(c) above or any proceeds arising from the Collateral of the type described in subparagraphs 5(a) and 5(b) above shall be paid to the Debtor, the Debtor shall receive the same as trustee for the Bank and forthwith pay over the same to the Bank. The Debtor shall not without the prior written consent of the Bank create any liens upon or assign or transfer as security or pledge or hypothecate as security or create a security interest in the Collateral except to the Bank, other than such encumbrances as are permitted by the Bank as contemplated in the Loan Agreement. The Debtor agrees that the Bank may at any time after an unremedied default require any account debtor of the Debtor to make payment to the Bank and the Bank may take control of any proceeds referred to in subparagraphs 5(a), 5(b) and 5(c) hereof and may hold all amounts received from any account debtors and any proceeds as cash collateral as part of the Collateral and as security for the Obligations of the Debtor to the Bank; and

(b) covenants not to substitute or modify any of the Debtor's rights under any Collateral of the type listed in subparagraph 5(c) above without the written consent of the Bank, and any substitution or modification not consented to may at the option of the Bank be treated as an act of default hereunder.



10. The Debtor shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, transfers, assignments, security agreements and assurances as the Bank may reasonably require for the better granting, transferring, assigning, charging, setting over, assuring and confirming unto the Bank the property and assets hereby mortgaged and charged or subjected to security interests or intended so to be or which the Debtor may hereafter become bound to mortgage, charge, transfer, assign or subject to a security interest in favour of the Bank and for the better accomplishing and effectuating of this Security Agreement.

11. The Debtor shall at all times have and maintain insurance over the Collateral against risks of fire (including so-called extended coverage), theft, and also against such other risks as the Bank may reasonably require in writing, containing such terms, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Bank. The Debtor shall duly and seasonably pay all premiums and other sums payable for maintaining such insurance and shall cause the insurance money thereunder to be payable to the Bank as its interest hereunder may appear and shall, if required, furnish the Bank with certificates or other evidence satisfactory to the Bank of compliance with the foregoing insurance provisions.

12. The Debtor shall keep proper books of account and shall at all times upon request by the Bank furnish the Bank with such information concerning the Collateral and the Debtor's affairs and business as the Bank may reasonably request, including financial statements, lists of inventory and equipment and lists of accounts receivable showing the amounts owing upon each account and securities therefor and copies of all financial statements, books and accounts, invoices, letters, papers and other documents in any way evidencing or relating to the account. The Debtor shall permit the Bank at all reasonable times to enter onto its premises to inspect and copy its books, and to inspect the Collateral.

13. The Debtor shall be in default under this Security Agreement upon the occurrence and during the continuance of any "Event of Default" as defined in the Loan Agreement.

14. Upon any unremedied default under this Security Agreement, the Bank may declare any or all of the Obligations to be immediately due and payable and may proceed to realize the security hereby constituted and to enforce its rights by any method not prohibited by law, including by the appointment by instrument in writing of a receiver or receivers of the subject matter of such security or any part thereof and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Bank or not, and the Bank may remove any receiver or receivers so appointed and appoint another or others in his or their stead; or by proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers, or by sale of the Collateral or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relative to the Debtor. Any such receiver or receivers so appointed shall have power to take possession of the Collateral or any part thereof and if appointed a receiver-manager the power to carry on the business of the Debtor, and to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor, and to further charge the Collateral in priority to the security constituted by this Security Agreement as security for money so borrowed, and to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine. In exercising any powers any such receiver or receivers shall act as agent or agents for the Debtor and the Bank shall not be responsible for his or their actions, unless such actions were not taken in good faith.

In addition, the Bank may enter upon and lease or sell the whole or any portion of the Collateral, subject to applicable law.

Any such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Bank in its discretion may seem advantageous and such sale may take place whether or not the Bank has taken possession of such property and assets.

No remedy for the realization of the security hereof or for the enforcement of the rights of the Bank shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination and the Bank may exercise any one or more of such remedies in

respect of all or any portion of the Collateral as the Bank deems fit. The term "receiver" as used in this Security Agreement includes a receiver and manager.

15. The Bank shall not be responsible for any loss or damage to the Collateral, save and except where caused by the gross negligence or wilful misconduct of the Bank, and the Bank shall not be obliged to preserve rights against other persons, keep the Collateral identifiable or repair, process or prepare the Collateral for disposition, and shall only be liable to account for funds (net of costs of collection, realization and sale, including solicitor and his own client legal costs), actually received by the Bank.

16. Any receiver-manager appointed by the Bank may carry on the business of the Debtor, and in addition to any powers or rights granted by law, a receiver or receiver-manager may, but shall be under no obligation to:

- (a) exercise any power or right granted to the Bank hereunder;
- (b) enter upon any premises under the control of the Debtor and take possession of the Collateral by any method not prohibited by law;
- (c) borrow money by charge against the Collateral for the preservation, processing, maintenance or preparation for sale of the Collateral, or for any other purpose;
- (d) realize on and dispose of the Collateral by any method not prohibited by law, and on any terms, whether to the highest bidder or not and whether in the ordinary course of the Debtor's business or not;
- (e) execute deeds, enter contracts and otherwise act as the attorney of the Debtor in dealing with the Collateral;
- (f) institute, defend, compromise, settle or continue any proceedings relating to the Collateral;
- (g) generally, to do any act necessary or convenient to the realization of the Collateral that the Debtor itself could have done.

17. Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Bank may see fit, and the Bank shall at all times and from time to time have the right to change any appropriation as the Bank may see fit.

18. The Debtor agrees to pay all reasonable expenses, including solicitor's fees as between a solicitor and his own client and disbursements and the remuneration of any receiver appointed hereunder, incurred by the Bank in the preparation, perfection and enforcement of this Security Agreement or the Obligations, or in the holding, repairing, processing or preparing for disposition and disposing of the Collateral, with interest at the rate provided in the obligations, and the payment of such expenses shall be secured hereby.

19. The Bank may waive any default herein referred to; provided always that no act or omission by the Bank in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom:

(a) to the extent not prohibited by law, the Debtor hereby waives its rights, if any, under all provisions of law that would in any manner, limit, restrict or otherwise affect the Bank's rights and remedies hereunder or impose any additional obligations on the Bank. The Debtor waives the right to receive any amount which it may now or hereafter be entitled to receive (whether by way of damages, fine, penalty or otherwise) by reason of the failure of the Bank to deliver to the Debtor a copy of any financing statement or any verification statement issued by any registry that confirms registration of a financing statement relating to this Security Agreement.

(b) the Debtor hereby authorizes the Bank to provide information to any person who requests information under Section 18 of the PPSA or similar legislation and the Bank will not be required to investigate whether or not

the inquiring person is in fact a person entitled to request information pursuant to Section 18 of the PPSA or similar legislation.

(c) to the full extent that it may lawfully do so, the Debtor hereby:

- (i) waives and disclaims any benefit of, and shall not have or assert any right under any statute or rule of law pertaining to, the marshalling of assets or any other matter whatever, to defeat, reduce or affect the rights of the Bank under the terms of this Security Agreement to a sale of the Collateral or any part thereof or for the collection of all amounts secured hereby;
- (ii) agrees that it shall not have or assert any right or equity of redemption or any right under any statute or otherwise to redeem the Collateral or any part thereof after the completion of the sale hereunder to any person whether such sale is by the Bank, any receiver or otherwise, notwithstanding, that the Bank may have purchased same;
- (iii) agrees that the *Land Contracts (Actions) Act* (Saskatchewan) shall have no application to any action (as defined in such Act) with respect to the charges; and
- (iv) agrees that the *Limitation of Civil Rights Act* (Saskatchewan) shall have no application to:
  - (A) this Security Agreement or any instrument or agreement in implementation hereof;
  - (B) any security interest or security for the payment of money made, given or created pursuant to this Security Agreement or such instruments or agreements;
  - (C) any agreement or instrument entered into at any time hereafter by the Debtor renewing or extending or collateral to this Security Agreement; or
  - (D) the rights, powers or remedies of the Bank or any receiver under any of the foregoing agreements or instruments.

20. The Debtor acknowledges that value has been given, that the Debtor has rights in the Collateral and that the parties have not agreed to postpone the time for attachment of any security interest in this Security Agreement.

21. The security hereof is in addition to and not in substitution for any other security now or hereafter held by the Bank and shall be general and continuing security notwithstanding that the Obligations of the Debtor shall at any time or from time to time be fully satisfied or paid.

22. Nothing herein shall obligate the Bank to make any advance or loan or further advance or loan or to renew any note or extend any time for payment of any indebtedness or liability of the Debtor to the Bank.

23. This Security Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Debtor and the Bank.

24. This Security Agreement is a security agreement within the meaning of the Alberta PPSA and does not constitute an acknowledgement of any particular indebtedness or liability of the Debtor to the Bank.

25. This Security Agreement will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, without giving effect to the conflict of law principles thereof. Without prejudice to the ability of the Bank to enforce this Security Agreement in any other proper jurisdiction, Debtor hereby irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Alberta, or any appellate court thereof, for the purposes of this Security Agreement.

26. In construing this Security Agreement, terms herein shall have the same meaning as defined in the Alberta PPSA, unless the context otherwise requires. The word "Debtor", the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used depending upon whether the Debtor is one or more individuals, corporations or partnerships and, if more than one, this Security Agreement shall apply and be binding upon each of them severally. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation and, where the Debtor is a partnership, any new partnership resulting from the admission of new partners or any other change in the Debtor, including, without limiting the generality of the foregoing, the death of any or all of the partners.

27. The Debtor waives receipt of any financing statement registered by the Bank and any confirmation of registration.

28. The Debtor acknowledges receipt of a copy of this Security Agreement.

29. To the extent that any provision of this Security Agreement conflicts with or is inconsistent with any provisions of the Loan Agreement, the Loan Agreement shall govern and prevail to resolve such conflict or inconsistency in any and all circumstances, such that the provisions of the Loan Agreement shall be paramount to and supersede the provisions of this Security Agreement.

30. When all Obligations are fully paid, satisfied and cancelled, the Bank shall, upon the Debtor's request, provide a release to the Debtor of this Security Agreement at the Debtor's sole cost and expense.

IN WITNESS WHEREOF this Security Agreement has been executed by the authorized officer(s) of the Debtor on the 17<sup>th</sup> day of APRIL, 2013.

**TRADESMEN ENTERPRISES INC.**

Per:

  
Name: GRAHAM FLATER  
Title: DIRECTOR

c/s

To be signed by Debtor,  
if Debtor is a  
Corporation with a  
corporate seal affix  
corporate seal and  
ensure signatures are  
authorized, Debtor's  
name should be typed

Required only for a  
Corporation

**EXHIBIT "A"**

**ASSET LOCATION SCHEDULE**

**Location of Collateral:**

**Alberta**

All of the Debtor's assets are located at the following municipal addresses, except for those tangible assets that are located on a temporary basis on a customer's job location, e.g. well site, which varies from time to time:

**#101 and 102, 11302 – 98 Avenue  
Grande Prairie, Alberta T8V 8H4**

**721081 Range Road 52  
Grande Prairie, Alberta**

**4102 99 Street  
Grande Prairie, Alberta T8W 5A8**

**15215 89 Street  
Grande Prairie, Alberta T8V 2N6**

**15101 89 Street  
Grande Prairie, Alberta T8V 2N6**

**British Columbia**

Nil

**Saskatchewan**

Nil

**EXHIBIT "B"**

**SERIAL NUMBERED**  
**GOODS**

NONE

**EXHIBIT "C"**

**REAL PROPERTY**

<b>Legal</b>	<b>Civic</b>
The North West Quarter of Section Eleven (11) Township Seventy Two (72) Range Five (5) West of the Sixth Meridian Containing 64.7 Hectares (160 Acres) More Or Less Excepting Thereout:     Hectares (Acres) More or Less A) Plan 0123350 – Road 2.649     6.55 Excepting Thereout All Mines And Minerals And The Right To Work The Same	721081 Range Road 52 Grande Prairie, Alberta

**EXHIBIT "D"**

**LEASED PROPERTY**

<b>Lessor</b>	<b>Date of Lease</b>	<b>Municipal Address</b>	<b>Legal Description</b>
Lankris Investments Inc.	May, 2011	#101, 102 and 103, 11302 – 98 Avenue Grande Prairie, Alberta T8V 8H4	Descriptive Plan 0226847, Block 6, Lot 6A, Excepting thereout all mines and minerals
Lankris Investments Inc. ( <i>landlord</i> ) Tradesmen Enterprises G.P. Inc ( <i>sublandlord</i> ) Enermax Services Inc. ( <i>subtenant</i> )	August 3, 2011	Unit 103, 11302 – 98 Avenue, Grande Prairie, Alberta T8V 8H4	Descriptive Plan 0226847, Block 6, Lot 6A, excepting thereout all mines and minerals
A-1 Amalgamation Ltd.	April 18, 2010	4102 99 Street Grande Prairie, Alberta T8W 5A8	Plan 7822861, Lot 28, Excepting thereout all mines and minerals, Area: 2.81 hectares (6.94 acres) more or less
Prairie Alta Investments Ltd.	November 8, 2012 and accepted November 13, 2012	15215 89 Street Grande Prairie, Alberta T8V 2N6	Plan 0721615, Block 5, Lot 4, Excepting thereout all mines and minerals, Area: 2.333 hectares (5.76 acres) more or less
Prairie Alta Investments Ltd.	November 8, 2012 and accepted November 13, 2012	15101 89 Street Grande Prairie, Alberta T8V 2N6	Plan 0721615, Block 5, Lot 5, Excepting thereout all mines and minerals, Area: 2.331 hectares (5.76 acres) more or less

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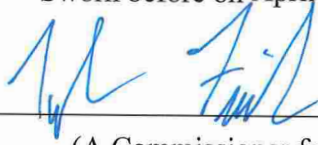


This is Exhibit "D" referred to in the affidavit of

**ZACHARY NEWMAN**

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Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**In and for Alberta**  
**Student-At-Law, Notary Public**

## **FOURTH AMENDED AND RESTATED LOAN AGREEMENT**

THIS AGREEMENT is dated as of July 6, 2020 between Tradesmen Enterprises Limited Partnership, as borrower, and Bank of Montreal, as lender, as the same may be amended from time to time.

In consideration of the covenants and agreements between the Transaction Parties and the Lender contained in this Agreement and the other Loan Documents and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lender has agreed to provide to the Borrower the Credit Facilities on the following terms and conditions:

**BORROWER:** Tradesmen Enterprises Limited Partnership (the “**Borrower**”).

**GUARANTORS:** Fulcrum 2010 Private Equity Fund (Fund IV) consisting of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership and PEF 2010 (C) Limited Partnership, by their respective general partner, Fulcrum Capital Partners Inc. (collectively, “**Fulcrum**”), Tradesmen Enterprises Inc. (“**TEI**”), and all direct and indirect subsidiaries of the Borrower from time to time who execute and deliver a guarantee to the Lender of the Borrower’s Obligations to the Lender (collectively, the “**Guarantors**”).

(collectively, the Borrower and the Guarantors (other than Fulcrum) are referred to as the “**Credit Parties**” and individually as a “**Credit Party**” and the Credit Parties and Fulcrum are collectively referred to as the “**Transaction Parties**” and individually as a “**Transaction Party**”).

**LENDER:** Bank of Montreal (the “**Lender**”).

**FINANCIAL CLOSE:** July 6, 2020 or such other later date approved by the Lender in writing (the “**Financial Close**”).

**CREDIT FACILITIES:** Facility 1, Facility 2, Facility 3 and Facility 4 each as described below (collectively, the “**Credit Facilities**”).

**AMOUNTS:** All dollar amounts referenced herein are in Canadian Dollars unless otherwise noted.

**DEFINITIONS:** Capitalized terms used herein which are otherwise not defined in the body of this Agreement are defined in Schedule “A” attached hereto.

### **AMENDMENT AND RESTATEMENT:**

Effective as of the date hereof and upon acceptance by the Borrower, (i) the Previous Loan Agreement is hereby amended and restated as set forth herein without in any way affecting the rights or obligations of any party which may have accrued as of the date hereof pursuant to the provisions of such agreement prior to its amendment hereby including, without limitation, the existence and continued responsibility of the Obligations owing by any of the Transaction Parties to the Lender pursuant to the Previous Loan Agreement and the Security previously executed and delivered by the Transaction Parties prior to the date hereof, (ii) the Security previously executed and delivered by the Transaction Parties prior to the date hereof continues to remain in full force and effect as legal and binding obligations of the Borrower and the other Transaction Parties in accordance with their respective terms and such Security is hereby ratified and confirmed in all respects by the Transaction Parties, (iii) all deliverables made under the Previous Loan Agreement are deemed to have been

delivered under this Agreement, and (iv) the Previous Loan Agreement is, as so amended and restated, ratified and confirmed by each of the Transaction Parties and the Lender.

**FACILITY 1: DEMAND REVOLVING CREDIT FACILITY**

**MAXIMUM AMOUNT:** \$23,000,000

**PURPOSE:** General working capital and corporate requirements of the Borrower.

**AVAILABILITY:** Subject to the Facility 1 Margin Requirement and the satisfaction of the conditions precedent herein, Advances under Facility 1 may occur by way of one or more of the following:

- (a) Prime Advances in Canadian Dollars;
- (b) USBR Advances in U.S. Dollars to a maximum Canadian Dollar Equivalent Amount of \$10,000,000;
- (c) BA Advances in Canadian Dollars in minimum amounts of \$1,000,000 and thereafter in minimum multiples of \$100,000 for terms between 28 and 182 days, subject to market availability;
- (d) LIBOR Advances in U.S. Dollars in minimum amounts of US\$1,000,000 and thereafter in minimum multiples of US\$100,000 for terms of either 1, 2 or 3 months, subject to market availability, to a maximum Canadian Dollar Equivalent Amount of \$10,000,000; and
- (e) Letter of Credit Advances in the form of Letters of Credit, each for a term of up to 365 days (with renewals at the sole option of the Lender) available in Canadian Dollars or U.S. Dollars, for purposes other than guaranteeing obligations of third parties (excluding, for greater certainty, TEI) up to an aggregate Canadian Dollar Equivalent Amount of \$1,000,000 issued at any time.

**FACILITY 1**

**MARGIN**

**REQUIREMENT:**

Notwithstanding any other provision contained herein, at no time shall the Outstanding Principal under Facility 1 exceed the lesser of \$23,000,000 and the following margin requirement (the "**Facility 1 Margin Requirement**"):

- (a) 75% of Acceptable Receivables; plus
- (b) 90% of Acceptable Investment Grade Receivables; minus
- (c) Priority Claims.

The Facility 1 Margin Requirement shall be determined on a monthly basis in accordance with subsection (a) of the "Reporting Requirements" below. Such information shall be presented by the Borrower in form and substance satisfactory to the Lender. Each new Facility 1 Margin Requirement shall be established as of the date of receipt of such information from the Lender provided that the Lender has confirmed to the Borrower that it has accepted such information.

**FACILITY 1**

**MARGIN**

**SHORTFALL:**

Should the Outstanding Principal under Facility 1 ever exceed the Facility 1 Margin Requirement in effect from time to time (a "**Facility 1 Margin Shortfall**"), the Borrower shall cure such shortfall within three (3) Banking Days' notice of being advised of such a Facility 1 Margin Shortfall by the Lender.

**TERMS OF  
AVAILABILITY OF  
BANKER'S  
ACCEPTANCES:**

In addition to the applicable terms above, the availability of any Banker's Acceptances hereunder is subject to the following terms and conditions:

- (a) To facilitate the acceptance of drafts hereunder, the Borrower hereby appoints the Lender, acting by any authorized signatory of the Lender, the attorney of the Borrower (i) to sign for and on behalf and in the name of the Borrower as drawer, and to endorse on its behalf, drafts in the Lender's standard form which constitute "depository bills" for the purpose of the DBNA, (ii) to fill in the amount, date and maturity date of such drafts, (iii) if applicable, to deposit such Banker's Acceptances which have been accepted by the Lender with a "clearing house" (as defined in the DBNA), and (iv) to make the necessary arrangements for the negotiation of Banker's Acceptances, provided that such acts in each case are to be undertaken by the Lender in accordance with instructions given to the Lender by the Borrower as provided in this section. This power of attorney is in addition to and not in substitution for any agreement to which the Lender and the Borrower are parties.
- (b) This power of attorney may be revoked by the Borrower at any time upon not less than five (5) Banking Days' written notice served upon the Lender provided that (i) it may be replaced with another power of attorney forthwith in accordance with the requirements of the Lender; and (ii) no such revocation shall reduce, limit or otherwise affect the obligations of the Borrower in respect of any draft executed, completed, discounted and/or deposited in accordance herewith prior to the time at which such revocation becomes effective. This power of attorney may be terminated by the Lender at any time upon not less than five (5) Banking Days' written notice to the Borrower. Any revocation or termination of this power of attorney shall not affect the rights of the Lender and the obligations of the Borrower with respect to the indemnities of the Borrower stated herein.
- (c) Banker's Acceptances may be purchased by the Lender for a discounted amount based on the Lender's discount rate quoted on the date of purchase.
- (d) Instructions to the Lender relating to the execution, completion, discount and/or deposit by the Lender on behalf of the Borrower of drafts which the Borrower wishes to submit to the Lender for acceptance by the Lender shall be communicated by the Borrower in writing with the delivery by the Borrower of a Borrowing Notice and shall specify the following information: (i) reference to the power of attorney contained in this Agreement; (ii) a Canadian Dollar amount which shall be the aggregate face amount of the draft(s) to be accepted by the Lender in respect of a particular BA Advance; (iii) a specified period of time which shall be the number of days after the date of acceptance of such drafts that such drafts are to be payable, and the dates of issue and maturity of such drafts; and (iv) payment instructions specifying the account number of the Borrower to which the discounted proceeds are to be credited.
- (e) The communication in writing by the Borrower to the Lender of the instructions referred to above shall constitute the authorization and instruction of the Borrower to the Lender to complete and execute drafts in accordance with such information as set out above and the request of

the Borrower to the Lender to accept such drafts and, if applicable, to deposit the same with the “clearing house” against payment as set out in the instructions. The Borrower acknowledges that the Lender shall not be obligated to accept any such draft except in accordance with the provisions of this Agreement. The Lender shall be and is hereby authorized to act on behalf of the Borrower upon and in compliance with instructions communicated to the Lender as provided herein if the Lender reasonably believes them to be genuine.

- (f) The Lender shall only be liable to the Borrower for any unauthorized or unlawful use of executed but incomplete Banker’s Acceptances as a result of the gross negligence or wilful act or omission of the Lender or as a result of the Lender failing to use the same standard of care in the custody of same as it uses in the custody of its own property of a similar nature.
- (g) On acceptance and purchase of a Banker’s Acceptance by the Lender, it shall credit the account of the Borrower with the face amount of the Banker’s Acceptance less the applicable discount and less the amount of the Lender’s standard fees due to the Lender in respect of such acceptance.
- (h) The Borrower shall provide for payment for each Banker’s Acceptance at its maturity date, either by payment of the face amount or through utilization of another acceptable Advance under the applicable Credit Facility, as the case may be.
- (i) If the early termination of any Banker’s Acceptance is required hereunder, the Borrower shall promptly pay to the Lender, for deposit into a Cash Collateral Account, an amount equal to the Lender’s maximum aggregate potential liability under such Banker’s Acceptance including all expenses and out-of-pocket costs incurred due to early redemption of offsetting deposits. Such funds shall be held by the Lender for set-off against all future indebtedness owing by the Borrower to the Lender in respect of such Banker’s Acceptance. A written statement of the Lender as to the aggregate amount of such expenses and out of pocket costs shall be *prima facie* evidence of the amount thereof, absent manifest error.
- (j) The Lender is authorized to hold, sell, rediscount or otherwise dispose of all Banker’s Acceptances accepted by it.
- (k) If the Borrower fails to deliver a notice of Rollover or Conversion with respect to a maturing Banker’s Acceptance, then it shall be automatically converted to a Prime Advance equal to the face amount of the maturing Banker’s Acceptance, as applicable.
- (l) Conversions and Rollovers shall only be made on the maturity date of the Banker’s Acceptance, as applicable.
- (m) The Borrower indemnifies and holds the Lender harmless from any loss or expense with respect to any Banker’s Acceptance dealt with by the Lender in accordance with the provisions hereof, but shall not be obliged to indemnify the Lender for any loss or expense caused by the Lender’s gross negligence or wilful misconduct.
- (n) If the Lender determines at any time that:
  - (i) a market for Banker’s Acceptances accepted by the Lender does not exist or the Lender cannot readily sell Banker’s Acceptances or perform its other obligations under this Agreement with respect to Banker’s Acceptances; or
  - (ii) the CDOR Rate does not adequately reflect the Lender’s cost of funds or the discount rate which would be applicable to the sale of Banker’s Acceptances accepted by the Lender in the market;

the Lender shall promptly notify the Borrower of such determination. From and after the delivery of such notice by the Lender, the Lender shall not be obliged to accept and the Borrower shall not be entitled to issue Banker's Acceptances hereunder until such time as the Lender determines in good faith that the circumstances giving rise to such situation no longer exist and gives notice thereof to the Borrower, and any further Borrowing Notice (including a Conversion or a Rollover) requesting a BA Advance shall be deemed to be a Borrowing Notice requesting a Prime Advance in the same aggregate principal amount. The Borrower shall, within one (1) Banking Day after receipt of such notice and in replacement of a Borrowing Notice previously given by the Borrower to the Lender which has not yet been Advanced, give the Lender another Borrowing Notice which specifies a Prime Advance or the Conversion of the relevant Banker's Acceptance on the last day of the applicable maturity period of such Banker's Acceptance into a Prime Advance. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to a maturing Banker's Acceptance which was the subject of a Rollover or Conversion, such maturing Banker's Acceptance shall be converted on the last day of the applicable maturity period of such Banker's Acceptance into a Prime Advance as if the Borrowing Notice specifying such a Conversion had been given to the Lender by the Borrower pursuant to the provisions hereof. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to any requested BA Advance, then the Borrower shall be deemed to have requested a Prime Advance in the amount specified in the original Borrowing Notice.

- (o) If at any time the Lender determines (which determination shall be conclusive absent manifest error) that:
- (i) adequate and fair means do not exist for ascertaining the CDOR Rate (including because the "CDOR Page" (or any substitute therefor) of Refinitiv Benchmark Services (UK) Limited (or any successor thereto or Affiliate thereof) is not available or is not published on a current basis for the applicable period), and such circumstances are unlikely to be temporary;
  - (ii) the administrator of the CDOR Rate, or an Administrative Body having jurisdiction, has made a public statement announcing a specific date after which the CDOR Rate will permanently or indefinitely cease to be made available (*provided that*, at the time of such statement or publication, there is no successor administrator that shall continue to provide the CDOR Rate);
  - (iii) an Administrative Body having jurisdiction over the Lender has made a public statement identifying a specific date after which the CDOR Rate shall no longer be permitted to be used to determine the interest rate applicable to loans (the specific date referred to in subsection (ii) immediately above and this subsection (iii) being referred to herein as a "**CDOR Discontinuation Date**"); or
  - (iv) newly originated credit agreements being entered into in Canada adopt, or existing agreements that incorporate language similar to this subsection are being amended to adopt, a benchmark or reference rate of interest that replaces the CDOR Rate;

then, reasonably promptly after such determination, the Lender and the Borrower shall negotiate in good faith to select a replacement or successor rate to the CDOR Rate (such rate, a "**CDOR Successor Rate**") and make adjustments to the Applicable Margin and other related or conforming

amendments to this Agreement giving due consideration to then-prevailing market practice in Canada for: (i) determining a rate of interest applicable to newly originated Canadian Dollar loans, and (ii) transitioning existing loans with CDOR Rate-based interest rates to loans bearing interest calculated with reference to a replacement benchmark. Upon an agreement being reached between the Lender and the Borrower pursuant to this subsection, the parties shall enter into an amendment to this Agreement that gives effect to the adoption of the CDOR Successor Rate, adjustments to the Applicable Margin and such other related amendments as may be appropriate in the discretion of the Lender for the implementation and administration of Advances bearing interest calculated with reference to the CDOR Successor Rate. Until an amendment reflecting the transition to a CDOR Successor Rate becomes effective as contemplated by this subsection, the pricing of each BA Advance shall continue to be calculated with reference to the CDOR Rate; *provided that* if the Lender determines (which determination shall be conclusive, absent manifest error) that a CDOR Discontinuation Date has occurred, then following the CDOR Discontinuation Date and until such time as an amending agreement adopting a CDOR Successor Rate becomes effective as contemplated by this subsection, the Lender's obligation to make any Advances by way of a BA Advance shall be suspended and any further Borrowing Notice (including a Conversion or a Rollover) requesting a BA Advance shall be deemed to be a Borrowing Notice requesting a Prime Advance in the same aggregate principal. Notwithstanding any other provision of the Agreement, if at any time the CDOR Successor Rate shall be less than zero, it shall be deemed to be zero for the purposes of this Agreement.

**TERMS OF  
AVAILABILITY OF  
LIBOR ADVANCES:**

In addition to the applicable terms above, the availability of any LIBOR Advances hereunder is subject to the following terms and conditions:

- (a) Any amount owing by the Borrower in respect of any LIBOR Advance which is not paid on its maturity date in accordance with this Agreement shall, as and from its maturity date, be deemed to be outstanding as a USBR Advance.
- (b) If the early termination of any LIBOR Advance is required hereunder, the Borrower shall promptly pay to the Lender, for deposit into a Cash Collateral Account, an amount equal to the Lender's maximum aggregate potential liability under such LIBOR Advance including all expenses and out-of-pocket costs incurred due to early redemption of offsetting deposits. Such funds shall be held by the Lender for set-off against all future indebtedness owing by the Borrower to the Lender in respect of such LIBOR Advance. If, in the sole discretion of the Lender, acting reasonably, any such early termination cannot be effected, the LIBOR Advance shall not be terminated and the Borrower shall continue to pay interest to the Lender, at the rate per annum applicable to such LIBOR Advance for the remainder of the applicable LIBOR Interest Period. A written statement of the Lender as to the aggregate amount of such expenses and out of pocket costs shall be *prima facie* evidence of the amount thereof, absent manifest error.
- (c) If the Lender determines at any time that:

- (i) by reason of circumstances affecting the London interbank market, adequate and fair means do not exist for ascertaining the rate of interest with respect to, or deposits are not available in sufficient amounts in the ordinary course of business at the rate determined hereunder to fund, a requested LIBOR Advance during a LIBOR Interest Period selected by the Borrower;
- (ii) the making or continuance of an Advance as a LIBOR Advance has been made impracticable by the occurrence of an event which materially adversely affects the London interbank market generally; or
- (iii) the LIBO Rate does not adequately reflect the cost of funds to the Lender of U.S. Dollar deposits in the London interbank market for a LIBOR Interest Period selected by the Borrower;

the Lender shall promptly notify the Borrower of such determination. From and after the delivery of such notice by the Lender, the Lender shall not be obliged to provide LIBOR Advances hereunder until such time as the Lender determines in good faith that the circumstances giving rise to such situation no longer exist and gives notice thereof to the Borrower, and any further Borrowing Notice (including a Conversion or a Rollover) requesting a LIBOR Advance shall be deemed to be a Borrowing Notice requesting a USBR Advance in the same aggregate principal amount. The Borrower shall, within one (1) Banking Day after receipt of such notice and in replacement of a Borrowing Notice previously given by the Borrower to the Lender which has not yet been Advanced, give the Lender another Borrowing Notice which specifies a USBR Advance or the Conversion of the relevant LIBOR Advance on the last day of the applicable LIBOR Interest Period into a USBR Advance. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to a maturing LIBOR Advance which was the subject of a Rollover or Conversion, such maturing LIBOR Advance shall be converted on the last day of the applicable LIBOR Interest Period into a USBR Advance as if the Borrowing Notice specifying such a Conversion had been given to the Lender by the Borrower pursuant to the provisions hereof. In the event the Borrower fails to give, if applicable, a valid replacement Borrowing Notice with respect to an Advance originally requested by way of a LIBOR Advance, then the Borrower shall be deemed to have requested a USBR Advance in the amount specified in the original Borrowing Notice.

- (d) If at any time the Lender determines (which determination shall be conclusive absent manifest error) that:
  - (i) the circumstances described in subsection (c) immediately above have arisen and such circumstances are unlikely to be temporary;
  - (ii) the circumstances described in subsection (c) immediately above have not arisen, but either (x) the applicable supervisor or administrator of the LIBO Rate has made a public statement announcing a specific date that such administrator ceased, or shall cease, to provide the LIBO Rate permanently or indefinitely (provided that, at the time of such statement or publication, there is no successor administrator that shall continue to provide the LIBO Rate), or (y) an Administrative Body having jurisdiction over the Lender, has made a public statement identifying a specific date after which the LIBO Rate shall no longer be used for



- determining the interest rate applicable to loans (either such date, a “**LIBOR Discontinuation Date**”); or
- (iii) a rate other than the LIBO Rate has become a widely recognized benchmark rate for newly originated loans denominated in U.S. Dollars in the Canadian market,

the Lender may amend this Agreement to replace the LIBO Rate with a replacement reference rate of interest, to make adjustments to the Applicable Margin pertaining to the replacement reference rate and to make related technical, administrative or operational amendments to this Agreement that the Lender determines are appropriate as a result of the adoption and implementation of such replacement reference rate to permit the administration thereof by the Lender in a manner substantially consistent with market practice. In making any such amendments, the Lender shall give due consideration to then-prevailing market practice in Canada for: (i) determining a rate of interest applicable to newly originated U.S. Dollar loans made in Canada at such time, and (ii) transitioning existing loans from LIBO Rate-based interest rates to loans bearing interest calculated with reference to the new reference rate. Any such amendment shall become effective at 5:00 p.m. on the fifth (5th) Banking Day after the Lender has provided such proposed amendment to the Borrower without any further action or consent of the Borrower. Until an amendment reflecting the transition to a new reference rate becomes effective as contemplated by this subsection, each Advance, Conversion or Rollover of a LIBOR Advance shall continue to bear interest calculated with reference to the LIBO Rate; *provided that* if the Lender determines (which determination shall be conclusive, absent manifest error) that a LIBOR Discontinuation Date has occurred, then following the LIBOR Discontinuation Date and until such time as an amending agreement adopting a new reference rate of interest becomes effective as contemplated by this subsection, any Borrowing Notice (including any Conversion or Rollover) requesting a LIBOR Advance shall be deemed to be a Borrowing Notice requesting a USBR Advance in the same aggregate principal amount. Notwithstanding any other provision of the Agreement, if at any time the alternate reference rate selected by the Lender to replace the LIBO Rate shall be less than zero, it shall be deemed to be zero for the purposes of this Agreement.

**TERMS OF  
AVAILABILITY OF  
LETTERS OF  
CREDIT:**

In addition to the applicable terms above, the availability of any Letters of Credit hereunder is subject to the following terms and conditions:

- (a) Each issuance of a Letter of Credit shall require the execution by the Borrower of the Lender’s standard form letter of credit application and indemnity and such other documents in relation to such letters of credit as required by the Lender.
- (b) The Lender shall not have any obligation to issue a Letter of Credit until:
- (i) it has been paid its applicable fee(s), and
  - (ii) such ancillary documents, including applications and indemnities, as it normally requires for similar transactions have been executed and delivered to it.

- (c) All payments made by the Lender to any person pursuant to the Letter of Credit shall, unless the Borrower reimburses the Lender for such payment on or before the date it is made, be deemed as and from the date of such payment to be a Prime Advance with the proceeds of such Prime Advance being applied against the Borrower's Obligations to reimburse the Lender for payment made under the applicable Letter of Credit.
- (d) If the early termination of any Letter of Credit is required hereunder, the Borrower shall promptly pay to the Lender, for deposit into a Cash Collateral Account, an amount equal to the Lender's maximum aggregate potential liability under each such Letter of Credit including all expenses and out-of-pocket costs incurred in connection with such early termination. A written statement of the Lender as to the aggregate amount of such expenses and out of pocket costs shall be *prima facie* evidence of the amount thereof, absent manifest error.
- (e) In addition to amounts payable as elsewhere provided in this Agreement, the Borrower hereby agrees to protect, indemnify, pay and save the Lender harmless from and against any and all claims or losses (including all reasonable legal fees and expenses on a solicitor and his own client basis) which the Lender may incur or be subject to as a consequence, direct or indirect, of (i) the application for, or issuance of, or drawing under any Letter of Credit; or (ii) the failure of the Lender to honour a drawing under any Letter of Credit as a result of any act or omission, whether rightful or wrongful, of any present or future *de jure* or *de facto* Administrative Body prohibiting the payment of such drawing.

**SCHEDULED  
REPAYMENTS:**

For Prime Advances and USBR Advances, interest only on a monthly basis on the last day of each month shall be repaid commencing on the last day of the month in which the initial Advance under Facility 1 is made. The Outstanding Principal of any Prime Advances and USBR Advances may be repaid at any time prior to demand by the Lender without notice, premium, bonus or penalty. The Outstanding Principal of any BA Advances and LIBOR Advances cannot be repaid prior to their maturity dates unless otherwise demanded by the Lender. Letters of Credit shall be immediately repayable at the request of the Lender. Any Advances repaid in accordance with this section may be re-borrowed in accordance with the terms and conditions of this Agreement. All Obligations under Facility 1 shall be repaid in full upon demand by the Lender.

**VOLUNTARY  
REPAYMENTS/  
CANCELLATION:**

The Borrower may repay any Outstanding Principal or cancel undrawn portions of Facility 1 without bonus or penalty upon three (3) Banking Days prior written notice to the Lender of a Repayment/Cancellation Notice, in minimum amounts of \$500,000 and thereafter, in multiples of \$500,000. BA Advances and LIBOR Advances may not be repaid until their date of maturity. Amounts cancelled may not be reinstated or re-borrowed.

**MANDATORY  
REPAYMENTS:**

Not applicable.

**NOTICE PERIODS:** Advances, Rollovers and Conversions shall be made by way of the delivery of a Borrowing Notice from the Borrower to the Lender and are subject to the following notice periods:

- (a) Prime Advances and USBR Advances – 1 Banking Day
- (b) BA Advances and LIBOR Advances – 2 Banking Days
- (c) Letter of Credit Advances – 3 Banking Days

**CONDITIONS  
PRECEDENT FOR  
ALL ADVANCES  
UNDER FACILITY 1:**

In addition to any other conditions precedent set forth herein that are applicable to any Credit Facility, it shall also be a condition precedent to each Advance, Rollover or Conversion under Facility 1 that the following conditions precedent are met to the satisfaction of the Lender, in its sole discretion (unless otherwise waived by the Lender in its sole discretion):

- (a) The Lender receives the required notice under this Agreement;
- (b) There exists no Default that is continuing;
- (c) There is no matter or circumstance affecting any of the Transaction Parties which could otherwise have a Material Adverse Effect; and
- (d) All representations and warranties under this Agreement are true and correct in all material respects when made and additionally on the date of such Advance, Rollover or Conversion, as the case may be.

**ADDITIONAL TERMS APPLICABLE TO FACILITY 1**

**PRICING:**

Prime Advances in Canadian Dollars shall bear interest based on the Lender's Prime Rate plus the Applicable Margin set forth below. USBR Advances in U.S. Dollars shall bear interest based on the Lender's U.S. Base Rate plus the Applicable Margin set forth below. Interest on Prime Advances and USBR Advances shall be calculated on a daily basis based on the actual number of days elapsed divided by 365 and shall be paid monthly in arrears on the last day in each month.

BA Advances shall bear interest based on the CDOR Rate applicable for the BA Interest Period plus the Applicable Margin set forth below for such BA Interest Period. For each BA Advance, the Borrower shall pay to the Lender interest on an accrual basis, calculated but not compounded daily and payable at the end of each applicable BA Interest Period. Interest on BA Advances shall be calculated on the principal amount of the BA Advance outstanding during such period and on the basis of the actual number of days elapsed divided by 365 or 366, as applicable.

LIBOR Advances shall bear interest based on the LIBO Rate applicable for the LIBOR Interest Period plus the Applicable Margin set forth below for such LIBOR Interest Period. For each LIBOR Advance, the Borrower shall pay to the Lender interest on an accrual basis, calculated but not compounded daily and payable at the end of each applicable LIBOR Interest Period. Interest on LIBOR Advances shall be calculated on the basis of the actual number of days in each LIBOR Interest Period divided by 360. For the purposes of the *Interest Act* (Canada) and any other Applicable Laws, the annual rates of interest applicable to LIBOR Advances are the rates as determined hereunder multiplied by the actual number

of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 360.

For each Letter of Credit Advance, the Borrower shall pay the Lender a fee in respect of each Letter of Credit issued, payable in advance on the date of issue at the rate of the Applicable Margin set forth below based on the principal amount of the Letter of Credit issued and the number of days that the Letter of Credit is to be outstanding, subject to a minimum fee of \$120 per ninety (90) day period. Subsequent amendments to outstanding Letters of Credit shall be subject to the Lender's standard charges.

For the purposes of this Agreement, "**Applicable Margin**" means a margin, expressed as a rate per annum, payable to the Lender with respect to Advances, each as set forth in the table below for the applicable Level:

<b>Type of Advance</b>	<b>Level I</b>	<b>Level II</b>	<b>Level III</b>	<b>Level IV</b>	<b>Level V</b>
Prime / USBR	1.00%	1.50%	2.00%	2.75%	3.75%
Banker's Acceptance	2.50%	3.00%	3.50%	4.00%	5.00%
LIBOR	2.50%	3.00%	3.50%	4.00%	5.00%
Letter of Credit	2.50%	3.00%	3.50%	4.00%	5.00%

For the purposes of this definition, "**Level I**", "**Level II**", "**Level III**", "**Level IV**" and "**Level V**" means, respectively, the appropriate period during which the corresponding Funded Debt to EBITDA Ratio is as set forth in the table below and "**Level**" means any such appropriate time period.

<b><u>Funded Debt to EBITDA Ratio</u></b>	<b><u>Period</u></b>
(a) Less than 1.00:1.00	Level I
(b) Greater than or equal to 1.00:1.00 and less than 2.00:1.00	Level II
(c) Greater than or equal to 2.00:1.00 and less than 2.50:1.00	Level III
(d) Greater than or equal to 2.50:1.00 and less than 3.00:1.00	Level IV
(e) Greater than or equal to 3.00:1.00	Level V

For the purposes of this Agreement, the Funded Debt to EBITDA Ratio shall be calculated by the Borrower and reported to the Lender in the Compliance Certificate provided by the Borrower from time to time in accordance with the "Reporting Requirements" section below and the definition of "**Funded Debt to EBITDA Ratio**", as applicable. The Lender shall be entitled to rely on such calculation, and the Applicable Margin so determined shall be applied, absent manifest error, from and after the first Banking Day after the Compliance Certificate has been received by the Lender. In the event that the Borrower fails to deliver a Compliance Certificate for any Fiscal Quarter in accordance with the "Reporting Requirements" section below, Level V shall be deemed to be applicable until such Compliance Certificate is delivered to the Lender confirming that a different Level is applicable, absent manifest error.

**OVERDUE  
AMOUNTS:**

The Borrower shall pay interest on all overdue amounts outstanding at a rate per annum equal to the Prime Rate plus 3.00% per annum in respect of amounts owing in Canadian Dollars, and at a rate per annum equal to the U.S. Base Rate plus 3.00% per annum in respect of amounts owing in U.S. Dollars, such interest to be calculated daily and payable monthly in arrears on the last day of each month subject to the earlier occurrence of any demand made by the Lender hereunder.

All interest payable under this Agreement shall be payable both before and after default, demand, maturity or judgment.

**DEFAULT RATE:** Effective upon the occurrence of any Default (the “**Default Date**”), at the option of the Lender, the interest rates and fees then applicable to the Advances and fees set forth above shall each increase by 200 bps (the “**Default Rate**”) and such increase shall remain in effect for as long as such Default subsists. An increase in interest rates and fees as aforesaid arising from a Default shall apply to all Outstanding Principal under the applicable Credit Facilities and shall on the Default Date apply proportionately to each outstanding Advance representing the Outstanding Principal on the basis of the number of days remaining in the term to maturity of such Advance. The Borrower shall pay to the Lender any resulting increase pursuant to the Default Rate in LIBOR Advances, BA Advances and Letter of Credit Advances on or prior to the third (3<sup>rd</sup>) Banking Day following the Default Date.

**INTEREST RATES:** For the purposes of the *Interest Act* (Canada), the annual rates of interest to which the interest rates and fees referred to in this Agreement, calculated in accordance with the foregoing provisions of this Agreement, are equivalent are the rates so calculated multiplied by the actual number of days in a period of one year commencing on the first day of the period for which such interest is payable and divided by 365 (unless otherwise noted). All interest hereunder shall be calculated using the nominal rate method and not the effective rate method and the deemed reinvestment principle shall not apply to any such calculations.

The Borrower confirms that it fully understands and is able to calculate the rate of interest applicable to the respective Credit Facility based on the methodology for calculating per annum rates provided for in this Agreement. The Lender agrees that if requested in writing by the Borrower, it shall calculate the nominal and effective per annum rate of interest on any Advance or Credit Facility outstanding at the time of such request and provide such information to the Borrower promptly following such request; provided that any error in such calculation, or any failure to provide such information on request, shall not relieve the Borrower of any of its obligations under this Agreement or any other Loan Document, nor result in any liability to the Lender. The Borrower hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to the Loan Documents, that the interest payable under this Agreement and the calculation thereof has not been adequately disclosed to the Borrower, whether pursuant to section 4 of the *Interest Act* (Canada) or any other Applicable Law or legal principle.

## **FACILITY 2: CORPORATE MASTERCARD CREDIT FACILITY**

**MAXIMUM AMOUNT:** Up to \$200,000

**PURPOSE:** For general corporate requirements of the Borrower.

**AVAILABILITY:** Subject to the execution and delivery by the Borrower of the Lender’s standard MasterCard documents and agreements. Associated card holders and credit limits are to be determined between the Lender and the Borrower.

**MATURITY:** This Facility shall mature in accordance with the Lender’s standard MasterCard documents and agreements.

**SCHEDULED  
PAYMENTS:**

All payments shall be made in accordance with the Lender's standard MasterCard documents and agreements.

**FEES AND  
INTEREST:**

In accordance with the Lender's standard MasterCard documents and agreements.

**FACILITY 3: TREASURY RISK MANAGEMENT FACILITY**

**MAXIMUM AMOUNT:** Up to \$500,000 deemed risk as calculated by the Lender.

**PURPOSE:** To facilitate the hedging of interest rate risk and foreign exchange risk for the Borrower.

**AVAILABILITY:** Subject to availability, this Facility may be used for Interest rate swaps for maximum terms of up to three (3) years and foreign exchange swaps for maximum terms of up to one (1) year, each with the Lender as the counterparty under the Lender's standard form ISDA Master Agreement.

**MATURITY:** This Facility shall mature in accordance with the applicable ISDA Master Agreement between the Borrower and the Lender.

**SCHEDULED  
PAYMENTS:**

All payments shall be made in accordance with the applicable ISDA Master Agreement between the Borrower and the Lender.

**FEES:** Market rates as determined by the Lender's Treasury Department and/or the Lender's Derivatives Group.

**FACILITY 4: DEMAND LETTER OF CREDIT FACILITY**

**MAXIMUM AMOUNT:** \$15,000,000

**GUARANTEE:** This Facility shall be fully guaranteed by EDC pursuant to the terms and conditions of the EDC Account PSG.

**PURPOSE:** To assist in the Borrower in issuing certain performance guarantee Letters of Credit from time to time in connection with its business.

**TERMS OF  
AVAILABILITY:**

The maximum term of any Letter of Credit issued pursuant to this Facility shall be 12 months. The availability of any Letters of Credit under this Facility is subject to the execution and receipt by the Lender of all documentation related to issuing each Letter of Credit pursuant to an approved Request for Cover (as defined in the EDC Account PSG) from EDC and all applicable fees being paid by the Borrower to the Lender.

**SCHEDULED  
REPAYMENTS:**

Letters of Credit under this Facility shall be immediately repayable at the request of the Lender.

**VOLUNTARY  
PREPAYMENTS:**

Any Letter of Credit Advance under this Facility may only be prepaid if such Letter of Credit is returned to the Lender for cancellation.

**MANDATORY  
REPAYMENTS:**

Not applicable.

**MATURITY:**

This Facility shall mature in accordance with the terms and conditions of the EDC Account PSG.

**PRICING & FEES:**

For each Letter of Credit Advance issued pursuant to this Facility, the Borrower shall pay the Lender the fee noted below in respect of each Letter of Credit issued, payable in advance on the date of issue based on the principal amount of the Letter of Credit issued and the number of days that the Letter of Credit is to be outstanding, subject to a minimum fee of \$120 per 90 day period. Subsequent amendments to any outstanding Letters of Credit under this Facility shall be subject to the Lender's standard charges existing at the time.

- 1.00% issuance fee

**CONDITIONS  
PRECEDENT FOR  
ALL ADVANCES  
UNDER FACILITY 4:**

In addition to any other conditions precedent set forth herein that are applicable to any Credit Facility, it shall also be a condition precedent to each Advance under Facility 4 that the following conditions precedent are met to the satisfaction of the Lender, in its sole discretion prior to any issuance of a Letter of Credit thereunder (unless otherwise waived by the Lender in its sole discretion):

- (a) The Lender receives the required notice under this Agreement;
- (b) The Lender receives an approved Request for Cover from EDC (as defined in the EDC Account PSG) at least equal to the maximum aggregate amount of the requested face amount of the Letter of Credit plus the face amount of all other outstanding Letters of Credit issued under this Facility at such time;
- (c) There exists no Default that is continuing;
- (d) There is no matter or circumstance affecting any of the Transaction Parties which could otherwise have a Material Adverse Effect;
- (e) All representations and warranties under this Agreement are true and correct in all material respects when made and additionally on the date of such Advance or Rollover as the case may be; and
- (f) The Lender must review and approve in advance in writing of the applicable customer contract that is applicable to the proposed Letter of Credit.

**TERMS APPLICABLE TO ALL CREDIT FACILITIES**

**CLOSING  
FEES:**

A set-up and arrangement fee of \$10,000 (the "Closing Fee") shall be paid to the Lender by the Borrower upon its execution of this Agreement.

**CONDITIONS  
PRECEDENT  
TO AGREEMENT  
BEING IN EFFECT:**

The following conditions precedent shall be completed prior to or concurrent with the Financial Close to the sole satisfaction of the Lender and its counsel (unless otherwise waived by the Lender in its sole discretion):

- (a) Complete due diligence review of all Transaction Parties including, without limitation, confirmation of all applicable jurisdictions, asset locations, property descriptions and encumbrances of the Transaction Parties.
- (b) Receipt of an executed copy of this Agreement from the Borrower.
- (c) Receipt of an executed copy of the consent and acknowledgement of this Agreement from each of TEI and Fulcrum.
- (d) Receipt of all new Security to be obtained as set forth below.
- (e) Receipt of an updated officer's certificate and resolutions of each of the Borrower and TEI in connection with this Agreement.
- (f) Receipt of an officer's certificate and resolutions of Fulcrum in connection with this Agreement and the Security to which it is a party.
- (g) Receipt of an executed copy of the Fulcrum Certificate dated effective as of the Financial Close.
- (h) Receipt of a legal opinion from each Transaction Party's legal counsel, in form and substance satisfactory to the Lender and its legal counsel.
- (i) Receipt of payment of all applicable fees and expenses of the Lender set forth in this Agreement including the Closing Fee.
- (j) Confirmation of the Transaction Parties' compliance with all applicable representations, warranties and covenants contained in this Agreement.
- (k) Nothing shall have occurred which would have a Material Adverse Effect on the business, operations or properties of the Transaction Parties, on the rights and remedies of the Lender, or on the ability of the Transaction Parties to perform their obligations to the Lender under the Loan Documents to which they are a party.
- (l) No Default shall have occurred and be continuing.
- (m) Such other conditions that the Lender may in accordance with its general commercial lending practice require with respect to this transaction.

**RIGHT OF DEMAND:** Notwithstanding any other terms and conditions of this Agreement or any other Loan Document including, without limitation, any covenants set out herein or therein or in any other agreement or instrument incorporated by reference herein or therein, the Lender may, in its sole discretion and for any reason, at any time demand repayment of any or all Obligations (including the face amount of all Letters of Credit, Banker's Acceptances or LIBOR Advances) under any or all of the Credit Facilities and the Borrower agrees to pay such amounts to the Lender upon such demand being made.

**SECURITY:** As continuing collateral security for the repayment of the Credit Facilities, interest thereon and all other Obligations of the Transaction Parties to the Lender hereunder, the Lender shall be provided with the following documents (the "**Security**") in form and substance satisfactory to the Lender and its solicitors and such Security, as applicable, shall be registered in all such jurisdictions and registries as deemed appropriate by the Lender and its solicitors:

**ON HAND**

- (a) operating loan agreement(s) executed by the Borrower;



- (b) power of attorney and agreement regarding banker's acceptances executed by the Borrower;
- (c) indemnity agreements with respect to Letters of Credit, executed by the Borrower (as required);
- (d) MasterCard indemnity agreement executed by the Borrower (as required);
- (e) general security agreements executed by each of the Borrower and TEI providing the Lender with a first fixed ranking security interest over all their respective present and after-acquired real and personal property (including specific serial numbered goods, as required);
- (f) unlimited guarantee of the Borrower's Obligations to the Lender from TEI;
- (g) insurance binder letter addressed to the Lender identifying all applicable policies of insurance held by the Borrower and TEI and confirming the Lender as a first loss payee;
- (h) landlord consents and agreements with landlords of applicable leased premises of the Borrower and TEI where all books and records of the Borrower and TEI are located (as applicable);
- (i) the EDC Account PSG;

**TO BE OBTAINED**

- (j) a guarantee from Fulcrum limited to the principal sum of \$8,000,000;
- (k) a subordination and standstill agreement between the Lender, Fulcrum and the Credit Parties; and
- (l) an updated insurance binder letter addressed to the Lender identifying all applicable policies of insurance held by the Borrower and TEI and confirming the Lender as a first loss payee (receipt confirmed).

**REPRESENTATIONS  
AND WARRANTIES:**

The Borrower represents and warrants to the Lender that:

- (a) Formation, Organization and Power. Each Credit Party has been duly created, and is validly existing under the law of its jurisdiction of its creation, and is duly registered to carry on business in each jurisdiction in which the nature of any material business carried on by it or the character of any material property owned or leased by it makes such registration necessary, except for jurisdictions where the failure to be so registered would not reasonably be expected to have a Material Adverse Effect, and each Credit Party has full power and capacity to enter into and perform its obligations under the Loan Documents to which it is a party, and to carry on its business as currently conducted.
- (b) Authorization and Status of Agreements. Each Loan Document to which any Credit Party is a party delivered pursuant hereto has been duly authorized, executed and delivered by it and does not conflict with or contravene or constitute a default or create a Lien, other than a Lien which is a Permitted Encumbrance, under:
  - (i) its constating documents, by-laws, any resolution of its directors or partners, or any shareholders' agreement or partnership agreement in respect thereof;
  - (ii) any agreement or document to which it is a party or by which any of its property is bound; or
  - (iii) any Applicable Law,

in each case, where such conflict, contravention, default or creation of Lien would reasonably be expected to have a Material Adverse Effect.

- (c) Enforceability. Each of the Loan Documents constitutes a valid and binding obligation of each Credit Party that is a party thereto, and is enforceable against such Credit Party in accordance with the terms thereof, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, reorganization, or similar statutes affecting the enforcement of creditors' rights generally and by general principles of equity.
- (d) Litigation. There are no actions, suits or proceedings at law or before or by any Administrative Body existing or pending, or to the best of the Borrower's knowledge threatened, to which any Transaction Party is, or to the Borrower's knowledge is threatened to be made, a party and the result of which would, if successful against it, reasonably be expected to have a Material Adverse Effect.
- (e) Environmental Law. Each Credit Party to the extent required (i) has obtained all permits, licenses and other authorizations which are required under Environmental Law; and (ii) is in compliance with Environmental Law and with the terms and conditions of all such permits, licenses and authorizations, except, in all cases, to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (f) Environmental Condition of Property. The property or any part thereof owned, leased, operated or controlled by each Credit Party, either directly or indirectly:
  - (i) is not, to the best of the knowledge of the Borrower, the subject of any outstanding claim, charge or order from an Administrative Body alleging violation of any Environmental Law or, if subject to any such claim, charge or order, the applicable Credit Party is taking all such remedial, corrective or other action required under the claim, charge or order or is diligently and in good faith contesting the validity thereof; and
  - (ii) complies in all respects with respect to each of its use and operation, with Environmental Law and with the terms and conditions of all permits, licenses and other authorizations which are required to be obtained under applicable Environmental Law,except to the extent that the failure to do so would not be reasonably expected to have a Material Adverse Effect.
- (g) Title to Properties. Each Credit Party has good and valid title to its property, subject only to Permitted Encumbrances and to minor defects of title which in the aggregate would not have or reasonably be expected to have a Material Adverse Effect. Each Credit Party is entitled to charge or pledge its interests in its property in favour of the Lender as provided in this Agreement without the need to obtain any consent of or release from any other Person which has not been obtained and such property is not held in trust by any Credit Party for any Person.

- (h) Financial Statements. Each of the financial statements of the Credit Parties delivered to the Lender in accordance with this Agreement have been prepared in accordance with Applicable Accounting Standards and such financial statements present fairly in all material respects the Credit Parties' consolidated financial position as at the date thereof.
- (i) Financial Condition. The most recent unaudited consolidated financial statements of the Credit Parties heretofore or contemporaneously delivered to the Lender were prepared in accordance with Applicable Accounting Standards and such financial statements present fairly in all material respects the Credit Parties' consolidated financial position as at the date thereof. Since the date of such financial statements, there has been no occurrence of any event or circumstance which would reasonably be expected to have a Material Adverse Effect.
- (j) Information. All factual information heretofore or contemporaneously furnished by or on behalf of any Transaction Party to the Lender in connection with this Agreement was true and accurate in all material respects at the time given and the Borrower is not aware of any omission of any material fact which renders such factual information incomplete or misleading in any material way at the time given.
- (k) No Breach of Orders, Licences or Statutes. No Credit Party is in breach of:
  - (i) any order, approval or mandatory requirement or directive of any Administrative Body;
  - (ii) any governmental licence or permit; or
  - (iii) any Applicable Law,the breach of which would reasonably be expected to have a Material Adverse Effect.
- (l) No Default. No Default has occurred and is continuing.
- (m) Insurance. Each Credit Party has in full force and effect, as required, such policies of insurance in such amounts and issued by such insurers of recognized standing covering the property of the Credit Parties as is standard for the industries in which they operate.
- (n) Approvals. All regulatory and other approvals, consents, permits and licenses necessary for each Credit Party to carry on its business, as currently carried on, and all approvals, consents, permits and licenses necessary for each Credit Party to enter into the Loan Documents to which it is a party and to perform its obligations thereunder have, in each case, been obtained and are in good standing except to the extent that failure to so obtain would not be reasonably expected to have a Material Adverse Effect.
- (o) Payment of Taxes. Each Credit Party has filed all Tax returns which are required to be filed and have paid all Taxes (including interest and penalties) which are due and payable, unless such payment is in good

faith disputed, and has made all appropriate provision in respect thereof in accordance with Applicable Accounting Standards.

- (p) Remittances. All of the remittances required to be made by each Credit Party to any applicable Administrative Body have been made, are currently up to date and there are no outstanding arrears, except to the extent that a failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (q) Subsidiaries. The Borrower has no subsidiaries.
- (r) Debt and Liens. No Credit Party has any Debt, other than Permitted Debt, or Liens on its property, other than Permitted Encumbrances.
- (s) Material Adverse Effect. Since the date of the most recently unaudited financial statements provided to the Lender pursuant hereto, there have been no events, circumstances, developments or other changes in facts that would, in the aggregate, have a Material Adverse Effect.
- (t) Non-Resident. Each Credit Party is not a non-resident of Canada as defined by the *Income Tax Act* (Canada).

Each of the Transaction Parties acknowledges and agrees that the Lender is relying upon the representations and warranties in this section in making the Credit Facilities available to the Borrower and that the representations and warranties contained in this section, except for any representation and warranty made solely at the date hereof, shall be deemed to be restated in every respect effective on the date each and every Advance is made, including any Rollovers or Conversions.

The representations and warranties in this section shall survive until this Agreement has been terminated. All statements, representations and warranties contained in any Compliance Certificate and in the other Loan Documents or in any instruments delivered by or on behalf of any Transaction Party pursuant to this Agreement or the other Loan Documents shall constitute statements, representations and warranties made by the Borrower to the Lender under this Agreement.

## **COVENANTS:**

### **Positive Covenants**

While any Obligations under this Agreement or any other Loan Document are outstanding or any of the Credit Facilities remain available, the Borrower shall, and shall cause each other Transaction Party, as applicable, to:

- (a) Punctual Payment. pay or cause to be paid all Obligations and other amounts payable under the Loan Documents to which they are a party punctually when due.
- (b) Use of Credit Facilities. use each of the Credit Facilities only in accordance with their stated purposes herein.
- (c) Legal Existence. do all things necessary to preserve and keep in full force and effect its existence in good standing under the law of its jurisdiction of

creation and all other Applicable Laws, provided that any internal reorganization of the Credit Parties shall be permitted upon at least ten (10) days prior written notice being given to the Lender.

- (d) Material Adverse Claims. do all things necessary to defend, protect and maintain its property and the Security (and the priority thereof) from all material adverse claims where the failure to do so in the opinion of the Lender, acting reasonably, threatens the intended priority or validity of the Security as herein provided, or could reasonably be expected to have a Material Adverse Effect.
- (e) Maintain Title to Properties. maintain good and valid title to its property, subject only to Permitted Encumbrances which in the aggregate do not affect their rights of ownership therein or the value thereof in any material way.
- (f) Performance of Agreements. perform its obligations under the Loan Documents, all Material Contracts and all other agreements relating to its properties and businesses, including payment of rentals, Taxes or other charges in respect thereof which are necessary to maintain all such agreements in good standing in all respects, except to the extent failure to so perform would not reasonably be expected to have a Material Adverse Effect, provided that this covenant shall not restrict any right to surrender leases or terminate agreements which are uneconomic to maintain.
- (g) Comply with Applicable Laws and Maintain Permits. comply with all Applicable Laws, including Environmental Laws, and obtain and maintain all permits, licenses, consents and approvals necessary to the ownership of its property and to the conduct of its business in each jurisdiction where it carries on business or owns material property, including those issued or granted by any Administrative Body, except to the extent failure to do so would not reasonably be expected to have a Material Adverse Effect.
- (h) Insurance. maintain adequate insurance in respect of its material property, as is customary in the case of businesses of established reputation engaged in the same or similar businesses and to the extent available on commercially reasonable terms, and shall provide the Lender with copies of all insurance policies relating thereto if so requested. All such insurance policies shall contain a loss payable clause and mortgage clause in favour of the Lender as a first loss payee.
- (i) Notice of Default. notify the Lender of the occurrence of any Default as soon as reasonably possible upon it becoming aware thereof and specify in such notice the nature of the event and the steps taken or proposed to be taken to remedy the same (if possible).
- (j) Notice of Legal Proceedings. as soon as reasonably possible upon it becoming aware thereof, notify the Lender of the commencement of any legal or administrative proceedings or any insurance claims against any Transaction Party which, if adversely determined against a Transaction Party, would reasonably be expected to have a Material Adverse Effect.

- (k) Notice of Change of Control. as soon as reasonably possible upon becoming aware thereof, notify the Lender of any proposed, pending or actual Change of Control.
- (l) Inspection of Property; Books and Records; Discussions. maintain books and records of account in accordance with Applicable Accounting Standards and Applicable Law; and permit representatives of the Lender to visit and inspect any property of any Credit Party and to examine and make abstracts from any books and records of any Credit Party at any reasonable time during normal business hours and upon any reasonable request and notice, and to discuss the business, property, condition (financial or otherwise) and prospects of any Credit Party with their senior officers and (in the presence of such representatives, if any, as it may designate) with its independent chartered accountants.
- (m) Payment of Taxes. duly file on a timely basis all Tax returns required to be filed by it, and duly and punctually pay all Taxes and other governmental charges levied or assessed against it or its property, except to the extent a Credit Party has contested in good faith its obligation to do so and has made adequate reserves therefor in accordance with Applicable Accounting Standards and satisfactory to the Lender.
- (n) Remittances. make all of the remittances required to be made by it to the applicable Administrative Body and keep such remittances up to date, except to the extent it has contested in good faith its obligation to do so and has made adequate reserves therefor in accordance with Applicable Accounting Standards and satisfactory to the Lender.
- (o) Correct Surveys and other Real Estate records. to the extent requested by the Lender, to the best of its ability, promptly correct any survey or other document or real estate record associated with any of its respective properties.
- (p) Landlord Consent(s) and Agreement(s). provide the Lender with an executed copy of all applicable landlord consents and agreements (in form and substance satisfactory to the Lender) in favour of the Lender over any real property where the books and records of the Credit Parties are situated.
- (q) Other Information. provide to the Lender such other documentation and information concerning its business operations and that of any other Transaction Party as may be requested by the Lender, acting reasonably including, without limitation, pursuant to the terms of the Asset Purchase Agreement and the Agency and Trust Agreement.

### **Negative Covenants**

While any Obligations under this Agreement or any other Loan Document are outstanding or any of the Credit Facilities remain available, the Borrower shall not, and shall not permit any other Credit Party, as applicable, to do any of the following without the prior written consent of the Lender:

- (a) Limitation on Debt, Liens, Accounts, Distributions and Dispositions.
  - (i) incur Debt, except for Permitted Debt;
  - (ii) provide or permit a Lien over any of its property, except for Permitted Encumbrances;
  - (iii) create or maintain any deposit, operating or investment accounts of any kind with any other Person other than the Lender, except for Permitted Accounts;
  - (iv) make any Distribution to any Person, other than Permitted Distributions; and
  - (v) make any Disposition to any Person other than Permitted Dispositions.
  
- (b) Mergers, Amalgamation and Consolidations. merge, amalgamate, acquire, or consolidate with, another Person other than another Credit Party, provided that any internal reorganization of the Credit Parties shall require the Borrower to provide the Lender with at least ten (10) days prior written notice.
  
- (c) Change in Business, Name, Location or Fiscal Year.
  - (i) change in any material respect the nature of its business or cease to carry on such business,
  - (ii) change its name or locations of business (including its head office) or collateral from those disclosed to the Lender in writing as of the Financial Close without giving the Lender at least fifteen (15) days prior notice thereof; or
  - (iii) change its Fiscal Year without the prior written consent of the Lender.
  
- (d) Capital Contributions/Financial Assistance. make any contributions of capital or any other forms of equity investment in any Person (other than to another Credit Party), nor make any loan to, or provide any funds from the Credit Facilities to, any other Person (other than to another Credit Party) or provide any Financial Assistance to any Person.
  
- (e) Subsidiaries. create, acquire or otherwise permit to exist any subsidiary of the Credit Parties other than another Credit Party.
  
- (f) Transactions with Affiliates. enter into any transaction with any of its shareholders or with any of its subsidiaries or Affiliates, including the purchase, sale or exchange of any property or the rendering of any services, except for a transaction in the ordinary course of business and which is upon fair and reasonable terms not materially less favourable to the applicable Credit Party than it would obtain in a comparable arms-length transaction; provided that such restriction shall not apply to any transaction between Credit Parties.
  
- (g) Changes to Constating Documents. subject to any permitted internal reorganization of the Credit Parties as set forth herein, amend the terms of its constating documents, by-laws, partnership agreement or shareholders' agreement, as applicable, if, in each case, to do so would

reasonably be expected to materially and adversely affect the rights of the Lender under the Loan Documents.

- (h) Changes to Material Contracts. modify, alter, amend (except to correct or rectify ambiguities or inconsistent provisions, clerical omissions or manifest errors, provided that in each case such amendment is not prejudicial to the interest of any of the Credit Parties or the Lender) extend, renew, replace, knowingly waive strict and timely performance of any compliance with (including, without limitation) waive any default under, terminate, cancel or suspend or assign, any Material Contract or any material term, agreement, provision, item, obligation or covenant contained in any Material Contract.
- (i) Swaps. enter into any Swap outside the ordinary course of its business or for speculative purposes, or terminate any outstanding Swap prior to its maturity date.
- (j) Sale/Leaseback Transaction. enter into any form of sale/leaseback transaction with any Person other than another Credit Party.
- (k) Hostile Acquisition. use any of the Credit Facilities, directly or indirectly, to assist with any hostile acquisition of another Person.
- (l) Change of Control. incur a Change of Control.
- (m) Anti-Hoarding. use the proceeds of any Advance to (i) accumulate or (ii) maintain cash or cash equivalents, in either case, in one or more depository or investment accounts maintained by or on behalf of the Credit Parties (or otherwise accumulate and maintain the same in some other manner) if in either case, after giving effect to such Advance, the aggregate amount of such cash and cash equivalents between all such parties would be greater than \$1,000,000, but excluding therefrom cash or cash equivalents accumulated or maintained therein for a specified and legitimate business purpose and to be used by the Credit Parties for such purpose within ten (10) Banking Days of the Advance being made (other than simply accumulating a cash reserve), and, for certainty, the Lender may refuse to make any requested Advance which the Lender, acting reasonably, determines would result in a contravention of this subsection.

### **Financial Covenants**

While any Obligations under this Agreement or any other Loan Document are outstanding or any of the Credit Facilities remain available, the Borrower covenants and agrees with the Lender that the Borrower shall adhere to the following financial covenant, to be tested as set forth below (the “**Financial Covenant**”):

1. **Fixed Charge Coverage Ratio:** For each Fiscal Quarter, a minimum of 1.20:1 for the Borrower on a consolidated basis.

The Financial Covenant shall be tested within 30 days after each applicable 4 month period.



In addition to the above Financial Covenant, the Borrower shall report to the Lender on the following covenants, tested quarterly on a Trailing Fiscal Quarters basis, (unless agreed to otherwise in writing by the Lender) in accordance with Applicable Accounting Standards:

Financial Reporting Covenants

2. **Working Capital Ratio:** For each Fiscal Quarter, a minimum 1.25:1 for the Borrower on a consolidated basis.
3. **Funded Debt/EBITDA Ratio:** For the following Fiscal Quarters:
  - (a) for the Fiscal Quarter ending June 30, 2020, a maximum of 5.00:1 for the Borrower on a consolidated basis;
  - (b) for the Fiscal Quarter ending September 30, 2020, a maximum of 4.75:1 for the Borrower on a consolidated basis;
  - (c) for the Fiscal Quarter ending December 31, 2020, a maximum of 4.25:1 for the Borrower on a consolidated basis; and
  - (d) for each Fiscal Quarter ending thereafter commencing with March 31, 2021, a maximum of 3.50:1 for the Borrower on a consolidated basis.

It is acknowledged and agreed between the Lender and the Borrower that the Financial Reporting Covenants listed in items 2 and 3 above (the “**Financial Reporting Covenants**”) shall not be considered Financial Covenants for the purposes of this Agreement unless the Lender otherwise advises the Borrower in writing that such Financial Reporting Covenants shall become Financial Covenants for the purposes of this Agreement and at such time both the Lender and the Borrower agree to formally incorporate such change into this Agreement by way of a written amending agreement entered into between the parties.

EQUITY CURE AVAILABILITY

Any cash equity contribution made by any unitholder(s) of the Borrower, including Fulcrum, within five (5) days of when the delivery of the applicable Compliance Certificate for a particular period is required hereunder shall be permitted to be included in the calculation of EBITDA for the purposes of calculating the applicable Financial Covenant or Financial Reporting Covenants above for such period (and each applicable subsequent period thereafter), provided that such cash contribution shall be immediately delivered thereafter to the Lender and shall be applied by the Lender to any of the Credit Facilities in the Lender’s sole discretion.

**REPORTING REQUIREMENTS:**

While any Obligations under this Agreement or any other Loan Document are outstanding or any of the Credit Facilities remain available, the Borrower shall deliver, or cause to be delivered, the following to the Lender:

- (a) **Monthly (within 30 days after each month end) or such other period as the Lender may agree, in writing, on an interim basis from time to time, in its sole discretion:**

- (i) an updated aged list of accounts receivable and accounts payable on a consolidated basis for the Borrower together with an updated list of all contra accounts and Priority Claims;
  - (ii) a certified calculation of the Facility 1 Margin Requirement;
  - (iii) internally prepared monthly consolidated financial statements of the Borrower together with an updated Compliance Certificate based upon such information;
  - (iv) an updated 13 week cash flow statement for the Borrower; and
  - (v) a monthly back log report for the previous month on work awarded to the Borrower (listed by client and amount) but not yet completed, including expected margins to be achieved.
- (b) **Quarterly (within 45 days after the end of each Fiscal Quarter for the first three Fiscal Quarters and within 90 days after the Fiscal Year end):**
- (i) internally prepared quarterly consolidated financial statements of the Borrower with a comparison to the current budget of the Borrower and to the previous Fiscal Year together with an updated Compliance Certificate based upon such information, and
  - (ii) a quarterly back log report for the previous Fiscal Quarter on work awarded to the Borrower (listed by client and amount) but not yet completed;
- (c) **Within 30 days after March 31, June 30, October 31 and December 31 of each year:**  
An updated Compliance Certificate from the Borrower evidencing, among other things, its calculation of the Financial Covenant and the Financial Reporting Covenants for such Fiscal Quarter;
- (d) **Annually (within 60 days after the Fiscal Year end):**
- (i) A financial forecast for the Borrower, on a consolidated basis, such forecast to be structured on a quarterly basis and to include an income statement, balance sheet, cash flow statement, capital expenditure budget and a detailed list of assumptions and projected compliance ratios; and
  - (ii) An updated Fulcrum Certificate from Fulcrum;
- (e) **Annually (within 120 days after the Fiscal Year end):**  
Audited consolidated financial statements and related management discussion and analysis of the Borrower together with an updated Compliance Certificate based upon such information;
- (f) prompt notification of any management letters, default notices, litigation involving any Transaction Party and any other material event affecting any Transaction Party; and
- (g) such other information as the Lender may reasonably request from time to time.

**RIGHT TO SUSPEND  
OR TERMINATE  
CREDIT FACILITIES:**

In addition to its right to demand the repayment of any or all of the Credit Facilities at any time and for any reason in its sole discretion, upon the occurrence of any

Default which has not been remedied or waived, the Lender shall be entitled to, without limiting or restricting other remedies or rights under contract, at law or in equity, as it may in its sole and unfettered discretion determine suspend or cease to make or continue any Advances hereunder, notwithstanding any prior receipt by the Lender of a Borrowing Notice or any other event and the Lender may, by written notice to the Borrower, declare the Credit Facilities and the right of the Borrower to apply for further Advances or availability thereunder to be terminated and to demand that all Obligations become immediately due and owing.

**ASSIGNMENT:**

Neither the Borrower nor any other Transaction Party shall assign any of its rights or obligations under this Agreement or under any other Loan Document to any other person. Provided the Lender has obtained the prior consent of the Borrower, which consent shall not be unreasonably withheld, the Lender shall have the right (i) to assign all or a part of its loans or commitments under this Agreement in minimum amounts of \$5,000,000 to financial institutions, (ii) to sell participations in all or part of its loans or commitments under this Agreement, in each case to one or more financial institutions, and (iii) to assign any rights in the Security to any such assignee(s). The Lender does not require consent of the Borrower to any of the foregoing if the assignment or participation occurs at a time when a Default has occurred and is continuing. The Lender reserves the right to syndicate the Credit Facilities with the acceptance of the Borrower.

**AUTHORIZATION AND CONSENT:**

The Borrower authorizes and consents to the Lender's reproduction, disclosure and use of information about the Borrower and the other Credit Parties (including any associated trade names and identifying logos) for the purpose of publishing promotional "tombstones" and other forms of notices regarding this Agreement and the Credit Facilities. The Borrower acknowledges and agrees that no compensation shall be payable by the Lender to the Borrower for such authorization and consent and that the Lender shall have no liability whatsoever to the Borrower or any of the other Credit Parties or their respective employees, officers, directors, affiliates or shareholders in obtaining and using such information in accordance with this section.

**EVIDENCE OF INDEBTEDNESS:**

Each of the Transaction Parties acknowledges and agrees that the actual recording of the amount of any Advance or repayment thereof under the Credit Facilities, and interest, fees and other amounts due in connection with the Credit Facilities, in the accounts of the Borrower maintained by the Lender, shall constitute *prima facie* evidence of the Borrower's indebtedness and liability from time to time under this Agreement; provided that the obligation of the Borrower to pay or repay any amounts in accordance with the terms and conditions of this Agreement shall not be affected by the failure of the Lender to make such recording. The Borrower hereby acknowledges being indebted to the Lender for the principal balance outstanding from time to time under the Credit Facilities, as applicable, and all accrued and unpaid interest with respect thereof.

**ACCOUNTING CHANGES:**

The Lender and the Borrower agree that for the purposes of its financial reporting pursuant to this Agreement, the Credit Parties shall use ASPE. If there occurs a material change in ASPE, and such change would require disclosure under ASPE in the financial statements of the Credit Parties provided pursuant to this Agreement which would cause an amount required to be determined for the

purposes of any Financial Covenant and/or any Financial Reporting Covenant to be materially different than the amount that would be determined without giving effect to such change, the Borrower shall promptly notify the Lender of such change (an “**Accounting Change**”). Such notice (an “**Accounting Change Notice**”) shall describe the nature of the Accounting Change, its effect on the current and immediately prior year’s financial statements in accordance with ASPE and state whether the Borrower desires to revise the method of calculating one or more of the Financial Covenants and/or the Financial Reporting Covenants, as applicable, (including any revision of any of the defined terms used in the determination of any such Financial Covenants and/or Financial Reporting Covenants), in order that amounts determined after give effect to such Accounting Change and the revised method of calculation of such Financial Covenants and/or Financial Reporting Covenants shall approximate the amount that would be determined without giving effect to such Accounting Change and without giving effect to the revised method of calculating such Financial Covenants and/or Financial Reporting Covenants. The Accounting Change Notice shall be delivered to the Lender within sixty (60) days of the end of the Fiscal Quarter in which the Accounting Change is implemented or, if such Accounting Change is implemented in the fourth Fiscal Quarter or in respect of an entire Fiscal Year, within one hundred and twenty (120) days of the end of such period. If the Borrower does not indicate that it wishes to revise the method of calculating any Financial Covenant and/or Financial Reporting Covenants, the Lender may within thirty (30) days of receipt of the Accounting Change Notice notify the Borrower that it wishes to so revise such Financial Covenant(s) and/or Financial Reporting Covenants.

If either the Borrower or the Lender indicates that it wishes to revise the method of calculating any of the Financial Covenants and/or Financial Reporting Covenants, the Borrower and the Lender shall in good faith attempt to agree on a revised method of calculating such Financial Covenants and/or Financial Reporting Covenants. If, however, within sixty (60) days of the foregoing notice by the Borrower or Lender of the desire to revise the method of calculating such Financial Covenants and/or Financial Reporting Covenants, the Borrower and the Lender have not reached agreement in writing on such revised method of calculation, such method of calculation shall not be revised and all amounts to be determined pursuant to such Financial Covenants and/or Financial Reporting Covenants shall be determined without giving effect to such Accounting Change. For greater certainty, if no notice of a desire to revise the method of calculating the Financial Covenants and/or Financial Reporting Covenants in respect of an Accounting Change is given by either the Borrower or the Lender within the applicable time period described above, the method of calculating such Financial Covenants and/or Financial Reporting Covenants shall not be revised in response to such Accounting Change and all amounts to be determined pursuant to such Financial Covenants and/or Financial Reporting Covenants shall be determined without giving effect to such Accounting Change.

**SET OFF:**

Upon the occurrence of any Default which is continuing, the Lender shall have the right to set off and apply any funds of the Credit Parties deposited with or held by the Lender from time to time, and any other indebtedness at any time owing to the Credit Parties by the Lender, against any of the Obligations outstanding hereunder or any other Loan Document from time to time.

**AUTHORIZATION**

**TO DEBIT ACCOUNT:** The Borrower authorizes and directs the Lender, in its discretion, to automatically debit, by mechanical, electronic or manual means, without further notice or consent any and all bank accounts of the Borrower maintained by the Lender for any amounts (including principal, interest or fees and all legal fees and disbursements) that are due and payable under or in accordance with this Agreement.

**INDEMNITY:**

Each of the Credit Parties agrees to indemnify and hold the Lender and its officers, directors, employees and agents harmless from and against any and all liabilities and costs associated with or as a result of the Lender entering into and performing its obligations under this Agreement and the other Loan Documents, including but not limited to liabilities or costs associated with or as a result of (i) any transaction financed or to be financed in whole or in part, directly or indirectly, by the proceeds of the Credit Facilities; or (ii) any breach or non-compliance of any Environmental Law by any Credit Party, other than, in either case, such liabilities or costs which result from the gross negligence or wilful misconduct of such indemnified parties, as determined by a final judgment of a court of competent jurisdiction (after all possible appeals thereof have been exhausted). This indemnity, together with any other indemnity set forth herein or in any other Loan Document in favour of the Lender and/or its officers, directors, employees and agents shall survive the repayment, cancellation or termination of this Agreement.

**NOTICE:**

All notices, requests, demands and other communications hereunder or in any other Loan Document shall be in writing and shall be furnished to the parties at the addresses below. Notices shall be given by courier, hand delivery or facsimile and shall be deemed to be received on the Banking Day of receipt (unless such delivery or transmission is received after 5:00 p.m. Calgary time on such Banking Day, in which case it shall be deemed to have been received on the following Banking Day).

**To any Credit Party:**

c/o Tradesmen Enterprises Limited Partnership  
#730, 440 – 2<sup>nd</sup> Avenue SW  
Calgary, AB T2P 5E9

Attn: Ken Krawiec, Chief Financial Officer  
Fax: (604) 408-8892

With a copy to:

PEF 2010 Tradesmen Investment Limited Partnership  
c/o FCPI Tradesmen GP Inc.  
885 West Georgia Street  
Suite 1020  
Vancouver, British Columbia, V6C 3E8

Attention: Graham Flater and Dean Kato  
Fax: (604) 408-8892

**To Fulcrum:**

c/o PEF 2010 Tradesmen Investment Limited Partnership  
c/o FCPI Tradesmen GP Inc.

885 West Georgia Street  
Suite 1020  
Vancouver, British Columbia, V6C 3E8

Attention: Graham Flater and Dean Kato  
Fax: (604) 408-8892

**To the Lender:**

Bank of Montreal  
Corporate Finance  
350, 7<sup>th</sup> Ave SW, 9<sup>th</sup> Floor  
Calgary, AB T2P 3N9

Attn: Director, Corporate Finance Division  
Fax: (403) 234-1688

**USE OF FACILITIES:** The Borrower acknowledges and agrees that the Credit Facilities shall only be used by the Borrower for legal business purposes.

**INCREASED COSTS, TAXES, ETC.:** The Borrower shall reimburse the Lender for any additional costs the Lender incurs in performing its obligations under the Credit Facilities resulting from any change in law, including any reserve or special deposit requirement or any Tax (other than Tax relating to the income of the Lender) or capital requirement or any change in the compliance of the Lender therewith, that has the effect of increasing the cost of funding to the Lender or reducing the effective return on its capital. All payments made by the Borrower or any other Transaction Party hereunder or under any other Loan Document shall be made free and clear of any present and future taxes, withholdings or any other deductions.

**EXPENSES:** All reasonable legal and other out of pocket costs and expenses incurred by the Lender with respect to the preparation, negotiation, completion and enforcement of this Agreement and all other documents contemplated by or related to this Agreement (including legal fees and disbursements of the Lender's counsel on a solicitor and his own client basis) shall be for the account of the Borrower and shall promptly be paid by the Borrower when due, regardless of whether the conditions precedent to the effectiveness of this Agreement are satisfied or whether any funds are advanced.

**INTERPRETATION:** In this Agreement, unless the context otherwise requires, (i) words importing the singular number shall include the plural and vice versa, (ii) words importing any gender include all genders, (iii) references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto, (iv) "in writing" or "written" includes printing, typewriting or any electronic means of communication capable of being visibly reproduced at the point of reception, including by facsimile and (v) "executed" or "signed" includes written, printed, scanned, stamped or otherwise mechanically reproduced form of a signature, including by an electronic signature or a digital signature created via a medium or a technology that ensures the authenticity and integrity of such signature.

**TIME OF THE ESSENCE:**

Time shall be of the essence in this Agreement.

**WAIVER OR VARIATION:**

No term or condition of this Agreement or of any other Loan Document may be waived or varied verbally or by any course of conduct of any officer, employee or agent of the Lender. All waivers must be in writing and signed by a duly authorized officer of the Lender. Any amendment to this Agreement or any other Loan Document must be in writing and signed by a duly authorized officer of the Lender, failing which such amendment shall be of no force and effect.

**PERMITTED ENCUMBRANCES:**

Any reference in any of the Loan Documents to a Permitted Encumbrance is not intended to, and shall not be interpreted as subordinating or postponing, or as an agreement to subordinate or postpone, any obligation of any Transaction Party to the Lender under any of the Loan Documents to any Permitted Encumbrance.

**CONSENT TO USE AND DISCLOSE INFORMATION:**

The Borrower acknowledges that, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and other applicable anti-money laundering, anti-terrorist financing, government sanction and “know your client” laws, whether within Canada or elsewhere (collectively, including any guidelines or orders thereunder, “**AML Legislation**”), the Lender may be required to obtain, verify and record information regarding each of the Transaction Parties, each of their directors, authorized signing officers and the transactions contemplated hereby. The Borrower shall provide, or cause to be provided, to the extent commercially reasonable, all such information, including supporting documentation and other evidence, as may be reasonably requested by the Lender in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

When it is necessary for providing products and services to the Transaction Parties, the Borrower consents for and on behalf of the Transaction Parties to the Lender obtaining from any credit reporting agency or from any person any information (including personal information) that the Lender may require at any time. The Borrower also consents for and on behalf of the Transaction Parties to the disclosure at any time by the Lender of any information concerning any Transaction Party to any credit grantor, to any credit reporting agency, or to the Lender’s subsidiaries and affiliates. If applicable, the Borrower also authorizes the Lender to release the information contemplated by any builder’s lien or similar legislation to all persons claiming a right to such information under such legislation. The Borrower may refuse or withdraw these consents in the future, however this may result in the Lender cancelling or withholding products or services for which these consents are necessary.

**CONFIDENTIAL:**

This Agreement is to be held strictly confidential by the Transaction Parties and may not be disseminated to any other person (except on the same confidential basis to the Borrower’s officers, directors and professional advisors and to the other Transaction Parties and their respective officers, directors and professional advisors) without the prior written consent of the Lender unless disclosure is required by law.

**NON-MERGER  
AND CONFLICT:**

The terms and conditions of this Agreement shall not be merged by, and shall survive the execution of the Security. In the event of a conflict between the terms of this Agreement and the terms of any other Loan Document, the terms of this Agreement shall prevail to the extent of such conflict.

The rights and benefits conferred by this Agreement shall enure to the benefit of the Borrower and the Lender and their respective successors and permitted assigns and shall be binding upon the Borrower and the Lender and their respective successors and permitted assigns.

**GOVERNING LAW:**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

**ENTIRE  
AGREEMENT:**

This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof.

**EFFECTIVE DATE  
OF AGREEMENT:**

Upon the satisfaction (or waiver) of all conditions precedent associated with the effectiveness of this Agreement, the Lender and Borrower acknowledge and agree that notwithstanding when this Agreement has been executed and delivered by the parties hereto, this Agreement shall be effective as of July 6, 2020.

**EXECUTION:**

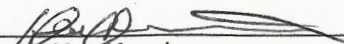
This Agreement, including any Schedules attached hereto, along with the consents and acknowledgements attached hereto, may be executed in, and delivered by, any number of counterparts (including by facsimile or other electronic transmission), each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

[SIGNATURE PAGES FOLLOW]



This Agreement has been executed by the duly authorized signing officer(s) of each party as of the date first written above.

**TRADESMEN ENTERPRISES LIMITED PARTNERSHIP**  
By its general partner, Tradesmen Enterprises Inc.

  
Name: Ken Krawiec  
Title: Chief Financial Officer

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

**BANK OF MONTREAL**

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

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

This Agreement has been executed by the duly authorized signing officer(s) of each party as of the date first written above.


**TRADESMEN ENTERPRISES LIMITED PARTNERSHIP**  
By its general partner, Tradesmen Enterprises Inc.

\_\_\_\_\_  
Name: Ken Krawiec  
Title: Chief Financial Officer

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

**BANK OF MONTREAL**

  
\_\_\_\_\_  
Name: Connor Irving  
Title: Senior Director

  
\_\_\_\_\_  
Name: DUC NGUYEN  
Title: SENIOR ASSOCIATE


## CONSENT AND AGREEMENT OF GUARANTOR

The undersigned, in its capacity as a Guarantor of the Borrower for the Obligations pursuant to the Loan Documents, hereby consents and agrees to the terms of this Fourth Amended and Restated Loan Agreement, acknowledges and confirms the representations, warranties and covenants applicable to it in this Agreement, acknowledges that its Guarantee and all other Security granted by it to the Lender in support of its Obligations under the Loan Documents remains in full force and effect and unamended and undertakes and agrees to take all such actions as may be required of it to give effect to and cause the effective and timely performance of the terms and conditions of this Agreement and any Loan Document to which it is a party.

Dated this 6th day of July, 2020.

### TRADESMEN ENTERPRISES INC.

By:

Name:  Ken Krawiec

Title: Chief Financial Officer


**CONSENT AND AGREEMENT OF FULCRUM**

The undersigned, in its capacity as a Guarantor of the Borrower for the Obligations pursuant to the Loan Documents, hereby consents and agrees to the terms of this Fourth Amended and Restated Loan Agreement, acknowledges and confirms the representations, warranties and covenants applicable to it in this Agreement, and undertakes and agrees to take all such actions as may be required of it to give effect to and cause the effective and timely performance of the terms and conditions of this Agreement and any Loan Document to which it is a party.

Dated this 6th day of July, 2020.


**PEF 2010 (A) LIMITED PARTNERSHIP  
By its general partner, Fulcrum Capital  
Partners Inc.**

By:   
Name: John Philp  
Title: Partner

By:   
Name: Johan Lemmer  
Title: Chief Financial Officer


**PEF 2010 (B) LIMITED PARTNERSHIP  
By its general partner, Fulcrum Capital  
Partners Inc.**

By:   
Name: John Philp  
Title: Partner

By:   
Name: Johan Lemmer  
Title: Chief Financial Officer

**PEF 2010 (C) LIMITED PARTNERSHIP  
By its general partner, Fulcrum Capital  
Partners Inc.**

By:   
Name: John Philp  
Title: Partner

By:   
Name: Johan Lemmer  
Title: Chief Financial Officer

## Schedule "A"

### Definitions

For the purposes of the agreement constituted between the Lender and the Borrower by the loan agreement to which this Schedule "A" is attached, the following terms and phrases shall have the following meanings:

**"Acceptable Investment Grade Receivables"** means the aggregate accounts receivable of the Credit Parties, from customers approved by the Lender with a minimum S&P rating of BBB+ or better, or a Moody's rating of Baa1 or better, as the case may be (each an **"Investment Grade Customer"**), determined by the Lender from its review of the most recent consolidated financial statements and aged listing of accounts receivable of the Credit Parties over which the Lender holds a first assignment or first security interest, but from which shall be excluded (i) holdbacks, (ii) accounts from Investment Grade Customers which have been outstanding for more than 90 days, (iii) accounts receivable from affiliated corporations, (iv) accounts due to sub-contractors, (v) accounts subject to undue credit risk (in the Lender's sole discretion), (vi) any overbillings, and (vii) accounts which are disputed by an Investment Grade Customer or are subject to set-off.

**"Acceptable Receivables"** means the aggregate accounts receivable of the Credit Parties determined by the Lender from its review of the most recent consolidated financial statements and aged listing of accounts receivable of the Credit Parties over which the Lender holds a first assignment or first security interest, but from which shall be excluded (i) Acceptable Investment Grade Receivables, (ii) holdbacks, (iii) accounts which have been outstanding for more than 60 days, (iv) accounts receivable from affiliated corporations, (v) accounts due to sub-contractors, (vi) accounts subject to undue credit risk (in the Lender's sole discretion), (vii) any overbillings, and (viii) accounts which are disputed by the Credit Parties' customers or are subject to set-off.

**"Administrative Body"** means any domestic or foreign, national, federal, provincial, state, municipal or other local government or regulatory body and any division, agency, ministry, commission, board or authority or any quasi-governmental or private body exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing, and any domestic, foreign or international judicial, quasi-judicial, arbitration or administrative court, tribunal, commission, board or panel acting under the authority of any of the foregoing.

**"Advance"** means any actual or deemed advance or other extension or utilization of credit pursuant to this Agreement and includes any Prime Advance, USBR Advance, LIBOR Advance, BA Advance and Letter of Credit Advance and any renewal, extension, Conversion or Rollover of any of the foregoing.

**"Affiliate"** has the meaning attributed to it in the *Business Corporations Act* (Alberta), except for the purposes of such definition a partnership (being either general or limited), a trust (including the trustees of such trust) and a limited liability company shall also be considered a body corporate.

**"Agency and Trust Agreement"** means the agency and trust agreement dated on or about April 17, 2013 between the Vendor, as agent, and the Borrower, as principal, as amended from time to time.

**"Agreement"** means this fourth amended and restated loan agreement between the Borrower and the Lender, including all schedules attached hereto, as further amended or amended and restated from time to time.

**"Applicable Accounting Standards"** means, as adopted by the Credit Parties and accepted by the Lender pursuant to this Agreement from time to time, GAAP, ASPE or IFRS.

**"Applicable Laws"** means, in relation to any person, transaction or event:

- (a) all applicable rules of common law and equity, and all applicable provisions of laws, statutes, rules, policies and regulations of any Administrative Body in effect from time to time having force of law; and
- (b) all judgments, orders, awards, decrees, official directives, writs and injunctions all having force of law from time to time in effect of any Administrative Body in an action, proceeding or matter in which the person is a party or by which it or its property is bound or having application to the transaction or event.

**"Applicable Margin"** has the meaning given to it in the "Pricing" section of this Agreement.

**"ASPE"** means the accounting standards for private enterprises which are in effect from time to time in Canada, as adopted by the Credit Parties and accepted by the Lender pursuant to this Agreement, as applicable, as at the date on which any calculation or determination is required to be made.

**"Asset Purchase Agreement"** means the asset purchase agreement dated April 8, 2013 among the Vendor, 1261403 Alberta Ltd., 824506 Alberta Ltd., the Borrower, PEF 2010 Tradesmen Investment Limited Partnership, Dean Michael Kato and Bradford James Clarke, as amended from time to time.

**"BA Advance"** means an Advance effected by an acceptance by the Lender of a Banker's Acceptance which bears interest at a rate based on the CDOR Rate.

**"BA Interest Period"** means, with respect to each BA Advance, the period selected by the Borrower hereunder, being of 1, 2 or 3 months' duration, subject to availability, commencing on the applicable date of Advance, or the applicable date of the Rollover or Conversion of such Advance, as the case may be.

**"Banker's Acceptance"** means a bill of exchange or a blank non-interest bearing depository bill as defined in the DBNA drawn by the Borrower and accepted by the Lender in respect of which the Borrower becomes obligated to pay the face amount thereof to the holder (which may be a third party or the Lender) upon maturity.

**"Banking Day"** means a day of the year, other than a Saturday, Sunday or statutory holiday, on which financial institutions are open for domestic and foreign exchange business in Calgary, Alberta and Toronto, Ontario, and when used in respect of LIBOR Advances, shall also mean any day other than a Saturday or a Sunday or statutory holiday on which banks are generally open for business in New York, New York and London, England and on which transactions can be carried on in the London interbank market, and when used in respect of USBR Advances shall also mean any day other than a Saturday or a Sunday or statutory holiday on which banks generally are open for business in New York, New York.

**"BIA"** means the *Bankruptcy and Insolvency Act* (Canada), and any successor statute.

**"Borrower"** has the meaning given to it on the first page of this Agreement.

**"Borrowing Notice"** means the form of notice set forth in Schedule "C" attached hereto with the blanks completed.

**"bps"** means 1/100 of 1%.

**"Canadian Dollars", "Cdn. Dollars", "Cdn. \$" and "\$"** mean lawful money of Canada.

**"Capital Lease"** means any lease, license or similar transaction determined as a capital lease in accordance with Applicable Accounting Standards.

**“Cash Collateral Account”** means an account with the Lender from which the applicable Credit Party does not have any withdrawal rights or privileges until repayment of the Obligations in full, termination of the Credit Facilities and termination of this Agreement, except to apply the amount represented thereby to the Obligations or a portion thereof, which account and all funds credited thereto and interest earned thereon (which interest shall be at the prevailing rate of the Lender for demand deposits of comparable amounts) shall be the subject of a priority security interest in favour of the Lender.

**“CCAA”** means the *Companies’ Creditors Arrangement Act* (Canada), and any successor statute.

**“CDOR”** means Canadian dollar offered rate.

**“CDOR Rate”** means, with respect to each BA Interest Period for a BA Advance, the rate of interest per annum equal to the average rate applicable to Canadian Dollar bankers’ acceptances having an identical or comparable term as the proposed BA Advance displayed and identified as such on the display referred to as the Refinitiv screen Canadian Dollar Offered Rate (CDOR) page (and if such page is not available, any successor or similar service as may be selected by the Lender) as at approximately 10:00 a.m. (EST) on such day (or, if such day is not a Banking Day, as of 10:00 a.m. (EST) on the immediately preceding Banking Day); provided that if any such rate is below zero, the CDOR Rate shall be deemed to be zero and if such rate does not appear on the CDOR page (or the substituted page of any successor or similar service selected by the Lender) at such time on such date, the rate for such date will be the annual discount rate (rounded upward to the nearest whole multiple of 1/100 of 1%) as of 10:00 a.m. (EST) on such day at which a Canadian chartered bank listed on Schedule I of the *Bank Act* (Canada) as selected by the Lender is then offering to purchase Canadian Dollar bankers’ acceptances accepted by it having such specified term (or a term as closely as possible comparable to such specified term).

**“Change of Control”** means if on or after the Financial Close any Person (other than a Credit Party) acquires, directly or indirectly, alone or in concert with other Persons, any Voting Securities in the capital of any Credit Party in excess of 49.9% of the then issued and outstanding Voting Securities of such Credit Party.

**“Compliance Certificate”** means the form of certificate set forth in Schedule “B” attached hereto with the blanks completed.

**“Conversion”** means a conversion or deemed conversion of one type of Advance into another type of Advance pursuant to and permitted by this Agreement by way of the issuance of a Borrowing Notice by the Borrower to the Lender, and **“Converted”** and **“Convert”** have corresponding meanings.

**“Credit Facilities”** has the meaning given to it on the first page of this Agreement.

**“Credit Parties”** and **“Credit Party”** has the meaning given to it on the first page of this Agreement.

**“Current Assets”** means assets that would be shown as current assets on a consolidated balance sheet of the Credit Parties prepared in accordance with Applicable Accounting Standards, and would include such assets as cash, accounts receivable, inventory and other assets that are likely to be converted into cash, sold, exchanged or expended in the normal course of business within one (1) year or less.

**“Current Liabilities”** means liabilities that would be shown as current liabilities on a consolidated balance sheet of the Credit Parties prepared in accordance with Applicable Accounting Standards, and would include such liabilities as Funded Debt that is or shall become payable within one (1) year or one operating cycle, whichever is longer, accounts payable, accrued expenses and deferred revenue and excluding in any event the current portion of long term bank debt and the current portion of Capital Lease obligations.

**“DBNA”** means the *Depository Bills and Notes Act* (Canada).

**“Debt”** means all indebtedness which would, in accordance with Applicable Accounting Standards, be classified upon a consolidated balance sheet of the Credit Parties as indebtedness for borrowed money of the Credit Parties and, whether or not so classified, shall include (without duplication and on a consolidated basis):

- (a) indebtedness for borrowed money (which for certainty excludes accounts payable incurred in the ordinary course of business);
- (b) obligations arising pursuant to banker’s acceptance facilities and commercial paper programs, and under letters of credit, letters of guarantee or any other similar instruments (supporting obligations which would otherwise constitute Debt within the meaning of this definition) or indemnities issued in connection therewith;
- (c) obligations under guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to the indebtedness of any other Person or the obligations of any other Person which would otherwise constitute Debt within the meaning of this definition, and all other obligations incurred for the purpose of, or having the effect of, providing Financial Assistance to another Person in respect of the indebtedness of such other Person or such other Debt obligations, including endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business);
- (d) all obligations of any other Person which are secured by a Lien on any of the assets of any of the Credit Parties; and
- (e) all indebtedness representing the deferred purchase price of any property or services, and all obligations created or arising under any conditional sales agreement or other title retention agreement (but excluding operating leases) or any Capital Lease.

**“Default”** means any breach or contravention of any term or condition of this Agreement or any other Loan Document.

**“Disposition”** means a sale, lease, release, abandonment, licence, exchange, transfer, loan or other disposition by a Person of any property, asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

**“Distribution”** means without duplication:

- (a) any declaration or payment of any distribution to any holder of any shares, units or other ownership interests of any class in the capital of a Credit Party (including any thereof acquired through the exercise of warrants or rights of conversion, exchange or purchase);
- (b) any declaration or payment of dividends, royalties, distributions, fees or management fees (other than fees or management fees payable to an officer, director or employee of a Credit Party in the ordinary course of business) of any kind directly or indirectly to any Person that is not a Credit Party;
- (c) any repurchase, retraction, redemption or other retirement of shares, units or other ownership interests of any class in the capital of a Credit Party;
- (d) any repayment by any Credit Party of any amount of principal, interest or other amounts in respect of any indebtedness owed to any Person other than to a Credit Party or the Lender;
- (e) any loan or advance that is made by a person to or in favour of a holder of shares in such person or an Affiliate of such holder unless from one Credit Party to another Credit Party; or
- (f) the transfer by a person of any of its property or assets for consideration of less than fair market value thereof to any other person, unless from one Credit Party to another Credit Party.

**“EBITDA”** means “earnings” (as defined in the Credit Parties’ consolidated financial statements prepared in accordance with Applicable Accounting Standards) before interest expense, income taxes, depreciation,



amortization and extraordinary/unusual non-recurring items (to be agreed upon by the Lender from time to time before their inclusion for any applicable period).

**“EDC”** means Export Development Canada and its successors.

**“EDC Account PSG”** means the EDC account performance security guarantee issued by EDC to the Lender on July 31, 2017 with respect to the Borrower and the applicable Credit Facilities hereunder, as the same may be amended, amended and restated or otherwise replaced from time to time.

**“Environment”** means all components of the earth, including all layers of the atmosphere, air, land (including all underground spaces and cavities and all lands submerged under water), soil, water (including surface and underground water), organic and inorganic matter and living organisms, and the interacting natural systems that include the components referred to in this definition.

**“Environmental Law”** means any Applicable Law relating, in whole or in part, to the protection or enhancement of the Environment, including occupational safety, product liability, public health, public safety and transportation or handling of dangerous goods.

**“Equivalent Amount”** means, with respect to any two currencies, the amount obtained in the selected currency when an amount in the other currency is translated into the selected currency, using the reference rate the Lender customarily uses for commercial loans being administered by it in Canada, for the purchase of the applicable amount of the selected currency with the other currency in effect as of 12:00 noon (EST) on the Banking Day with respect to which such computation is required for the purpose of this Agreement or, in the absence of such a buying rate on that date, such other rate as may be agreed to in writing between the Lender and the Borrower.

**“Facility 1 Margin Requirement”** has the meaning given to it in the “Facility 1 Margin Requirement” section of this Agreement within the Facility 1 section.

**“Facility 1 Margin Shortfall”** has the meaning given to it in the “Facility 1 Margin Shortfall” section of this Agreement within the Facility 1 section.

**“Federal Funds Rate”** means, for any day, the rate on overnight federal funds transactions calculated by the Federal Reserve Bank of New York as the federal funds effective rate, as published on the next succeeding Banking Day by the Federal Reserve Bank of New York, or, if such rate is not published for any day that is a Banking Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for that day on overnight federal funds transactions received by the Lender from three (3) depository institutions of recognized standing selected by the Lender.

**“Financial Assistance”** means providing or agreeing to provide (either directly or indirectly) financial assistance to any Person including, without limitation, financial assistance by way of a loan, guarantee, loan purchase, share purchase, equity contribution or any credit support arrangement of any nature whatsoever, the purpose of which is to assure payment to the holder of any liabilities of such Person.

**“Financial Close”** means the date upon which all closing matters and conditions precedent associated with this Agreement have been completed to the satisfaction of the Lender, the anticipated date of which is identified on the first page of this Agreement.

**“Financial Covenants”** has the meaning given to it in the “Financial Covenants” section of this Agreement, but for greater certainty does not include any Financial Reporting Covenant.

**“Financial Reporting Covenants”** has the meaning given to it in the “Financial Reporting Covenants” section of this Agreement.

**“Fiscal Quarter”** means the three (3) month period commencing on the first day of each Fiscal Year and each successive three (3) month period thereafter during each such Fiscal Year.

**“Fiscal Year”** means the fiscal year of the Borrower and the other Credit Parties commencing on January 1 of each year and ending on December 31 of each year.

**“Fixed Charge Coverage Ratio”** means, for the applicable period, EBITDA less (a) cash taxes and distributions *divided by* (b) interest on Debt and Capital Leases on a Trailing Fiscal Quarters basis (including interest payments on Permitted Debt that is subordinated to the Lender) and scheduled principal payments on Debt and Capital Leases.

**“Fulcrum”** has the meaning given to it on the first page of this Agreement.

**“Fulcrum Certificate”** means the form of certificate set forth in Schedule “E” attached hereto, signed by an authorized officer of Fulcrum.

**“Fulcrum Guarantee”** means the limited guarantee that has been issued by Fulcrum to the Lender that guarantees the repayment of the Borrower’s Obligations to the Lender pursuant to this Agreement, as the same may be amended or amended and restated from time to time.

**“Funded Debt”** means, with reference to the Credit Parties on a consolidated basis, all senior secured obligations, liabilities and indebtedness (including the principal portion of Capital Leases, Purchase Money Liens and any outstanding amount of letters of credit and letters of guarantee) which would, in accordance with Applicable Accounting Standards, be classified on a consolidated balance sheet of the Credit Parties as indebtedness for borrowed money of the Credit Parties plus the negative hedging risk of all outstanding Swaps involving the Credit Parties.

**“Funded Debt to EBITDA Ratio”** means for the applicable period, the ratio of:

- (a) the Funded Debt of the Credit Parties, at the end of their most recently completed Fiscal Quarter, determined on a consolidated basis, without duplication; and
- (b) the EBITDA of the Credit Parties determined on a consolidated basis, without duplication, for their Trailing Fiscal Quarters.

If prior to the end of any Fiscal Quarter (the **“Relevant Fiscal Quarter”**), the Credit Parties have consummated an acquisition or a disposition of property or a Credit Party (other than a Permitted Disposition) approved by the Lender, then either the Borrower may submit, or the Lender may request that the Borrower submit to the Lender, a *pro forma* Compliance Certificate, together with a management analysis (including supporting financial statements) respecting the *pro forma* Compliance Certificate, certified by a senior officer of the Borrower, setting forth what would have been the Funded Debt to EBITDA Ratio at the end of such Relevant Fiscal Quarter, had the material transaction closed at the beginning of the period in respect of which the Funded Debt to EBITDA Ratio is calculated, and if in the opinion of the Lender, acting reasonably, the *pro forma* Compliance Certificate accurately represents what would have been the Funded Debt to EBITDA Ratio at the end of the Relevant Fiscal Quarter had such material transaction closed at the beginning of such period, the Funded Debt to EBITDA Ratio for such period shall be the value of that ratio as disclosed in such *pro forma* Compliance Certificate.

**“GAAP”** generally accepted accounting principles consistently applied which are in effect from time to time in Canada, as published in the Handbook of the Canadian Institute of Chartered Accountants, as adopted by the Credit Parties and accepted by the Lender pursuant to this Agreement, as applicable, as at the date on which any calculation or determination is required to be made.

**“Guarantors”** has the meaning given to it on the first page of this Agreement.

**“IFRS”** means the international financial reporting standards, approved by the International Accounting Standards Board or any successor thereto (**“IASB”**), as adopted by the Credit Parties and accepted by the Lender pursuant to this Agreement, as applicable, as at the date on which any calculation or determination is required to be made, provided that, in accordance with the international financial reporting standards, where the IASB includes a recommendation concerning the treatment of any accounting matter, such recommendation shall be regarded as the only international financial reporting standard.

**“Lender”** has the meaning given to it on the first page of this Agreement.

**“Letter of Credit”** means a standby letter of credit or letter of guarantee (each in a form acceptable to the Lender) issued at the request and for the account of the Borrower pursuant to this Agreement.

**“Letter of Credit Advance”** means an Advance of credit under this Agreement by the issuance of a Letter of Credit by the Lender at the request of the Borrower.

**“LIBO Rate”** means, with respect to any LIBOR Advance for any LIBOR Interest Period, for each LIBOR Interest Period, the offered rate per annum determined in good faith by the Lender at approximately 11:00 a.m. (London, England time) two (2) Banking Days prior to the first day in such LIBOR Interest Period by reference to the rate set by ICE Benchmark Administration for deposits in U.S. Dollars (as set forth by any service selected by the Lender that has been nominated by ICE Benchmark Administration Limited as an authorized information vendor for the purposes of displaying such rates) for a period equal to such LIBOR Interest Period. The LIBO Rate shall at no time be less than 0%.

**“LIBOR Advance”** means an Advance in U.S. Dollars which bears interest at a rate based on the LIBO Rate.

**“LIBOR Interest Period”** means, with respect to each LIBOR Advance, the period selected by the Borrower hereunder, being of 1, 2 or 3 months' duration, subject to availability, commencing on the applicable date of Advance, or the applicable date of the Rollover or Conversion of such Advance, as the case may be.

**“Lien”** means any mortgage, pledge, lien, assignment by way of security, charge, security interest, trust arrangement in the nature of a security interest, conditional sale or other title retention agreement, equipment trusts, lease financings including by way of sale and lease-back, hypothec, levy, execution, seizure, attachment, garnishment, any option, preferential right or adverse claim constituting an interest in such property, or any other encumbrance in respect of such property.

**“Loan Documents”** means this Agreement and any other instruments or agreements entered into by the Lender and any one or more of the Transaction Parties relating to this Agreement, including the Security.

**“Material Adverse Effect”** means any matter, event or circumstance which could in the sole reasonable opinion of the Lender have a material adverse effect on:

- (a) the business, financial condition, operations, property, assets or undertaking of the Credit Parties, taken as a whole;
- (b) the ability of any Transaction Party to perform its material obligations under any Material Contract;
- (c) the ability of the Credit Parties, taken as a whole, to repay any of their Obligations in accordance with this Agreement or any other Loan Document as they become due;
- (d) the ability of Fulcrum to repay any of its Obligations in accordance with any Loan Document to which it is a party;
- (e) the validity or enforceability of any of the Loan Documents;

- (f) the rights and remedies of the Lender under any of the Loan Documents; or
- (g) the priority ranking of any Liens granted to the Lender pursuant to the Security.

**“Material Contracts”** means the Asset Purchase Agreement and the Agency and Trust Agreement, together with all contracts made between any Credit Party and any third parties from time to time which, if terminated, could, in the opinion of the Lender, result in a Material Adverse Effect.

**“Moody’s”** means Moody’s Investor Services, Inc. and its successors.

**“Obligations”** means, at any time and from time to time, all of the obligations, indebtedness and liabilities (present or future, absolute or contingent, matured or not) of the Transaction Parties, or any of them, to the Lender under, pursuant or relating to this Agreement and any other Loan Document and whether the same are from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred again and including, without limitation, all Outstanding Principal, accrued and unpaid interest, fees, indemnities and all legal and other costs, charges and expenses of or incurred by the Lender in connection with this Agreement and any other Loan Document.

**“Outstanding Principal”** means at any time, as applicable, the aggregate of (i) the Equivalent Amount in Canadian Dollars of the principal amounts, and all overdue and unpaid interest, outstanding in respect of Prime Advances, USBR Advances and LIBOR Advances; (ii) face amounts of all outstanding Banker’s Acceptances; and (iii) the undrawn amounts of all outstanding Letters of Credit.

**“Permitted Accounts”** means any and all deposit bank accounts held with any Person who is not the Lender for the benefit of a Credit Party, the details of which have been provided to the Lender and which (a) are specifically and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Credit Party’s salaried employees; and have been effectively secured by the Lender in a first ranking secured position by way of the entering into of all applicable security and related account control agreements required by the Lender and its counsel.

**“Permitted Debt”** means, without duplication:

- (a) trade payables of a Credit Party (other than Debt for borrowed money from a Person, other than the Lender or another Credit Party) incurred in the ordinary course of business;
- (b) Obligations of a Credit Party under the Credit Facilities or any of the other Loan Documents;
- (c) Debt between any of the Credit Parties;
- (d) any other Debt of a Credit Party secured by Purchase Money Liens or incurred in connection with Capital Leases provided that all such Debt at no time exceeds \$1,000,000, in aggregate;
- (e) Debt secured by a Permitted Encumbrance, which is not otherwise Permitted Debt;
- (f) unsecured Debt incurred by a Credit Party to a third party, which is not otherwise Permitted Debt, not to exceed in aggregate \$1,000,000; and
- (g) such other Debt as the Lender has agreed to in writing from time to time.

**“Permitted Dispositions”** means:

- (a) sales or dispositions in the ordinary course of business and in accordance with sound industry practice of tangible personal property that is obsolete, no longer useful for its intended purpose or being replaced in the ordinary course of business;
- (b) sales or dispositions of property and assets and related tangibles made in the ordinary course of business for fair market value to third parties not to exceed \$250,000 in any Fiscal Year; and
- (c) sales or dispositions of property and assets and related tangibles between any of the Credit Parties, provided, that, no such Dispositions shall be made under circumstances where a Default has occurred and is continuing (or would result in a Default occurring) without the prior written consent of the Lender.

**“Permitted Distribution”** means any Distribution provided, that, no Distribution shall be made under circumstances where a Default has occurred and is continuing (or would result in a Default occurring) without the prior written consent of the Lender.

**“Permitted Encumbrances”** means, as at any particular time, any of the following encumbrances on the property of the Credit Parties:

- (a) Liens for Taxes, assessments, governmental charges or other statutory Liens or security interests not at such date due or delinquent, or the validity of which the applicable Credit Party is contesting in good faith and in respect of which (i) an amount in cash sufficient to pay such Taxes, assessments, charges or other statutory Liens or security interests shall have been deposited with a court, a taxing or assessing authority or the Lender, or (ii) a surety bond, satisfactory to the Lender, for such amount shall have been deposited with the Lender;
- (b) Inchoate or statutory Liens of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others in respect of construction, maintenance, repair or operation of assets of the Credit Party, provided that such Liens are related to obligations not due or delinquent, are not registered against title to any assets of the Credit Party (excepting out garagemen's liens to the extent such Liens are not due or delinquent), and in respect of which adequate holdbacks are being maintained as required by Applicable Laws or such Liens are being contested in good faith by appropriate proceedings and in respect of which there has been set aside a reserve (segregated to the extent required by Applicable Accounting Standards) in an adequate amount and provided further that such Liens do not, in the Lender's opinion reduce the value of the assets of the Credit Party or materially interfere with the use of such assets in the operation of the business of the Credit Party;
- (c) Liens consisting of deposits or pledges made in the ordinary course of business in connection with or to secure payment of, obligations under workers' compensation, unemployment insurance and other types of social security or similar legislation, or to secure the performance of bids, trade contracts and leases, statutory obligations, surety bonds (other than bonds related to judgments or litigation), performance bonds and other obligations of a like nature incurred in the ordinary course of business, in each case, so long as no foreclosure sale or similar proceeding has been commenced with respect to any portion of the assets on account thereof provided that such Liens do not materially reduce the value of the assets of the Credit Party or materially interfere with the use of such assets in the operation of the business of the Credit Party;
- (d) Liens constituting encumbrances in the nature of zoning restrictions, easements and rights or restrictions of record on the use of real property provided that such Liens do not materially reduce the value of the assets of the Credit Party or materially interfere with the use of such assets in the operation of the business of the Credit Party;
- (e) Minor title defects with respect to any real property or Capital Leases of the Credit Parties provided that such Liens do not materially reduce the value of the assets of the Credit Party or materially interfere with the use of such assets in the operation of the business of the Credit Party;
- (f) Liens in favour of the Lender created by the Security;
- (g) Purchase Money Liens and Capital Leases permitted by this Agreement;
- (h) Liens in favour of Fulcrum which secure (i) a guarantee fee payable to Fulcrum, and (ii) an indemnity to Fulcrum from the Credit Parties for any payment made by Fulcrum to the Lender under its guarantee which forms part of the Security, provided that such Liens are subject to a subordination and standstill agreement in form and substance satisfactory to the Lender in its sole discretion; and
- (i) Any other Liens specifically consented to in writing by the Lender from time to time.

**“Person”** or **“person”** means any individual, sole proprietorship, corporation, company, partnership, unincorporated association, association, institution, entity, party, trust, joint venture, estate or other judicial entity or any Administrative Body.

**“Previous Loan Agreement”** means the third amended and restated loan agreement dated May 29, 2018 between the Borrower and the Lender, as amended by a first amending agreement dated June 3, 2019, a second amending agreement dated October 2, 2019 and a third amending agreement dated January 7, 2020.

**“Prime Advance”** means an Advance in Canadian Dollars (including all amounts advanced to the Borrower by way of overdraft, as applicable) bearing interest based on the Prime Rate.

**“Prime Rate”** means, for any day with respect to the calculation of any Prime Advance, the greater of:

- (a) the floating annual rate of interest announced from time to time by the Lender as being its reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans made by it in Canada; and
- (b) a rate of interest per 365 day period equal to the CDOR Rate for one month Canadian Dollar banker’s acceptances plus 100 bps.

**“Priority Claims”** means any Lien, claim, charge, security interest, trust claim, right or encumbrance of any Administrative Body or other party including, without limitation, contractors or subcontractors of a Credit Party (whether arising under any statute, law, contract or otherwise) having priority over, or ranking *pari passu* with, the Security Documents and the Liens of the Lender in any property of a Credit Party.

**“Purchase Money Lien”** means a Lien, whether given to a vendor, lender or any other Person, securing Debt assumed or incurred as, or to provide, all or part of the purchase price or other acquisition cost of property, which Lien is limited exclusively to such property and any proceeds thereof and any extension, renewal, refinancing or replacement thereof.

**“Repayment/Cancellation Notice”** means the form of notice set forth in Schedule “D” attached hereto with the blanks completed.

**“Rollover”** means (i) in relation to a LIBOR Advance, the continuation of all or any portion of such LIBOR Advance for an additional LIBOR Interest Period subsequent to the initial or any subsequent LIBOR Interest Period applicable thereto, (ii) in relation to a BA Advance, a rollover of a BA Advance into another BA Advance for an additional BA Interest Period subsequent to the initial or any subsequent BA Interest Period applicable thereto, and (iii) in relation to a Letter of Credit, a rollover of a Letter of Credit Advance into another Letter of Credit Advance upon its maturity date or as permitted hereunder, and in each case by way of the issuance of a Borrowing Notice by the Borrower to the Lender, and **“Rolled Over”** has a corresponding meaning.

**“S&P”** means the Standard & Poor’s Rating Group (a division of The McGraw Hill Companies, Inc.) and its successors.

**“Security”** means each of the documents listed under the heading “Security” in this Agreement.

**“subsidiary”** means any Person of which more than 50% of the outstanding Voting Securities are owned, directly or indirectly by or for another Person, provided that the ownership of such securities confers the right to elect at least a majority of the board of directors of such Person, or a majority of Persons serving similar roles, and includes any legal entity in like relationship to a subsidiary.

**“Swap”** means any hedging contract, forward contract, swap agreement, futures contract, or other foreign exchange protection agreement or option with respect to any such transaction, in each case designed to hedge against fluctuations in foreign exchange rates, any contract for a rate swap, rate cap, rate floor, rate collar, forward rate agreement, futures or other rate protection agreement or option with respect to any such transaction, designed to hedge against fluctuations in interest rates, any contract for a commodity swap or

other production agreement or option designed to protect against fluctuations in commodity prices (which, for greater certainty, includes both physically and financially settled hedges) and any other derivative agreement or other similar agreement or arrangements.

**"Taxes"** means all taxes of any kind or nature whatsoever including income taxes, capital taxes, minimum taxes, levies, imposts, stamp taxes, royalties, duties, charges to tax, value added taxes, commodity taxes, goods and services taxes, and all fees, deductions, compulsory loans, withholdings and restrictions or conditions resulting in a charge imposed, levied, collected, withheld or assessed as of the date hereof or at any time in the future by any Administrative Body of or within any jurisdiction whatsoever having power to tax, together with penalties, fines, additions to tax and interest thereon and any instalments in respect thereof.

**"TEI"** has the meaning given to it on the first page of this Agreement.

**"Trailing Fiscal Quarters"** means the most recently completed consecutive four (4) Fiscal Quarters.

**"Transaction Parties"** and **"Transaction Party"** has the meaning given to it on the first page of this Agreement.

**"U.S. Base Rate"** means, on any day with respect to the calculation of any USBR Advance, the greatest of:

- (a) the floating annual rate of interest established from time to time by the Lender as the reference rate it uses to determine rates of interest on U.S. Dollar loans to its commercial customers in Canada or the United States of America and designated as its "U.S. Dollar Base Rate";
- (b) a rate of interest per 365 or 366 day period, as applicable, equal to the Federal Funds Rate plus 100 bps; and
- (c) the LIBO Rate for a LIBOR Interest Period of one (1) month plus 100 bps.

**"U.S. Dollars"** and **"U.S. \$"** mean lawful money of the United States of America.

**"USBR Advance"** means an Advance in U.S. Dollars bearing interest based on the U.S. Base Rate.

**"Vendor"** means Tradesmen Enterprises G.P. Inc., an Alberta corporation, and its successors.

**"Voting Securities"** means securities of capital stock of any class of any corporation, partnership units in the case of a partnership, trust units in the case of a trust, or other evidence of ownership serving similar purposes, carrying voting rights under all circumstances, provided that, for the purposes of this definition, shares which only carry the right to vote conditionally on the happening of an event shall not be considered Voting Securities, whether or not such event shall have occurred, nor shall any securities be deemed to cease to be Voting Securities solely by reason of a right to vote accruing to securities of another class or classes by reason of the happening of such event.

**"Working Capital Ratio"** means, for the applicable period, the ratio of Current Assets to Current Liabilities excluding the current portion of long term debt or Capital Leases.

[END OF SCHEDULE]

**SCHEDULE "B"**  
**Form of Compliance Certificate**

**COMPLIANCE CERTIFICATE**

TO: **Bank of Montreal**

RE: Fourth Amended and Restated Loan Agreement dated July 6, 2020 between Tradesmen Enterprises Limited Partnership, as borrower, and Bank of Montreal, as lender (as may be further amended, supplemented, restated or replaced from time to time, the "**Loan Agreement**")

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The undersigned, being a duly authorized officer of the general partner of the Borrower, hereby certifies to the Lender in his/her capacity as an officer of the general partner of the Borrower and not in any personal capacity, the following:

1. Capitalized terms used herein shall have the same meanings as in the Loan Agreement.
2. This Compliance Certificate is delivered pursuant to the Loan Agreement and applies to the **[month/4 month period/Fiscal Quarter/Fiscal Year]** ending \_\_\_\_\_, 20\_\_\_\_ (the "**Calculation Date**").
3. As of the Calculation Date, the Financial Covenants and Financial Reporting Covenants required to be reported on are as follows:
  - (a) Fixed Charge Coverage Ratio: \_\_\_\_\_:1.0.
  - (b) Working Capital Ratio: \_\_\_\_\_:1.0.
  - (c) Funded Debt / EBITDA: \_\_\_\_\_:1.0.

Detailed calculations for each of the above covenants are set forth in Exhibit 1 attached hereto.

4. As of the Calculation Date, the aggregate capital expenditures in 20\_\_\_\_ are \_\_\_\_\_, detailed calculations of which are set forth in Exhibit 1 attached hereto.
5. The consolidated financial statements of the Borrower as of the most recent date delivered pursuant to the Loan Agreement:
  - (a) fairly present in all material respects the consolidated financial condition of the Credit Parties as at the date thereof and the results of their operations for the period covered thereby; and
  - (b) have been prepared in accordance with ASPE.
6. The representations and warranties made by the Borrower in the Agreement are true and accurate in all respects as of the date hereof except as has heretofore been notified in writing to the Lender by the Borrower.



7. As of the date hereof no Default has occurred and is continuing **[other than \_\_\_\_\_]**.

Dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, by its general partner,  
TRADESMEN ENTERPRISES INC.**

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

**EXHIBIT 1**  
**DETAILED CALCULATIONS OF FINANCIAL COVENANTS**  
**AND FINANCIAL REPORTING COVENANTS**

**SCHEDULE "C"**

**BORROWING NOTICE**

TO: Bank of Montreal  
Corporate Finance  
First Canadian Centre  
9th Floor, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9

Attention: Director, Corporate Finance Division  
Facsimile: (403) 234-1688

**RE: Bank of Montreal financing to Tradesmen Enterprises Limited Partnership**

Ladies and Gentlemen:

1. Reference is made to the fourth amended and restated loan agreement dated July 6, 2020 between Tradesmen Enterprises Limited Partnership, as borrower (the "**Borrower**") and Bank of Montreal, as lender, (as may be further amended, supplemented, restated or replaced from time to time, the "**Loan Agreement**"). All terms and expressions used herein but not otherwise defined, shall have the same meanings herein as are ascribed thereto in the Loan Agreement.
  
2. In accordance with the Loan Agreement, the Borrower hereby requests the following:
  - (a) Type of Activity: (Advance/Conversion/Rollover): \_\_\_\_\_
  - (b) Date of Advance/Conversion Date/Rollover Date: \_\_\_\_\_
  - (c) Total Amount of Advance/Conversion/Rollover: \_\_\_\_\_
  - (d) Identity of Facility: \_\_\_\_\_
  - (e) Type of Advance: \_\_\_\_\_
  - (f) maturity date (if applicable): \_\_\_\_\_
  - (g) Account(s) to be credited: \_\_\_\_\_
  - (h) Special Instructions (if any): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. The representations and warranties set forth in the Loan Agreement are true and correct in all material respects on the date hereof.
  
4. The Borrower has performed or observed or caused to be performed or observed the covenants set forth in the Loan Agreement to be performed or observed by it to the date hereof.

5. There has not occurred any unremedied Default, nor has any Material Adverse Effect occurred and remain unremedied, and after giving effect to the Advance requested hereby, no Default shall occur because of such Advance.

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

**TRADESMEN ENTERPRISES LIMITED PARTNERSHIP**  
**By its general partner, Tradesmen Enterprises Inc.**

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

**SCHEDULE "D"**

**REPAYMENT/CANCELLATION NOTICE**

TO: Bank of Montreal  
Corporate Finance  
First Canadian Centre  
9th Floor, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9

Attention: Director, Corporate Finance Division  
Facsimile: (403) 234-1688

**RE: Bank of Montreal financing to Tradesmen Enterprises Limited Partnership**

Ladies and Gentlemen:

1. Reference is made to the fourth amended and restated loan agreement dated July 6, 2020 between Tradesmen Enterprises Limited Partnership, as borrower (the "**Borrower**") and Bank of Montreal, as lender, (as amended, supplemented, restated or replaced from time to time, the "**Loan Agreement**"). All terms and expressions used herein but not otherwise defined, shall have the same meanings herein as are ascribed thereto in the Loan Agreement.
  
2. Pursuant to the Loan Agreement, the Borrower hereby requests the following repayment/cancellation:
  - (a) Date of Repayment/Cancellation: \_\_\_\_\_
  - (b) Applicable Credit Facility:  
To Facility 1: \_\_\_\_\_
  - (c) Type of Advance(s) being repaid: \_\_\_\_\_
  - (d) Is this a permanent cancellation?  
(Yes/No) \_\_\_\_\_
  - (e) Special Instructions (if any):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**TRADESMEN ENTERPRISES LIMITED PARTNERSHIP**  
**By its general partner, Tradesmen Enterprises Inc.**

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

**SCHEDULE "E"**

**FULCRUM CERTIFICATE**

TO: Bank of Montreal  
Corporate Finance  
First Canadian Centre  
9th Floor, 350 – 7th Avenue SW  
Calgary, Alberta T2P 3N9

Attention: Director, Corporate Finance Division  
Facsimile: (403) 234-1688

**RE: Bank of Montreal financing to Tradesmen Enterprises Limited Partnership**

Ladies and Gentlemen:

1. Reference is made to the fourth amended and restated loan agreement dated July 6, 2020 between Tradesmen Enterprises Limited Partnership, as borrower (the "**Borrower**") and Bank of Montreal, as lender, (as amended, supplemented, restated or replaced from time to time, the "**Loan Agreement**"). All terms and expressions used herein but not otherwise defined, shall have the same meanings herein as are ascribed thereto in the Loan Agreement.
  
2. I, \_\_\_\_\_, do hereby certify in my capacity as an authorized officer of Fulcrum Capital Partners Inc., in its capacity as general partner (the "**General Partner**") of each of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership and PEF 2010 (C) Limited Partnership, and not in any personal capacity, that:
  - (a) I am the \_\_\_\_\_ of the General Partner and, as such, have knowledge of the matters hereinafter certified to. I am familiar with the corporate and financial records of Fulcrum and the General Partner and am authorized to execute and deliver this Certificate for and on behalf of Fulcrum and the General Partner.
  
  - (b) As at \_\_\_\_\_ [*insert applicable Fiscal Year*], Fulcrum maintains and has access within ten (10) Business Days to at least the maximum amount it is liable for under the Fulcrum Guarantee (which represents committed, unencumbered and uncalled capital for the purpose of satisfying its obligations under the Loan Documents to which it is party, when required).
  
  - (c) The undersigned acknowledges that the Lender is relying upon the accuracy of this certificate in making loans and advances available to the Borrower under the Loan Agreement.

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

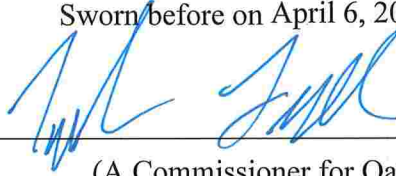
By: \_\_\_\_\_  
Name:  
Title:

This is Exhibit "E" referred to in the affidavit of

**ZACHARY NEWMAN**

---

Sworn before on April 6, 2021

A handwritten signature in blue ink, appearing to read 'Tyler J. Fidler', is written over a horizontal line.

(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

**Josef G. A. Kruger, Q.C.**  
T (403) 232-9563  
F (403) 266-1395  
jkruger@blg.com

Borden Ladner Gervais LLP  
Centennial Place, East Tower  
1900, 520 - 3rd Ave SW  
Calgary, AB, Canada T2P 0R3  
T 403.232.9500  
F 403.266.1395  
blg.com



**File No. 407500.127**

January 14, 2021

**DELIVERED BY COURIER, FAX (604-408-8892) & EMAIL (dean.kato@teigp.com, ken.krawiec@teigp.com)**

Tradesmen Enterprises Limited Partnership  
#730, 440 2<sup>nd</sup> Avenue SW  
Calgary, AB T2P 5E9

**Attention: Dean Kato, Chief Executive Officer & Ken Krawiec, Chief Financial Officer**

Dear Sirs:

**Re: Outstanding Loans of Tradesmen Enterprises Limited Partnership to Bank of Montreal pursuant to the Fourth Amended and Restated Loan Agreement dated as of July 6, 2020**

We are the solicitors for the Bank of Montreal (“**BMO**” or the “**Lender**”) pursuant to the Fourth Amended and Restated Loan Agreement (the “**Loan Agreement**”) between the Lender and Tradesmen Enterprises Limited Partnership (the “**Borrower**”) dated as of July 6, 2020. Pursuant to the Loan Agreement, the Lender advanced a series of credit facilities to the Borrower which credit facilities include but are not limited to a revolving operating loan facility in the original principal amount of \$23,000,000 (“**Facility 1**”), and a MasterCard facility in the maximum authorized amount of \$200,000. All obligations under the credit facilities, including under Facility 1, are repayable in full upon demand by the Lender.

The amounts outstanding under the Loan Agreement are secured by various security pledged by the Borrower, including but not limited to general security agreement dated as of April 17, 2013 (the “**Borrower GSA**”) pursuant to which the Borrower grants to BMO a security interest, mortgage and charge over all present and after acquired personal and real property as further described in the Borrower GSA.

All outstanding obligations owing by the Borrower to the Lender have been guaranteed by each of Fulcrum 2010 Private Equity Fund (Fund IV) consisting of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership and PEF 2010 (C) Limited Partnership, by their respective general partner, Fulcrum Capital Partners Inc. (collectively, the “**Fulcrum Guarantors**”) pursuant to a Guarantee dated as of July 6, 2021. In addition all outstanding obligations by the Borrower to the



Lender have been guaranteed by Tradesman Enterprises Inc. (“**TEI**”) pursuant to a Guarantee dated as of April 17, 2013.

The Borrower is in default of its obligations under the terms of the Loan Agreement and the security pledged in support thereof. In particular, the Borrower has exceeded the maximum amount available under Facility 1 and has failed to make payment of the amount by which the maximum amount has been exceeded. In addition the Borrower has, among other things, indicated its inability to meet its liabilities as they come due and a Material Contract (as defined in the Loan Agreement) was terminated by Teck Resources Limited on or about January 11, 2021.

As a result, BMO hereby declares all amounts outstanding pursuant to the Loan Agreement to be immediately due and payable and formally demands immediate repayment of such amounts. The total amounts due and owing by the Borrower to the Lender pursuant to the Loan Agreement are, as at January 14, 2021, an amount of **\$25,941,678.81**, together with any additional amounts that become due on or after January 14, 2021, interest continuing to accrue, fees, legal costs and any other recoverable costs which BMO incurs until full payment is made (all of the foregoing constituting the “**Indebtedness**”).

If the Indebtedness is not paid to our offices on behalf of BMO by way of certified cheque or bank draft within ten (10) days of the date of this correspondence, BMO will take such steps as it considers necessary to protect its security position, which may include commencing an action against the Borrower, the Fulcrum Guarantors and TEI and/or appointing a receiver and realizing upon the security.

We enclose herewith for service upon you, a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*.

Yours truly,

**Borden Ladner Gervais LLP**



**Josef G.A. Kruger, Q.C.**

cc: Tradesmen Enterprises Inc.

Fulcrum 2010 Private Equity Fund (Fund IV) consisting of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership and PEF 2010 (C) Limited Partnership, by their respective general partner, Fulcrum Capital Partners Inc.

Export Development Canada

**BANKRUPTCY AND INSOLVENCY ACT**

**NOTICE OF INTENTION TO ENFORCE SECURITY**

Subsection 244(1)

Form 86

**TO:** Tradesmen Enterprises Limited Partnership (the “**Debtor**”)

**TAKE NOTICE THAT:**

1. The Bank of Montreal (the “**Secured Creditor**”) intends to enforce its security on the property of the Debtor, including but not limited to all present and after-acquired real and personal property.
2. The security that is to be enforced includes, *inter alia*, the General Security Agreement made as of April 17, 2013 (the “**Security**”).
3. The total amount of indebtedness secured by the Security as at January 14, 2021 is \$25,941,678.81 plus interest, legal fees and other recoverable costs continuing to accrue thereon.
4. The Secured Creditor will not have the right to enforce the Security until after the expiry of the 10-day period after this Notice is sent unless the Debtor consents to an earlier enforcement.

**DATED** at Calgary, Alberta this 14<sup>th</sup> day of January, 2021.

**BANK OF MONTREAL**

By its solicitors and agents Borden Ladner Gervais LLP

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

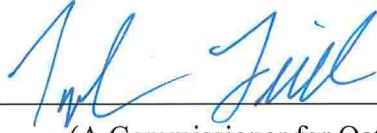
**Josef G.A. Kruger, Q.C.**

This is Exhibit "F" referred to in the affidavit of

**ZACHARY NEWMAN**

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Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

**Josef G.A. Kruger, Q.C.**  
T (403) 232-9563  
F (403) 266-1395  
jkruger@blg.com

Borden Ladner Gervais LLP  
Centennial Place, East Tower  
1900, 520 - 3rd Ave SW  
Calgary, AB, Canada T2P 0R3  
T 403.232.9500  
F 403.266.1395  
blg.com



**File No. 407500.127**

January 14, 2021

**DELIVERED BY COURIER, FAX (604-408-8892) & EMAIL (ken.krawiec@teigp.com)**

Tradesmen Enterprises Inc.  
c/o Tradesmen Enterprises Limited Partnership  
#730, 440 – 2<sup>nd</sup> Avenue SW  
Calgary, AB T2P 5E9

**Attention: Ken Krawiec, Chief Financial Officer**

Dear Sir:

**Re: Outstanding Loans of Tradesmen Enterprises Limited Partnership to Bank of Montreal (“BMO”) pursuant to the Fourth Amended and Restated Loan Agreement between BMO and Tradesmen Enterprises Limited Partnership dated as of July 6, 2020, Guaranteed by Tradesmen Enterprises Inc.**

We are the solicitors for the Bank of Montreal (“**BMO**” or the “**Lender**”) pursuant to the Fourth Amended and Restated Loan Agreement (the “**Loan Agreement**”) between the Lender and Tradesmen Enterprises Limited Partnership (the “**Borrower**”) dated as of July 6, 2020. Pursuant to the Loan Agreement, the Lender advanced a series of credit facilities to the Borrower which credit facilities include but are not limited to a revolving operating loan facility in the original principal amount of \$23,000,000 (“**Facility 1**”), and a MasterCard facility in the maximum authorized amount of \$200,000. All obligations under the credit facilities, including under Facility 1, are repayable in full upon demand by the Lender.

All outstanding obligations owing by the Borrower to the Lender have been guaranteed by Tradesmen Enterprises Inc. (the “**Guarantor**”) pursuant to a Guarantee dated as of April 17, 2013 (the “**Guarantee**”). The Guarantee is a continuing guarantee and guarantees any ultimate balance owing to the Lender, including all costs, charges and expenses which the Lender may incur in enforcing or obtaining payment of amounts due thereunder or from the Borrower.

Any and all amounts owing under the Guarantee are secured by a general security agreement dated as of April 17, 2013 (the “**Guarantor GSA**”) pursuant to which the Guarantor grants to BMO a security interest, mortgage and charge over all present and after acquired personal and real property as further described in the Guarantor GSA.

The Borrower is in default of its obligations under the terms of the Loan Agreement and the security pledged in support thereof. In particular, the Borrower has exceeded the maximum amount available under Facility 1 and has failed to make payment of the amount by which the maximum amount has been exceeded. In addition the Borrower has, among other things, indicated its inability to meet its liabilities as they come due and a Material Contract (as defined in the Loan Agreement) was terminated by Teck Resources Limited on or about January 11, 2021.

As a result, BMO has demanded repayment by the Borrower of the Loan and hereby declares all amounts outstanding pursuant to the Loan and the Guarantee to be immediately due and payable and formally demands immediate repayment of such amounts. The total amounts due and owing by the Borrower to the Lender pursuant to the Loan Agreement are, as at January 14, 2021, an amount of \$25,941,678.81, together with any additional amounts that become due on or after January 14, 2021, interest continuing to accrue, fees, legal costs and any other recoverable costs which BMO incurs until full payment is made. The liability of the Guarantor to make payment under the Guarantee to the Lender shall arise immediately after demand for payment under the Guarantee has been made in writing by the Lender on the Guarantor. This letter constitutes such demand. Pursuant to the terms of the Guarantee, the Guarantor is therefore indebted to the Lender in an amount of not less than **\$25,941,678.81**, together with any additional amounts that become due on or after January 14, 2021, interest continuing to accrue, fees, legal costs and any other recoverable costs which BMO incurs until full payment is made (the “**Indebtedness**”).

If the Indebtedness is not paid to our offices on behalf of BMO by way of certified cheque or bank draft within ten (10) days of the date of this correspondence, BMO will take such steps as it considers necessary to protect its security position, which may include commencing an action against the Guarantor and/or appointing a receiver and realizing upon the Guarantor GSA.

We further enclose herewith for service upon you, Notices of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* addressed to you.

Yours truly,

**Borden Ladner Gervais LLP**



**Josef G. A. Kruger. Q.C.**

cc: Tradesmen Enterprises Limited Partnership

Fulcrum 2010 Private Equity Fund (Fund IV) consisting of PEF 2010 (A) Limited Partnership, PEF 2010 (B) Limited Partnership and PEF 2010 (C) Limited Partnership, by their respective general partner, Fulcrum Capital Partners Inc.

Export Development Canada

**BANKRUPTCY AND INSOLVENCY ACT**

**NOTICE OF INTENTION TO ENFORCE SECURITY**

Subsection 244(1)

Form 86

**TO:** Tradesmen Enterprises Inc. (the “**Debtor**”)

**TAKE NOTICE THAT:**

1. The Bank of Montreal (the “**Secured Creditor**”) intends to enforce its security on the property of the Debtor, including but not limited to all present and after-acquired real and personal property.
2. The security that is to be enforced includes, *inter alia*, the General Security Agreement made as of April 17, 2013 (the “**Security**”).
3. The total amount of indebtedness secured by the Security as at January 13, 2021 is \$25,941,678.81 plus interest, legal fees and other recoverable costs continuing to accrue thereon.
4. The Secured Creditor will not have the right to enforce the Security until after the expiry of the 10-day period after this Notice is sent unless the Debtor consents to an earlier enforcement.

**DATED** at Calgary, Alberta this 14<sup>th</sup> day of January, 2021.

**BANK OF MONTREAL**

By its solicitors and agents Borden Ladner Gervais LLP

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

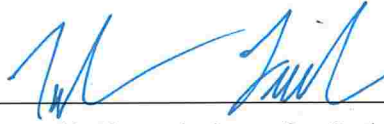
  
**Josef G.A. Kruger, Q.C.**

This is Exhibit "G" referred to in the affidavit of

**ZACHARY NEWMAN**

---

Sworn before on April 6, 2021



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(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Alberta  
Division No. 02 - Calgary  
Court No. 25-2708739  
Estate No. 25-2708739

In the Matter of the Notice of Intention to make a  
proposal of:

**Tradesmen Enterprises Inc.**  
Insolvent Person

**KSV RESTRUCTURING INC.**  
Licensed Insolvency Trustee

---

Date of the Notice of Intention: February 01, 2021

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: February 01, 2021, 20:15

E-File/Dépôt Electronique

Official Receiver

Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G4X3, (877)376-9902

**Canada**





District of: Alberta  
Division No.: 02 - Calgary  
Court No.: 25-095189  
Estate No.: 25-095189

In the Matter of the Notice of Intention to make a  
proposal of:

**Tradesmen Enterprises LP**  
Insolvent Person

**KSV RESTRUCTURING INC.**  
Licensed Insolvency Trustee

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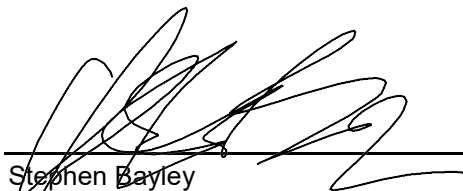
Date of the Notice of Intention: February 01, 2021

---

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.



---

Stephen Bayley

Date: February 1, 2021, 21:02

Official Receiver

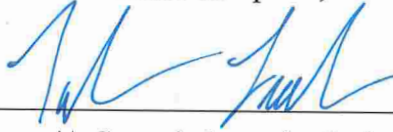
Harry Hays Building, 220 - 4th Ave SE, Suite 478, Calgary, Alberta, Canada, T2G 4X3, (877)376-9902

This is Exhibit "H" referred to in the affidavit of

**ZACHARY NEWMAN**

---

Sworn before on April 6, 2021



---

(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
A Commissioner for Oaths  
in and for Alberta  
Student-At-Law, Notary Public



COURT FILE NUMBER BK01 095189  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

MATTER IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES LIMITED PARTNERSHIP

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL UNDER THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, OF TRADESMEN ENTERPRISES INC.

APPLICANTS TRADESMEN ENTERPRISES LIMITED PARTNERSHIP AND TRADESMEN ENTERPRISES INC.

DOCUMENT **AMENDED AND RESTATED ORDER** (Procedural Consolidation, Approval of Interim Financing, Interim Financing Charge, <sup>^</sup> Administration Charge, and **KERP Charge**)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
LAWSON LUNDELL LLP  
Barristers and Solicitors  
1100, 225 – 6 Avenue S.W.  
Calgary, Alberta  
T2P 1N2

**Attention: Alexis Teasdale**  
Telephone No.: 403-218-7564  
Fax No.: 403-269-9494  
Email: [ateasdale@lawsonlundell.com](mailto:ateasdale@lawsonlundell.com)

DATE ON WHICH ORDER WAS PRONOUNCED: March 2, 2021  
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Mr. Justice G.S. Dunlop  
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of Tradesmen Enterprises Inc. (“TEI”) and Tradesmen Enterprises Limited Partnership (“TELP”, and together with TEI, “Tradesmen” or the

“**Applicants**”); AND UPON reading the Notice of Application of Tradesmen, the Affidavit No. 2 of Dean Kato sworn on February 24, 2021, the Bench Brief of the Applicants, ^ the Second Report of KSV Restructuring Inc. in its capacity as Proposal Trustee of Tradesmen (the “**Proposal Trustee**”) dated February 24, 2021 (the “**Second Report**”), all filed; AND UPON noting the Affidavit of Service of Rachel Dingman, affirmed on February 24, 2021, filed; AND UPON hearing the submissions of counsel for the Applicants, counsel for Bank of Montreal, counsel for the Proposal Trustee, and any other counsel or interested parties present;

**IT IS HEREBY ORDERED THAT:**

**Service**

1. The time for service of the notice of application for this Order is hereby abridged and deemed good and sufficient, and no person, other than those served, is entitled to service of the notice of application.

**Procedural Consolidation**

2. The bankruptcy estates of TEI and TELP (collectively, the “**Estates**”) shall, subject to further order of the Court, be procedurally consolidated and shall continue under the estate number assigned to TELP (as consolidated, the “**Consolidated Proposal Proceeding**”).
3. Without limiting the generality of the foregoing, the Proposal Trustee is hereby authorized and directed to administer the Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as proposal trustee under the BIA as if the Consolidated Proposal Proceeding were a single proceeding under the BIA, including without limitation:
  - (a) the meetings of creditors of each Applicant be convened and conducted jointly;
  - (b) the Proposal Trustee is authorized to issue consolidated reports in respect of the Applicants; and
  - (c) the Proposal Trustee is authorized to deal with all filings and notices relating to the proposal proceedings of each of the Applicants, each as required under the BIA, on a consolidated basis.

4. Any pleadings or other documents served or filed in the Consolidated Proposal Proceeding by any party shall be deemed to have been served or filed in each of the proceedings comprising the Consolidated Proposal Proceeding.
5. A copy of this Order shall be filed by the Applicants in the court file for each of the Estates but any subsequent document required to be filed will hereafter only be required to be filed in the Consolidated Proposal Proceeding.
6. The procedural consolidation of the Estates pursuant to this Order shall not:
  - (a) affect the legal status or corporate structure of the Applicants; or
  - (b) cause either Applicant or any limited partner of TELP to be liable for any claim for which it is otherwise not liable, or cause either Applicant to have any interest in an asset to which it otherwise would not have.
7. The Estates are not substantively consolidated, and nothing in this Order shall be construed to that effect.
8. The Proposal Trustee may apply to this Court for advice and directions with respect to the implementation of this Order or with respect to any other matter relating to the procedural and/or substantive consolidation of the Estates.

#### **Interim Financing Agreement and Interim Lender Charge**

9. TELP is hereby authorized and empowered to borrow under an interim financing credit facility from Bank of Montreal (in such capacity, the “**Interim Lender**”), in order to finance its short-term liquidity needs during the pendency of these proceedings, substantially on the terms and in the form set out in the amended and restated interim financing agreement attached hereto as Schedule “A” (the “**Interim Financing Agreement**”), and such Interim Financing Agreement is hereby approved.
10. TELP is hereby authorized and empowered to borrow up to a maximum principal amount of \$2.8 million (the “**Maximum Amount**”), pursuant to the Interim Financing Agreement, unless or until such Maximum Amount is amended in accordance with the terms and conditions of the Interim Financing Agreement.

11. TEI is hereby authorized and empowered to enter into the Interim Financing Agreement in the capacity as a credit party thereunder and in accordance with the terms and conditions of the Interim Financing Agreement.
12. The Interim Lender is hereby granted, and is entitled to the benefit of, a priority charge on all of Tradesmen's present and after-acquired assets, property and undertakings (the "**Property**"), subject only to the Administration Charge, in order to secure the performance and payment of all obligations of Tradesmen to the Interim Lender set forth in the Interim Financing Agreement, including, without limitation, all principal, interest, and the closing fee and all other interim financing fees and expenses contemplated by the Interim Financing Agreement (the "**Interim Financing Charge**"). The Interim Financing Charge shall have the priority set out in paragraphs 17 to 20 of this Order.
13. Tradesmen is hereby authorized and empowered to execute, deliver and perform such further acts and agreements, as may be necessary or expedient from time to time, in order to give effect to the terms and conditions of Interim Financing Agreement and this Order.

#### **Administration Charge**

14. Legal counsel to Tradesmen (Lawson Lundell LLP) and the Proposal Trustee, as security for their respective professional fees and disbursements (including the professional fees and disbursements of the Proposal Trustee's counsel, Bennett Jones LLP) incurred both before and after the granting of this Order, are hereby granted, and are entitled to the benefit of, a priority charge not to exceed \$300,000 (the "**Administration Charge**") on all of the Property. The Administration Charge shall have the priority set out in paragraphs 17 to 20 of this Order.

#### **KERP and KERP Charge**

15. The Key Employee Retention Plan set out in Confidential Exhibit "1" to the Second Report (the "**KERP**") is hereby approved and Tradesmen is hereby authorized and empowered to perform its obligations thereunder and to make payments in accordance with the terms set out therein.

16. The employees designated in the KERP shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed \$202,500, as security for payment of the obligations set out in the KERP. The KERP Charge shall have the priority set out in paragraphs 17 to 20 of this Order.

### **Ranking and Priority of Charges**

17. The respective ranking of the Administration Charge, the Interim Financing Charge, and the KERP Charge against the Property shall be as follows:
- (a) First, the Administration Charge; ^
  - (b) Second, the Interim Financing Charge; and
  - (c) Third, the KERP Charge.
18. The filing, registration or perfection of the Administration Charge, ^ the Interim Financing Charge, and the KERP Charge (together, the “**Charges**”) shall not be required, and the Charges shall be 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.
19. The Charges shall constitute a charge on the Property and shall rank in priority to all other security interests, trusts, deemed trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise in favour of any person, including but not limited to any liens or trusts arising under the British Columbia *Builders Lien Act*, S.B.C. 1997, c. 45 or any other provincial builders’ lien legislation (collectively, the “**Encumbrances**”).
20. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Interim Lender and the beneficiaries of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of, and any declarations of insolvency made in, these proceedings;

- (b) any application for a bankruptcy order issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 as amended (the “**BIA**”), or any bankruptcy 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 appointment of any interim receiver, receiver, or receiver and manager of Tradesmen or the Property;
- (e) the provisions of any federal or provincial statutes; or
- (f) 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, or any lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds Tradesmen, and notwithstanding any provision to the contrary in any Agreement:
  - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, shall create or be deemed to constitute a new breach by Tradesmen of any Agreement to which it is a party;
  - (ii) 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 creation of the Charges, or the execution, delivery or performance of the Interim Financing Agreement; and
  - (iii) the payments made by TELP pursuant to this Order 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.



**Sealing**

21. Notwithstanding the procedural requirements of Rule 6.28 and Division 4 of the Alberta Rules of Court, Confidential Exhibit "1" to the Second Report shall be sealed on the Court file and shall not form part of the Public Record.
22. The Clerk of this Honourable Court shall file the Confidential Supplement in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS  
SEALED PURSUANT TO THE SEALING ORDER ISSUED BY  
THE HONOURABLE JUSTICE G.S. DUNLOP ON MARCH 2, 2021

**General**

23. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



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Justice of the Court of Queen's Bench of Alberta

**SCHEDULE "A"**  
**(Interim Financing Agreement)**

## AMENDED AND RESTATED INTERIM FINANCING AGREEMENT

Dated as of March 2, 2021

**WHEREAS** the Credit Parties (as defined below) have filed Notices of Intention to Make a Proposal (the “**Initial NOI Proceedings**”) with the Office of the Superintendent of Bankruptcy Canada on February 1, 2021 seeking creditor protection for the purposes of making a proposal to their creditors (the “**Proposal**”) pursuant to Part III Division I of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), and intend on making an application (the “**Application**”) to the Alberta Court of Queen's Bench (the “**Court**”) for the Interim Lender Order (as defined below);

**AND WHEREAS** pursuant to subsection 69(1) of the BIA, all proceedings against the Credit Parties are stayed for a period of thirty (30) days as a result of the Initial NOI Proceedings;

**AND WHEREAS**, in connection with the Initial NOI Proceedings the Borrower requested that Bank of Montreal (the “**Interim Lender**”) provide it with loans in order to, among other things, fund certain of the Borrower's obligations during the pendency of the Initial NOI Proceedings and the Interim Lender agreed to do so pursuant to an interim financing term sheet dated February 1, 2021 among the Interim Lender and the Credit Parties (the “**Previous Interim Financing Agreement**”);

**AND WHEREAS**, in connection with the Initial NOI Proceedings, on February 3, 2021, the Borrower applied to the Court and was granted an Order, which, among other things, authorized and empowered the Borrower to make borrowings under the Previous Interim Financing Agreement;

**AND WHEREAS**, the Borrower will apply to the Court on March 2, 2021 for an Order (the “**Interim Lender Order**”) to, among other things, extend the Initial NOI Proceedings by forty-five (45) days and approve this Agreement (the “**Extended NOI Proceedings**”);

**AND WHEREAS**, in connection with the Extended NOI Proceedings, the Borrower has requested that the Interim Lender continue to provide it with certain increased loans in order to continue to fund certain of the Borrower's obligations during the pendency of the Extended NOI Proceedings;

**AND WHEREAS** the Interim Lender has agreed to provide the requested loans pursuant to the Extended NOI Proceedings and the Interim Lender Order in accordance with the terms set out herein.

**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:** Tradesmen Enterprises Limited Partnership, by its general partner, Tradesmen Enterprises Inc. (the “**Borrower**”).
- 2. Guarantor:** Tradesmen Enterprises Inc. (in its own capacity, the “**Guarantor**”).
- 3. Credit Parties:** The Borrower and the Guarantor are collectively referred to as the “**Credit Parties**” and individually, a “**Credit Party**”.
- 4. Interim Lender:** Bank of Montreal
- 5. Defined Terms:** Capitalized terms used in this Agreement and not defined herein have the meanings set forth in Schedule “A” attached hereto or otherwise defined herein. Unless otherwise noted herein, all references herein

to “dollars” or to “\$” means Canadian dollars.

**6. Amendment and Restatement:**

Subject to the satisfaction of the conditions precedent set forth in Section 13 below, effective as of the date hereof:

- (a) the Previous Interim Financing Agreement, is hereby amended and restated as set forth herein without in any way affecting the rights or obligations of any party which may have accrued as of the date hereof pursuant to the provisions of such agreement prior to its amendment hereby;
- (b) all information, documentation and deliveries given or made under the Previous Interim Financing Agreement shall be deemed to have been given or made under this Agreement;
- (c) each of the parties hereto acknowledge and agree that this Agreement does not constitute a novation of the Previous Interim Financing Agreement and that all debts, liabilities, obligations and other requirements of the Credit Parties to the Interim Lender under the Previous Interim Financing Agreement shall (i) be debts, liabilities, obligations and requirements of the Credit Parties to the Interim Lender under this Agreement, and (ii) remain unaffected, except as amended hereby; and
- (d) the Previous Interim Financing Agreement, as so amended and restated, is hereby ratified and confirmed in all respects by each of the parties hereto.

**7. Purpose:**

To provide for the short-term liquidity needs of the Borrower pursuant to the Cash Flow Forecast while the Borrower is under BIA protection pursuant to the NOI Proceedings.

**8. Interim Facility and Maximum Amount:**

A senior secured super priority, interim, revolving credit facility (the “**Interim Facility**”) up to a maximum principal amount of \$2,800,000 as such amount may be amended from time to time pursuant to Section 17 below (the “**Maximum Amount**”).

**9. Availability and Advances under Interim Facility:**

Subject to the terms and conditions contained herein including, without limitation the satisfaction of the Conditions Precedent set out below, the Interim Facility shall be made available to the Borrower by way of multiple advances in Canadian dollars (each being an “**Advance**”). Any principal amount that is repaid may be re-borrowed.

For each Advance, the Interim Lender shall have received from the Borrower a completed advance request, substantially in the form attached hereto as Schedule “C” (each an “**Advance Request**”), which shall be executed by an officer of the Borrower and be in form and substance acceptable to the Interim Lender. The Interim Lender shall, within two (2) Business Days’ of receipt thereof advise the

Borrower of its satisfaction or non-satisfaction of the Funding Conditions, as determined by the Interim Lender in its sole discretion. Each Advance shall be made by the Interim Lender within one (1) Business Day of notifying the Borrower of the satisfaction of the Funding Conditions or waiver thereof. All Advances shall be funded to the Borrower's main deposit account held with the Interim Lender, or to such other account as the Borrower and the Interim Lender may agree to in writing from time to time.

**10. Interest Rate and Default Interest:**

Advances under the Interim Facility shall bear interest at a rate equal to 12% per annum. Interest shall accrue daily on the aggregate outstanding principal advanced under the Interim Facility and shall be calculated and payable in cash in arrears on the first Business Day of each month.

All interest and fees will be calculated on the basis of a 365 day year and actual days lapsed, up to and including the date of actual payment from the funding date or the due date, as applicable; 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 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 principle of deemed reinvestment of interest does not apply to any interest calculation in any Interim Financing Credit Documentation, and the rates of interest stipulated in any Interim Financing Credit Documentation are intended to be nominal rates and not effective rates or yields.

Any amounts which are not paid when due and payable by the Borrower hereunder, or in respect of any Interim Financing Credit Documentation, shall accrue interest (after as well as before maturity, default and judgment) on a daily basis up to and including the date of actual payment from (but excluding) the due date, at a rate equal to 16% per annum, payable on demand by the Interim Lender.

**11. Closing Fee:**

A closing fee in the amount of \$29,250 (the "**Closing Fee**") is to be paid by the Borrower to the Interim Lender from the proceeds of the first Advance under this Agreement on the date of the first Advance of the Interim Facility on or after the date hereof.

**12. Use of Proceeds:**

The Borrower is authorized to use Advances (i) for working capital, and other general corporate purposes of the Borrower including payroll and other priority payables approved by the Interim Lender in its sole discretion; (ii) to pay fees and expenses associated with the Interim Facility (including, without limitation, the fees of the Proposal Trustee, and legal fees of the counsel to the Borrower and the Proposal Trustee); (iii) to fund the payment of the Interim Financing Fees and Expenses; and (iv) to make payments necessary

to comply with or as contemplated under the Interim Lender Order, in each case of the foregoing paragraphs (i) to (iv), consistent with (and as provided for) in the Cash Flow Forecast in all material respects; provided that no proceeds from the Interim Facility or the Collateral shall be used other than in accordance with this Agreement unless otherwise agreed to in writing by the Interim Lender.

**13. Conditions Precedent To Effectiveness:**

The effectiveness of this Agreement is subject to the satisfaction of the following conditions precedent unless waived in writing by the Interim Lender in its sole discretion (collectively, the “**Conditions Precedent**”):

- (a) The Court shall have issued the Interim Lender Order satisfactory to the Interim Lender in its sole discretion, approving this Agreement and the Interim Facility and granting the Interim Lender a continuing charge (the “**Interim Lender Charge**”) on the Collateral of the Credit Parties, securing all obligations owing by the Credit Parties to the Interim Lender hereunder or under any other related agreement, including, without limitation, all principal, interest and the Closing Fee associated with the Interim Facility along with all other Interim Financing Fees and Expenses (collectively, the “**Interim Financing Obligations**”); the Interim Lender Order shall provide that the Interim Lender Charge shall have priority over all Liens, except for the Administration Charge; and the Interim Lender Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Interim Lender in a material manner, without the consent of the Interim Lender;
- (b) The Interim Lender shall be satisfied that (i) the entering into of this Agreement and the other Interim Financing Credit Documentation, the granting of the Interim Lender Charge and the consummation of the transactions contemplated hereby have been approved by the Borrower, the Guarantor and any other interested party relevant to the Interim Lender, and (ii) service of the Application has been effected on all required parties acceptable to the Interim Lender;
- (c) The Interim Financing Credit Documentation shall be satisfactory to the Interim Lender, acting reasonably, and shall have been executed by the Credit Parties;
- (d) The Interim Lender shall have received and been satisfied with the most recent Cash Flow Forecast delivered to it in accordance with the terms of this Agreement;
- (e) The Interim Lender shall have received and been satisfied with the most recent Business Update delivered to it in

accordance with the terms of this Agreement;

- (f) The Interim Lender shall have received an executed copy of a consent receivership order from the Credit Parties (the “**Consent Receivership Order**”), in form and substance satisfactory to the Interim Lender;
- (g) Since the date of the Previous Interim Financing Agreement, there shall not have been any material damage, destruction or Material Adverse Change to any of the Collateral, nor any material depreciation in the value thereof, and the Credit Parties’ operations shall be in material compliance with all applicable environmental, labor, health and safety and other applicable laws and regulations governing the Credit Parties and their business operations;
- (h) All of the representations and warranties of the Credit Parties as set forth herein and in any other Interim Financing Credit Documentation are true and accurate in all material respects; and
- (i) There are no Liens ranking in priority to the Interim Lender Charge, except the Administration Charge.

**14. Conditions Precedent To Advances:**

The Interim Lender's obligation to make Advances to the Borrower under this Agreement is subject to the satisfaction of the following conditions precedent unless waived in writing by the Interim Lender in its sole discretion (collectively, the “**Funding Conditions**”):

- (a) This Agreement shall have become effective and all conditions precedent set out in Section 13 above shall have been fulfilled;
- (b) The Interim Lender shall have received full cash payment of the Closing Fee;
- (c) The Interim Lender shall have received from the Borrower a completed Advance Request and advised the Borrower of its satisfaction of the Funding Conditions;
- (d) The Interim Lender shall, acting reasonably, be satisfied that the Credit Parties have complied with and are continuing to comply in all material respects with all applicable laws, regulations and policies in relation to their business other than (i) as may be permitted under the orders of the Court made in the NOI Proceedings applicable to the Credit Parties (collectively, the “**Restructuring Court Orders**” and each a “**Restructuring Court Order**”) or (ii) if any enforcement in respect of non-compliance is stayed by a Restructuring Court Order, provided the issuance of such Restructuring Court Order (in each case) does not result in the occurrence of an

## Event of Default;

- (e) The requested Advance shall not, if advanced to the Borrower, cause the aggregate amount of all outstanding Advances to exceed the Maximum Amount or be greater than the total Advances projected to be required in the Cash Flow Forecast, unless otherwise specifically approved by the Interim Lender;
- (f) All Interim Financing Fees and Expenses for which invoices have been provided to the Borrower shall have been paid, or will be paid from the proceeds of the requested Advance within such period of time set forth in the Cash Flow Forecast or as is otherwise acceptable to the Interim Lender in its sole discretion;
- (g) All of the representations and warranties of the Credit Parties as set forth herein and in any other Interim Financing Credit Documentation are true and accurate in all material respects;
- (h) No Default or Event of Default has occurred or will occur as a result of the requested Advance;
- (i) The Interim Lender is satisfied that no Material Adverse Change shall have occurred after the date of the issuance of the Interim Lender Order;
- (j) Since the date of the Interim Lender Order, there shall not have occurred any payment, prepayment, redemption, purchase or exchange of any pre-filing indebtedness or equity, or amendment or modification of any of the terms thereof, except as otherwise permitted by the terms of the Interim Lender Order or provided for hereunder and the aggregate amount of all such pre-filing amounts does not exceed the amounts set out therefor in the in the Cash Flow Forecast;
- (k) The Interim Lender is satisfied, in its sole discretion, with the process and conduct of any applicable Sale Process;
- (l) The Interim Lender shall have a valid and perfected super priority Lien on the Collateral pursuant to the Interim Lender Order and, there are no Liens ranking in priority to the Interim Lender Charge, except the Administration Charge; and
- (m) The Interim Lender Order shall be in full force and effect and shall not have been reversed, modified, amended or stayed in a manner adverse to the interests of the Interim Lender.

Notwithstanding any other provision herein (including within this Section) or in any other Interim Financing Credit Documentation, the Interim Lender is under no obligation to make Advances to the



Borrower in an aggregate amount exceeding the Maximum Amount.

**15. Repayment:**

The Interim Facility shall be cancelled and immediately repayable in full (including all accrued and unpaid interest thereon and all fees, costs and other amounts due and payable in connection therewith) on the earlier of: (i) the occurrence of any Event of Default hereunder which is continuing and has not been cured to the satisfaction of the Interim Lender; (ii) the implementation of the Proposal, which has been approved by the requisite majorities of the Borrower's creditors, including by the Interim Lender, and the Court; (iii) the conversion of the NOI Proceedings into a proceeding under the *Companies' Creditors Arrangement Act* (Canada) ("CCAA"), unless agreed to by the Interim Lender; (iv) the conversion of the NOI Proceedings into a receivership under the BIA; (v) the sale of all or substantially all of the Collateral; and (vi) forty-five (45) days from the commencement of the Extended NOI Proceedings (the earliest of such dates being the "**Maturity Date**"), unless such date is extended by the Interim Lender.

The commitment in respect of the Interim Facility shall expire on the Maturity Date and all amounts outstanding under the Interim Facility shall be repaid in full no later than the Maturity Date, without the Interim Lender being required to make demand upon the Credit Parties or to give notice that the Interim Facility has expired and the obligations are due and payable. The order of the Court sanctioning any Proposal shall not discharge or otherwise affect in any way any of the obligations of the Credit Parties to the Interim Lender under the Interim Facility, other than after the permanent and indefeasible payment in cash to the Interim Lender of all obligations under the Interim Facility on or before the date the Proposal is implemented.

**16. Prepayment:**

Upon five (5) days prior written notice to the Interim Lender, the Borrower may prepay any amounts outstanding under the Interim Facility at any time prior to the Maturity Date, without any prepayment fee or penalty. In no event shall the Interim Lender be obligated to accept any amount that would be contrary to any applicable law respecting interest to be charged. If the minimum interest is determined to be in excess of the maximum amount permitted by applicable law, then the minimum interest shall be reduced to the maximum amount that would be permitted by applicable law.

The Borrower may borrow, repay and re-borrow Advances, subject to the terms and conditions herein. Any amount repaid or prepaid under the Interim Facility (including pursuant to Section 17 below) shall be applied against amounts outstanding hereunder and in connection herewith by the Interim Lender in its sole and absolute discretion.

**17. Mandatory Repayments:**

Unless otherwise consented to in writing by the Interim Lender, Advances to the Borrower shall be forthwith repaid and the

Maximum Amount shall be permanently reduced: (i) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of surplus cash not required to fund disbursements and expenditures set forth in the Cash Flow Forecast; (ii) upon a sale of any of the Collateral out of the ordinary course of business, in an amount equal to the net cash proceeds of such sale (for greater certainty, net of reasonable costs and closing adjustments acceptable to the Interim Lender in its sole discretion); (iii) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of insurance proceeds with respect to the Collateral owned by it; (iv) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of a refund or payment on account of Taxes from any Governmental Entity, excluding refunds or payments on account of sales taxes; and (v) upon receipt by a Credit Party (or any of its advisors or agents on its behalf) of any amounts payable by Teck Coal Limited., Fluor Canada Ltd. or any of their respective affiliates.

**18. Evidence of Indebtedness:** The Interim Lender's accounts and records constitute, in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Interim Lender pursuant to the Interim Facility.

**19. Costs and Expenses:** The Credit Parties shall pay on demand all of the Interim Lender's legal fees on a full indemnity basis, out-of-pocket disbursements and any costs of realization or enforcement, in each case in connection with or otherwise related to the Interim Facility, the Interim Lender Charge, the other Interim Financing Credit Documentation and the NOI Proceedings (collectively, the "**Interim Financing Fees and Expenses**").

**20. Documentation and Interim Facility Security:** The Interim Financing Obligations shall be secured by

- (a) the Interim Lender Charge; and
- (b) such other documents and agreements as the Interim Lender may reasonably request, including those documents required in order to register or otherwise perfect the security interests comprising the Interim Lender Charge;

((a) and (b) collectively, the "**Interim Financing Security**").

The Interim Financing Security shall be in priority to all Liens, except the Administration Charge, pursuant to the terms of the Interim Lender Order. Notwithstanding the foregoing and subject to the concluding sentence of this paragraph, no proceeds of any Advance may be used to (a) investigate, object to or challenge in any way any claims of the Interim Lender against any Credit Party in respect of the Interim Facility, or (b) investigate, object to or challenge in any way the validity or enforceability of the Liens created under the Interim Financing Security.

The Interim Financing Security and charges created hereby and in the Interim Lender Order shall be deemed to be valid and perfected by the granting of the Interim Lender Order. The Interim Lender shall not be required to file any financing statement, mortgage or similar instrument or take any other action to validate or perfect the security interests and charges granted hereunder and in the Interim Lender Order, however the Interim Lender may register the Interim Financing Security (and/or any notice, certificate, instrument or other agreement associated therewith) in jurisdictions and at registries or public offices as the Interim Lender may determine necessary or beneficial to protect its interests under the Interim Financing Security.

**21. Permitted Liens and Priority:**

All Collateral will be free and clear of all other Liens, except for Permitted Liens.

**22. Cash Flow Forecast:**

Attached hereto as Schedule "B" is the most recent Cash Flow Forecast provided to the Interim Lender on or prior to the date of this Agreement, which is in form and substance satisfactory to the Interim Lender.

Following the granting of the Interim Lender Order, the Borrower shall, once every seven (7) days and not later than 12:00 noon Mountain Standard Time on each Wednesday of each week following the granting of the Initial Lender Order, provide the Interim Lender with an updated Cash Flow Forecast and such other related information as may be requested by the Interim Lender from time to time, in form and substance satisfactory to and approved by the Interim Lender, together with (i) a comparison of the previous week's forecast to actual cash receipts and expenditures for each line item in the Cash Flow Forecast (i.e. a week in arrears), and (ii) an explanation of the differences.

The Borrower shall use commercially reasonable efforts, if requested by the Interim Lender, to cause its non-legal advisors to participate in weekly conference calls with the Interim Lender and its advisors, agents and employees to discuss any Cash Flow Forecast along with the Borrower's current and projected operational performance and related financial matters.

**23. Proposal Trustee:**

The proposal trustee in the NOI Proceedings is KSV Restructuring Inc. (in such capacity, the "**Proposal Trustee**"). The Proposal Trustee shall be authorized to have direct discussions with the Interim Lender and its professional advisors, and the Interim Lender and its professional advisors shall be entitled to receive information from the Proposal Trustee as may be requested by the Interim Lender from time to time.

**24. Representations and Warranties:**

The Borrower represents and warrants to the Interim Lender, upon which the Interim Lender relies in entering into this Agreement and

the other Interim Financing Credit Documentation, as follows:

- (a) This Agreement and the other Interim Financing Credit Documentation and the transactions contemplated hereby and thereby:
  - (i) are within the powers of the Credit Parties;
  - (ii) subject to the granting of the Interim Lender Order, have been duly executed and delivered by or on behalf of the Credit Parties, as applicable;
  - (iii) do not conflict with or result in a breach of any of the terms or conditions of the constating documents of the Credit Parties, any applicable law, any contractual restrictions binding on or affecting the Credit Parties or any Credit Party's material properties or any judgement, injunction, determination or award which is binding on any Credit Party;
  - (iv) upon the granting of the Interim Lender Order, constitute legal, valid and binding obligations of the Credit Parties; and
  - (v) other than those already obtained, do not require the consent or approval of, registration or filing with, or any other action by, any Governmental Entity or any third party, other than filings which may be made, but are not required, to register or otherwise record the Interim Lender Charge or the Interim Financing Security.
- (b) The activities of the Credit Parties will be conducted in material compliance with all applicable provincial and federal laws, subject to the provisions of the BIA and any Restructuring Court Order, unless (i) otherwise ordered by the Court, or (ii) the sanctions for non-compliance are stayed by a Restructuring Court Order.
- (c) The Credit Parties, since the commencement of the Initial NOI Proceedings, have maintained their respective obligations for payroll, source deductions, current normal cost pension liabilities, retail sales tax, goods and services tax and harmonized sales tax, as applicable, and are not in arrears in respect of payment of any of these obligations, except for source deductions in the amount of \$505,561 (the "**Existing Source Deduction**"), which will be paid on or before March 5, 2021 in accordance with the Cash Flow Forecast.
- (d) All representations and warranties made by the Credit Parties in all other Interim Financing Credit Documentation are true

and accurate in all material respects.

- (e) No Default or Event of Default has occurred and is continuing.
- (f) Each Credit Party is duly formed and validly existing under the laws of its jurisdiction of formation and is qualified to carry on business in each jurisdiction in which it owns property or assets or carries on business.
- (g) The Guarantor is the sole general partner of the Borrower and no amendments have been made to the partnership agreement governing the Borrower without the Interim Lender's knowledge and prior written consent.

**25. Affirmative Covenants:**

In addition to all of the other covenants and obligations contained herein, the Borrower covenants and agrees to perform, or cause to be performed, and do, or cause to be done, each of the following until the Interim Facility is permanently and indefeasibly repaid in full and terminated:

- (a) allow the Interim Lender or its agents and advisors, on reasonable notice during regular business hours, to enter on and inspect each Credit Party's assets and properties, and provide the Interim Lender and its agents or advisors, on reasonable notice and during normal business hours, full access to each Credit Party's books and records and cause management and employees thereof to fully co-operate with the Interim Lender, its agents and advisors;
- (b) provide to the Interim Lender regular updates regarding the status of the NOI Proceedings including, without limitation, reports on the progress of any Proposal, Restructuring Option, any Sale Process and any information, which may otherwise be confidential, subject to same being maintained as confidential by the Interim Lender, provided, however, that the Interim Lender shall not be entitled to receive any information in respect of bids or offers received in the Sale Process that encompass property over which the Interim Lender, or any of its affiliates or related parties, or another party in which the Interim Lender holds an interest, has also submitted a bid;
- (c) provide the Interim Lender with draft copies of all motions, applications, proposed orders or other material or documents that any of them intend to file within the NOI Proceedings as soon as practically possible prior to any such filing;
- (d) use commercially reasonable efforts to keep the Interim Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Credit Parties including, without limitation, any changes to its Business

Update;

- (e) deliver to the Interim Lender the updated Cash Flow Forecast as and when set out herein, and such other reporting and other information from time to time reasonably requested by the Interim Lender. Without limiting the foregoing, the Borrower shall use commercially reasonable efforts to deliver to the Interim Lender copies of any financial reporting provided to the Proposal Trustee in a timely manner and forthwith provide to the Interim Lender any reports or commentary received from the Proposal Trustee regarding the financial position of the Credit Parties;
- (f) conduct all activities in a manner consistent with the Cash Flow Forecast;
- (g) use the proceeds of the Interim Facility only for the purposes described in Sections 7 and 12 above, and in a manner consistent and in strict compliance with the restrictions set out herein;
- (h) comply with the provisions of the Restructuring Court Orders; provided that if any Restructuring Court Order contravenes this Agreement or any of the Interim Financing Credit Documentation so as to adversely impact the rights or interests of the Interim Lender in a material manner, such contravention shall constitute, and shall be deemed to be, an Event of Default hereunder;
- (i) preserve, renew and keep in full force and effect each Credit Party's respective corporate existence and its respective material licenses, permits and approvals required in respect of its business, properties, assets or any activities or operations carried out therein, unless otherwise agreed to in writing by the Interim Lender;
- (j) use commercially reasonable efforts consistent with the Cash Flow Forecast to (i) maintain the insurance, in existence as at the date hereof with respect to the Collateral owned by the Credit Parties, or (ii) obtain insurance over such Collateral where none exists or has expired, on terms acceptable to the Interim Lender, acting reasonably; and
- (k) forthwith notify the Interim Lender of the occurrence of any Default or Event of Default, or any event that could reasonably be expected to cause a Material Adverse Change.

**26. Negative Covenants:**

The Borrower covenants and agrees not to do the following, other than with the prior written consent of the Interim Lender:

- (a) transfer, lease or otherwise dispose of all or any part of any Credit Party's property, assets or undertaking after the date hereof (excluding dispositions of obsolete assets or dispositions in the ordinary course of business). For greater certainty, in the case of any transfer, lease, sale or other disposition of any Collateral, all proceeds of such transfer, lease, sale or other disposition shall be subject to Section 17;
- (b) make any payment of principal or interest in respect of existing (pre-filing) debt or obligation other than as may be permitted by a Restructuring Court Order that does not result in an Event of Default, and is provided for in the Cash Flow Forecast;
- (c) make any payments not consistent with the Cash Flow Forecast;
- (d) settle any claims involving any Credit Party with a third party, or permit any assignments or transfers of any contracts with third parties;
- (e) make or give any additional financial assurances, in the form of bonds, letters of credit, financial guarantees or otherwise, to any person or Governmental Entity;
- (f) create, permit to exist or seek or support a motion by another party to provide to any third party a Lien on the Collateral which is senior to or *pari passu* with the Interim Lender Charge, except for the Administration Charge;
- (g) change a Credit Party's name, amalgamate, consolidate with or merge into, or enter into any similar transaction with any other entity except as part of a transaction under a Sale Process approved by a Restructuring Court Order, and on terms and conditions satisfactory to the Interim Lender, acting reasonably;
- (h) make any payment in respect of post-employment benefit payments; or
- (i) seek to convert, or permit to convert, the NOI Proceedings to a proceeding under the CCAA or to otherwise at any time seek Court protection for any Credit Party under the CCAA except with the consent of the Interim Lender.

**27. Reporting Covenants:**

The Borrower covenants and agrees to perform, or cause to be performed, and do, or cause to be done, each of the following when required:

- (a) provide the Interim Lender on or before March 16, 2021 with a current update to its most recent Business Update provided

to the Interim Lender, satisfactory to the Interim Lender in form and substance, as determined by the Interim Lender in its sole discretion;

- (b) provide the Interim Lender by no later than March 17, 2021 with evidence of all updated search results associated with any Liens, or potential claims, of any Governmental Entity against any Credit Party that could result in such Liens or claims having priority over the Interim Lender Charge (each being a “**Priority Governmental Claim**”), in each case satisfactory to the Interim Lender in form, substance and amount, as determined by the Interim Lender in its sole discretion; and
- (c) provide the Interim Lender with an updated Cash Flow Forecast hereunder when required by Section 22, in each case satisfactory to the Interim Lender in form and substance, as determined by the Interim Lender in its sole discretion.

**28. Indemnity and Release:**

The Borrower agrees to indemnify and hold harmless the Interim Lender and its directors, officers, employees, agents, attorneys, advisors and affiliates (all such persons and entities being referred to hereafter as “**Indemnified Persons**”) from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person (collectively, “**Claims**”) as a result of or arising out of or in any way related to or resulting from the Interim Facility, this Agreement or any other Interim Financing Credit Documentation (regardless of whether such Claim is made in the NOI Proceedings or any other proceeding, including a bankruptcy or insolvency proceeding) and, upon demand, to pay and reimburse any Indemnified Person for any legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, the Borrower shall not be obligated to indemnify pursuant to this Section any Indemnified Person against any loss, claim, damage, expense or liability (x) to the extent it resulted from the gross negligence or willful misconduct 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 a Credit Party. The Borrower shall not be responsible or liable to any Indemnified Person or any other person for consequential or punitive damages.

The indemnities granted under this Agreement shall survive any



termination of the Interim Facility.

**29. Events of Default:**

The occurrence of any one or more of the following events shall constitute an event of default (“**Event of Default**”) under this Agreement:

- (a) the failure of the Borrower or any other person to pay any principal amount owing under this Agreement or any other Interim Financing Credit Documentation when due;
- (b) the failure of the Borrower or any other person to pay any interest or fees or any portion thereof owing under this Agreement or any other Interim Financing Credit Documentation when due and such default shall remain unremedied for a period of two (2) Business Days after written notice from the Interim Lender that such amount is overdue;
- (c) the issuance of an order of the Court (including any Restructuring Court Order) or any other court of competent jurisdiction without the prior written consent of the Interim Lender thereto:
  - (i) terminating the NOI Proceedings or lifting the stay in the NOI Proceedings to permit (A) the enforcement of any Lien against a Credit Party, or a material portion of its property, assets or undertaking, or (B) the appointment of a receiver and manager, receiver, or similar official or the making of a bankruptcy order against a Credit Party; or (C) converting the NOI Proceedings to proceedings under the CCAA;
  - (ii) granting any Lien which is senior to or *pari passu* with the Interim Lender Charge, except for the Administration Charge;
  - (iii) staying, reversing, vacating or otherwise modifying the Interim Lender Order or any Restructuring Court Order in a manner materially adverse to the interests of the Interim Lender; or
  - (iv) adversely impacting the rights and interests of the Interim Lender in a material manner;
- (d) the filing of any pleading by or on behalf of any Credit Party seeking any of the matters set forth in clause (c) above or failure of a Credit Party to diligently oppose any party that brings an application or motion for the relief set out in clause (c) above and/or fails to secure the dismissal of such motion or application within fifteen (15) days from the date such application or motion is brought;

- (e) failure of any Credit Party to comply with any positive or negative covenants in this Agreement not set forth in subsection (f) immediately below, which default has not been remedied or cured to the reasonable satisfaction of the Interim Lender, in its sole discretion, within five (5) Business Days of the breach first occurring, save and except for Section 26(i) which shall have no cure period;
- (f) failure of any Credit Party to comply with any reporting covenants when due;
- (g) should the aggregate amount of all Priority Governmental Claims outstanding, except for the Existing Source Deduction, at any time exceed \$100,000;
- (h) (i) a Restructuring Court Order is made, (ii) a liability arises or an event occurs, including any change in the Collateral, business, assets, or conditions (financial or otherwise), of a Credit Party, that will in the Interim Lender's judgment, acting reasonably, materially impair (A) the Interim Lender's ability to recover the amounts owed to it by the Credit Parties, or (B) a Credit Party's financial condition or ability to comply with its obligations under this Agreement, any other Interim Financing Credit Documentation, the Interim Lender Order, or any Restructuring Court Order, or carry out a Proposal or Restructuring Option reasonably acceptable to the Interim Lender (in each case, a "**Material Adverse Change**");
- (i) the Cash Flow Forecast or any update thereof contemplates or forecasts an adverse change or changes from the then existing Cash Flow Forecast and such change(s) constitute a Material Adverse Change, or any updated Cash Flow Forecast forecasts that borrowings under the Interim Facility will exceed the Maximum Amount at any time (unless and until the Interim Lender consents to increase the Maximum Amount, which shall be in the Interim Lender's sole and absolute discretion);
- (j) the Business Update or any update thereof contemplates or forecasts an adverse change or changes from the most recent Business Update provided to the Interim Lender hereunder and such change(s) constitute a Material Adverse Change;
- (k) any representation or warranty by a Credit Party or other person herein or in any Interim Financing Credit Documentation shall be incorrect or misleading in any material respect when made;
- (l) Advances under the Interim Facility exceed the Maximum Amount at any time without the prior written consent of the Interim Lender;

- (m) any material violation or breach of any Restructuring Court Order upon receipt by the Borrower of notice from the Interim Lender of such violation or breach;
- (n) an event of default has occurred under any of the Interim Financing Credit Documentation, which default has not been remedied or cured in accordance with the terms thereof;
- (o) any proceeding, motion or application is commenced or filed by a Credit Party, or if commenced by another party, supported or otherwise consented to by a Credit Party, seeking the invalidation, subordination or otherwise challenging of the terms of the Interim Facility, the Interim Lender Charge, this Agreement, or any of the other Interim Financing Credit Documentation or, unless the Proposal or Restructuring Option provides for repayment in full of the Interim Facility, the approval of any Proposal or Restructuring Option which does not have the prior written consent of the Interim Lender;
- (p) any Proposal is proposed or any Restructuring Option is consummated by a Credit Party that contravenes any provision of this Agreement or other Interim Financing Credit Documentation, unless the Interim Lender has consented thereto;
- (q) if any Credit Party pays or agrees to pay any of the legal, consulting or other professional fees and/or disbursements incurred by the Credit Parties, the Proposal Trustee or any other party in the NOI Proceedings (other than the Interim Lender and its agents and advisors), in excess of the amount set out in the cash flow, without the prior written consent of the Interim Lender;
- (r) failure of the Borrower to perform or comply with any other term or covenant under this Agreement or any other Interim Financing Credit Documentation, and such default shall continue unremedied for a period of five (5) Business Days from the breach first occurring;
- (s) if the priority of the Interim Lender Charge set out in the Interim Lender Order is varied without the consent of the Interim Lender; or
- (t) if the Borrower commences an action or takes any other proceeding to obtain any form of relief against the Interim Lender.

### **30. Remedies:**

Upon the occurrence of an Event of Default that is continuing, and subject to the Restructuring Court Orders, the Interim Lender may, in its sole discretion, elect to terminate the Interim Lender's commitments to make Advances to the Borrower hereunder and

declare the obligations in respect of the Interim Financing Credit Documentation to be immediately due and payable and cease making any further Advances. Without limiting the foregoing remedies, upon the occurrence of an Event of Default that is continuing, the Interim Lender may, in its sole discretion, elect to permanently reduce the Maximum Amount. In addition, upon the occurrence of an Event of Default that is continuing, the Interim Lender may, in its sole discretion, subject to any Restructuring Court Order:

- (a) apply to a court for the appointment of a receiver or a receiver and manager over any of the Collateral;
- (b) set-off or combine any amounts then owing by the Interim Lender to the Credit Parties against the obligations of the Credit Parties to the Interim Lender hereunder;
- (c) subject to obtaining prior approval from the Court, exercise the powers and rights of a secured party under the *Personal Property Security Act* (Alberta) or any legislation of similar effect; and
- (d) subject to obtaining prior approval from the Court, exercise all such other rights and remedies under the Interim Financing Credit Documentation, the Restructuring Court Orders and applicable law.

**31. Taxes:**

All payments by the Borrower or any other person under this Agreement and the other Interim Financing Credit Documentation to the Interim Lender, including any payments required to be made from and after the exercise of any remedies available to the Interim Lender upon an Event of Default that is continuing, shall be made free and clear of and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision or any country (collectively “**Taxes**”); provided, however, that if any Taxes are required by applicable law to be withheld (“**Withholding Taxes**”) from any amount payable to the Interim Lender under any Interim Financing Credit Documentation, the amount so payable to the Interim Lender shall be increased to the extent necessary to yield to the Interim Lender on a net basis after payment of all Withholding Taxes the amount payable under such Interim Financing Credit Documentation at the rate or in the amount specified in such Interim Financing Credit Documentation, and the Borrower shall provide evidence satisfactory to the Interim Lender that the Taxes have been so withheld and remedied.

**32. Further Assurances:**

The Borrower shall, at its expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such

further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the Interim Lender may reasonably request for the purpose of giving effect to this Agreement.

**33. Amendments, Waivers, Etc.:**

No amendment of any provision of this Agreement shall be effective unless agreed to by the Credit Parties and the Interim Lender, and, in the case of any material amendment, the Proposal Trustee.

No waiver or delay on the part of the Interim Lender in exercising any right or privilege hereunder or under any other Interim Financing Credit Documentation will operate as a waiver hereof or thereof unless made in writing by the Interim Lender and delivered in accordance with the terms of this Agreement or the other applicable Interim Financing Credit Documentation and then such waiver shall be effective only in the specific instance and for the specific purpose given.

**34. Entire Agreement/ Conflict:**

This Agreement, including the schedules hereto and the Interim Financing Credit Documentation, constitutes the entire agreement between the parties relating to the subject matter hereof. To the extent that there is any inconsistency between this Agreement and any of the other Interim Financing Credit Documentation, this Agreement shall govern.

**35. Assignment:**

The Interim Lender may assign this Agreement and any other Interim Financing Credit Documentation, or its interest in this Agreement or any other Interim Financing Credit Documentation, as the case may be, and its rights and obligations hereunder, in whole or in part, or grant a participation in its rights hereunder, at any time to any person without the consent of the Borrower or the Proposal Trustee. Neither this Agreement, another Interim Financing Credit Documentation, nor any rights thereunder may be assigned by any Credit Party.

**36. Severability:**

Any provision in this Agreement or any other Interim Financing Credit Documentation 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.

**37. No Third Party Beneficiary:**

No person, other than the Credit Parties and the Interim Lender, is entitled to rely upon this Agreement and the parties expressly agree that this Agreement does not confer rights upon any party not a signatory hereto.

**38. Counterpart and Facsimile Signatures:**

This Agreement may be executed in any number of counterparts and by facsimile or other electronic transmission, including via electronic mail in portable document 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.

**39. 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 attention of the person as set forth below:

In the case of the Interim Lender, to:

**Bank of Montreal**

6<sup>th</sup> Floor, 350 - 7<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 3N9

Attention: Director, Special Accounts Management Unit  
Email: zachary.newman@bmo.com

With a copy to:

**Borden Ladner Gervais LLP**

Centennial Place, East Tower  
1900, 520 – 3<sup>rd</sup> Avenue SW  
Calgary, Alberta T2P 0R3

Attention: Josef G.A. Kruger Q.C.  
Email : jkruger@blg.com

In the case of the Borrower to:

**Tradesmen Enterprises Limited Partnership**

#730, 440 – 2nd Avenue S.W.  
Calgary, AB T2P 5E9

Attention: Ken Krawiec and Dean Kato  
Email: ken.krawiec@teigp.com  
Dean.Kato@teigp.com

With a copy to:

**Lawson Lundell LLP**

Brookfield Place  
225 6 Ave SW #1100  
Calgary, AB T2P 1N2

Attention: Alexis Teasdale  
Email: ateadale@lawsonlundell.com

In either case, with a copy to the Proposal Trustee:

**KSV Restructuring Inc.**  
150 King Street West, Suite 2308  
Toronto, Ontario, M5H 1J9

Attention: Bobby Kofman and David Sieradzki  
Email: bkofman@ksvadvisory.com  
dsieradzki@ksvadvisory.com

Any such notice shall be deemed to be given and received when received, unless received after 5:00 pm Mountain 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.

**40. Security Valid  
Irrespective of Time of  
Advance:**

All rights, agreements, and obligations of the Credit Parties and the Interim Lender and the granting of, and the priorities of, the Interim Lender Charge and the obligations owing under the Interim Facility, will remain in full force and effect irrespective of the time of any loan or advance made to the Borrower by the Interim Lender, including whether advanced before or after or at the same time as the creation of the security interests granted hereunder or before or after or at the same time as the date of execution of this Agreement.

**41. Governing Law and  
Jurisdiction:**

This Agreement shall be governed by, and construed in accordance with, the laws of the Province of Alberta and the federal laws of Canada applicable therein. Without prejudice to the ability of the Interim Lender to enforce this Agreement in any other proper jurisdiction, the Borrower irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of Alberta, and further acknowledges and agrees that any disputes arising in respect of the Interim Financing Credit Documentation shall be heard by the Court.

(signature page follows)

IN WITNESS HEREOF, the parties hereto have executed this Agreement as at the date first referenced above.

**Interim Lender:**

**BANK OF MONTREAL**

Per: Zachary Newman  
Name: Zachary Newman  
Title: Director  
Shane Klein  
Shane Klein  
Managing Director

**Guarantor:**

**TRADESMEN ENTERPRISES INC.**

Per: Ken  
Name: **Krawiec**  
Title: Digitally signed by Ken Krawiec  
DN: cn=Ken Krawiec, c=CA,  
o=Tradesmen Enterprises LP,  
email=ken.krawiec@teigo.com  
Reason: I am approving this document  
Location: Calgary, AB  
Date: 2021.02.24 10:29:19 -07'00'

I have authority to bind the corporation

**Borrower:**

**TRADESMEN ENTERPRISES LIMITED PARTNERSHIP, by its General Partner, Tradesmen Enterprises Inc.**

Per: Ken  
Name: **Krawiec**  
Title: Digitally signed by Ken Krawiec  
DN: cn=Ken Krawiec, c=CA,  
o=Tradesmen Enterprises LP,  
email=ken.krawiec@teigo.com  
Reason: I am approving this document  
Location: Calgary, AB  
Date: 2021.02.24 10:28:12 -07'00'

I have authority to bind the partnership



## **SCHEDULE "A"**

### **DEFINED TERMS**

In this Agreement:

“**Advance**” and “**Advances**” has the meanings given thereto in Section 9.

“**Administration Charge**” means a charge on the Collateral of the Credit Parties, granted by the Court pursuant to the Interim Lender Order, up to an aggregate amount of \$300,000, securing the payment of the reasonable fees and disbursements incurred by the Credit Parties’ counsel, the Proposal Trustee and the Proposal Trustee’s counsel in connection with the NOI Proceedings, as set forth in the Cash Flow Forecast.

“**Advance Request**” has the meaning given thereto in Section 9.

“**Agreement**” means the amended and restated interim financing agreement to which this schedule is attached, together with all schedules attached hereto, as the same may be amended, amended and restated or otherwise replaced from time to time.

“**Application**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**BIA**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Borrower**” has the meaning given thereto in Section 1.

“**Business Day**” means any day other than a Saturday, Sunday or any other day in which banks in Calgary, Alberta are not open for business.

“**Business Update**” means an executive summary prepared by senior management of the Borrower which outlines in sufficient detail, reasonably acceptable to the Interim Lender, the latest business information, claims, prospects, strategy and implementation of business matters associated with the Credit Parties and their operations for the next six (6) months from the date of issue.

“**Cash Flow Forecast**” means a minimum rolling eight (8) week cash flow forecast of expected weekly receipts and all of the operating and capital expenditures to be made during each calendar week and in the aggregate for the period of time covered by the Cash Flow Forecast, prepared by the Borrower with the assistance of the Proposal Trustee, the current form of which is attached as Schedule “B” to this Agreement, together with any subsequent detailed cash flow forecast prepared by the Borrower, with the assistance of the Proposal Trustee, and submitted by the Borrower to the Interim Lender and approved by the Interim Lender in accordance with the terms and conditions of this Agreement from time to time.

“**CAA**” has the meaning given thereto in Section 15.

“**Claims**” has the meaning given thereto in Section 28.

“**Closing Fee**” has the meaning given thereto in Section 11.

“**Collateral**” means all present and after-acquired real and personal property of the Credit Parties.

“**Court**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Credit Parties**” and “**Credit Party**” has the meaning given thereto in Section 3.

“**Default**” means an event or circumstance which, after the giving of notice or the passage of time, or both, will result in an Event of Default.

“**Event of Default**” has the meaning given thereto in Section 29.

“**Existing Source Deduction**” has the meaning given thereto in Section 24.

“**Extended NOI Proceedings**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Funding Conditions**” has the meaning given thereto in Section 14.

“**Governmental Entity**” 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.

“**Guarantor**” has the meaning given thereto in Section 2.

“**Indemnified Persons**” has the meaning given thereto in Section 28.

“**Interim Facility**” has the meaning given thereto in Section 8.

“**Interim Financing Credit Documentation**” means this Agreement and any other documentation in respect of the Interim Facility that is requested by the Interim Lender (which shall be in form and substance satisfactory to the Interim Lender), including the Interim Financing Security.

“**Interim Financing Fees and Expenses**” has the meaning given thereto in Section 19.

“**Interim Financing Obligations**” has the meaning given thereto in Section 13.

“**Interim Financing Security**” has the meaning given thereto in Section 20.

“**Interim Lender**” has the meaning given thereto in Section 4.

“**Interim Lender Charge**” has the meaning given thereto in Section 13.

“**Interim Lender Order**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Initial NOI Proceedings**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Liens**” means all liens, hypothecs, charges, mortgages, trusts, deemed trusts (statutory or otherwise), encumbrances and security interests of every kind and nature whatsoever granted by Credit Parties, or otherwise charged, against the Collateral.

“**Material Adverse Change**” has the meaning given thereto in Section 29.

“**Maturity Date**” has the meaning given thereto in Section 15.

“**Maximum Amount**” has the meaning given thereto in Section 8.

“**NOI Proceedings**” means, collectively, the Initial NOI Proceedings and the Extended NOI Proceedings.

“**Permitted Liens**” means (i) the Interim Lender Charge and the Interim Financing Security; (ii) the Administration Charge; and (iii) any charges created under the Interim Lender Order or other order of the Court in the NOI Proceedings subsequent in priority to the Interim Lender Charge, the limit and priority of each of which shall be acceptable to the Interim Lender in its sole discretion.

“**Previous Interim Financing Agreement**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Priority Governmental Claim**” has the meaning given thereto in Section 27.

“**Proposal**” has the meaning given thereto in the recitals on the first page of this Agreement.

“**Proposal Trustee**” has the meaning given thereto in Section 23.

“**Restructuring Court Order**” and “**Restructuring Court Order**” have the meanings given thereto in Section 14.

“**Restructuring Option**” means any transaction involving the refinancing of the Borrower, the sale of all or substantially all of the assets of the Borrower (or the equity interests of the Borrower) or any other restructuring of the Borrower’s business and operations, including any liquidation, bankruptcy or other insolvency proceeding in respect of the Borrower.

“**Sale Process**” means a Court-approved sale process in respect of substantially all of the Credit Parties’ assets.

“**Taxes**” has the meaning given thereto in Section 31.

“**Withholding Taxes**” has the meaning given thereto in Section 31.

[END OF SCHEDULE]

**SCHEDULE "B"**  
**CASH FLOW FORECAST**

*See attached.*

**SCHEDULE "C"**

**FORM OF ADVANCE REQUEST**

Date: \_\_\_\_\_, 2021

**Bank of Montreal**

6<sup>th</sup> Floor, 350 – 7<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 3N9

Attention: Director, SAMU  
Email: zachary.newman@bmo.com

Dear Sirs:

We refer to the Amended and Restated Interim Financing Agreement dated \_\_\_\_\_, 2021 between Tradesmen Enterprises Limited Partnership, as borrower, Tradesmen Enterprises Inc., as guarantor, and Bank of Montreal, as interim lender (as the same may be amended, renewed, extended, modified and/or restated from time to time, the "**Loan Agreement**"). Capitalized terms used herein have the same meaning as in the Loan Agreement. The undersigned is an officer of the general partner of the Borrower and is authorized to make and deliver this notice for and on behalf of the Borrower and its general partner pursuant to the Loan Agreement.

1. We hereby give notice of our request for an Advance pursuant to the Loan Agreement, the particulars of which are as follows:
  - (a) Drawdown Date: \_\_\_\_\_
  - (b) Amount: \_\_\_\_\_
  - (c) Payment Instructions (if any): \_\_\_\_\_
2. The undersigned hereby certifies that:
  - (a) the Advance requested by this Advance Request is consistent with the Cash Flow Forecast and is within the Maximum Amount;
  - (b) the Credit Parties are in compliance with the Interim Financing Credit Documentation and all Restructuring Court Orders; and
  - (c) each term of the Interim Lender Order are in full force and effect and have not been reversed, modified, stayed or amended.
3. All of the representations and warranties of the Credit Parties pursuant to the Interim Financing Credit Documentation are true and accurate in all material respects on the date hereof.

4. There exists no Default or Event of Default on the date hereof and no Default or Event of Default will occur as a result of the Advance requested by this Advance Request.
5. No Material Adverse Change has occurred since the date of the issuance of the Interim Lender Order.
6. No Liens rank in priority to the Interim Lender Charge.

Yours very truly,

**TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, by its general partner,  
Tradesmen Enterprises Inc., as Borrower**

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

This is Exhibit "I" referred to in the affidavit of

**ZACHARY NEWMAN**

---

Sworn before on April 6, 2021

A handwritten signature in blue ink, appearing to be 'Zachary Newman', written over a horizontal line.

(A Commissioner for Oaths  
in and for the Province of Alberta)

**TYLER J. FIDLER**  
**A Commissioner for Oaths**  
**in and for Alberta**  
**Student-At-Law, Notary Public**

COURT FILE NUMBER

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

APPLICANT

**BANK OF MONTREAL**

RESPONDENTS

**TRADESMEN ENTERPRISES LIMITED  
PARTNERSHIP, and TRADESMEN ENTERPRISES  
INC.**

DOCUMENT

**CONSENT RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Josef G.A. Kruger, Q.C. / Jack R. Maslen  
Borden Ladner Gervais LLP  
1900, 520 3<sup>rd</sup> Ave. S.W.  
Calgary, AB T2P 0R3  
Telephone: (403) 232-9563 / 9790  
Facsimile: (403) 266-1395  
Email: JKruger@blg.com / JMAslen@blg.com  
File No. 407500.000127

**DATE ON WHICH ORDER WAS PRONOUNCED:**

**APRIL 15, 2021**

**NAME OF JUSTICE WHO MADE THIS ORDER:**

**JUSTICE B.E.C. ROMAINE**

**LOCATION OF HEARING:**

**CALGARY, ALBERTA**

**UPON** the application of Bank of Montreal ("**BMO**") on April 6, 2021 (the "**Application**") in respect of each of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc. (collectively, the "**Debtor**"); **AND UPON** having read the Application, the Affidavit of Zachary Newman sworn on April 6, 2021 and filed, the Affidavit of Service of Jennifer Gorrie sworn on April \_\_\_\_, 2021 and filed, and the Fourth Report of KSV Restructuring Inc. ("**KSV**") in its capacity as proposal trustee, dated and filed on April 6, 2021, and such other pleadings filed in this action or in Alberta Court of Queen's Bench Action No. BK01-095189 (the "**NOI Proceedings**"); **AND UPON** noting the consent of the Debtor; **AND UPON** noting the consent of KSV to act as receiver and manager of the Debtor (in such capacity, the "**Receiver**"); **AND UPON** hearing from counsel for BMO, counsel for the Debtor, counsel for KSV, and any other counsel or interested parties present;



**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. The time for service of the Application is hereby abridged and deemed good and sufficient and this Application is properly returnable today.

**LIFTING OF NOI STAY**

2. The stay of proceedings provided for in the NOI Proceedings is hereby lifted *nunc pro tunc* to allow for the commencement of the within action and the Application.

**APPOINTMENT**

3. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), and section 13(2) of the *Judicature Act*, R.S.A. 2000, c.J-2, KSV is hereby appointed Receiver, without security, of all of the Debtor’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

**RECEIVER'S POWERS**

4. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver’s ability to abandon, dispose of or otherwise release any interest in any of the Debtor’s real property, or any right in any immovable assets;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:

- (i) without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$2,000,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required.

- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles shall accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person (as defined below).

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver’s request.
6. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
7. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in

possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body’s investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “**Regulatory Body**” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

#### **NO EXERCISE OF RIGHTS OF REMEDIES**

10. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the

Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

- (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
11. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

#### **NO INTERFERENCE WITH THE RECEIVER**

12. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Debtor and the Receiver, or leave of this Court.

#### **CONTINUATION OF SERVICES**

13. All persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
  - (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor

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 Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

14. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### **EMPLOYEES**

15. Subject to employees’ rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property

(each, a “Sale”). Each prospective purchaser or bidder 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 of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver’s appointment; or
  - (ii) after the Receiver’s appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver’s gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:
    - A. complies with the order, or



- B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
  - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
  - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, sections 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **RECEIVER'S ACCOUNTS**

19. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
20. The Receiver and its legal counsel shall pass their accounts from time to time.

21. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

22. The Receiver shall be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$2,500,000 at any time except as otherwise provided for in paragraph 27 below or as this Court may by further order authorize, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.
23. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
24. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule “A” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.
25. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.
26. The Receiver shall be allowed to repay any amounts borrowed by way of Receiver’s Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

27. The Receiver shall be allowed to increase the borrowings limit under paragraph 22 hereof, in \$500,000 increments, without further order of this Court, provided that (i) the Receiver prepares and files a report to the Court describing the need for increased borrowings, and (ii) serves such report on the service list maintained for these proceedings. Unless a Person files and serves on the Receiver a written Notice of Objection within 10 days of the service of the report, the Receiver shall be authorized and entitled to increase its borrowings by such a \$500,000 increment and the Receiver's Borrowings Charge shall be increased to the same extent. In the event that a Notice of Objection is filed and served on the Receiver, the Receiver's Borrowing Charge shall only be increased if so ordered by the Court upon application by the Receiver.

#### **CONTINUATION OF CHARGES AND PRIORITIES OF CHARGES**

28. Each of the Administration Charge, the Interim Financing Charge and the KERP Charge (each as defined in the orders granted in the NOI Proceedings) shall continue to constitute valid and enforceable charges on the Property.
29. The priority of the charges created in the NOI Proceedings (and continued by this Order) in relation to the Receiver's Charge and the Receiver's Borrowings Charge created hereunder, shall be as follows:
- (a) First - the Receiver's Charge;
  - (b) Second - the Administration Charge;
  - (c) Third - the Receiver's Borrowings Charge;
  - (d) Fourth - the Interim Financing Charge; and
  - (e) Fifth - the KERP Charge.

#### **ALLOCATION**

30. Any interested party may apply to this Court on notice to any other party likely to be affected, for an Order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

#### **AUCTION**

31. Notwithstanding any other provision of this Order, Ritchie Bros Auctioneers (Canada) Ltd. (the "**Liquidator**") is hereby authorized and directed to continue to perform its services under the liquidation services agreement ("**Liquidation Services Agreement**") entered into between the

Liquidator and the Debtor, as approved by this Honourable Court pursuant to the Order granted on March 16, 2021 in the NOI Proceedings (the “**Auction Order**”).

32. The Auction Order is hereby ratified and recognized in these proceedings and remains enforceable in all respects, except that references to the “Applicants” therein shall be read to mean the Receiver where the context requires.
33. Any proceeds arising from the Liquidation Services Agreement, the Auction Order and the transactions contemplated thereunder, which, but for the commencement of this action, would be payable to the Debtor shall be paid to the Receiver in accordance with the terms of this Order.

### **GENERAL**

34. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
35. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver’s reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
36. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor and the Receiver is hereby authorized to act as the trustee in bankruptcy of the Debtor.
37. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction to give effect to this Order and to assist the Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
38. The Receiver 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 Receiver 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.

39. The Plaintiff shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis, including legal costs on a solicitor-client full indemnity basis, to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
40. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

#### **FILING**

41. The Receiver shall continue to maintain its present website in respect of these proceedings at <https://www.ksvadvisory.com/insolvency-cases/case/tradesmen-enterprises> (the "**Receiver's Website**") and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publically available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
42. Service of this Order shall be deemed good and sufficient by:
- (a) serving the same on:
    - (i) the persons listed on the service list created in these proceedings or otherwise served with notice of these proceedings;
    - (ii) any other person served with notice of the application for this Order;
    - (iii) any other parties attending or represented at the application for this Order; and
  - (b) posting a copy of this Order on the Receiver's Website
- and service on any other person is hereby dispensed with.


43. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

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Justice of the Court of Queen's Bench of Alberta

CONSENTED TO THIS 5<sup>th</sup> DAY OF APRIL, 2021

LAWSON LUNDELL LLP

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

Alexis Teasdale  
Counsel to Tradesmen Enterprises Limited Partnership  
and Tradesmen Enterprises Inc.

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

44. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Tradesmen Enterprises Limited Partnership and Tradesmen Enterprises Inc. appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated the 15<sup>th</sup> day of April, 2021 (the "**Order**") made in action numbers [●], has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of [\$], being part of the total principal sum of \$2,500,000 that the Receiver is authorized to borrow under and pursuant to the Order.
45. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [**daily**] [**monthly not in advance on the ● day of each month**] after the date hereof at a notional rate per annum equal to the rate of [●] per cent above the prime commercial lending rate of Bank of [●] from time to time.
46. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
47. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].
48. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
49. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

50. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

KSV Restructuring Inc., solely in its capacity as  
Receiver of the Property (as defined in the Order),  
and not in its personal capacity

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