



EDC GUARANTEE Approval

SAMPLE OPERATING LINE MARGINED AGAINST FOREIGN INVENTORY

EFFECTIVE DATE: [Effective Date]

Reference No. 880-[insert transaction no.]

[Name of Institution]
[Address]
[City, Province, Postal Code]
[Canada]

Attention: [Name of Department]
Fax: [insert fax no.]

This Approval is issued in Ottawa, Ontario, by Export Development Canada ("EDC") to [Institution] (the "Institution"), with offices located in [City, Province], Canada in response to the Institution's request and it cancels, replaces and supersedes any Approvals specified in the Special Conditions below.

If the Institution has its headquarters in the province of Québec, Chapter XIII of the Civil Code of Québec applies to this Guarantee and all references to "Guarantee", "guarantor", "Guarantor" and "Guaranteed" in this Guarantee and any forms provided by EDC relating thereto, shall be replaced with "Suretyship", "surety", "Surety" and "Suretyship" respectively.

This Approval is subject to and incorporates the EDC Guarantee General Terms and Conditions Form No. 003.

THIS APPROVAL IS ISSUED WITH RESPECT TO THE FOLLOWING TRANSACTION(S) OF THE INSTITUTION:

- (a) Transaction(s):** A loan to the Obligor described as [facility name, number / other], in the principal amount of [Currency][Amount] made under the Transaction Agreement
- (b) Transaction Agreement:** The credit agreement dated [Date]
- (c) Obligor:** [Name], having offices located at [address]
- (d) Purpose:** The Transaction provides financing for certain working capital requirements of the Obligor and is margined against the Obligor's finished goods inventory located outside of Canada ("Foreign Inventory").

SPECIFIC INFORMATION REGARDING THE GUARANTEE IS AS FOLLOWS:

- (e) Guarantee Expiry Date:** [Date], unless otherwise agreed by EDC
- (f) Maximum Liability:** [Currency][Amount] (or the equivalent thereof in the currency of the Transaction, as determined by EDC) plus accrued and unpaid interest calculated at the Guaranteed Interest Rate for up to a maximum of one hundred and twenty (120) calendar days of accrued and unpaid interest.
- (g) Set-up Fee:** [Currency][Amount], payable within fifteen (15) Business Days of the date hereof

(h) Guarantee Fee(s): The Institution will pay Guarantee Fee(s) in the amount and on the dates set forth below provided however that no such Guarantee Fee(s) shall be payable after (i) the occurrence of a Guaranteed Event, or (ii) any termination in accordance with Section 21.

Guarantee Fee	Guarantee Fee Payment Date
[Currency][Amount]	[Date]

(i) Guarantee Fee Rate: [Rate] % per annum

(j) Guaranteed Percentage: [Percentage] %

(k) Guaranteed Event: A Payment Default

(l) Guaranteed Amount: Up to the lesser of (i) the Maximum Liability and (ii) the Guaranteed Percentage of the aggregate of: (x) the principal amount outstanding under the Transaction, excluding any principal amounts advanced after the Institution became aware of the occurrence of any Payment Default or any default under the Transaction Documentation other than a Payment Default, the consequence of which is a Material Adverse Effect, and (y) accrued and unpaid interest calculated at the Guaranteed Interest Rate on the amount in (x) up to a maximum of one hundred and twenty (120) calendar days of accrued and unpaid interest

(m) Guaranteed Interest Rate: (i) for amounts outstanding in Canadian Dollars: 0.5% less than the Prime Rate announced from time to time by the Institution or, if the Institution does not have a Prime Rate, 0.5% less than the average of the Prime Rates announced from time to time by any 3 of the following banks selected by EDC: Royal Bank of Canada, Bank of Montreal, Canadian Imperial Bank of Commerce, The Toronto-Dominion Bank, National Bank of Canada and The Bank of Nova Scotia, and (ii) for amounts outstanding in United States Dollars, Euro Dollars, Pounds Sterling or Australian Dollars: 1.0% less than the Base Rate announced from time to time by the Institution or, if the Institution does not have a Base Rate, 1.0% less than the average of the Base Rates announced from time to time by any 3 of the following banks selected by EDC: Royal Bank of Canada, Bank of Montreal, Canadian Imperial Bank of Commerce, The Toronto-Dominion Bank, National Bank of Canada and The Bank of Nova Scotia

(n) Primary Collateral: ¹Any collateral specified in the Transaction Documentation and not otherwise specified in this paragraph, whose proceeds of realization are applied or designated for application exclusively to the Transaction or to the Transaction before application to other transactions and the following collateral: all present and after-acquired Foreign Inventory of the Obligor, all proceeds therefrom and all rights related thereto

OR

²Any collateral specified in the Transaction Documentation and not otherwise specified in this paragraph, whose proceeds of realization are applied or designated for

¹ For use where Institution has security over Foreign Inventory

² For use where Institution has no security over Foreign Inventory, but has obtained a negative pledge from the Obligor. Must be used along with the Special Condition below for negative pledge scenarios.

application exclusively to the Transaction or to the Transaction before application to other transactions, all proceeds therefrom and all rights related thereto

Distribution Method: Primary Distribution Method

(o) Other Collateral: Without limiting the definition of Primary Collateral, any collateral specified in the Transaction Documentation and in any other agreement between the Institution and the Obligor which does not constitute Primary Collateral, all proceeds therefrom and all rights related thereto

Distribution Method: Other Distribution Method

(p) Primary Guarantees: Any guarantees, sureties, indemnities, letters of credit or similar instruments forming part of the Transaction Documentation and not otherwise specified in this paragraph, the payments under which are applied or designated for application exclusively to the Transaction or to the Transaction before application to other transactions and the following guarantees: of [list individual or corporate name of guarantor]

Distribution Method: Primary Distribution Method

(q) Other Guarantees: Any guarantees, sureties, indemnities, letters of credit or similar instruments forming part of the Transaction Documentation and in any other agreement between the Institution and the Obligor, which does not constitute Primary Guarantees.

Distribution Method: Other Distribution Method

(r) Special Distribution Method: Not applicable

(s) Address for Notices:

for the Institution:
[Name of Institution]
[Address]
[City, Province, Canada]
[Postal Code]
Attention: [Name of Department]
Fax: [insert fax no.]

for EDC:
Export Development Canada
150 Slater Street
Ottawa, Ontario, K1A 1K3
Attention: Loans Services – International Financing Guarantees
Phone: 613-598-2842
Fax: 613-598-2514
Or Email: IFG.loanservices@edc.ca
Cc:
Attention: Asset Management,
Fax: 613-598-3186
Or Email: IFG.assetmanagement@edc.ca

(t) Forms: The applicable forms are available in the Canadian Financial Institutions section of EDC’s website at www.edc.ca.

SPECIAL CONDITIONS:

In those cases where the Obligor or a Third Party Guarantor is incorporated under the laws of a jurisdiction other than Canada or any province thereof or any state of the United States of America and/or any Transaction Documentation is governed by the laws of a jurisdiction other than a province of Canada or a state of the United States of America, the Institution shall be deemed to have met the standard of care referred to in section 4.(4)(i) of the General Terms and Conditions, if it has relied entirely on the opinion of external legal counsel.

³The Institution confirms (i) that it has obtained a representation from the Obligor that no security interests, liens or encumbrances have been granted to any person in relation to the Foreign Inventory or proceeds related thereto and (ii) the Obligor has agreed not to grant any security interests, liens or encumbrances to any person in relation to the Foreign Inventory or proceeds related thereto without the consent of the Institution and (iii) its understanding that the granting by the Institution of any such consent referred to in (ii) without the prior written consent of EDC shall constitute an amendment to the Transaction Documentation the resulting consequence of which is a Material Adverse Effect under exclusion 4.(9) of the Guarantee.

EXPORT DEVELOPMENT CANADA

Date: [Effective Date]

Electronic signatures shall be deemed to constitute originals.

³ For use where Institution has no security over Foreign Inventory, but has obtained a negative pledge from the Obligor. Must be used along with the Primary Collateral above for negative pledge scenarios.



EDC GUARANTEE General Terms and Conditions

DEFINITIONS

Definitions

1. In this Guarantee, capitalized terms have the meanings ascribed to them below or in the Approval, unless otherwise indicated.

"**Approval**" means the approval issued by EDC that incorporates these General Terms and Conditions and sets out the details of this Guarantee, together with any Special Conditions that add to, or supersede any of these General Terms and Conditions.

"**Australian Dollars**" and "**AUD**" each mean the lawful currency of Australia.

"**Base Rate**" means a fluctuating annual reference rate of interest used for the determination of the interest rate to be charged to Canadian commercial customers of varying degrees of creditworthiness borrowing United States Dollars in Canada, as announced from time to time by a bank.

"**Business Day**" means any day excluding Saturday, Sunday and any other day on which banks are closed for business in Toronto or Montreal, Canada and with respect to amounts in United States Dollars, New York, New York, United States of America.

"**Canadian Dollars**" and "**CAD**" each mean the lawful currency of Canada.

"**Claim Expiry Date**" means the date falling one hundred and twenty (120) calendar days after the Guaranteed Event unless otherwise extended pursuant to Section 11.

"**Collateral**" means all Primary Collateral and all Other Collateral.

"**Declaration**" means a completed document executed by the Obligor and delivered to EDC.

"**Demand**" means a demand by the Institution for payment by EDC under this Guarantee.

"**Demand Details Form**" means a document executed by the Institution in the form provided by EDC.

"**Distribution Method**" means the Primary Distribution Method, the Other Distribution Method or any Special Distribution Method specified in the Approval.

"**EDC Acquired Rights**" means the rights under the Transaction Documentation that accrue to EDC upon payment by it under this Guarantee.

"**Effective Date**" means the date set forth on the first page of the Approval.

"**Enforcement Plan**" means the general proposed course of action with respect to the enforcement and preservation of rights under the Transaction Documentation other than the Institution Rights.

"**Euro Dollars**" and "**EUR**" each mean the lawful currency of the member states of the Economic and Monetary Union of the European Union.

"**First Prior Charge**" means the highest obtainable registered perfected or published security interest or hypothec in respect of the Collateral in the relevant jurisdiction by a secured creditor acting prudently in similar circumstances, together with all necessary subordination or cession of rank or other intercreditor agreements required to create a first prior security interest against all prior registered secured creditors.

"Guarantee" means these General Terms and Conditions together with the Approval and any annexes, schedules and amendments thereto.

"Indemnity" means a document which may be executed by EDC in the form provided by EDC.

"Institution Rights" means the rights, obligations and interests of the Institution under transactions other than the Transaction that may be part of the Transaction Documentation.

"Material" means:

- (i) when used to qualify a default, any default which indicates or results from a material adverse change in (1) the financial condition or business of the Obligor or any Third Party Guarantor, (2) the ability of the Obligor or any Third Party Guarantor to perform its obligations under the Transaction Documentation, or (3) the rights and remedies available to the Institution under the Transaction Documentation;
- (ii) when used to qualify the reporting as to the Enforcement Plan, any actions which are not technical or administrative in nature and include (1) the appointment of a receiver, receiver-manager, monitor or other similar professional, (2) the identification and valuation of the Collateral, including the identification of potential buyers for the Collateral, (3) the sale or lease of any Collateral, (4) the receipt and/or application of any Recovered Amounts, (5) the receipt or delivery by the Institution of any communication in respect of the EDC Acquired Rights, (6) the release, subordination or discharge of any Security, (7) any settlement with any creditor or with respect to any Collateral, or (8) the initiation or participation in any bankruptcy, insolvency, reorganization or similar proceedings.

"Material Adverse Effect" means an increase in the risk that EDC would be required to make a payment under this Guarantee and/or not be able to recover the amount claimed under this Guarantee from the Obligor, Third Party Guarantors or any other person under the Transaction Documentation or realize on the Collateral after payment under this Guarantee, provided that if EDC and the Institution disagree as to the occurrence of a Material Adverse Effect, such determination shall be settled by the courts referred to in Section 35.

"Non-Guaranteed Percentage" means the difference between 100% and the applicable Guaranteed Percentage.

"Notice of Demand" means a completed document executed by the Institution in the form provided by EDC.

"Notice of Intent to Enforce" means a completed document executed by the Institution in the form provided by EDC.

"Other Distribution Method" means a distribution of amounts in the following order after deduction therefrom of the related reasonable costs of acceleration and enforcement, if any and of any amounts required to be paid in respect of statutory liens, deemed trusts, garnishment rights or other unregistered priority claims:

- (i) first, to the Institution for all indebtedness of the Obligor to the Institution under the Transaction Documentation other than the indebtedness of the Obligor under the Transaction, subject to any limitations specified in the Approval;
- (ii) then, on a pari passu basis, to EDC the applicable Guaranteed Percentage of such amounts and to the Institution, the applicable Non-Guaranteed Percentage of such amounts until EDC has been paid in full in respect of the Guaranteed Amount; and
- (iii) thereafter, but subject to the rights of any other person legally entitled thereto, to the Institution for any other indebtedness owing by the Obligor to the Institution.

"Payment Default" means a failure on the part of the Obligor to make payment to the Institution of all or part of amounts owing under the Transaction, when due, whether at stated maturity, mandatory prepayment, upon acceleration or by reason of bankruptcy, insolvency, winding up, liquidation, dissolution or any similar proceeding.

"Pounds Sterling" and **"GBP"** each mean the lawful currency of the United Kingdom.

"Primary Distribution Method" means a distribution of amounts in the following order after deduction therefrom of the related reasonable costs of acceleration and enforcement, if any and of any amounts required to be paid in respect of statutory liens, deemed trusts, garnishment rights or other unregistered priority claims:

- (i) first, on a pari passu basis, to EDC, the applicable Guaranteed Percentage of such amounts and to the Institution, the applicable Non-Guaranteed Percentage of such amounts, until EDC has been paid in full in respect of the Guaranteed Amount; and
- (ii) then, but subject to the rights of any other person legally entitled thereto, to the Institution for any other indebtedness owing by the Obligor to the Institution.

"Prime Rate" means a fluctuating annual reference rate of interest used for the determination of the interest rate to be charged to Canadian commercial customers of varying degrees of creditworthiness borrowing Canadian Dollars in Canada, as announced from time to time by a bank.

"Rank of Charge" means a First Prior Charge subject to (i) statutory liens, deemed trusts, garnishment rights and other unregistered priority claims and (ii) any permitted liens or other exceptions specified in the Approval.

"Recovered Amounts" means any proceeds of realization of Collateral and any payments under any credit agreement and any Third Party Guarantees.

"Residual Loss" means the Guaranteed Amount minus EDC's share of the Recovered Amounts calculated in accordance with Section 17.

"Release" means a completed document executed by the Institution in the form provided by EDC.

"Security" means all Third Party Guarantees and/or all security interests or hypothecs in the Collateral, as the context may require.

"Subrogation and Release" means a document executed by EDC and the Institution in the form provided by EDC or in such other form as may be mutually satisfactory to EDC and the Institution.

"Third Party Guarantees" means all Primary Guarantees and all Other Guarantees.

"Third Party Guarantor(s)" means any and all providers of Third Party Guarantees.

"Transaction Documentation" means all documentation evidencing the Transaction and the Security, including the Transaction Agreement.

"United States Dollars" and **"USD"** each mean the lawful currency of the United States of America.

"Waiver" means each document executed by any Third Party Guarantor in the form provided by EDC.

GUARANTEE

- Guarantee**
2. In consideration of the fees payable hereunder by the Institution and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and subject to the terms and conditions of this Guarantee, EDC hereby unconditionally and irrevocably guarantees payment to the Institution of the obligations under the Transaction, up to the Guaranteed Amount (notwithstanding

article 2344 of the Civil Code of Québec if the Institution's headquarters are in the province of Québec), in the event of the occurrence of a Guaranteed Event.

Effectiveness 3. This Guarantee is effective as of the Effective Date.

EXCLUSIONS

Uncurable 4. EDC shall not be liable to pay any part of the Guaranteed Amount where any of the following has occurred, unless otherwise agreed by EDC:

- (1) the Guaranteed Event occurs prior to the Effective Date;
- (2) (i) the Guaranteed Event occurs after the Guarantee Expiry Date, or any earlier termination in accordance with Section 21, or (ii) if the Guaranteed Event is as a result of the failure to pay pursuant to an acceleration notice, the Institution has not demanded payment from the Obligor prior to the Guarantee Expiry Date or any earlier termination in accordance with Section 21;
- (3) the Institution has not fulfilled the requirement of Section 5.(1) hereof prior to the Claim Expiry Date;
- (4) (i) the Institution has failed to meet its normal standard of care, applicable at the time the Approval is issued, for comparable transactions not guaranteed by EDC in ensuring that the Transaction Documentation is legal, valid, binding and enforceable and (ii) the Security does not create the Rank of Charge in the Collateral specified in the Approval;
- (5) the Institution has failed to meet its normal standard of care, applicable at the time the Approval is issued, for comparable transactions not guaranteed by EDC in administering and preserving its rights under the Transaction Documentation and the resulting consequence of such failure is a Material Adverse Effect;
- (6) the Institution has failed to meet its normal standard of care, for comparable transactions not guaranteed by EDC in enforcing (to the extent it is required or permitted to do so hereunder) its rights and remedies under the Transaction Documentation against the Obligor, Third Party Guarantors and the Collateral and the resulting consequence of such failure is a Material Adverse Effect;
- (7) the Institution has released, subordinated or discharged any part of the Security, or permitted any of the foregoing to occur (other than the release or discharge of the Collateral required for the purpose of the sale or disposition thereof in connection with the enforcement and realization, by the Institution, against the Collateral);
- (8) the Institution has incurred any obligation or made any advance under or in respect of any part of the Transaction prior to the satisfaction of all conditions precedent applicable thereto other than such conditions precedent which are waived by the Institution acting in accordance with its normal standard of care for comparable transactions not guaranteed by EDC;
- (9) the Institution has amended the Transaction Documentation and the resulting consequence is a Material Adverse Effect;
- (10) the Institution has waived any Payment Default;
- (11) the Institution has waived any default under the Transaction Documentation other than a Payment Default and the resulting consequence is a Material Adverse Effect;
- (12) the Institution has not paid the Guarantee Fee(s) or the Set-up Fee, to the extent due, as set forth in the Approval.

EDC's review of any part of the Transaction Documentation prior to the issuance of the Approval shall not constitute a confirmation that exclusion (4) above has not occurred.

PAYMENT BY EDC

- Demand** 5. (1) To make a Demand, the Institution shall, deliver to EDC prior to the Claim Expiry Date: (i) a Notice of Demand or a Notice of Intent to Enforce (ii) a duly completed Demand Details Form with all required supporting documents attached thereto, (iii) a duly executed Subrogation and Release, to be effective simultaneously with the successful transfer of payment by EDC to the Institution of the Guaranteed Amount and (iv) an Enforcement Plan (except in the case where a Notice of Intent to Enforce has been delivered to EDC pursuant to Section 11). The applicable forms are available in the Canadian Financial Institutions section of EDC's website at www.edc.ca.
- Payment** (2) EDC shall not be liable to pay any part of the Guaranteed Amount until thirty (30) calendar days after the satisfaction of the provisions of Subsection 5.(1).
- Condition** (3) Unless prohibited by applicable law, the Institution is required to demand payment from the Obligor and all Third Party Guarantors before making a Demand.
- Reductions** 6. EDC may deduct from the Guaranteed Amount payable by EDC the Guaranteed Percentage of any amount received by the Institution before the date of payment by EDC that would, in the normal course, be applied to reduce the obligations owing under the Transaction.

INSTITUTION'S OBLIGATIONS

- Covenants** 7. The Institution shall:
- Information** (1) at the request of EDC, and subject to any restrictions affecting the Institution, provide EDC with all information and documents with respect to any matter relevant to this Guarantee which the Institution has in its possession and take all reasonable steps to allow EDC to obtain from any third party related to the Transaction any such information and documents which the Institution does not have in its possession;
- Environment** (2) notify EDC promptly upon becoming aware of any environmental claim, notice or order against the Obligor;
- Default** (3) notify EDC promptly upon becoming aware of the occurrence of any of the following and of the action the Institution is contemplating in respect thereof: (i) any Payment Default, (ii) any default under the Transaction Documentation other than a Payment Default, the consequence of which is a Material Adverse Effect, or (iii) any payment default or any other Material default under any other agreement between the Institution and the Obligor or any Third Party Guarantor; and
- (4) notify EDC promptly upon transferring the Transaction to its special loans or work out division.

FEES

- Set-Up Fee** 8. The Institution will pay to EDC the Set-Up Fee indicated in the Approval.
- Guarantee Fee** 9. The Institution will pay to EDC the Guarantee Fee(s) indicated in the Approval.
- Late Fees** 10. The Institution will pay interest to EDC on any overdue fees hereunder at the annual rate equal to the Guarantee Fee Rate plus 2%, computed from the due date and compounded monthly on the last day of each month until payment in full.

NOTICE OF INTENT TO ENFORCE

Notice of Intent to Enforce

11. Notwithstanding anything to the contrary herein, prior to making a Demand hereunder, the Institution may choose, upon the occurrence of a Guaranteed Event but no later than the Claim Expiry Date, to notify EDC of its intent to enforce and exercise all rights and remedies of the Institution under the Transaction Documentation against the Obligor, the Third Party Guarantors and the Collateral, by delivering a Notice of Intent to Enforce. Upon receipt of the Notice of Intent to Enforce, the Claim Expiry Date shall automatically be extended to the date falling one hundred and twenty days (120) calendar days after the date upon which the Institution has exercised all of its rights and remedies under the Transaction Documentation against the Obligor, the Third Party Guarantors and the Collateral. Prior to making a Demand hereunder, the Institution shall calculate the Residual Loss.

CURRENCY AND PLACE OF PAYMENT

- Currency** 12. (1) All payments by EDC to the Institution hereunder shall be made in the currency of the Transaction to the account indicated in the Demand Details Form.
- (2) All payments by the Institution to EDC hereunder shall be made in the currency of the Transaction, unless otherwise indicated in the Approval, to the accounts below or to such other accounts as EDC may notify the Institution. Each payment shall specify the Reference No. of the Approval.
- CAD Account** 13. (1) Payments to EDC in Canadian Dollars shall be made to Royal Bank of Canada, 90 Sparks Street, Ottawa, Ontario, Canada, K1P 5T6, for the credit of Export Development Canada, SWIFT Code ROYCCAT2, institution number 003, transit number 00006, account number 1070481.
- USD Account** (2) Payments to EDC in United States Dollars shall be made to Citibank, N.A., 111 Wall Street, New York, New York 10043, U.S.A. for the credit of Export Development Canada, ABA number 021000089, SWIFT CITIUS33, account number 36236357.
- EUR Account** (3) Payments to EDC in Euro Dollars shall be made to Bank of America, P.O. Box 407, 5 Canada Square, London, UK, E14 5AQ for the credit of Export Development Canada, IBAN number GB36 BOFA 1650 5045 4470 27, SWIFT BOFAGB22, account number 6008 45447027.
- GBP Account** (4) Payments to EDC in Pounds Sterling shall be made to Bank of America, P.O. Box 407, 5 Canada Square, London, UK, E14 5AQ for the credit of Export Development Canada, IBAN number GB58 BOFA 1650 5045 4470 19, SWIFT BOFAGB22, Sort Code 16 50 50, account number 6008 45447019.
- AUD Account** (5) Payments to EDC in Australian Dollars shall be made to Bank of America, P.O. Box 407, 5 Canada Square, London, UK, E14 5AQ for the credit of Export Development Canada, IBAN number GB89 BOFA 1650 5045 4470 43, SWIFT BOFAGB22, account number 6008 45447043, Cover at Bank of America, Sydney, SWIFT BOFAAUSX.

MAXIMUM LIABILITY

Maximum Liability

14. EDC's maximum liability under this Guarantee is in all events limited to the Maximum Liability.

RECOVERY

Subrogation

15. EDC shall be immediately subrogated to all rights, title and interest of the Institution under the Transaction Documentation (but not its obligations) upon, and to the extent of, its payment in full of

the Guaranteed Amount to the Institution. If the Institution's headquarters are in the province of Québec, such subrogation is pursuant to article 1651 of the Civil Code of Québec and notwithstanding the terms of article 1658 of the Civil Code of Québec.

The Institution agrees to execute a Subrogation and Release with respect to the EDC Acquired Rights, and upon request by EDC, an assignment of the EDC Acquired Rights. For greater certainty, EDC shall not be subrogated into or request an assignment of any Institution Rights.

- Enforcement**
16. (1) The Institution shall take, without requirement for prior consultation with EDC, emergency and routine actions to preserve rights under the Transaction Documentation in accordance with its normal standard of care for comparable transactions not guaranteed by EDC.
- (2) EDC shall not be liable to pay any part of the Guaranteed Amount until receipt by EDC of an Enforcement Plan acceptable to EDC. Upon receipt of EDC's consent to such Enforcement Plan the Institution shall implement such Enforcement Plan in accordance with its normal standard of care for comparable transactions not guaranteed by EDC and the Institution shall deliver a report to EDC on a bi-weekly or other basis agreed by the parties detailing specific Material actions taken in accordance with the Enforcement Plan. If EDC and the Institution cannot agree on the Enforcement Plan, the assistance of the courts referred to in Section 35 may be sought or EDC may exercise its rights under Subsection (4). The Institution shall obtain EDC's consent to any change to the Enforcement Plan. For greater certainty, the Institution shall not obtain EDC's consent to any course of action concerning enforcement action in respect of the Institution Rights.
- (3) Subsection 16.(2) is not applicable where the Institution has delivered to EDC a Notice of Intent to Enforce pursuant to Section 11. In the event that the Institution has delivered to EDC a Notice of Intent to Enforce pursuant to Section 11, the Institution shall enforce all rights and remedies under the Transaction Documentation against the Obligor, Third Party Guarantors and the Collateral in accordance with its normal standard of care for comparable transactions not guaranteed by EDC and the Institution shall deliver a report to EDC when it has taken Material actions but in any event no less than semi-annually.
- (4) EDC may, at any time after or concurrently with payment of the Guaranteed Amount:
- (i) take or retain a third party to take, any enforcement action in respect of the EDC Acquired Rights provided that EDC or such third party shall cooperate with the Institution to ensure an orderly realization of the Security; or
 - (ii) direct the Institution to take any reasonable enforcement action within the reasonable capabilities of the Institution in respect of the EDC Acquired Rights, provided that EDC executes and delivers the Indemnity.

Distribution of Proceeds

17. (1) Any Recovered Amounts shall be held in trust by the Institution or EDC, as the case may be, and promptly distributed in accordance with the Distribution Method(s) specified in the Approval. Any amounts received by the Institution or EDC which cannot be identified specifically as amounts payable by the Borrower or any Third Party Guarantors in connection with the Transaction or as amounts derived from the realization of Primary Collateral or Other Collateral (including amounts which derive from realization by way of a sale of all or substantially all of a party's assets, including the sale of a party's business as a going concern), despite the Institution's commercially reasonable efforts in the circumstance, shall be held in trust by the Institution or EDC, as the case may be, and promptly distributed proportionately to each of the Transaction and other transactions between the Institution and the Obligor, with the portion of the proceeds allocated to the Transaction then distributed in accordance with the Primary Distribution Method.
- (2) Any amounts other than Recovered Amounts (if applicable) that would, in the normal course, be applied in full or in part to reduce the exposure under the Transaction, shall be held in trust

by the Institution or EDC, as the case may be, and promptly distributed proportionately to each of the Transaction and other transactions between the Institution and the Obligor, with the portion of the proceeds allocated to the Transaction then distributed in accordance with the Primary Distribution Method.

- (3) In the case of (1) and (2) above, if EDC has not already paid the Institution under a Demand, such amounts shall be applied by the Institution to reduce the indebtedness owed to it in respect of the Transaction, with a corresponding reduction in the amount of the Guaranteed Amount, with any amounts received in excess of the Guaranteed Amount to be applied as the Institution decides, in its sole discretion.

Recovery Costs 18. All acceleration and enforcement costs shall be recovered in accordance with the applicable Distribution Method. Where Recovered Amounts are insufficient to cover the related costs of acceleration and enforcement, such costs shall be shared proportionately by EDC and the Institution based on the ratio of the Guaranteed Amount to the total outstanding principal and interest under all exposure of the Institution to the Obligor secured by the Collateral and/or Third Party Guarantees or such other ratio as may be agreed by the parties.

Claw Back 19. Each of the Institution and EDC agree that the other party may take any action to recover any payment that was paid by the other when not due and payable hereunder.

MISCELLANEOUS

Contribution 20. The obligations of EDC hereunder are not joint with any other guarantor. If the Institution's headquarters are in the province of Québec, EDC renounces the right to invoke the benefit of division or discussion as it may have pursuant to the Civil Code of Québec. The Institution shall obtain a Waiver from any new Third Party Guarantors obtained after this Guarantee becomes effective upon execution of any such Third Party Guarantees and promptly provide a copy thereof to EDC. The Institution shall indemnify EDC for any cost, loss and/or damages to EDC resulting directly or indirectly from the Institution's failure to obtain any Waiver.

Early Termination 21. EDC may terminate its obligations under this Guarantee ten (10) Business Days after notice thereof to the Institution, if the Institution fails to comply with the provisions of Sections 8 or 9 and such failure is not cured within such notice period. Such termination shall not apply in respect of any Guaranteed Event which has taken place prior to such notice by EDC. The termination provision contained in this Subsection is effective notwithstanding the terms of article 2364 of the Civil Code of Québec if the Institution's headquarters are in the province of Québec.

Interest Calculation 22. All interest calculations hereunder using Prime Rate as a reference rate will be calculated on the basis of the actual number of days elapsed divided by 365 (366 days in the case of a leap year). All interest calculations using Base Rate as a reference rate will be calculated on the basis of the actual number of days elapsed divided by 360. For purposes of the *Interest Act* (Canada), where in this Guarantee (i) a rate of interest is to be calculated on the basis of a year of 360 days, the yearly rate of interest to which the 360 day rate is equivalent is such rate multiplied by the number of days in the year for which such calculation is made and divided by 360, or (ii) a rate of interest is to be calculated during a leap year, the yearly rate of interest to which such rate is equivalent is such rate multiplied by 366 and divided by 365.

Declarations 23. The Institution shall notify EDC promptly upon learning that any part of a Declaration is or has become incorrect and agrees, upon EDC's notification, to suspend or terminate any Transaction, on such terms as EDC may advise, if any Declaration is or becomes materially false, if the Obligor fails to provide evidence substantiating the truth of the Declaration to EDC upon request, or if the Obligor fails to comply with any other requirement of the Declaration.

Time Periods 24. In the calculation of any time period hereunder, the first day of such period shall be included in the calculation and the last day of such period shall not be included. Any payments due on a day other than a Business Day shall be deemed to be due on the next succeeding Business Day.

- Expiry** 25. (1) The Institution recognizes that the Guarantee Expiry Date applies notwithstanding: (i) any outstanding obligations under the Transaction at such date, and (ii) article 2364 of the Civil Code of Québec if the Institution's headquarters are in the province of Québec.
- (2) Renewal or extension of this Guarantee will only be considered upon written request by the Institution and will be subject to EDC's internal authorization processes. Any reminder received by the Institution from EDC advising the Institution of an upcoming expiry of this Guarantee shall not be construed as an agreement express or implied to renew or extend the stated term of this Guarantee.
- (3) No payment of fees by the Institution to EDC shall be construed as an agreement, express or implied, to amend or extend the stated term of this Guarantee nor will any such payment create any new liability for EDC. EDC will return any fee overpayment to the Institution upon written request, without interest.
- Waiver of Conditions** 26. EDC may waive, with or without conditions, any term or condition for its benefit in this Guarantee.
- Disclosure** 27. Any obligation of EDC to maintain confidentiality of the matters contained herein or in the Approval shall be subject to the requirements of applicable law, regulation or legal process and Canada's and/or EDC's international commitments. Further, the Institution agrees to EDC's disclosure, following the signing of this Guarantee, of: the name of the Institution, the EDC financial service provided and date of related agreement, a general description of the transactions/project (including country), the amount of EDC support in an approximate dollar range, and the name of the Canadian supplier.
- No Representation** 28. The Institution makes no representation as to the completeness, accuracy or reliability of any information provided to EDC in any credit write-up of the Institution, under the section entitled "Exporter Profile" of any form of application for this Guarantee or under Subsection 7.(1) and provides such information to EDC solely as a form of assistance to EDC in order that EDC may conduct its own due diligence in regard to the Obligor and the Transaction in a timely fashion. Statements of opinion in any of the foregoing information, whether of the Institution or of others, cannot be relied upon in any manner and no action, whether in contract or in tort, will lie against the Institution or others in respect of the foregoing information or the use to which any of it may be put.
- Costs /Expenses** 29. Subject to Section 18, each party shall be responsible for its costs incurred in respect of the negotiation, execution and administration of this Guarantee, including in respect of all documents or information to be provided by either of the parties hereunder.

GENERAL

- Notice** 30. Every notice, demand, request, consent, approval, waiver or agreement to be given or made hereunder shall be in writing and shall be delivered to the other party by hand, sent by mail or transmitted by electronic mail or fax and shall be deemed to have been given and received: if delivered by hand, upon delivery; if sent by mail, on the earlier of the actual receipt and seven (7) days after posting; and if transmitted by electronic mail or fax, on the earlier of the actual receipt and two (2) days following the date of transmission; in each case excluding Saturdays and Sundays and those statutory holidays on which the offices of EDC and the Institution are normally closed for business. The mailing addresses and electronic mail (if any) and fax numbers of EDC and the Institution for such purposes shall be those specified in the Approval or such other address or electronic mail or fax number as EDC or the Institution may from time to time notify the other party in writing.
- Entire Agreement** 31. This Guarantee constitutes the entire understanding among the parties hereto with respect to the subject matter hereof and supersedes any and all prior agreements or understandings, written or oral, with respect thereto.

- Assignment** 32. This Guarantee will enure to the benefit of and be binding on the parties hereto and their respective successors and permitted assignees. Neither party will transfer its rights and obligations under the Transaction Documentation and this Guarantee without the other party's prior written consent, which it may grant or withhold in its sole discretion, with or without conditions. In the event that the Institution takes any such action without EDC's consent as aforesaid, EDC's obligations under this Guarantee will be terminated. For greater certainty, this Section does not apply to the transfer of any Institution Rights.
- Severability** 33. If any provision of this Guarantee or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Guarantee and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Guarantee shall be separately valid and enforceable to the fullest extent permitted.
- Interpretation** 34. The marginal notes and headings in this Guarantee have been inserted for convenience of reference only and do not form part of this Guarantee, and shall not be referred to in the interpretation of this Guarantee. All references herein to "Section", "Subsection", "herein", "hereunder" and similar terms, shall relate to this Guarantee. Unless the context requires otherwise, the singular shall include the plural and vice versa.
- Governing Law** 35. If the Institution's headquarters are outside the province of Québec, this Guarantee shall be governed by the laws of the province of Ontario and by the laws of Canada as applicable therein. The parties submit to the non-exclusive jurisdiction of the Courts of Ontario.
- If the Institution's headquarters are in the province of Québec, this Guarantee shall be governed by the laws of the province of Québec and by the laws of Canada as applicable therein. The parties submit to the non-exclusive jurisdiction of the Courts of Québec.
- Language** 36. The parties hereto have expressly required that this Guarantee and all document, agreements, correspondence and notices related thereto be drafted in the English language. Les parties aux présentes ont expressément requis que le présent contrat et tous les autres documents, conventions, correspondance ou avis qui y sont afférents soient rédigés en langue anglaise.

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