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SHARE PURCHASE AGREEMENT

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

AND

1210565 B.C. LTD.

DATED FOR REFERENCE AS OF THE 11TH DAY OF JULY, 2019

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SHARE PURCHASE AGREEMENT

THIS SHARE PURCHASE AGREEMENT dated for reference as of the 11th day of July, 2019 is made,

BETWEEN:

Her Majesty The Queen in Right of Canada

(the “Vendor”)

AND:

1210565 B.C. LTD.

(the “Purchaser”)

WHEREAS:




- A. The Vendor is the registered and beneficial owner of 2,000 Common shares, 900,997 Non-cumulative Redeemable Class A Preference Shares and 100,089 Non-cumulative Redeemable Class B Preference Shares of the Corporation (together, the “Shares”), being all of the issued and outstanding shares of the Corporation as of the date hereof;
- B. The Purchaser is willing to purchase and the Vendor is willing to sell 1,800 Common shares of the Corporation (the “Purchased Shares”), being 90% of the issued and outstanding Common shares of the Corporation, on and subject to the terms and conditions contained in this Agreement;
- C. Concurrently herewith, the Principals, by way of the Principals’ Guarantee (as defined below), have guaranteed certain obligations of the Purchaser under this Agreement;
- D. Prior to the Closing, the Vendor will complete the Pre-Closing Transactions, including the redemption of 900,997 Non-cumulative Redeemable Class A Preference Shares and 100,089 Non-cumulative Redeemable Class B Preference Shares of the Corporation; and
- E. Concurrently with Closing, and in accordance with the Sales Support Agreement, (i) the Vendor will transfer 200 Common shares of the Corporation (the “Minority Shares”), being 10% of the issued and outstanding Common shares of the Corporation, to an entity (the “SPV”) owned, directly or indirectly, by Lax Kw’alaams and Metlakatla, [REDACTED] [REDACTED] the Corporation will enter into the Benefits Agreement with the Lax Kw’alaams and Metlakatla.

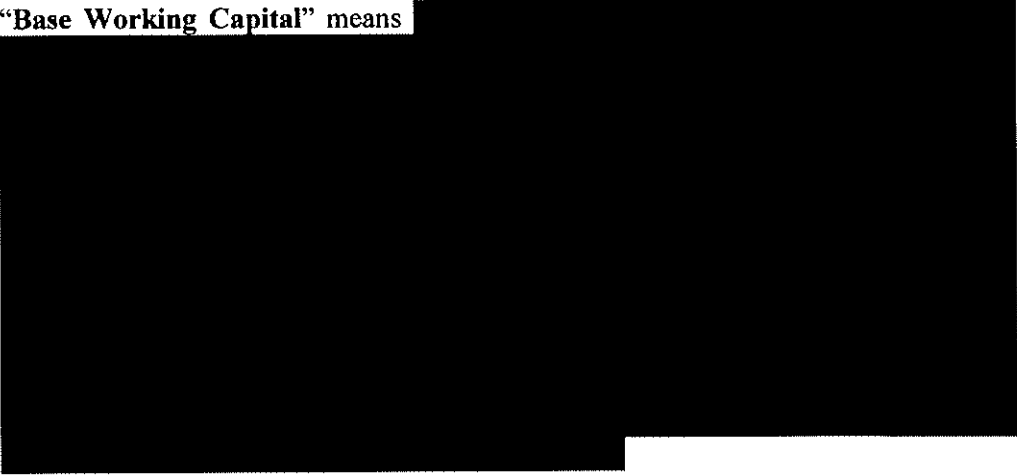
NOW THEREFORE for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party, the Parties agree as follows:

**PART 1
INTERPRETATION**

1.1 Definitions.

In this Agreement:

- (a) 
- (b) 
- (c) 
- (d) **"Affiliate"** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to "control" another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term "controlled" shall have a similar meaning, and for greater certainty, in respect of the Vendor or the Corporation (up until Closing), "Affiliate", "control", and "controlled" will be defined in accordance with Part X of the FAA;
- (e) **"Agreement"** means this Share Purchase Agreement and all the Schedules and Exhibits attached hereto or delivered concurrently herewith, including the Disclosure Letter and the Employee List;
- (f) **"Alternative Financing"** has the meaning set out in Section 4.7(a);
- (g) **"Applicable Anti-Corruption and Sanction Laws"** means the *Corruption of Foreign Public Officials Act* (Canada) or other similar anti-corruption laws of other jurisdictions applicable to the Corporation or the Business, including any regulations promulgated thereunder;
- (h) **"Applicable Sanction Laws"** means the *Special Economic Measures Act* (Canada), the *Freezing Assets of Corrupt Foreign Public Officials Act* (Canada), United Nations sanction resolutions, and other similar anti-corruption laws, export restrictions, or embargo regulations applicable to the Corporation or the Business, including any regulations promulgated thereunder;
- (i) **"Applicable Law"** means, in relation to the Business or any Person, transaction or event, all applicable provisions of laws, statutes, rules, regulations, official directives, published guidelines, standards, codes of practice (regardless of whether such guidelines, standards and codes of practice have been promulgated by statute or regulation) and Orders issued by any Governmental Authority by which such Business or Person is bound or having application to the transaction or event in question, as at the relevant time;

- (j) **“Assets”** means all of the assets, real and personal, tangible and intangible of the Corporation, excluding the Crown Records;
- (k) **“Base Price”** means \$350,000,000.00;
- (l) **“Base Working Capital”** means A large black rectangular redaction box covers the definition of "Base Working Capital".
- (m) **“Benefit Plans”** means all material employee benefit plans, agreements, programs, policies, practices, material undertakings and arrangements (whether oral or written, formal or informal, funded or unfunded) maintained for, available to or otherwise relating to any Employees, directors or officers or former employees, directors or officers of the Corporation, or any spouses, dependents or survivors of any Employee or former employee of the Corporation in respect of which the Corporation is a party to or bound by or is obligated to contribute or in any way liable, whether or not insured or whether or not subject to any Applicable Law, including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits including medical or dental treatment or expenses, life and other insurance including accident insurance, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, equity or equity-based compensation, change of control benefits, profit-sharing, mortgage assistance, employee loan, employee assistance and pension, retirement and supplemental retirement plans (including any defined benefit or defined contribution Pension Plan and any group registered retirement savings plan), and supplemental pension, except that the term “Benefit Plans” shall not include any statutory plans with which the Corporation is required to comply, including the Canada Pension Plan, Québec Pension Plan and plans administered under applicable provincial health tax, workers’ compensation, workplace health and safety and employment insurance legislation;
- (n) **“Benefits Agreement”** means the benefits agreement to be entered into by the Corporation, Lax Kw’alaams, and Metlakatla concurrently with the Closing, substantially in the form labelled as Exhibit A in the Closing Documents Folder;
- (o) **“Books and Records”** means the Financial Statements and all other material books, records, files and papers pertaining to the Business in the possession or control of the Corporation, but excluding the Crown Records;
- (p) **“Buildings”** means plants, buildings, structures, erections, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment);



- (q) “**Buildings Used in the Business**” means all Buildings situated on the Terminal Lease Area and the Easements Areas that are or will be used by the Corporation in the Current Business and the LPG Business;
- (r) “**Business**” means the business and undertaking carried on by the Corporation, being principally the operation of the Terminal with rail car loading and unloading, product storage and vessel loading and unloading services, as conducted as of the Offer Date;
- (s) “**Business Day**” means any day except Saturday, Sunday or any statutory holiday in the Province of British Columbia;
- (t) “**CDEV**” means Canada Development Investment Corporation;
- (u) “**Closing**” means the completion of the purchase and sale of the Purchased Shares in accordance with the provisions of this Agreement;
- (v) “**Closing Date**” means December 19, 2019, or such other date as the Parties may agree in writing;
- (w) “**Closing Date Statement of Adjustments**” means a statement setting forth the Closing Date Working Capital including the amounts specified in Sections 2.2(b)-2.2(d);
- (x) “**Closing Date Working Capital**” means Working Capital as of the Closing Date;
- (y) “**Closing Documents**” means the Purchaser Closing Documents and the Vendor Closing Documents;
- (z) “**Closing Documents Folder**” means the virtual folder of the same name in the Data Room which contains forms of certain closing documents labelled as Exhibits hereto;
- (aa) “**Closing Time**” means the time of Closing on the Closing Date provided for in Section 5.1;
- (bb) “**Collective Agreement**” means any collective agreement, ancillary agreement including letter of understanding and memorandum of agreement, or other written agreement with or commitment made to any trade union, council of trade unions, association that may qualify as a trade union, employee bargaining agent or affiliated bargaining agent in respect of the Employees;
- (cc) “**Commissioner**” means the Commissioner of Competition appointed under section 7(1) of the Competition Act or any Person duly authorized to perform the duties of the Commissioner of Competition;
- (dd) “**Commitment Letter**” has the meaning set out in Section 3.2(h);
- (ee) “**Competition Act**” means the *Competition Act* (Canada), as amended, and includes the regulations thereunder;
- (ff) “**Competition Act Approval**” means one of the following shall have occurred with respect to the Transaction:
 - (i) the Commissioner shall have issued an advance ruling certificate under section 102(1) of the Competition Act to the effect that the Commissioner is satisfied that the Commissioner would not have

sufficient grounds upon which to apply to the Competition Tribunal for an order under section 92 of the Competition Act in respect of the Transaction, in form and substance acceptable to the Purchaser and the Vendor, each acting reasonably and such certificate remains in full force and effect, unamended; or

- (ii) the applicable waiting period under section 123 of the Competition Act shall have expired or been terminated or the obligation to provide a notification under Part IX shall have been waived under section 113(c) of the Competition Act, and the Commissioner shall have advised orally or in writing that the Commissioner does not intend, at that time, to make an application under section 92 of the Competition Act or otherwise bring forth litigation in respect of the Transaction and such advice has not been rescinded;
- (gg) “**Competition Stipend**” has the meaning set forth in Section 8.2(b);
- (hh) “**Confidentiality Agreement**” means, collectively, the Non-Disclosure Agreement dated November 5, 2018 between Riverstone Investment Group LLC and CDEV, as amended, and the Non-Disclosure Agreement dated November 5, 2018 between AMCI Management (Cayman) Ltd. and CDEV, as amended;
- (ii) “**Contracts**” means all existing, pending and executory contracts, agreements, leases, understandings and arrangements to which the Corporation is a party or by which the Corporation is bound or under which the Corporation has rights or obligations, together with all amendments thereto;
- (jj) “**Corporation**” means Ridley Terminals Inc., a body corporate pursuant to the *Canada Business Corporations Act* (Reg. No. 125136-8), extra provincially registered in the Province of British Columbia (BC Reg. No. A-19189);
- (kk) “**Corporation IP**” means all Intellectual Property that is owned by the Corporation;
- (ll) “**Corporation IP Agreements**” means all licences, sublicences, consent to use agreements, settlements, coexistence agreements, covenants not to sue, permissions and other Contracts (including any right to receive or obligation to pay royalties or any other consideration), relating to Intellectual Property to which the Corporation is a party and which are material to the Current Business, but excluding shrink wrap or click-wrap licences for Software;
- (mm) “**Corporation IP Registrations**” means all Corporation IP that is subject to any issuance registration, application or other filing by, to or with any Governmental Authority or authorized private registrar in any jurisdiction, including registered trade-marks, domain names and copyrights, issued and reissued patents and pending applications for any of the foregoing;
- (nn) “**Crown Records**” means all books, records, files, submissions, notices, records, decisions and related materials or communications in any format or medium, that are not intended to be utilized in the Business, including: (i) those which have been prepared or provided by or to the Corporation in its role as a regulator, decision-maker or “parent crown corporation” under any federal enactment including the *Canadian Environmental Assessment Act, 2012* (Canada), section 52 and the FAA; (ii) those which pertain to the sale by the Vendor of the Corporation and those prepared for the purpose of facilitating the Vendor’s or its Affiliates’ analysis,

monitoring, and reporting in respect of the performance and/or operation of the Corporation for the purpose of the Transaction; and (iii) those that upon disclosure would cause the Vendor to waive its solicitor-client privilege with respect to such information;

- (oo) “**Crown Rights and Obligations**” means all rights and obligations which the Corporation may have arising from its role as a regulator, decision-maker or “parent crown corporation” under any federal enactment (including the *Canadian Environmental Assessment Act, 2012* (Canada), section 52 and the FAA) on or before the Closing Date;
- (pp) “**Current Assets**” means cash, short-term investments, accounts receivable, inventory and prepaid expenses of the Corporation, all calculated consistently with the Illustrative Closing Date Working Capital Calculation attached as Schedule 2.3, but notwithstanding Schedule 2.3 shall not include any current right-of-use asset balance arising from IFRS 16;
- (qq) “**Current Business**” means the Business, excluding the LPG Business and any future activities relating to, or reliant on, the Second Berth Expansion;
- (rr) “**Current Liabilities**” means accounts payable, the current portion of the long-term debt of the Corporation and other current liabilities (without duplication), other than the current portion of sub-lease and the current portion of deferred revenue of the Corporation, all calculated consistently with the Illustrative Closing Date Working Capital Calculation attached as Schedule 2.3, but notwithstanding Schedule 2.3 shall not include the right-of-use lease short-term liability arising from IFRS 16;
- (ss) “**Data Room**” means the virtual data room established and maintained by the Vendor and/or its Affiliates for the purposes of the Transaction, to which the Purchaser and the Principals have had access;
- (tt) “**Debt**” means any principal and accrued interest on any loans incurred by the Corporation including, but not limited to, bank debt, intercompany loans, overdrafts, letters of credit, any loan notes or bonds, any other secured lending or credit liabilities;
- (uu) “**Disclosure Letter**” means the disclosure letter executed and delivered by the Vendor (or CDEV in its capacity as agent of the Vendor) to the Purchaser on the date hereof;
- (vv) “**Disclosure Supplement**” has the meaning set out in Section 4.10;
- (ww) “**Dispute**” has the meaning set out in Section 9.2;
- (xx) “**Easements**” means the easements appurtenant to the Original Lease that are listed in the Disclosure Letter;
- (yy) “**Easements Areas**” means the land areas on and about Ridley Island at the Port of Prince Rupert in the Province of British Columbia that are subject to the Easements;
- (zz) “**Employee**” means an individual who is employed by the Corporation in connection with the Business;

- (aaa) “**Employee List**” means the information regarding employees posted as item 1.18.8 in the Data Room;
- (bbb) “**Enabling Legislation**” means the *Economic Action Plan 2013, No. 1* (Canada), sections 200-212, inclusive;
- (ccc) “**Encumbrances**” means any lien, pledge, mortgage, hypothec, deed of trust, security interest, charge, easement, right of way, encroachment or similar encumbrance affecting the Corporation, the Shares or the Assets, as the case may be;
- (ddd) “**Environment**” means the components of the Earth and includes air, land, water (including groundwater), inorganic and organic matter and living organisms, and the interacting natural systems that include such components;
- (eee) “**Environmental Law**” means Applicable Law respecting the protection of the Environment, the regulation of conduct, operations, facilities or activities in relation to the Environment, or imposing liability as a result of effects on or impacts to the Environment, including those respecting transportation, handling or Release of Hazardous Substances;
- (fff) “**Environmental Permit**” means any Permit issued by any Governmental Authority under any Environmental Law;
- (ggg) 
- (hhh) “**Estimated Purchase Price**” has the meaning set out in Section 2.3;
- (iii) “**FAA**” means the *Financial Administration Act* (Canada);
- (ijj) “**Financial Projections**” means the forecast financial information set out in the management presentation prepared in January, 2019 and posted as item 21.6.1 in the Data Room;
- (kkk) “**Financial Statements**” means collectively, the annual audited financial statements of the Corporation for the financial periods ending December 31, 2016, December 31, 2017, and December 31, 2018, together with all notes thereto, copies of which are posted as items 20.1.3.1, 20.1.2.1, and 20.1.1.5 in the Data Room;
- (lll) “**Financing**” has the meaning set out in Section 3.2(h);
- (mmm) 
- (nnn) “**Fundamental Representations**” means the representations and warranties set forth in Sections 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(e), 3.1(f), 3.1(g), 3.1(h), and 3.1(i);
- (ooo) “**GIC Approval**” means an approval issued by the Governor in Council pursuant to section 202, or other applicable provision, of the Enabling Legislation approving the sale of the Purchased Shares to the Purchaser and the transfer of the Minority Shares to the SPV pursuant to and in accordance with this Agreement and the Sales Support Agreement;
- (ppp) “**Governmental Authority**” means any (i) federal, provincial, state, municipal or local governmental body (whether administrative, legislative, executive or

otherwise), and whether domestic or foreign; (ii) agency, authority, commission, commissioner, instrumentality, regulatory body, court, central bank, other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government; and including any securities exchange; (iii) court, tribunal, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; and (iv) any supranational or regional body, provided however, that the PRPA, solely in its capacity as landlord under the Terminal Lease, does not constitute a Governmental Authority;

- (qqq) “**GST/HST**” means all goods and services tax and harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada);
- (rrr) “**Hazardous Substance**” means any substance, waste or other material specified on the List of Toxic Substances in Schedule 1 of the *Canadian Environmental Protection Act, 1999* (Canada) or that is a dangerous good under the *Transportation of Dangerous Goods Act* (Canada);
- (sss) “**IFRS**” means International Financial Reporting Standards;
- (ttt) “**Indemnified Party**” means a Person whom the Vendor or the Purchaser, as the case may be, is required to indemnify under Part 7;
- (uuu) “**Indemnifying Party**” means, in relation to an Indemnified Party, the Party that is required to indemnify such Indemnified Party under Part 7;
- (vvv) “**Indemnity Cap**” means:

[REDACTED]

- (www) “**Independent Accountant**” has the meaning set out in Section 2.6(b);
- (xxx) “**Insurance Policies**” has the meaning set out in Section 3.1(11);
- (yyy) “**Intellectual Property**” means intellectual property of any nature and kind including all domestic and foreign trade-marks, business names, trade names, domain names, trading styles, patents, trade secrets, software, industrial designs and copyrights, whether registered or unregistered, and all applications for registration thereof, and inventions, formulae, recipes, product formulations, processes and processing methods, technology and techniques, know-how, and Software;
- (zzz) “**Interim Period**” means the period from and including the date hereof to and including the Closing Date;
- (aaaa) “**ITA**” means the *Income Tax Act* (Canada);
- (bbbb) “**Lax Kw’alaams**” means the Lax Kw’alaams Indian Band;

[REDACTED]

(dddd) **“Legal Proceeding”** means any litigation, action, application, suit, investigation, audit, hearing, claim, complaint, deemed complaint, grievance, civil, administrative, regulatory or criminal, arbitration proceeding or other similar proceeding, before or by any court, tribunal or Governmental Authority, and includes any appeal or review thereof and any application for leave for appeal or review;

(eeee) **“Lender”** has the meaning set out in Section 3.2(h);

(ffff) **“Liabilities”** means any and all liabilities and obligations, whether under common law, in equity, under Applicable Law or otherwise, whether tortious, contractual, vicarious, statutory or otherwise, whether absolute or contingent and whether based on fault, strict liability or otherwise;

(gggg) **“Losses”** means, in relation to any Person, any losses, damages, liabilities, penalties, fines, costs or expenses (including reasonable legal fees) suffered or incurred by such Person;

(hhhh) **“LPG Business”** means [REDACTED]

(iii) [REDACTED]

(iii) [REDACTED]

(kkkk) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(III) **“Material Adverse Effect”** means, with respect to the Corporation, any event, occurrence, fact, condition or change that is materially adverse to: (i) the Current Business, the LPG Business or the assets or condition (financial or otherwise) of the Corporation; or (ii) the ability of Vendor to consummate the transactions contemplated hereby; provided that “Material Adverse Effect” shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (1) changes in general local, domestic, foreign or international economic conditions, financial, currency exchange, securities or commodity prices in Canada or elsewhere; (2) sabotage, military action or acts of war (whether or not declared), armed conflict or similar calamity or terrorism; (3) any labour strike, work stoppage, picketing, lockout or any other labor dispute (other than in respect of the Corporation’s Employees); (4) conditions affecting the marine bulk terminal, liquid propane gas or coal industry as a whole, or in western North America; (5) any disruption to rail services to the Port of Prince Rupert, BC for a duration of no longer than 4 weeks; (6) any changes to accounting rules or principles, including IFRS; (7) the public announcement, pendency or completion of the transactions contemplated by this Agreement; (8) any matter disclosed in this Agreement or in the Disclosure Letter; (9) any changes in Applicable Law or the interpretation, application or non-application of Applicable Law (unless specifically directed at the Corporation, the Current Business or the LPG Business); (10) any fiscal or monetary decisions or policies of any Governmental Authority, in Canada or elsewhere; (11) any failure by

the Corporation to meet projections, forecasts or estimates of revenue, earnings, cash flow or other items (provided, however, that the causes underlying such failure may be considered to determine whether such causes constitute a Material Adverse Effect); (12) the effect of any action taken by the Purchaser, the Principals or their respective Affiliates (including any communication or disclosure with respect to the Transaction or regarding the Purchaser's plans or intentions with respect to the conduct of the business of the Corporation as well as any other action by the Purchaser or Principals); (13) any event, occurrence, fact, condition or change relating to the Second Berth Expansion, including those relating to any approvals required by or from any Governmental Authority in respect thereof; (14) any changes or effects arising from matters required, permitted or contemplated by or otherwise addressed in this Agreement and the Disclosure Letter, including the Transaction, the Pre-Closing Transactions or any other action or inaction contemplated in this Agreement including the Corporation no longer being a "parent Crown corporation" for purposes of the FAA and any change in tax or accounting policies that may result therefrom; or (15) any changes that are cured by the Vendor before Closing; provided that, in the case of clauses (1), (3), (4), (5), (9) and (10) above, the Current Business, the LPG Business or the Corporation, as the case may be, is not disproportionately adversely affected thereby relative to other companies or businesses operating in the same industry generally. Any determination as to whether any matter or condition has a Material Adverse Effect shall be made only after taking into account all effective insurance coverage and effective Third Party indemnifications or other coverages with respect to such matter or condition;

(mmmm) "**Material Contract**" means each of the following Contracts:


- (i) the Terminal Lease and the Easements;
- (ii) the Office Lease;
- (iii) [REDACTED]
- (iv) the Terminal Services Agreements;
- (v) the Corporation IP Agreements;
- (vi) each Contract involving aggregate consideration in excess of [REDACTED] per annum and that, in each case, cannot be cancelled by the Corporation without penalty or without more than 90 days' notice, excluding purchase orders made in the ordinary course of business for which there is no written Contract;
- (vii) all Contracts that relate to the acquisition or disposition of any business, any shares or assets of any other Person or any land or interest in land (whether by amalgamation, sale or issue of shares, sale of assets or otherwise);
- (viii) except for Contracts relating to trade receivables and payables, all Contracts relating to Debt of the Corporation;
- (ix) all Contracts that limit or purport to limit the ability of the Corporation to compete in any line of business or with any Person or in any geographic area or during any period of time;




- (x) any Contracts that provide for any joint venture, partnership or similar arrangement by the Corporation; and
- (xi) any Contracts involving a remaining commitment or liability of the Corporation in excess of [REDACTED]

but excluding the Insurance Policies, Benefit Plans and Collective Agreements;

- (nnnn) “**Metlakatla**” means the Metlakatla First Nation;
- (oooo) “**Minority Shares**” has the meaning set out in Recital E;
- (pppp) “**Offer Date**” means June 5, 2019;
- (qqqq) “**Office Lease**” means a lease of 2,639 square feet of office space on the 16th floor of the Commerce Place office building located at 400 Burrard Street, Vancouver, B.C. between [REDACTED], as landlord, and the Corporation, as tenant, dated for reference February 22, 2017;
- (rrrr) “**Order**” means any order, directive, judgment, decree, injunction, decision or ruling, of any Governmental Authority, and includes any agreement with or undertakings in favour of a Governmental Authority, but does not include the GIC Approval;
- (ssss) “**Original Lease**” means the lease by Canada Ports Corporation to the Corporation of part of the Terminal Lease Area made as of the 18th day of December 1981 which is registered in the Land Title Office under no. N7070, which lease as subsequently modified and extended is the Terminal Lease;
- (tttt) “**Outside Date**” means February 17, 2020 or such other date as may be agreed between the Parties in writing;
- (uuuu) “**Party**” means a party to this Agreement;
- (vvvv) “**Pension Plan**” means each of the Benefit Plans that is a “registered pension plan” as that term is defined in subsection 248(1) of the ITA;
- (wwww) “**Permit**” means any written consent, exemption, licence, permit, approval, registration, or other authorization issued by any Governmental Authority;
- (xxxx) “**Permitted Encumbrances**” means:
 - (i) those Encumbrances affecting or having priority over the Terminal Lease, the Easements, and the Office Lease, as described in the Disclosure Letter;
 - (ii) Encumbrances for Taxes and utilities that in each case are not yet due or are not in arrears;
 - (iii) construction, mechanics’, carriers’, workers’, repairers’, restorers’ liens or claim of lien or other similar liens or claims of lien (inchoate or otherwise) if individually or in the aggregate they: (A) arose or were incurred in the ordinary course of business; and (B) the obligations secured by them are (I) not in default, or (II) are subject to a good faith challenge by the Corporation;

- (iv) minor title defects or irregularities, minor unregistered easements or rights of way, the subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown, and other minor unregistered restrictions if individually or in the aggregate they: (A) arose or were incurred in the ordinary course of business; and (B) the obligations secured by them are (I) not in default, or (II) are subject to a good faith challenge by the Corporation, provided all such defects, irregularities, easements, rights of way, or other restrictions do not in any material respect interfere with the Current Business, the LPG Business, or the Corporation's use of the Terminal Lease Area under and in accordance with the Terminal Lease or the Easements Areas under and in accordance with the Easements;
 - (v) the terms and conditions of exercise of rights and interests in land included in the Assets as specified in the agreements, instruments and other documents (including the Office Lease, Terminal Lease, Easements, [REDACTED]) transferring or creating such rights and interests;
 - (vi) agreements with municipalities or public utilities if individually or in the aggregate they: (A) arose or were incurred in the ordinary course of business; and (B) the obligations secured by them are (I) not in default, or (II) are subject to a good faith challenge by the Corporation;
 - (vii) security given in the ordinary course of business to any public utility or Governmental Authority in connection with the operations of the Current Business, other than security for borrowed money;
 - (viii) assignments of insurance provided to landlords or their mortgagees or hypothecary creditors pursuant to the terms of any of the Office Lease, Terminal Lease or Easements, and liens, security interests or rights reserved in or granted pursuant to any of the Office Lease, Terminal Lease or Easements as security for payment or rent or for compliance with the terms of the Office Lease, Terminal Lease or Easements;
 - (ix) [REDACTED]
 - (x) the Encumbrances, including leases of vehicles, equipment or machinery, listed in the Disclosure Letter; and
 - (xi) Corporation IP Agreements and shrink wrap or click-wrap licences for Software;
- (yyyy) **"Person"** means any legal entity, individual, corporation, body corporate, partnership, limited partnership, joint stock company, limited liability company, Indian Band (as defined in the *Indian Act* (Canada)), joint venture, association, trust, syndicate, limited liability company, pension fund, union, a Governmental Authority or any department or agency thereof governmental authority, and the heirs, executors, administrators and legal representatives of an individual;

- (zzzz) “**Personal Information**” means information about an identifiable individual as defined in Privacy Law;
- (aaaaa) “**Post-Closing Tax Period**” means a taxation year or other fiscal period that ends after the Closing Time;
- (bbbbb) “**Pre-Closing Tax Period**” means a taxation year or other fiscal period that ends on or before the Closing Time;
- (ccccc) “**Pre-Closing Transactions**” means those corporate transactions to be completed by the Corporation, or by the Vendor in respect of, the Corporation, as applicable, which are set out in the Disclosure Letter and all actions or undertakings necessary or ancillary to the completion of the same;
- (dddd) “**Preliminary Closing Date Statement of Adjustments**” has the meaning set out in Section 2.3;
- (eeee) 
- (ffff) “**Principals’ Guarantee**” means the guarantee executed by the Principals in favour of the Vendor and delivered by the Principals on the Offer Date;
- (ggggg) “**Privacy Law**” means all Applicable Law relating to privacy and the collection, use and disclosure of Personal Information in all applicable jurisdictions, including the *Privacy Act* (Canada);
- (hhhhh) “**PRPA**” means the Prince Rupert Port Authority as duly continued under letters patent under the *Canada Marine Act* (Canada);
- (iiii) “**PRPA Estoppel Certificate**” means the estoppel certificate of PRPA as landlord under the Terminal Lease made and given as of April 8, 2019, posted as item 1.18.10 in the Data Room;
- (iiiii) “**Purchase Agreement Default**” means any material misrepresentation or breach of representation and/or warranty made by a Party (save and except when such representations and warranties are qualified as to materiality, in which case it shall mean any misrepresentation or breach thereof), or the failure of a Party to perform or observe in any material respect any of the covenants or agreements to be performed by such Party under this Agreement or any agreement or other certificate or instrument delivered in connection herewith (save and except when such covenant is qualified as to materiality, in which case they are to be performed or observed in all respects);
- (kkkkk) “**Purchase Price**” has the meaning set out in Section 2.2;
- (lllll) “**Purchased Shares**” has the meaning set out in Recital B;
- (mmmmm) “**Purchaser**” has the meaning set out in the preamble hereto;
- (nnnnn) “**Purchaser Closing Documents**” has the meaning set forth in Section 6.3(a)(ii);
- (ooooo) “**Purchaser Termination Fee**” has the meaning set forth in Section 8.2(a);

- (ppppp) “**Regulatory Approvals**” means all material consents or approvals, registrations or declarations, notices or filings, as are required from any Governmental Authority;
- (qqqqq) “**Release**” has the meaning prescribed in section 3(1) of the *Canadian Environmental Protection Act, 1999* (Canada) and also includes, without limitation, escape, migrate, dispose, leach, incinerate and bury;
- (rrrrr) “**Representative**” when used with respect to a Person means each director, officer, employee, consultant, financial advisor, legal counsel, accountant and other agent, advisor or representative of that Person;
- (sssss) 
- (ttttt) “**Sales Support Agreement**” means the sales support agreement among the Lax Kw’alaams, Metlakatla, and the Vendor dated as of October 29, 2018;
- (uuuuu) “**Second Berth Expansion**” means the facilities and activities required for or incidental to the installation and operation of the proposed second berth facility at the Terminal;
- (vvvvv) 
- (wwwww) “**Shares**” has the meaning set out in Recital A;
- (xxxxx) “**Signing Date**” means the date this Agreement is signed by the Vendor;
- (yyyyy) “**Software**” means computer programs, operating systems, applications, interfaces, applets, software scripts, macros, firmware, middleware, development tools and other codes, instructions or sets of instructions for computer hardware or software, including SQL and other query languages, hypertext markup language, wireless markup language, xml and other computer markup languages, in object, source code or other code format;
- (zzzzz) “**SPV**” has the meaning set out in Recital E;
- (aaaaa) 
- (bbbbb) “**Stipend**” has the meaning set forth in Section 8.2(c);
- (ccccc) “**Sublease**” means the sublease of part of the Terminal Lease Area between the Corporation, as sublandlord, and RILE LP, as subtenant, made as of December 9, 2015;
- (dddddd) “**Sublease Area**” means that part of the Terminal Lease Area sublet under the Sublease;

- (eeeeee) “**Tax Returns**” means all returns, reports, declarations, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form;
- (ffffff) “**Taxes**” means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, government pension plan premiums and contributions, social security premiums, workers’ compensation premiums, employment/unemployment insurance or compensation premiums and contributions, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other levies, taxes or assessments of any kind whatsoever imposed or charged by any Governmental Authority, and any instalments in respect thereof, together with any tax indemnity obligation (as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party), interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties, and whether disputed or not. Taxes shall include any transferee liability in respect of Taxes in a non-arms’ length transaction at less than fair market value;
- (gggggg) “**Terminal**” means the bulk commodities terminal on Ridley Island at the Port of Prince Rupert in the Province of British Columbia that is substantially located within the Terminal Lease Area;
- (hhhhhh) “**Terminal Lease**” means the lease of land, including land covered by water, located within the Port of Prince Rupert in the Province of British Columbia between the Corporation, as tenant, and PRPA, as landlord, which is more specifically described in the Disclosure Letter;
- (iiiiii) “**Terminal Lease Area**” means the areas of land, including land covered by water, within the Port of Prince Rupert in the Province of British Columbia, that are leased to the Corporation under the Terminal Lease;
- (jjjjjj) “**Terminal Lease Area Remainder**” means that part of the Terminal Lease Area not included in the Sublease Area;
- (kkkkkk) “**Terminal Services Agreements**” or “**TSAs**” means the terminal services agreements between the Corporation and its shipper customers as amended from time to time, each of which are listed in the Disclosure Letter;
- (llllll) “**Third Party**” means any Person other than Vendor and Purchaser, or an Affiliate thereof;
- (mmmmmm) “**Transaction**” means the purchase and sale of the Purchased Shares and all other related transactions contemplated by this Agreement, but specifically does not include the Financing;
- (nnnnnn) “**Transaction Personal Information**” means any Personal Information in the possession, custody or control of the Corporation, the Vendor or the Vendor’s

Affiliates, at the Closing Time, including the Employee List, and any Personal Information about Employees, suppliers, customers, directors, officers or shareholders of the Corporation that is:



- (i) disclosed to the Purchaser or any Representative of the Purchaser (including the Principals) prior to the Closing Time by the Vendor, the Corporation or their respective Representatives or otherwise; or
- (ii) collected by the Purchaser or any Representative of the Purchaser (including the Principals) prior to the Closing Time from the Vendor, the Corporation, any of their respective Representatives or otherwise,

in either case in connection with the Transaction;

- (oooooo) **“Transfer Restriction Agreement”** means the transfer restriction agreement among the Corporation, the Vendor, the Purchaser, Ridley Terminal Holdings Ltd., the Principals, AMCI Ridley Holdings Ltd. and Riverstone RTI LP;
- (pppppp) **“Vendor”** has the meaning set out in the preamble hereto;
- (qqqqqq) **“Vendor Closing Documents”** has the meaning set forth in Section 6.2(a)(ii);
- (rrrrrr) **“Vendor’s Counsel”** means Fasken Martineau DuMoulin LLP;
- (ssssss) **“Vendor Termination Fee”** has the meaning set out in Section 8.2(d); and
- (tttttt) **“Working Capital”** means Current Assets less Current Liabilities, calculated in accordance with the principles, terms and methodology set out in this Agreement and the Illustrative Closing Date Working Capital Calculation attached as Schedule 2.3.

1.2 Schedules and Exhibits.

The following are the Schedules, Exhibits, and other deliverables attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

- (a) Schedules
 - 2.3 Illustrative Closing Date Working Capital Calculation & Illustrative Closing Date Statement of Adjustments
 - 3.2(l) Purchaser Ownership Information¹
 - 4.2(n) Capital Plan
- (b) Disclosure Letter
- (c) Employee List
- (d) Exhibits in Closing Documents Folder
 - A 
 - B 

¹ To be inserted by the Purchaser.

- C [REDACTED]
- D Form of Transfer Restriction Agreement
- E Form of Releases between Corporation and the Vendor
- F Form of Mutual Release between Director and Corporation

1.3 References and Interpretation.

Unless otherwise stated or the context otherwise requires:

- (a) a reference to:
 - (i) a statute (including subordinate regulations and legislation) is to that statute as amended, re-enacted or replaced, and includes any subordinate regulations and legislation issued under it;
 - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced, or novated; and
 - (iii) anything (including a right, obligation or concept) includes each part of it;
- (b) the word “including” when following any general term or statement will not be construed as limiting the general term or statement to the specific matter immediately following the word “including” or to similar matters, and the general term or statement will be construed as referring to all matters that reasonably could fall within the broadest possible scope of the general term or statement;
- (c) the word “agreement” includes an undertaking or other binding agreement or understanding, whether or not in writing;
- (d) words importing the singular include the plural, and vice versa;
- (e) words importing a particular gender include all genders;
- (f) the division of this Agreement into Sections, Subsections and Schedules and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement;
- (g) the references “hereunder”, “herein”, and “hereof” refer to the provisions of this Agreement, and references to “Section”, or “Subsection” herein refer to the specified Section or Subsection of this Agreement;
- (h) a capitalized derivative of a defined term will have a corresponding meaning;
- (i) unless specified otherwise or otherwise required under Applicable Law, a provision relating to the discretion or consent of a Party shall mean the sole, absolute and unfettered discretion of that Party or the sole, absolute and unfettered right of that Party to grant, condition, withhold or delay such consent, with no requirement to act reasonably or provide reasons unless expressly required under the provisions of this Agreement; and
- (j) unless specified otherwise, all statements of or references to dollar amounts in this Agreement are to Canadian dollars.

1.4 Business Days.

Unless otherwise expressly provided herein, if the day on or by which something must be done under this Agreement is not a Business Day it must be done on or by the next Business Day.

1.5 No Partnership or Agency.

Nothing in this Agreement is to be treated as creating a partnership or joint venture, and no Party may act as agent of or in any way bind another Party to any obligation.

1.6 Consent.

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

1.7 Calculation of Time.

In this Agreement, a period of days will be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Vancouver time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period will terminate at 5:00 p.m. (Vancouver time) on the first Business Day immediately following such last day.

1.8 No Strict Construction.

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of *contra proferentum* or strict construction shall be applied against any Party.

1.9 Ordinary Course of Business.

An action taken by a Person will be deemed to have been taken in the "*ordinary course of business*" only if such action is consistent with the past practices of such Person and is taken in the ordinary course of the normal day-to-day operations of such Person or such action is similar in nature and magnitude to actions customarily taken in the ordinary course of the normal day-to-day operations of other Persons that are in the same line of business as such Person.

1.10 No Fettering Discretion of Canada.

Nothing in this Agreement will fetter or otherwise interfere with or limit the rights, powers and authority of the Government of Canada, including any federal department, agency, bureau, court, tribunal, director or commissioner thereof, to enact, amend, administer and enforce any laws, regulations, policies or rules, or adjudicate any matter, and unless otherwise expressly provided for in this Agreement, the Purchaser is not entitled to claim or receive any compensation or other relief whatsoever as a result of the Government of Canada, including any federal department, agency, bureau, court, tribunal, director or commissioner thereof, enacting, amending, administering or enforcing any laws, regulations, policy or rules, or adjudicate any matter.

1.11 Knowledge.

Where any representation, warranty or other statement in this Agreement is expressed to be made by the Vendor to its knowledge or is otherwise expressed to be limited in scope to facts or matters known to the Vendor, CDEV, or the Corporation, it shall mean such knowledge as is actually known and, with respect to (a) and (b) below, also means such knowledge as is actually known after due inquiry of their direct

reports who have responsibility for the specific matters set out in the applicable representations and warranties:

- (a) with respect to the Fundamental Representations, either of Zoltan Ambrus and Michael Carter in their capacity as officers and employees of CDEV;
- (b) with respect to all representations and warranties in Section 3.1 other than the Fundamental Representations, [REDACTED], in their respective capacities as officers and/or employees of the Corporation; and
- (c) with respect to all representations and warranties in Section 3.1, [REDACTED], in their respective capacities as employees of Transport Canada;

and in all cases, not in their personal capacity and without personal liability.

1.12 Accounting Principles.

Unless otherwise expressly provided for herein, all accounting terms or principles used in this Agreement shall be construed in accordance with IFRS.

PART 2 PURCHASE OF SHARES

2.1 Purchase and Sale.

At the Closing Time, on and subject to the terms and conditions of this Agreement, the Vendor shall sell to the Purchaser, and the Purchaser shall purchase from the Vendor, the Purchased Shares, free and clear of all Encumbrances.

2.2 Amount of Purchase Price.

The price payable by the Purchaser to the Vendor for the Purchased Shares (the “Purchase Price”) shall be the aggregate of:

- (a) the Base Price;
- (b) if the Closing Date Working Capital exceeds the Base Working Capital, plus the amount by which the Closing Date Working Capital exceeds the Base Working Capital, multiplied by 90%;
- (c) if the Base Working Capital exceeds the Closing Date Working Capital, minus the amount by which the Base Working Capital exceeds the Closing Date Working Capital, multiplied by 90%; and
- (d) minus the amount of any Debt, multiplied by 90%;

payable as provided in Sections 2.4 and 2.7. Each of the Parties acknowledges that the Pre-Closing Transactions will take place immediately prior to Closing, and will not be included in the calculation of or adjustments to the Purchase Price.

2.3 Estimated Purchase Price.

- (a) No less than three (3) Business Days prior to the Closing Date, the Vendor, acting reasonably after consulting with the Purchaser and taking into account the Pre-Closing Transactions, shall provide to the Purchaser a preliminary Closing Date Statement of Adjustments (the "**Preliminary Closing Date Statement of Adjustments**"), prepared as nearly as possible to the manner in which the Closing Date Statement of Adjustments is to be prepared pursuant to the Illustrative Statement of Adjustments in Schedule 2.3, including the Vendor's preliminary good faith estimate of the Closing Date Working Capital. The amount payable to the Vendor at Closing (the "**Estimated Purchase Price**") shall equal the Base Price plus or minus, as applicable, the estimates of each of the amounts set forth in Sections 2.2(b) to 2.2(d) inclusive, each as set forth in the Preliminary Closing Date Statement of Adjustments.
- (b) If the Purchaser disputes any component of the Preliminary Closing Date Statement of Adjustments, the Parties will act jointly and in good faith to determine the amount of the Estimated Purchase Price. If the Parties cannot settle the dispute at least one (1) Business Day before the Closing Date, the Estimated Purchase Price will be the Estimated Purchase Price set out in the Preliminary Closing Date Statement of Adjustments.

2.4 Payment of Estimated Purchase Price.

At Closing, the Purchaser shall pay to the Vendor by immediately available funds an amount equal to the Estimated Purchase Price as determined in accordance with Section 2.3 to an account or accounts designated in writing by the Vendor to Purchaser prior to the Closing Date.

2.5 Preparation of Closing Date Statement of Adjustments.

- (a) Draft Closing Date Statement of Adjustments. Within ninety (90) days following the Closing Time, the Purchaser shall prepare and deliver, or cause to be prepared and delivered, to the Vendor a draft of the Closing Date Statement of Adjustments (the "**Draft Closing Date Statement of Adjustments**") substantially as set out in the Illustrative Statement of Adjustments in Schedule 2.3. The Purchaser shall give the Vendor and its Representatives such access to the Employees and Books and Records as the Vendor and its Representatives may reasonably request in order to enable them to review the Draft Closing Date Statement of Adjustments.
- (b) Vendor's Assessment. Within twenty (20) Business Days following delivery of the Draft Closing Date Statement of Adjustments, the Vendor shall notify the Purchaser in writing if it has any objection(s) to the Draft Closing Date Statement of Adjustments. The notice of objection will state in reasonable detail the basis of any such objection(s) and the approximate amount in dispute.
- (c) Deemed Acceptance. If the Vendor (i) provides notice to the Purchaser that it agrees to the Draft Closing Date Statement of Adjustments or (ii) does not give a notice of objection in accordance with Section 2.5(b), the Vendor shall be deemed to have accepted the Draft Closing Date Statement of Adjustments, and each of the amounts referenced in Sections 2.2(b)-2.2(d) as set forth in the Draft Closing Date Statement of Adjustments shall be final and binding on the Parties.

2.6 Dispute Settlement.

- (a) Notice of Objection. If the Vendor delivers notice of any objection to the Draft Closing Date Statement of Adjustments pursuant to Section 2.5(b), the Vendor and Purchaser

shall use reasonable efforts to resolve such objection within a period of thirty (30) Business Days following the giving of such notice.

- (b) Appointment of Independent Accountant. If the Vendor delivers notice of any objection to the Draft Closing Date Statement of Adjustments pursuant to Section 2.5(b) and such dispute is not resolved by the end of such thirty (30) Business Day period, then the dispute shall be submitted by the Vendor and Purchaser to one of the following chartered accountant firms: Deloitte LLP, PricewaterhouseCoopers LLP, or Ernst & Young LLP (the “**Independent Accountant**”), as agreed to by the Vendor and Purchaser. If the Vendor and Purchaser are unable to agree on the Independent Accountant (or if none of the Independent Accountants have agreed to accept such appointment) within a further five (5) Business Day period, either Party may apply to have a chartered accounting firm in Canada as the Independent Accountant appointed pursuant to Section 9.2.
- (c) Closing Date Accounting Submissions. Within five (5) Business Days of the appointment of the Independent Accountant, the Vendor and Purchaser shall submit to the Independent Accountant and exchange with each other their respective Closing Date Statement of Adjustments, and calculations of each of the amounts specified in Sections 2.2(b)-2.2(d), as well as any written submissions in respect of the foregoing (collectively, the “**Closing Date Accounting Submissions**”). The Vendor and Purchaser shall be afforded a reasonable opportunity to respond to the other Party’s Closing Date Accounting Submissions in accordance with the direction of the Independent Accountant.
- (d) Independent Accountant Determination. Thereafter, the Independent Accountant shall, as promptly as practicable (but in any event within thirty (30) Business Days following its appointment), determine the actual Closing Date Statement of Adjustments, and each of the amounts specified in Sections 2.2(b)-2.2(d). The final Purchase Price as determined by the Independent Accountant shall be no less than the amount of the Purchase Price set forth in the Purchaser’s Closing Date Accounting Submissions and no more than the amount of the Purchase Price set forth in the Vendor’s Closing Date Accounting Submissions. The Independent Accountant shall be deemed to be acting as an expert and not as an arbitrator, and the decision of the Independent Accountant shall be final and binding upon the Parties.
- (e) Fees and Expenses. The Purchaser and the Vendor shall each pay one-half of the fees and expenses of the Independent Accountant with respect to the resolution of any dispute referred to the Independent Accountant pursuant to this Section 2.6.

2.7 Adjustment Payment.

Within fifteen (15) Business Days after the Purchase Price is finally determined in accordance with Section 2.5 or 2.6: (a) the Purchaser shall pay to the Vendor the amount, if any, by which the Purchase Price exceeds the Estimated Purchase Price; or (b) the Vendor shall pay to the Purchaser the amount, if any, by which the Estimated Purchase Price exceeds the Purchase Price.

PART 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Vendor.

Except as identified or described in the Disclosure Letter and any Disclosure Supplement, or the Employee List or as otherwise expressly contemplated by this provision or this Agreement, the Vendor represents and warrants to the Purchaser, unless otherwise stated, as of the date hereof and as of the Closing Date, as follows:

- (a) Corporate Status.
- (i) *Incorporation.* The Corporation is a corporation duly incorporated in accordance with Applicable Law, organized, validly existing and in good standing under the laws of Canada and has the requisite corporate power, authority and capacity to carry on the Business.
 - (ii) *Capitalization.* The Disclosure Letter sets out the issued and authorized capital of the Corporation both as of the date hereof and as it will exist immediately prior to Closing as a result of the Pre-Closing Transactions. All of the Shares have been duly authorized and are validly issued, fully paid and non-assessable.
 - (iii) *Constating Documents.* A true copy of the constating documents of the Corporation has been made available to the Purchaser as of the Offer Date and such constating documents have not been amended or restated.
- (b) Regulatory Approvals. Except for the Competition Act Approval and the GIC Approval, no Regulatory Approval or filing with, notice to, or waiver from any Governmental Authority is required to be obtained or made by the Vendor or the Corporation in connection with the execution and delivery of, and performance by Vendor of its obligations under, this Agreement or the consummation of the Transaction. The GIC Approval has been issued and remains in full force and effect.
- (c) Authority. The Vendor has the full power, authority and capacity to execute and deliver this Agreement and each of the agreements required to be executed and delivered by the Vendor under this Agreement and to perform its obligations hereunder and thereunder. Subject to obtaining Competition Act Approval, the execution, delivery and performance by the Vendor of this Agreement and the agreements to be executed and delivered by the Vendor hereunder have been duly and validly authorized by all requisite governmental and statutory action on the part of the Vendor or otherwise.
- (d) Enforceability. This Agreement, and each of the agreements required to be executed and delivered by the Vendor under this Agreement, constitutes or will constitute a valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its terms subject to (i) Applicable Law affecting creditor's rights generally; (ii) general principles of equity; and (iii) the power of a court to deny enforcement of remedies generally based upon public policy.
- (e) Title to Shares. The Vendor is the registered and beneficial owner of all of the Shares, free and clear of any Encumbrances.
- (f) No Options or Other Rights. Except in respect of the Minority Shares as set out in the Sales Support Agreement, there are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the Shares or obligating the Vendor or the Corporation to sell or issue any shares of, or any other interest in, the Corporation. The Corporation does not have outstanding and has not authorized any share appreciation, phantom share, profit participation or similar rights. There are no voting trusts or agreements, pooling agreements, unanimous shareholder agreements, other shareholder agreements (other than the Sales Support Agreement and Shareholders' Agreement), proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Shares.

- (g) No Conflict. Subject to obtaining the Competition Act Approval, the execution, delivery and performance by the Vendor of this Agreement, and each of the agreements required to be executed and delivered by the Vendor under this Agreement, do not and will not:
- (A) violate or breach the constating documents of the Corporation; or
 - (B) violate or breach any Applicable Law binding upon the Vendor or the Corporation in respect of the Assets or Business;
- (h) Consents. Subject to obtaining the Competition Act Approval, the execution, delivery, and performance by the Vendor of this Agreement, and each of the agreements required to be executed and delivered by the Vendor under this Agreement, do not and will not require the consent, notice or other action by any Person under, or conflict with, result in a violation or breach of, constitute a default or an event that, with or without notice or lapse of time or both, would constitute a default under, result in the acceleration of or create in any party the right to accelerate, terminate, modify or cancel any Material Contract to which the Corporation is a party or by which the Corporation is bound or to which its Assets are subject or any Permit affecting the Assets, the Current Business or the LPG Business, in each case other than defaults, accelerations or rights that would not reasonably be expected to materially impact the Current Business or the LPG Business, the Assets, or condition (financial or other) of the Corporation.
- (i) Bankruptcy. The Corporation is not insolvent or generally failing to pay its debts as they become due. The Corporation has not proposed a compromise or arrangement to its creditors generally, had any petition for a receiving order in bankruptcy filed against it (or, to the knowledge of the Vendor, threatened against it), taken any proceeding with respect to a compromise or arrangement, taken any proceeding to have itself declared bankrupt or wound up, taken any proceeding to have a receiver appointed over any part of its assets, had any encumbrancer take possession of any of its property, or had any execution or distress become enforceable or become levied upon any of its property.
- (j) Minute Books. The corporate minute book, central securities register, register of transfers and register of directors and officers of the Corporation has been maintained in material accordance with Applicable Law and contains (i) true and complete copies of the articles and by-laws of the Corporation, (ii) accurate and complete records of all meetings of its board of directors, and (iii) all resolutions in writing of its shareholders and board of directors.
- (k) Directors & Officers. The list of directors and officers in the Disclosure Letter constitutes a complete and accurate list of all current officers and directors of the Corporation.
- (l) Financial Statements.
- (i) The Financial Statements have been prepared in accordance with IFRS consistently applied throughout the periods to which they relate. The Financial Statements fairly present in all material respects the financial position and the results of operations of the Corporation as at the respective dates thereof, all in accordance with IFRS.
 - (ii) The Corporation has designed, implemented and maintained systems for internal control over financial reporting to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Financial Statements for inclusion in the Public Accounts of Canada and in the audited consolidated

financial statements of the Government of Canada. The Corporation has designed controls and procedures to provide reasonable assurance that material information relating to the Corporation included in the Financial Statements is complete and accurate in all material respects.

- (m) Undisclosed Liabilities. The Corporation has no indebtedness, liabilities, obligations or commitments of a type required to be reflected or reserved on a balance sheet prepared in accordance with IFRS (whether accrued, absolute, contingent or otherwise), except (i) those which are adequately reflected or reserved against in the Financial Statements as of December 31, 2018, and (ii) those which have been incurred in the ordinary course of business [REDACTED] since December 31, 2018.
- (n) Absence of Guarantees. The Corporation has not given or agreed to give, nor is the Corporation a party to or bound by, any guarantee of the indebtedness or other obligations of any other Person.
- (o) Absence of Other Interests. The Corporation has no subsidiaries and does not have a direct or indirect equity interest in any other Person.
- (p) [REDACTED]
- (q) Absence of Certain Changes, Events and Conditions. Since December 31, 2018, there has not been, with respect to the Corporation, any:
 - (i) event, occurrence or development that has had or could reasonably be expected to have a Material Adverse Effect;
 - (ii) amendment of its articles, by-laws, or other constating documents;
 - (iii) split, consolidation or reclassification of any of its shares;
 - (iv) issuance, sale or other disposition of any of its shares, or grant of any options, warrants or other rights to purchase or obtain (including upon conversion, exchange or exercise) any of its shares;
 - (v) declaration or payment of any dividends or distributions on or in respect of any of its shares or redemption, retraction, purchase or acquisition of any of its shares;
 - (vi) material change in any of its accounting methods or accounting practices, except as required by IFRS or as disclosed in the notes to the Financial Statements;
 - (vii) material change in the Corporation's cash management practices and its policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits;

- (viii) entry into a Material Contract, [REDACTED], if entered into as of the date hereof;
 - (ix) incurrence of any indebtedness for borrowed money except unsecured current obligations;
 - (x) transfer, assignment, sale or other disposition of any Assets or cancellation of any debts or entitlements in excess of [REDACTED];
 - (xi) transfer, assignment or grant of any licence or sub-licence of any Intellectual Property rights;
 - (xii) material damage, destruction or loss (whether or not covered by insurance) to any of its Assets;
 - (xiii) any capital investment in, or any loan to, any other Person;
 - (xiv) acceleration, termination, material modification to or cancellation of any Material Contract;
 - (xv) capital expenditures in excess of [REDACTED] individually;
 - (xvi) imposition of any Encumbrance other than Permitted Encumbrances upon any of the Assets;
 - (xvii) adoption of any amalgamation, arrangement, reorganization, liquidation or dissolution or the commencement of any proceedings by the Corporation or its creditors seeking to adjudicate the Corporation as bankrupt or insolvent, making a proposal with respect to the Corporation under any law relating to bankruptcy, insolvency, reorganization, arrangement or compromise of debts or similar laws, appointment of a trustee, receiver, receiver-manager, agent, custodian or similar official for the Corporation or for any substantial part of its Assets;
 - (xviii) acquisition by amalgamation or arrangement with, or by purchase of assets or shares of, or by any other manner, any business or any Person or any division thereof; or
 - (xix) any Contract to do any of the foregoing, or any action or omission that would result in any of the foregoing.
- (r) Material Contracts. The Disclosure Letter lists all of the Material Contracts of the Corporation. All of the Material Contracts are in full force and effect, unamended and the Corporation is entitled to the full benefit and advantage of each such Material Contract in accordance with its terms [REDACTED]. None of the Corporation or, to the knowledge of the Vendor, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default in any material respect or a basis for force majeure under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder in any material respect. Complete and correct copies of each Material Contract (including all modifications, amendments and supplements thereto) have been made available to the Purchaser in the Data Room.

- (s) Owner and State of Assets. The Corporation is the legal and beneficial owner of the property and interests in property reflected in the Financial Statements, other than as sold or otherwise disposed of in the ordinary course of business, free and clear of any Encumbrances other than Permitted Encumbrances. All of the tangible Assets are in good operating condition and repair (subject to normal wear and tear) and are adequate for the uses for which they are being used in the Business.
- (t) No Other Land. The Corporation does not have any legal or beneficial interest in any land, other than pursuant to the Terminal Lease, the Easements appurtenant to the Original Lease and the Office Lease. The Sublease is the only sublease of the Terminal Lease Area.
- (u) Use of Land under Tenures. With respect to the Corporation's current use of the Buildings Used in the Business, the Terminal Lease Area Remainder and the Easements Areas:
 - (i) all Permitted Encumbrances having priority are being complied with, in all material respects; and
 - (ii) all utility services required for conduct of the Current Business and the LPG Business have been obtained, are functioning properly and are fit and suitable for their intended purpose.
- (v) No Transfer or Disposition. There are no agreements, options, contracts or commitments to sell, encumber, transfer or otherwise dispose of the Terminal Lease or the Office Lease or any right or interest in or to the Terminal Lease Area save as set forth in the Terminal Lease and Office Lease respectively and, as to the Terminal Lease, save as set forth in [REDACTED].
- (w) Status of Tenures. With respect to the Terminal Lease, the Easements as appurtenant to the Original Lease and the Office Lease:
 - (i) each of them is valid and enforceable in accordance with its terms against the parties thereto and is subject only to Permitted Encumbrances;
 - (ii) none of the Corporation or, to the knowledge of the Vendor, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under) in any material respect, or has provided or received any notice of any intention to terminate the Terminal Lease, the Easements as appurtenant to the Original Lease or the Office Lease.
 - (iii) to the knowledge of the Vendor, there is no existing defect or condition affecting any of the Terminal Lease Area or the Easements Areas (including any encroachment affecting such areas) that could reasonably be expected to impair the ability of the Corporation to conduct the Business; and
 - (iv) the Corporation has not received any written notice from any Governmental Authority and, to the knowledge of the Vendor, there is no intention of any Governmental Authority to expropriate or condemn any part of the Terminal Lease Area or the Easements Areas.
- (x) Title. There are no matters affecting the right, title and interest of the Corporation in and to the Terminal Lease Area (other than the Sublease) or, to the knowledge of the Vendor,

the Easements Areas, which, individually or in the aggregate, could reasonably be expected to impair the ability of the Corporation to conduct the Business.

- (y) Boundaries. To the knowledge of the Vendor, none of the Buildings Used in the Business materially encroaches onto land not included in the Terminal Lease Area or the Easements Areas.
- (z) Access. The Corporation has such rights of ingress and egress to and from the Terminal Lease Area as are reasonably necessary to carry on the Current Business.
- (aa) No Encumbrances. Except for Permitted Encumbrances, there is no Encumbrance or certificate of pending litigation that encumbers the Terminal Lease, the Easements or the Office Lease, or any claims outstanding relating to the Terminal Lease, the Easements or the Office Lease.
- (bb) No Work Orders. To the knowledge of the Vendor, there are no work orders outstanding in respect of the Buildings Used in the Business. The Corporation has not received a deficiency notice, request or written advice of any breach of any Applicable Law in respect of the foregoing which could, if not corrected, become a work order or could require performance of work or expenditure of money to correct.
- (cc) Easements. All Easements necessary for the Current Business are listed in the Disclosure Letter, and none of such Easements requires the consent of any other party thereto with respect to the consummation of the Transaction.
- (dd) Compliance with Applicable Law. The Corporation is conducting the Business in material compliance with all Applicable Law. The Corporation has not within the past three (3) years received any written notice from a Governmental Authority of any alleged breach of any Applicable Law that is unresolved. During the past three (3) years the Corporation has not conducted any internal investigation in connection with which it has retained outside counsel with respect to any actual, potential or alleged violation of any material Applicable Law by the Corporation or any of its Employees.
- (ee) Permits. All of the Permits necessary for the Corporation to conduct the Business as it is now being conducted are listed in the Disclosure Letter, are held by the Corporation, and are in full force and effect unamended. The Corporation is in material compliance with the provisions of the Permits and, to the knowledge of the Vendor, there are no facts or circumstances which may result in revocation, cancellation, suspension or modification of such Permits that would materially impact the Business. To the knowledge of the Vendor, no further Permits are required by the Corporation in connection with the LPG Business, except as in the aggregate would not materially adversely affect the ability of the Corporation to comply with its obligations under [REDACTED].
- (ff) Benefit Plans.
 - (i) The Disclosure Letter contains a list of all Benefit Plans.
 - (ii) There are no participating employers in any Benefit Plan other than the Corporation.
 - (iii) With respect to each Benefit Plan, copies of each of the following documents, if applicable, have been made available to Purchaser: (A) the document(s) establishing the current terms of the Benefit Plan; (B) the trust agreement or any third party funding arrangement other than a trust, the current agreement or

policy for the Benefit Plan; and (C) the current description of the Benefit Plan provided to employees or former employees of the Corporation (but excluding communications relating to routine claims).

- (iv) With respect to each of the Benefit Plans that is a Pension Plan and each Benefit plan that provides pension benefits in excess of those provided by a Pension Plan, and without limiting the deliveries contemplated by Section 3.1(ff)(iii) above, the Vendor has also delivered to the Purchaser copies of each of the following documents: (A) the annual information return filed in respect of the Pension Plan with any applicable Governmental Authority for each of the last two completed years, (B) the two most recently completed actuarial reports filed in respect of the Pension Plan, (C) the most recent financial statements filed in respect of the Pension Plan with any Governmental Authority, (D) evidence that the Pension Plan has been accepted for registration for purposes of the ITA (including the regulations thereunder) and the applicable federal pension legislation, and (E) the most recent statement of investment policies and procedures in respect of the Pension Plan.
- (v) Each Benefit Plan is in compliance with and is, and has been, established, registered (where required by Applicable Law), administered, funded and invested in all material respects in accordance with Applicable Law and the terms of such Benefit Plan.
- (vi) With respect to the defined benefit provision of any Pension Plan, all contributions required in order for such Pension Plan to comply with the minimum funding standards imposed by Applicable Law have been made, and with respect to the defined contribution provision of any Pension Plan, all required employer contributions have been fully paid into the funding arrangement for the Pension Plan.
- (vii) None of the Benefit Plans provides benefits beyond retirement or other termination of service to Employees or former employees of the Corporation or to the beneficiaries or dependants of such Employees or former employees other than (A) coverage required by Applicable Law, (B) death or retirement benefits under any Pension Plan, or (C) benefits the full cost of which are borne by the Employee or former employee (or their respective beneficiaries).
- (viii) The Corporation has not received any notice in writing of any pending investigations, and, to the knowledge of the Vendor, there are no pending or threatened investigations, by any Governmental Authority involving or relating to any Benefit Plan.
- (ix) No amendments have been made to any Benefit Plan and no improvements to any Benefit Plan have been promised by the Corporation, except as required by any Collective Agreement or Applicable Law.
- (x) To the knowledge of the Vendors, no changes have occurred to the Benefit Plans which would affect the most recent actuarial report for such Benefit Plans.
- (xi) All data necessary to administer each Benefit Plan is in the possession of the Corporation or its respective agents or service providers and is in a form which is sufficient for the proper administration of the Benefit Plan in accordance with its terms and all Applicable Law.

- (xii) No event has occurred respecting any Pension Plan which would entitle any Person to cause the wind-up or termination of such Pension Plan in whole or in part.
- (xiii) There exists no liability in connection with any former Benefit Plan relating to the Employees or former Employees or their beneficiaries that has terminated.

(gg) Employment Matters.

- (i) The Vendor has provided the Purchaser with access to true, accurate and complete copies (except for redactions of Personal Information in compliance with Privacy Law) of all written employment Contracts with the Corporation relating to the Employees, as well as all other documents containing material terms and conditions of employment or for the provision of services including all Benefit Plans and Collective Agreements.
- (ii) The Employee List lists all non-union Employees employed by the Corporation as of the Offer Date, together with each Employee's position/title, date of hire, nature of employment, base salary, other compensation including any bonuses paid since the Corporation's last completed fiscal year, any retention payments (including payments related to the consummation of the Transaction), accrued vacation, any banked overtime, employment status (e.g. active, on medical or maternity leave), whether in receipt of short-term or long-term disability benefits.
- (iii) The Employee List lists all union Employees employed by the Corporation as of the Offer Date, together with each Employee's position/title, date of hire, nature of employment, any bonus paid in respect of the Corporation's last completed fiscal year, accrued vacation, any banked overtime, employment status (e.g. active, on medical or maternity leave), and whether in receipt of short-term or long-term disability benefits.
- (iv) There are no non-union Employees who cannot be terminated in accordance with Applicable Law.
- (v) Except as set out in the Employee List, the Corporation is not party to or bound by any Contract in respect of any Employee which provides such Employee with termination or severance entitlements in excess of those required by Applicable Law.
- (vi) The Disclosure Letter lists all union certifications and Collective Agreements involving the Employees. Except as set out in the Disclosure Letter, the Corporation is not a party to or bound by, either directly or by operation of Applicable Law, any collective agreement, labour contract, letter of understanding, letter of intent, voluntary recognition agreement or legally binding commitment or written communication to any labour union, trade union or employee organization or group which may qualify as a trade union in respect of or affecting Employees. To the Vendor's knowledge, there are no voluntary recognitions in place or pending with respect to the Employees, nor is the Corporation the subject of any union organizing efforts involving the Employees.
- (vii) There are no actual or, to the Vendor's knowledge, threatened labour disputes or picketing involving the Employees including strikes, work stoppages or slowdowns that might adversely affect the Current Business or the LPG Business or lead to interruption of the Current Business or the LPG Business, nor has there

been such labour dispute, strike, picketing, work stoppage or slow-down in the last three (3) years. The Corporation is not engaged in any labour negotiation.

- (viii) The Corporation is not a member of any employer or industry association pursuant to which it is obligated to contribute to any health benefit plan or pension plan relating to any union Employees.
 - (ix) The Corporation has paid or accrued all current premiums or assessments payable under applicable workers' compensation legislation, and the Corporation has not been subject to any specialty or penalty assessment under such legislation which has not been paid. There are no pending or threatened claims by any Governmental Authority against the Corporation under applicable occupational health and safety laws, and, to the knowledge of the Vendor, there have been no fatal or critical accidents which have occurred in the past three (3) years in connection with the Current Business which may reasonably lead to charges under applicable occupational health and safety laws.
 - (x) The Corporation has not engaged in any unfair labour practice nor is it aware of any pending or threatened complaint regarding any alleged unfair labour practice. The Corporation is not subject to any arbitrations, grievances, complaints, charges or similar labour related disputes or proceedings pertaining to the Employees of the Corporation.
 - (xi) All representations and warranties of the Vendor relating to the Employees and Applicable Law relating to Employees are exclusively contained in Subsections 3.1(ff) and (gg).
 - (xii) The Disclosure Letter lists all agreements with Employees that contain retention payments payable to Employees and/or change of control payments or other similar payments (including change of control or other similar payments triggered by termination or constructive dismissal) payable to Employees.
- (hh) Tax Matters.
- (i) Since July 30, 1991, the Corporation has been, pursuant to section 149(1)(d) of the ITA, exempt from tax under Part I of the ITA.
 - (ii) The Corporation has paid and will have on the Closing Date paid all Taxes payable by it to any Governmental Authority pursuant to Applicable Law.
 - (iii) No audit or other proceeding by any Governmental Authority is pending or, to the knowledge of the Vendor, threatened with respect to any Taxes of the Corporation. There are no matters under discussion with any Governmental Authority relating to Taxes.
 - (iv) The Corporation does not have any contingent liabilities for Taxes. The Corporation has not received any written notification from any Governmental Authority that an assessment or reassessment of the Corporation is proposed in respect of any Taxes.
 - (v) The Corporation has withheld or collected, and will have on the Closing Date withheld or collected, all amounts required by Applicable Law to be withheld or collected, and has timely remitted and will have on the Closing Date timely

remitted such withheld amounts within the prescribed periods to the appropriate Governmental Authority.

- (vi) The Corporation has charged, collected and remitted on a timely basis all Taxes as required under Applicable Law on any sale, supply or delivery whatsoever made by the Corporation.
 - (vii) To the knowledge of the Vendor, there is no basis for a claim that the Corporation is subject to Taxes in a jurisdiction outside of Canada.
 - (viii) The Corporation is not party to or bound by any tax sharing agreement, tax indemnity obligation in favour of any Person or similar agreement in favour of any Person with respect to Taxes (including any advance pricing agreement or other similar agreement relating to Taxes with any Governmental Authority).
 - (ix) There are no Encumbrances for Taxes upon any Assets of the Corporation.
 - (x) The Corporation is registered under Part IX of the *Excise Tax Act* (Canada) and under any comparable Applicable Law in any Province or Territory of Canada as required.
 - (xi) The Corporation has prepared and filed when due with each relevant Governmental Authority all Tax Returns required to be filed by or on behalf of it in respect of any Taxes, and has paid or made provision for the payment of all Taxes whether or not reported in any Tax Return. All such Tax Returns are correct and complete in all material respects, and no material fact has been omitted therefrom. No extension of time in which to file any such Tax Returns is in effect.
- (ii) Commissions. Neither the Corporation nor the Purchaser will be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by, the Vendor or the Corporation.
- (jj) Accounts Receivable. The accounts receivable of the Corporation shown in the Financial Statements and the Books and Records represent valid obligations arising from services actually performed by the Corporation in the ordinary course of business in all material respects. Except where provisions or reserves have been made in the accounts of the Corporation, to the knowledge of the Vendor, the accounts receivable of the Corporation are current with a right to collect and are not subject to any defence, counterclaim or set-off.
- (kk) Legal Proceedings or Orders. There are no Legal Proceedings or Orders in progress pending or, to the knowledge of Vendor, threatened against the Corporation with respect to the Transaction, the Corporation, the Business or any Assets which would materially impact the Current Business, the LPG Business, the Assets, or the condition (financial or other) of the Corporation.
- (ll) Insurance. The Disclosure Letter lists all current insurance policies maintained by the Corporation and relating to the Assets, Business, Employees, officers and directors of the Corporation (collectively, the "**Insurance Policies**") and copies of each of the Insurance Policies have been made available to Purchaser in the Data Room. The Insurance Policies are in full force and effect and shall remain in full force and effect following the consummation of the Transaction. The Corporation has not received any written notice:

(i) of cancellation of, premium increase with respect to, or alteration of coverage under, any of the Insurance Policies; (ii) that any issuer of an Insurance Policy has filed for protection under applicable bankruptcy laws or is otherwise in the process of liquidating or has been liquidated; or (iii) that any Insurance Policy is otherwise no longer in full force or effect or that the issuer of any such policy is no longer willing or able to perform its obligations thereunder. All premiums due on the Insurance Policies have been paid in accordance with the payment terms of each Insurance Policy. All such Insurance Policies: (iv) are valid and binding in accordance with their terms; and (v) have not been subject to any lapse in coverage. The Corporation is not in default under, or has otherwise failed to comply with, in any material respect, any provision contained in any Insurance Policy.

(mm) Software Licences & Intellectual Property.

- (i) The Disclosure Letter lists all Corporation IP Registrations, Corporation IP that is not registered but that is material to the Current Business, and Corporation IP Agreements.
- (ii) All required filings and fees related to the Corporation IP Registrations have been timely filed with and paid to the relevant Governmental Authorities and authorized registrars, and all Corporation IP Registrations are otherwise in good standing.
- (iii) The Corporation is the sole and exclusive legal, beneficial, and with respect to the Corporation IP Registrations, registered, owner of all right, title and interest in and to the Corporation IP, and has the valid right to use all other Intellectual Property used in or necessary for the conduct of the Current Business, in each case, free and clear of Encumbrances other than Permitted Encumbrances.
- (iv) To the Vendor's knowledge, the conduct of the Business has not infringed, misappropriated, diluted or otherwise violated, and does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any Person.

(nn) Environmental Matters.

- (i) The Corporation has been for the past three (3) years and is currently in material compliance with Environmental Law in relation to the Current Business and the LPG Business.
- (ii) The Environmental Permits are listed in the Disclosure Letter and are in full force and effect. There are no Legal Proceedings in progress or pending or, to the knowledge of the Vendor, threatened, which may result in the revocation, cancellation, suspension or any modification of any Environmental Permit.
- (iii) The Corporation has not received, in relation to the Current Business or the LPG Business, during the past three (3) years, any Order or other written communication from any Governmental Authority alleging that the Corporation is in material non-compliance with any Environmental Law or Environmental Permit that is unresolved.
- (iv) The Corporation is not subject to any Order, Legal Proceeding or any request from any Governmental Authority in relation to the material compliance of the Business with any Environmental Law.

- (v) The Corporation is in material compliance with the handling, storage and disposal of Hazardous Substances in accordance with Environmental Law.
- (vi) All representations and warranties of the Vendor relating to the Environment are exclusively contained in this Section 3.1(nn).
- (oo) [REDACTED]
- (pp) Securities Legislation. The Corporation is a “private issuer” within the meaning of National Instrument 45-106 – Prospectus Exemptions.
- (qq) Anti-Corruption Practices. Neither the Corporation nor any of its directors, officers or employees or, to knowledge of the Vendor, agents, consultants or representatives has, in the course of its actions for, or on behalf of, the Corporation:
 - (i) violated or taken any act that would violate any provision of the Applicable Anti-Corruption Laws;
 - (ii) violated or taken any act that would violate any provision of the Applicable Sanction Laws; or
 - (iii) engaged in any business with any Person with whom the Corporation is prohibited to engage under any provision of the Applicable Sanction Laws.
- (rr) Related Party Transactions. The Corporation is not a party to and has not, at any time during the past three (3) years, entered into any any agreement, contract, guarantee, commitment or transaction with (i) any senior officer or a director of the Corporation, or (ii) any Person that is a “related person” of such individuals as defined in subsection 251(2)(a) of the ITA other than employment agreements entered into in the ordinary course of business. No such person has an interest in the Assets.

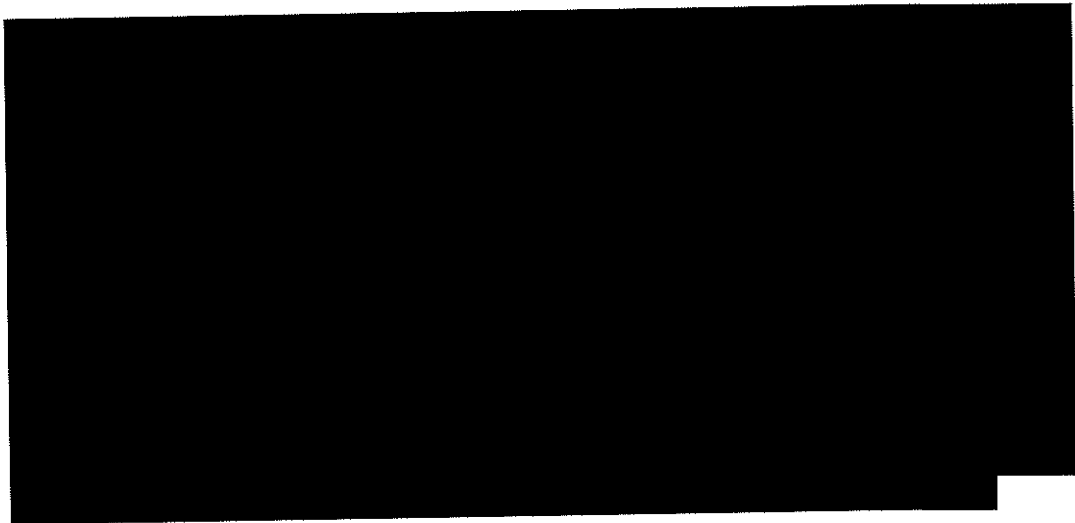
3.2 Representations and Warranties of the Purchaser.

The Purchaser represents and warrants to the Vendor as follows:


- (a) Organization. The Purchaser is a corporation incorporated, organized and subsisting under the laws of the jurisdiction of its incorporation.
- (b) Authority. The Purchaser has the corporate power, authority and capacity to execute and deliver this Agreement and each of the agreements required to be executed and delivered by the Purchaser under this Agreement and to perform its obligations hereunder and thereunder. The execution, delivery and performance by the Purchaser of this Agreement and the agreements to be executed and delivered by the Purchaser hereunder have been duly and validly authorized by all requisite corporate action on the part of the Purchaser.

- (c) Enforceability. This Agreement constitutes the valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms subject to (i) applicable bankruptcy, insolvency, reorganization, or other laws affecting creditor's rights generally; (ii) general principles of equity; and (iii) the power of a court to deny enforcement of remedies generally based upon public policy.
- (d) No Conflict. Subject to the Competition Act Approval, the execution, delivery, and performance of this Agreement by the Purchaser do not and will not:
 - (i) violate or breach the constating documents of the Purchaser;
 - (ii) violate or breach any Applicable Law binding upon the Purchaser; or
 - (iii) result in any breach of, or constitute a default under any note, bond, mortgage, indenture, contract, licence, or other instrument to which the Purchaser is a party or by which the Purchaser is bound.
- (e) Regulatory Approvals. Other than the Competition Act Approval, no consent, approval, authorization, licence, Order or permit of, or declaration, filing or registration with, or notification to, any Governmental Authority, or any other Person exercising regulatory authority, is required to be made or obtained by the Purchaser or, any Affiliate of the Purchaser in connection with the execution, delivery, and performance of this Agreement by the Purchaser.
- (f) Legal Proceedings or Orders. There are no Legal Proceedings or Orders pending, or to the knowledge of the Purchaser, threatened against the Purchaser with respect to the Transaction.
- (g) Accredited Investor. The Purchaser is an "accredited investor" for the purposes of National Instrument 45-106 - Prospectus Exemptions.

(h)



- (i) Open Access. Customers of the Corporation and significant providers of transportation to and from the Terminal do not, together with each other and their respective Affiliates, collectively hold more than a 49.99 per cent equity interest in, nor otherwise control, the Purchaser. The Purchaser is aware of and acknowledges the "open access" provisions set out in the Sales Process Letter from CDEV dated November 5, 2018.

- (j) Foreign State-Owned Enterprise. The Purchaser is not, and is not owned, in whole or in part, directly or indirectly, by a foreign state-owned enterprise (as defined in section 3 of the *Investment Canada Act* (Canada)).
- (k) No Restricted Party. The Purchaser is not, and is not directly or indirectly controlled by, a Restricted Party (as defined in the Confidentiality Agreement), and the Purchaser has not used, consulted, included or sought advice from any Restricted Party in the course of its evaluation of the Corporation.
- (l) 
- (m) Commissions. The Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by, the Purchaser.
- (n) Non-Reliance. The Purchaser has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) or assets of the Corporation, and acknowledges that it has been provided with adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Vendor and the Corporation for such purpose. The Purchaser acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, the Purchaser is not relying on any representation, warranty, statement or information made or communicated (orally or in writing) to the Purchaser or any of its Representatives (including without limitation any opinion, information, projection or advice that may have been provided to the Purchaser by any Representative of either the Vendor or any Affiliate thereof) except for the representations and warranties contained in this Part 3 (including the related portions of the Disclosure Letter, the Disclosure Supplement and the Employee List); (ii) due to the passage of time, certain of the facts underlying the estimates and assumptions in the Financial Projections may no longer be accurate; (iii) except as and to the extent set forth in Section 3.1 (including the related portions of the Disclosure Letter, the Disclosure Supplement, and the Employee List), the Vendor makes no representations or warranties whatsoever, and disclaims all liability and responsibility for any representation, warranty, statement or information made or communicated (orally or in writing) to the Purchaser or any of its Representatives (including without limitation any opinion, information, projection or advice that may have been provided to the Purchaser by any Representative of either the Vendor or any Affiliate thereof).

PART 4 COVENANTS

4.1 Pre-Closing Transactions.

The Vendor will, and will cause the Corporation to, do any and all such acts and things necessary or required to complete (i) the Pre-Closing Transactions prior to the Closing and (ii) the transfer by the Vendor of the Purchased Shares to the Purchaser as contemplated by this Agreement.

4.2 Conduct of Business During the Interim Period.

Except with the prior written consent of the Purchaser and subject to compliance with Applicable Law or as otherwise contemplated in this Agreement or as disclosed in the Disclosure Letter, the Vendor covenants and agrees that during the Interim Period it will, and will cause the Corporation to, as applicable:

- (a) operate the Current Business and, to the extent conducted, the LPG Business, in the ordinary course of business, in compliance with Applicable Law in all material respects and in a manner consistent with its past practices including:
 - (i) operating, maintaining and repairing the Assets in accordance with good industry practice;
 - (ii) replacing any Assets which are disposed of with assets of equivalent or better quality;
 - (iii) maintaining the Books and Records in the usual and ordinary course, consistent with past practice, and recording all transactions on a basis consistent with that practice; and
 - (iv) using commercially reasonable efforts to preserve intact the Current Business, the LPG Business and goodwill of the Corporation, and maintaining relationships with suppliers, distributors, customers and others with whom the Corporation has business relationships, as they are as of the Offer Date;
- (b) continue to perform all of its obligations under, and comply with all terms and conditions of the Material Contracts;
- (c) collect and remit all Taxes required to be collected and remitted prior to the Closing Date;
- (d) other than Permitted Encumbrances, not encumber or otherwise dispose of any part of the Assets;
- (e) not terminate or materially change the terms of employment of any Employee (including, for greater certainty, with respect to any compensation, benefits or other entitlements of Employees) or Benefits Plan, other than, in the case of Employees, for "just cause" or where reasonably required to protect the property and interests of the Corporation and, in the case of a Benefits Plan, as required by any Collective Agreement or Applicable Law;
- (f) not guarantee the obligations of any Person or incur any Debt except unsecured current obligations;

- (g) other than in the ordinary course of business, not make any loans or extend credit to any Person;
- (h) not issue, sell, encumber or dispose of or agree to issue, sell, encumber or dispose of the Purchased Shares or any other shares, rights, options, warrants or other securities of the Corporation;
- (i) subject to Section 4.2(n) below, not make or commit to make any capital expenditures in excess of [REDACTED] individually;
- (j) subject to Section 4.2(o) below, not enter into any agreements for the construction of Second Berth Expansion; and
- (k) subject to Section 4.2(t) below, not enter into or amend, terminate or waive any material default or condition precedent of or under any Material Contract.

Notwithstanding anything contained in this Agreement to the contrary (including the foregoing), the Vendor and the Corporation shall be entitled to:

- (l) implement the Pre-Closing Transactions;
- (m) take actions in preparation of the Corporation transitioning from a "parent Crown corporation", including making arrangements in respect of its Crown Rights and Obligations and the Crown Records;
- (n) pursue its capacity expansion plan pursuant to the capital expenditure plan of the Corporation set out in Schedule 4.2(n);
- (o) continue to pursue obtaining Permits for the Second Berth Expansion, including consultations with First Nations and entering into agreements with First Nations related thereto;
- (p) take any action in fulfillment of the various other provisions of this Agreement and the Sales Support Agreement, as applicable;
- (q) hire additional Employees;
- (r) [REDACTED]
- (s) repay all or any portion of the Debt owing pursuant to its credit facility with Bank of Nova Scotia;
- (t) [REDACTED] and
- (u) enter into the agreements referenced in the Disclosure Letter as currently in draft.

4.3 Transition.

After the Signing Date, the Vendor shall give, or cause to be given, to the Purchaser, with prior written notice, reasonable access during normal business hours to management and the property and Assets of the Corporation, including the Books and Records, the Contracts and the Terminal Lease Area, including any documents related thereto, to the extent reasonably required to observe the operation of the Business and facilitate the Closing and the transition of control of the Business to the Purchaser and to the extent such access is not in any way contrary to Applicable Law and does not interrupt or interfere with the

Corporation's ability to operate the Business in the ordinary course. The Vendor's obligation to provide the Purchaser and its Representatives, including Representatives of the Purchaser's lenders, reasonable access to that part of the Terminal Lease Area included in the Sublease Area, as aforesaid, shall be subject to the terms of the Sublease including, if required, the Vendor notifying and obtaining the consent of [REDACTED].

4.4 Information Requests.

After the Signing Date, and subject to compliance with Applicable Law, the Vendor shall, and shall cause the Corporation to, provide to the Purchaser copies of, or shall permit the Purchaser to copy, as reasonably requested by the Purchaser, all plans, specifications, surveys, Books and Records, Contracts, Permits and other agreements, documents and information contained in or referred to in this Agreement and such operating data and other information with respect to the Business and the Assets as the Purchaser may from time to time reasonably request during the Interim Period; provided that in no event shall it be reasonable for the Purchaser to request any Crown Records. The Purchaser acknowledges and agrees that the Confidentiality Agreement shall continue to apply as provided for in Section 9.3 in respect of any information it receives pursuant to this Section 4.4. After the Signing Date, the Vendor shall, to the extent within its control, use commercially reasonable efforts to facilitate such conversations or discussions between the Purchaser and such counterparties to the Material Contracts as the Purchaser may reasonably request to facilitate the transition of control of the Business to the Purchaser, provided such discussions do not interrupt or interfere with the Corporation's ability to operate the Business in the ordinary course.

4.5 Personal Information.

Each Party shall (and the Purchaser shall cause the Principals to) comply with Privacy Law in the course of collecting, using and disclosing Transaction Personal Information. The Purchaser shall collect and use the Transaction Personal Information prior to Closing only for purposes of evaluation of, and preparation for, Closing of the Transaction. During the Interim Period, the Purchaser shall keep strictly confidential all Transaction Personal Information and shall restrict access to the Transaction Personal Information to its Representatives (including the Principals) who have a bona fide need to access such information in evaluating and advising on the Transaction. After Closing, the Purchaser shall not, without the consent of the individuals to whom the Transaction Personal Information relates or as permitted or required by Privacy Law, use or disclose Transaction Personal Information:

- (a) for purposes other than those for which such Transaction Personal Information was collected by the Vendor prior to the Closing; or
- (b) for purposes that do not relate directly to the carrying on of the Business or to the carrying out of the objects for which the Transaction took place.

The Purchaser shall protect and safeguard all Transaction Personal Information against unauthorized collection, access, use, storage, disclosure or other processing, as provided by Privacy Law. The Purchaser shall cause its Representatives (including the Principals) to observe the terms of this Section 4.5 and to protect and safeguard Transaction Personal Information in their possession. If this Agreement is terminated for any reason, the Purchaser shall, and shall cause the Principals to, promptly deliver to the Vendor all Transaction Personal Information in their possession or in the possession of any of their Representatives, including all copies, reproductions, summaries or extracts thereof or delete or destroy such information at the Purchaser's option. To the extent required by Privacy Law, the Purchaser shall within a reasonable time period after Closing notify or cause the Corporation to notify those individuals to whom the Transaction Personal Information relates that the Transaction has been completed and that Transaction Personal Information about them was disclosed by the Vendor to the Purchaser and the Principals in the course of the Transaction.

4.6 Tax Matters.

- (a) Preparation of Tax Returns. After the Closing, the Purchaser shall cause to be prepared and filed on a timely basis all Tax Returns for the Corporation for any Pre-Closing Tax Period for which Tax Returns are required to be prepared and filed after the Closing (all such Tax Returns collectively being referred to herein as the “**Pre-Closing Tax Returns**”) on a basis consistent with: (i) Applicable Law, (ii) the Closing Date Statement of Adjustments, and (iii) the Corporation being entitled to an exemption from Tax under Part I of the ITA up to, and including, the Closing Time. For the avoidance of doubt, the Purchaser may cause the Corporation to make an election pursuant to subsection 256(9) of the ITA in respect of the taxation year of the Corporation ending on the acquisition of control of it by the Purchaser.
- (b) Audits and Assessments. Notwithstanding anything to the contrary in this Agreement, after the Closing, the Vendor shall have the right (but not the obligation) to control and represent the interests of the Corporation in any and all audits, assessments or administrative or court proceedings with respect to the Corporation for all Pre-Closing Tax Periods. The Purchaser shall, and shall cause the Corporation to, cooperate fully with the Vendor, as and to the extent reasonably requested by the Vendor in connection with such audits, assessments, or proceedings, including (i) the retention and the provision of records and information that are reasonably relevant to such audit, assessments or proceeding during normal business hours and (ii) making employees of the Corporation available (as reasonably required) on a mutually convenient basis to provide additional information and explanation of any materials provided hereunder or to testify at any such audits, assessments or proceedings. The Vendor shall not agree or consent to compromise or settle any issue or claim arising in any such audit, assessment or proceeding without the written consent of the Purchaser (which consent will not be unreasonably withheld, conditioned or delayed), except where such claim is solely for monetary damages for which the Purchaser will be indemnified in accordance with Part 7.

4.7 Financing.

- (a) The Purchaser shall use commercially reasonable efforts to cause the Financing contemplated by the Commitment Letter to be available at Closing. If funds in the amount set forth in the Commitment Letter become unavailable to the Purchaser on the terms and conditions set forth therein, the Purchaser shall use commercially reasonable efforts to obtain such funds to the extent available on terms and conditions no less favorable in the aggregate to the Purchaser than as set forth in the Commitment Letter (the “**Alternative Financing**”).
- (b) Prior to Closing, the Vendor shall use commercially reasonable efforts, and shall cause the Corporation to use commercially reasonable efforts, to provide the Purchaser with all cooperation reasonably requested by the Purchaser in connection with the Financing contemplated by the Commitment Letter or any Alternative Financing; provided, that such requested cooperation and assistance does not unreasonably interfere with the ongoing business of the Corporation, interfere with or delay the Closing or require obtaining the consent of any third party in advance of the Closing. The foregoing notwithstanding:
 - (i) neither the Vendor nor the Corporation, nor any Persons who are directors of the Corporation shall be required to pass resolutions to approve or authorize the execution of the Financing or Alternative Financing;

- (ii) neither the Vendor nor CDEV shall be required to execute any certificate, document or instrument as part of the Financing or Alternative Financing;
- (iii) no obligation of the Corporation or any of their respective Representatives undertaken or under any certificate, document or instrument executed under the foregoing shall be effective until the Closing;
- (iv) neither the Corporation nor any of its Representatives shall be required to pay any commitment or other similar fee or incur any other cost or expense in connection with the Financing before the Closing; and
- (v) neither the Vendor nor the Corporation, nor any Persons who are directors of the Corporation, shall be required to obtain any third party consents in respect of the Financing or Alternative Financing.

The Purchaser acknowledges that all non-public or otherwise confidential information regarding the Corporation disclosed to the Lender or any financing source pursuant to this Agreement is subject to the Confidentiality Agreement.

4.8 Competition Act Approval.

- (a) Unless the Purchaser has already done so, as soon as reasonably possible and in any event by no later than two Business Days after the date hereof (or such longer period as legal counsel to the Parties may agree), the Purchaser shall prepare and file with the Commissioner a request for an advance ruling certificate or, in the alternative, a no-action letter in respect of the Transaction (which request shall include a detailed competitive impact submission) and, if determined appropriate by the Parties, the Parties shall file a pre-merger notification under Part IX of the Competition Act to start the waiting period under section 123(1) of the Competition Act in accordance with the provisions of this Section 4.8.
- (b) The Parties covenant and agree to proceed diligently, in a coordinated fashion, to secure the Competition Act Approval and shall keep each other fully apprised from time to time and forthwith upon request of the status thereof. In particular, the Parties covenant and agree that, subject to and in compliance with Applicable Law, on and after the Signing Date (and both before and as applicable after Closing):
 - (i) all requests and enquiries from the Competition Bureau (Canada) shall be dealt with by the Parties in consultation with one another, and the Parties shall promptly co-operate with and provide all necessary information and assistance reasonably required by the Competition Bureau (Canada) upon being requested to do so by the Competition Bureau (Canada) or by another Party;
 - (ii) the Purchaser shall use commercially reasonable efforts to ensure that such information referenced in clause (i) above does not contain a misrepresentation and shall cooperate with and keep the Vendor fully informed as to the status of and the processes and proceedings relating to obtaining the Competition Act Approval and shall promptly notify the Vendor of any communication from the Commissioner or the Competition Bureau in respect of the Transaction or this Agreement, including the details thereof;
 - (iii) the Parties shall promptly notify each other of all communications of any nature with respect to the Transaction from the Competition Bureau (Canada) and provide each other with copies thereof;

- (iv) no Party shall provide any substantive oral nor written representations, statements, information, remedy proposals or other filings to the Bureau without first giving the other Parties a reasonable opportunity to provide its comments, and each Party shall consider such comments in good faith before providing any such representations, statements, information or other filings to the Bureau;
 - (v) the Purchaser shall be responsible for and pay the government filing fee payable in connection with the Competition Act Approval;
 - (vi) no Party shall participate in any substantive meeting or discussion (whether in person, by telephone or otherwise) with the Competition Bureau (Canada) in respect of any filings, investigation or inquiry concerning the Transaction unless it consults with each other Party in advance and gives each other Party the opportunity to attend and participate thereat (except to the extent that in any such case the Competition Bureau (Canada) expressly requests that another Party should not be present at the meeting or discussion or part or parts of the meeting or discussion); and
 - (vii) no Party shall extend or consent to any extension of any waiting period under Applicable Law with respect to the Transaction or enter into any agreement with the Competition Bureau (Canada) to not consummate the Agreement, except with the consent of the other Parties.
- (c) The Parties shall use commercially reasonable efforts to obtain and maintain the Competition Act Approval as soon as practicable and in any event by no later than the Outside Date. Promptly on obtaining the Competition Act Approval, the Purchaser will provide a copy to the Vendor.
- (d) Without limiting the generality of Section 4.8(b), in the event that the Purchaser or the Vendor receives a supplementary information request pursuant to subsection 114(2) of the Competition Act (a "SIR"), or an order to produce records, make a written return of information, and/or have one or more employees attend an oral examination conducted by the Commissioner (collectively, a "Section 11 Order"), in connection with the transactions contemplated hereby, the Purchaser and/or the Seller, as applicable, shall use their respective best efforts, and in the case of the Purchaser, will cause the Principals to use commercially reasonable efforts, to respond to the SIR or Section 11 Order at the earliest practicable date. For purposes of this provision, the Purchaser and/or the Vendor, as applicable, shall be deemed to have responded to any such SIR or Section 11 Order by certifying such compliance pursuant to section 118 of the Competition Act or in accordance with the SIR or Section 11 Order. In the event that the Commissioner disputes the adequacy of compliance by the Purchaser and/or the Vendor, as applicable, with respect to a SIR or Section 11 Order, the Purchaser and/or the Vendor, as applicable, shall endeavour to satisfy the Commissioner as soon as possible so as to minimize any delay in the conduct or resolution of the Commissioner's review of the Transaction.
- (e) The Purchaser shall not, and shall cause the Principals not to (i) negotiate or enter into any transaction or agreement; or (ii) alter the nature or scope of their businesses, in such a way that, in each case, could reasonably be expected to adversely impact the ability of the Parties to secure Competition Act Approval on a timely basis.
- (f) Notwithstanding anything in this Section 4.8, where any Party is obligated to provide information that it deems to be competitively-sensitive information to another Party, the Party providing such competitively-sensitive information shall provide it only to the

external legal counsel of such other Party or to external experts hired by external counsel to such other Party and such competitively-sensitive information shall not be shared by such counsel or external experts with any other Person.

- (g) The Purchaser will cause the Principals to comply with this Section 4.8.

4.9 Risk of Damage or Loss.

- (a) Loss During Interim Period. If, during the Interim Period, any material portion of the Assets or the Current Business is stolen, lost, destroyed or damaged (all of which are herein called “Casualty Loss”), then unless and until such Casualty Loss has resulted in a Material Adverse Effect or has caused any other condition in Section 6.2 to not be fulfilled at or before the Closing Time or to become impossible to satisfy prior to the Outside Date, the Purchaser and the Vendor shall, subject to the other terms and conditions of this Agreement, proceed with the Closing notwithstanding any such Casualty Loss and:
- (i) if such Casualty Loss is covered by any policies of insurance and exceeds the applicable deductible under such policies, then the Vendor shall and shall cause the Corporation to file a claim with the applicable insurance carriers and shall pay or cause to be paid to the Corporation any insurance proceeds received for such loss, as the case may be;
 - (ii) the Corporation will retain all insurance proceeds; and
 - (iii) if any insurance proceeds retained by or paid to the Corporation in respect of the Casualty Loss (not including any applicable deductible) are not sufficient to repair the damage or loss, or if no such insurance proceeds are available, the Purchase Price will be reduced by the amount of such deficiency or Casualty Loss, as applicable, to be determined by the Vendor and the Purchaser acting reasonably.
- (b) Settlement of Claims. After Closing, the Purchaser shall not, and shall cause the Corporation not to, voluntarily compromise, settle or adjust any amounts payable by reason of any Casualty Loss without first obtaining the written consent of the Vendor, such consent not to be unreasonably withheld, conditioned or delayed.
- (c) Policies. The Vendor shall not, and shall cause the Corporation not to, take any action or inaction during the Interim Period, the result of which is that the Insurance Policies will be discontinued, cancelled or terminated or any coverage thereunder will lapse, without obtaining alternative insurance policies with the same coverage as the Insurance Policies, in the aggregate.

4.10 Supplemental Disclosure.

From time to time before the Closing, but in any event no later than five (5) Business Days prior to the Closing Date, the Vendor shall supplement or amend the Disclosure Letter with respect to any matter hereafter arising or of which it becomes aware after the date hereof (each, a “**Disclosure Supplement**”). Any disclosure in any such Disclosure Supplement shall not be deemed to have cured any inaccuracy in or breach of any representation or warranty set out in this Agreement for purposes of determining whether or not the conditions set forth in Section 6.2 have been satisfied, but will modify the representations and warranties in Section 3.1 for purposes of determining whether or not an inaccuracy or breach of representation or warranty has occurred for purposes of Part 7.

4.11 Library and Archives Canada.

Upon request, the Purchaser will cause the Corporation to use commercially reasonable efforts to promptly provide copies of any documentation relating to the Corporation or its Business as it existed prior to Closing to Library and Archives Canada.

4.12 Crown Rights and Obligations.

The Purchaser acknowledges that (a) until the Closing, the Corporation will be a “parent Crown corporation” for purposes of the FAA and will have responsibilities and obligations related to such status, including the Crown Rights and Obligations and (b) after the Closing, the Corporation will no longer have such Crown Rights and Obligations. During the Interim Period, the Corporation may remove any Crown Records from the Books and Records and transfer them without charge to a Person designated by the Vendor. After Closing, if and when such documentation comes to the attention of the Corporation, the Purchaser will cause the Corporation to make all reasonable efforts to segregate and transfer any Crown Records in the Corporation’s possession to the Vendor. The Vendor acknowledges that the Corporation may delete or destroy such records in accordance with its applicable document retention periods.

4.13 No Shop.

The Parties agree that, from the Signing Date until the earlier of the Closing or the termination of this Agreement, neither the Vendor nor CDEV will take any action, directly or indirectly, to solicit indications of interests, or offers for, or enter into or continue any discussions or negotiations with any Person with respect to, any transaction similar to the Transaction.

4.14 Post-Closing Matters.

- (a) Forthwith upon Closing, the Purchaser shall, or shall cause the Corporation to, prepare and file with the appropriate Governmental Authority all documentation required by Applicable Law in respect of the appointment of those individuals nominated by the Purchaser and the SPV as directors of the Corporation in accordance with Section 5.4(g).
- (b) To facilitate the resolution of any claims made against or incurred by the Vendor before the Closing Date, or for any other reasonable purpose (including the Purchaser’s obligations under Part 4), for a period of six (6) years after the Closing Date or such shorter document retention period as permitted under Applicable Law, the Purchaser shall:
 - (i) retain the Books and Records (including personnel files) of the Corporation relating to periods before the Closing Date in a manner reasonably consistent with the prior practices of the Corporation; and
 - (ii) upon reasonable notice, afford the Vendor reasonable access (including the right to make, at Vendor’s expense, photocopies), during normal business hours, to such Books and Records and to employees of the Corporation.

4.15 Directors and Officers Insurance.

The Vendor may, at its expense, cause the Corporation to purchase and maintain an extended reporting period endorsement under the Corporation’s existing directors’ and officers’ liability insurance coverage for the Corporation’s past and present directors and officers in a form acceptable to the Vendor (the “D&O Tail”), which shall provide such directors and officers with coverage for at least six (6) years following the Closing of not less than the existing coverage under, and have other terms not materially less favorable to the insured persons than the directors’ and officers’ liability insurance coverage

presently maintained by the Corporation. The Purchaser shall not, and shall cause the Corporation not to, cancel, amend or otherwise limit the D&O Tail, or any other excess directors' and officers' liability insurance policies procured by the Corporation prior to the Closing, and such policies shall continue to apply to any successor in interest of the Corporation, whether by asset sale, amalgamation, consolidation or merger of the Corporation to or into any other Person.

4.16 Estoppel Certificates.

The Vendor will use commercially reasonable efforts to obtain an estoppel certificate [REDACTED]. The Purchaser acknowledges that the PRPA Estoppel Certificate has been placed in the Data Room. The Vendor will use commercially reasonable efforts to obtain and deliver to the Purchaser an update to the PRPA Estoppel Certificate dated no more than thirty (30) days prior to the Closing Date.

PART 5 CLOSING ARRANGEMENTS

5.1 Closing.

The Closing shall take place at 10:00 a.m. on the Closing Date at the offices of the Vendor's Counsel in Vancouver, British Columbia, or at such other time on the Closing Date or such other place as may be agreed orally or in writing by the Vendor and the Purchaser, but shall be effective as of 5:00 a.m., Pacific Time, on the Closing Date.

5.2 Concurrent Closings.

The Closing shall take place concurrently with the closing of the various transactions contemplated by the Sales Support Agreement.

5.3 Vendor's Closing Deliveries.

At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following documents and items:

- (a) evidence satisfactory to the Purchaser, acting reasonably, that each of the transactions contemplated by Section 5.2 has completed concurrently with the Closing;
- (b) evidence of issuance of the GIC Approval;
- (c) executed copies of all documentation required to implement the Pre-Closing Transactions immediately prior to Closing or other evidence satisfactory to the Purchaser, acting reasonably, that the Pre-Closing Transactions have been completed;
- (d) instruments of transfer in respect of the Purchased Shares in a form acceptable to the Purchaser, acting reasonably, duly executed by or on behalf of the Vendor;
- (e) a certified copy of a directors' resolution of the Corporation authorizing the transfer of the Purchased Shares and the Minority Shares from the Vendor to the Purchaser and the SPV, respectively, and approving the execution of the [REDACTED], the Benefits Agreement, [REDACTED] and the Transfer Restriction Agreement by the Corporation;
- (f) new share certificates representing the Purchased Shares registered in the name of the Purchaser;

- (g) the minute books and corporate seal, if applicable, of the Corporation and to the extent in the Corporation's or the Vendor's possession, the minute books of all predecessor corporate entities which amalgamated to comprise the Corporation;
- (h) a bring-down certificate of an officer of CDEV, in CDEV's capacity as agent of the Vendor, dated as of the Closing Date in a form acceptable to the Purchaser, acting reasonably, confirming the matters outlined in Sections 6.2(a)(i), 6.2(b), and 6.2(c).
- (i) a certificate of status or other evidence from an appropriate Governmental Authority, dated on or about the Closing Date, as to the legal existence of the Corporation;
- (j) a receipt to the Purchaser for the payment of the Estimated Purchase Price in accordance with Section 2.4;
- (k) effective as of the Closing Time, releases between the Corporation and the Vendor, in the forms labelled as Exhibits E(i) and E(ii) in the Closing Documents Folder;
- (l) effective as of the Closing Time, a resignation and mutual release between the Corporation and each director of the Corporation in the form labelled as Exhibit F in the Closing Documents Folder;
- (m) [REDACTED]
- (n) the Benefits Agreement duly executed by the Corporation, Lax Kw'alaams and Metlakatla;
- (o) [REDACTED]
- (p) [REDACTED]
- (q) [REDACTED]
- (r) [REDACTED]
- (s) the Transfer Restriction Agreement duly executed by the Vendor and the Corporation; and
- (t) such further documents and assurances as may reasonably be required by the Purchaser to give effect to the obligations of the Vendor hereunder or under any agreement contemplated hereby.

5.4 Purchaser's Closing Deliveries.

At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor the following documents and payments:

- (a) a bring-down certificate of the president or other senior officer of the Purchaser dated as of the Closing Date confirming the matters in Section 6.3(a)(i) and 6.3(b), certifying the constating documents of the Purchaser and attaching certified resolutions of the Purchaser approving the Transaction, this Agreement, the Transfer Restriction Agreement [REDACTED] and all other documents required to be delivered hereunder;

- (b) a bring-down certificate of the president or other senior officer of each of Ridley Terminal Holdings Ltd and Riverstone RTI LP, dated as of the Closing Date, certifying their constating documents and attaching a certified resolution approving the Transfer Restriction Agreement;
- (c) a certificate of status or other evidence from an appropriate Governmental Authority, dated on or about the Closing Date, as to the legal existence of the Purchaser, each of the Principals, Ridley Terminal Holdings Ltd., AMCI Ridley Holdings Ltd. and Riverstone RTI LP;
- (d) the Escrow Certificate, duly executed by the Purchaser;
- (e) payment of the Estimated Purchase Price in accordance with Section 2.4;
- (f) evidence that the Competition Act Approval has been obtained;
- (g) consents to act as directors of the Corporation from each of the nominee directors of the Purchaser;
- (h) [REDACTED]
- (i) [REDACTED]
- (j) the Transfer Restriction Agreement duly executed by the Purchaser, Ridley Terminal Holdings Ltd., the Principals, AMCI Ridley Holdings Ltd. and Riverstone RTI LP;
- (k) such further documents and assurances as may reasonably be required by the Vendor to give effect to the obligations of Purchaser hereunder or under any agreement contemplated hereby.

PART 6 CONDITIONS OF CLOSING

6.1 Mutual Conditions.

Neither the Purchaser nor the Vendor shall be obligated to complete the Transaction unless each of the conditions listed below in this Section 6.1 has been satisfied at or before the Closing Time. The Vendor and the Purchaser shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions listed below in this Section 6.1 are fulfilled at or before the Closing Time:

- (a) Revocation of GIC Approval. The GIC Approval shall not have been revoked.
- (b) No Prohibition. As of the Closing Date, there shall be no Order (whether temporary, preliminary or permanent) made or any Legal Proceeding in process against the Corporation or the Vendor for the purpose of enjoining, prohibiting, altering, preventing or restraining, temporarily or permanently, the Closing, that has not been stayed, revoked or otherwise discharged.
- (c) No Law. During the Interim Period, the Enabling Legislation shall not have been amended or repealed and no Governmental Authority shall have enacted, issued or promulgated any law which has the effect of (i) making any of the transactions

contemplated by this Agreement illegal, or (ii) otherwise prohibiting, preventing or restraining the completion of any of the Transaction.

- (d) Competition Act Approval. The Competition Act Approval shall have been obtained.

6.2 Purchaser's Conditions.

The Purchaser shall not be obligated to complete the Transaction, including the purchase of the Purchased Shares, unless each of the conditions listed below in this Section 6.2 has been satisfied at or before the Closing Time, it being understood that such conditions are included for the exclusive benefit of the Purchaser. The Vendor shall take all such actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions listed below in this Section 6.2 are fulfilled at or before the Closing Time.

- (a) Compliance and Deliverables - Vendor. The Vendor shall have:
- (i) performed and complied with, in all material respects, all of the terms and conditions in this Agreement on its part to be performed or complied with at or before the Closing Time; and
 - (ii) executed and delivered or caused to have been executed and delivered, as applicable, to the Purchaser at the Closing all the documents and items contemplated in Section 5.3 ("**Vendor Closing Documents**").
- (b) Representations and Warranties. The representations and warranties of the Vendor shall be true and correct, as of the Closing Time:
- (i) in the case of representations and warranties qualified with respect to materiality, Material Adverse Effect or a specified quantitative threshold, in all respects; and
 - (ii) in the case of all other representations and warranties, in all material respects;
- except (A) to the extent such representations and warranties expressly relate to a specified date, and in such case, shall be true and correct on and as of such specified date, (B) for changes to the representations and warranties resulting from (i) any action or omission contemplated by this Agreement (including the Pre-Closing Transactions) or consented to by the Purchaser [REDACTED].
- (c) No Material Adverse Effect. No Material Adverse Effect shall have occurred since the Offer Date.

6.3 Vendor's Conditions.

The Vendor shall not be obligated to complete the Transaction unless each of the conditions listed below in this Section 6.3 has been satisfied at or before the Closing Time, it being understood that such conditions are included for the exclusive benefit of the Vendor. The Purchaser shall take all such actions, steps and proceedings as are reasonably within the Purchaser's control as may be necessary to ensure that the conditions listed below in this Section 6.3 are fulfilled at or before the Closing Time.

- (a) Compliance and Deliverables - Purchaser. The Purchaser shall have:

- (i) performed and complied with, in all material respects, all of the terms and conditions in this Agreement on its part to be performed or complied with at or before the Closing Time (including Section 4.7 and 4.8 of this Agreement); and
 - (ii) executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated in Section 5.4 (“**Purchaser Closing Documents**”).
- (b) Representations and Warranties. The representations and warranties of the Purchaser set out in Section 3.2 shall be true and correct in all material respects as of the Closing Time with the same effect as though made at and as of such date and time.
- (c) Estimated Purchase Price. The Purchaser shall have delivered to the Vendor cash in an amount equal to the Estimated Purchase Price pursuant to Section 2.4.

6.4 **Conditions Not Fulfilled.**

- (a) If the condition in Section 6.1(a) [**Revocation of GIC Approval**] is not satisfied as of, or if such condition is, or becomes, impossible to satisfy prior to the Closing Time (or, if no Closing Time is set prior to the Outside Date, by the Outside Date), then either Party (unless such non-fulfillment is due to a Purchase Agreement Default by such Party) may, in its sole discretion, terminate this Agreement by notice to the other Party.
- (b) If the condition in Section 6.1(b) [**No Prohibition**] has not been fulfilled at or before the Closing Time, or if such condition is, or becomes, impossible to satisfy prior to the Closing Time (or, if no Closing Time is set prior to the Outside Date, by the Outside Date), then either Party (unless such non-fulfillment is due to a Purchase Agreement Default by such Party) may either, in its sole discretion:
- (i) subject to Section 8.1(d), extend the Closing Date by notice to the other Party on or before the Closing Date (which notice may be provided by either Party more than once);
 - (ii) terminate this Agreement by notice to the other Party; or
 - (iii) if permissible under Applicable Law, waive compliance with such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.
- (c) If the condition in Section 6.1(c) [**No Law**] has not been fulfilled at or before the Closing Time, or if such condition is, or becomes, impossible to satisfy prior to the Closing Time (or, if no Closing Time is set prior to the Outside Date, by the Outside Date), then either Party may either, in its sole discretion:
- (i) terminate this Agreement by notice to the other Party; or
 - (ii) if permissible under Applicable Law, waive compliance with such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.
- (d) If the condition in Section 6.1(d) [**Competition Act Approval**] has not been fulfilled at or before the Outside Date, or if such condition is, or becomes, impossible to satisfy prior to the Outside Date, then either Party (unless such non-fulfillment is due to a Purchase Agreement Default by such Party) may either, in its sole discretion:

- (i) terminate this Agreement by notice to the other Party; or
 - (ii) if permissible under Applicable Law, waive compliance with such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.
- (e) If any condition in Sections 6.2(a) [**Vendor Compliance and Deliverables**], or 6.2(b) [**Vendor Reps & Warranties**] has not been fulfilled at or before the Closing Time (including a failure of the Purchaser to comply with Section 4.7 or 4.8 of this Agreement), or if such condition is, or becomes, impossible to satisfy prior to the Closing Time (or, if no Closing Time is set prior to the Outside Date, by the Outside Date) other than as a result of a Purchase Agreement Default by the Purchaser, the Purchaser in its sole discretion may either:
- (i) terminate this Agreement by notice to the Vendor; or
 - (ii) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.
- (f) If the condition in Section 6.2(c) [**No Material Adverse Effect**] has not been fulfilled at or before the Closing Time, or if such condition is, or becomes, impossible to satisfy prior to the Closing Time (or, if no Closing Time is set prior to the Outside Date, by the Outside Date) other than as a result of a Purchase Agreement Default by the Purchaser, the Purchaser in its sole discretion may either:
- (i) subject to Section 8.1(d), extend the Closing Date by notice to the Vendor on or before the Closing Date (which notice may be provided by the Purchaser more than once);
 - (ii) terminate this Agreement by notice to the Vendor; or
 - (iii) waive compliance with such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.
- (g) If any condition in Section 6.3 [**Purchaser Compliance and Deliverables, Reps & Warranties, Payment of Purchase Price**] has not been fulfilled at or before the Closing Time, or if any such condition is, or becomes, impossible to satisfy prior to the Closing Time, other than as a result of a Purchase Agreement Default by the Vendor, then the Vendor in its sole discretion may either:
- (i) terminate this Agreement by notice to the Purchaser; or
 - (ii) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfilment of any other condition.

PART 7 INDEMNIFICATION


7.1 Survival.

Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is eighteen (18) months from the Closing Date, except for the Fundamental Representations, which shall survive until the expiration of the applicable limitation period, and the representations and warranties

contained in Section 3.1(hh), which shall survive for the full period of the applicable limitation period (giving effect to any waiver or extension thereof) plus sixty (60) days. None of the covenants or other agreements contained in this Agreement shall survive the Closing Date other than those which by their terms contemplate performance after the Closing Date, and each such surviving covenant and agreement shall survive the Closing for the period contemplated by its terms. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching Party to the breaching Party before the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved or the expiry of the limitation period under Applicable Law, whichever is sooner.

7.2 Indemnification by Vendor.

Subject to the other terms and conditions of this Part 7, the Vendor shall indemnify the Purchaser, the Corporation and their respective directors, officers, employees, successors and assigns, and save them fully harmless against, and will reimburse them for, Losses arising from, in connection with or related in any manner whatsoever to:

- (a) any incorrectness in or breach of any representation or warranty of the Vendor contained in this Agreement;
- (b) any breach or non-fulfilment of any covenant or agreement on the part of the Vendor contained in this Agreement or in any Vendor Closing Document;
- (c) 
- (d) any Taxes relating to any Pre-Closing Tax Period, including (for greater certainty) any Taxes arising or relating to the Pre-Closing Transactions that are not otherwise included in the calculation of the Closing Date Working Capital and any Taxes resulting from the Corporation ceasing to be exempt from tax under Part I of the ITA prior to the Closing Date.

7.3 Indemnification by Purchaser.

Subject to the other terms and conditions of this Part 7, the Purchaser shall, indemnify the Vendor, the Vendor's Affiliates, and their respective directors, officers, employees, successors and assigns, and save them fully harmless against, and will reimburse them for, Losses arising from, in connection with or related in any manner whatsoever to:

- (a) any incorrectness in or breach of any representation or warranty of the Purchaser contained in this Agreement;
- (b) any incorrectness in or breach of any representation or warranty of any of the Principals contained in the Principals' Guarantee;
- (c) any breach or non-fulfilment of any covenant or agreement on the part of the Purchaser contained in this Agreement or in any Purchaser Closing Document; and
- (d) any breach or non-fulfilment of any covenant or agreement on the part of any of the Principals contained in the Principals' Guarantee.

7.4 Limit on Each Party's Responsibility.

The indemnifications provided for in Section 7.2 and Section 7.3 shall be subject to the following limitations:

- (a) With respect to any claim as to which the Indemnified Party may be entitled to indemnification under Section 7.2(a) or Section 7.3(a), as the case may be, the Indemnifying Party shall not be liable for any individual claim or series of related claims unless the Losses arising from such claim or claims [REDACTED] (each a "Qualified Claim").
- (b) Except with respect to Losses arising out of any breach of a Fundamental Representation [REDACTED], the Indemnifying Party shall not be liable to the Indemnified Party for indemnification under Section 7.2(a) or Section 7.3(a), as the case may be, until the aggregate amount of all Losses arising from Qualified Claims incurred by the Indemnified Party [REDACTED] (the "Deductible"), in which event the Indemnifying Party shall only be required to pay or be liable for Losses arising from Qualified Claims in excess of the Deductible.
- (c) The aggregate amount of all Losses for which an Indemnifying Party shall be liable under Section 7.2(a) or Section 7.3(a), as the case may be, shall not exceed the applicable Indemnity Cap.
- (d) [REDACTED]
- (e) Payments by an Indemnifying Party under Section 7.2 or Section 7.3 in respect of any Loss shall be limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party (or the Corporation) in respect of any such claim, net of all reasonable costs and expenses incurred in recovering such proceeds, indemnity or contribution. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.
- (f) [REDACTED]
- (g) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

- (h) To the extent that a reserve or provision for the individual fact, matter or circumstance was made in the Financial Statements, the Indemnified Party will be entitled only to make a claim in respect of such item for the amount which exceeds such reserve or provision, subject to the provisions of this Agreement.
- (i) In no event shall any Indemnifying Party be liable to any Indemnified Party in respect of (i) any Losses taken into account in the Closing Date Working Capital or (ii) any Losses that arise or are increased as a result of a change after the Closing Date in the accounting policies or practices of the Indemnified Party (or, in the case of the Purchaser, the Corporation) or as a result of the Corporation no longer being a “parent Crown corporation” for purposes of the FAA.

7.5 Indemnification Procedures.

- (a) Third Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any action, claim or other legal proceeding made or brought by any Person who is not a Party or an Affiliate of a Party or a Representative of the foregoing against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement (a “Third Party Claim”), the Indemnified Party shall give the Indemnifying Party prompt written notice thereof, but in any event, no later than ten (10) Business Days after its receipt of such notice of the Third Party Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or defences or suffers material loss or prejudice by reason of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defence of any Third Party Claim at the Indemnifying Party’s expense and by the Indemnifying Party’s own counsel, and the Indemnified Party shall co-operate in good faith in such defence. The Indemnifying Party shall reimburse Indemnified Party for the Indemnified Party’s reasonable out-of-pocket fees, costs and expenses incurred in connection with its co-operation with the Indemnifying Party. If the Indemnifying Party assumes the defence of any Third Party Claim, subject to Section 7.5(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counter-claims pertaining to such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right, at its own cost and expense, to participate in the defence of any Third Party Claim with counsel selected by it subject to the Indemnifying Party’s right to control the defence thereof. If the Indemnifying Party elects not to compromise or defend such Third Party Claim or fails to notify the Indemnified Party in writing of its election to defend, the Indemnified Party may, pay, compromise, or defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim, provided however that the Indemnified Party shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed). The Parties shall cooperate with each other in all reasonable respects in connection with the defence of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defence of such Third Party Claim.

- (b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except (i) where such Third Party Claim is solely for monetary damages (except where any non-monetary relief being sought is merely incidental to a primary claim for monetary damages) for which the Indemnified Party is or will be indemnified in accordance with this Part 7, and the proposed settlement provides for a full release of the Indemnified Party, or (ii) as otherwise provided in this Section 7.5(b). If an unconditional offer is made to settle a Third Party Claim without leading to liability or the creation of any further financial or other obligation on the part of the Indemnified Party and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such offer within ten (10) Business Days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and, in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such offer and also fails to assume defence of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in the offer to settle such Third Party Claim.
- (c) Direct Claims. Any claim by an Indemnified Party on account of a Loss which does not result from a Third Party Claim (a “**Direct Claim**”) shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof, but in any event no later than ten (10) Business Days after becoming aware of such Direct Claim. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or defences or suffers material loss or prejudice by reason of such failure. Such notice by the Indemnified Party shall (i) describe the Direct Claim in reasonable detail, (ii) include copies of all material written evidence thereof and (iii) indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During such thirty (30) day period, the Indemnified Party shall allow the Indemnifying Party and its professional advisors to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party’s investigation by giving such information and assistance (including access to the Corporation’s premises and personnel and the right to examine and copy any accounts, documents or records during regular business hours of the Corporation and on reasonable advance notice and provided that the Indemnifying Party shall, and shall cause its professional advisors to, minimize to the extent reasonably practical any disruptions of the Corporation’s business in connection with such investigation) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such thirty (30) day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

7.6 Co-operation.

Each Indemnified Party and Indemnifying Party shall reasonably co-operate and assist each other in determining the validity of any claim for indemnity by an Indemnified Party and otherwise in resolving such matters. Such assistance and co-operation will include providing reasonable access to information,

records and documents relating to such matters and furnishing employees to assist in the investigation, defence and resolution of such matters, provided that any access to the Corporation's premises, accounts, documents, records or employees by the Indemnifying Party or its professional advisors shall occur during regular business hours of the Corporation and on reasonable advance notice and provided that the Indemnifying Party shall, and shall cause its professional advisors to, minimize to the extent reasonably practical any disruptions of the Corporation's business in connection with such investigation.

7.7 Sole Remedy.

For certainty, after Closing, a Party's rights of indemnity set forth in this Part 7 are the sole and exclusive remedy of such Party in the event of a Purchase Agreement Default, except in respect of actual, intentional or positive fraud (as opposed to constructive, legal or equitable fraud).

7.8 Tax Treatment of Indemnification Payments.

All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Applicable Law.

7.9 Agency for Non-Parties.

Notwithstanding Section 9.17, each Party hereby accepts each indemnity in favour of each of its Indemnified Parties who are not Parties as agent and trustee of that Indemnified Party. Each Party may enforce an indemnity in favour of any of that Party's Indemnified Parties on behalf of each such Indemnified Party and each such Indemnified Party may enforce its own rights directly as well.

7.10 No Double Recovery.

For greater certainty, there shall be no double recovery by any Indemnified Party.

7.11 Materiality Scrape.

For the sole purpose of determining the amount of Losses under this Part 7 (and not for determining whether an inaccuracy or breach has occurred), any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

7.12 No Set-Off.

An Indemnified Party will not be entitled to set off the amount of any Losses subject to indemnification under this Agreement against any other amounts payable to an Indemnifying Party, whether under this Agreement or otherwise.

PART 8 TERMINATION & REMEDIES

8.1 Grounds for Termination.

The obligations of the Parties to complete the Transaction under this Agreement may be terminated on or prior to the Closing Date:

- (a) by the mutual written agreement of the Vendor and the Purchaser;
- (b) by written notice from the Purchaser to the Vendor as permitted in Section 6.4(a) [GIC Approval], 6.4(b)(i) [No Prohibition], 6.4(c)(i) [No Laws], 6.4(d) [Competition Act Approval], 6.4(e)(i) [Vendor Compliance and Deliverables, Vendor Reps &

Warranties and No Material Adverse Effect] or upon a Purchase Agreement Default by the Vendor;

- (c) by written notice from the Vendor to the Purchaser as permitted in Section 6.4(a) [**GIC Approval**], 6.4(b)(i) [**No Prohibition**], 6.4(c)(i) [**No Laws**], 6.4(d) [**Competition Act Approval**] or 6.4(g)(i) [**Purchaser Compliance and Deliverables, Reps & Warranties, Payment of Purchase Price**] or upon a Purchase Agreement Default by the Purchaser; or
- (d) by the Vendor or the Purchaser if the completion of the Transaction has not occurred on or before the Outside Date or such later date as the Parties may agree upon in writing.

8.2 Effect of Termination.

- (a) If the Vendor terminates this Agreement as permitted in Section 6.4(g)(i) [**Purchaser Compliance and Deliverables, Reps & Warranties, Payment of Purchase Price**] or upon a Purchase Agreement Default by the Purchaser, this Agreement shall forthwith have no further force or effect and there shall be no liability on the part of either Party hereto, except that the Purchaser shall pay to the Vendor a fee [REDACTED] (the "**Purchaser Termination Fee**"), which represents a genuine pre-estimate of the Vendor's damages. Upon payment of the Purchaser Termination Fee in accordance with this Section 8.2, none of the Purchaser or any of its Affiliates or any of their respective shareholders, partners or Representatives (including the Principals) shall have any further liability solely in respect of the termination of this Agreement to the Vendor, the Corporation or any of their Affiliates, or any of their respective shareholders, partners or Representatives (including CDEV) or any Indemnified Parties.
- (b) If either the Vendor or the Purchaser terminates this Agreement as permitted in Section 6.4(d) [**Competition Act Approval**], this Agreement shall forthwith have no further force or effect and there shall be no liability on the part of either Party hereto, except that the Vendor shall pay to the Purchaser a fee [REDACTED] (the "**Competition Stipend**"). Upon payment of the Competition Stipend in accordance with this Section 8.2(b), none the Vendor, the Corporation, or any of their Affiliates or any of their respective shareholders, partners or Representatives (including CDEV) shall have any further liability in respect of the termination of this liability in respect of the termination of this Agreement to the Purchaser or any Indemnified Parties.
- (c) If:
 - (i) either Party terminates this Agreement as permitted in Section 6.4(b) [**No Prohibition**], if the relevant Order or Legal Proceeding was not made or initiated by or initiated by the Vendor;
 - (ii) either Party terminates this Agreement as permitted in Section 6.4(c)(i) [**No Laws**], if applicable law was not amended, repealed, enacted, issued or promulgated by the Vendor; or
 - (iii) the Purchaser terminates this Agreement as permitted in Section 6.4(f)(ii) [**No Material Adverse Effect**],

this Agreement shall forthwith have no further force or effect and there shall be no liability on the part of either Party hereto, except that the Vendor shall pay to the Purchaser a fee equal to the amount [REDACTED] (the "**Stipend**"). Upon payment of the Stipend in accordance with this Section 8.2(c), none of the Vendor, the Corporation, or any of their Affiliates or any of their respective shareholders, partners or Representatives

(including CDEV) shall have any further liability in respect of the termination of this Agreement, to the Purchaser or any Indemnified Parties.

(d) If:

- (i) the Purchaser terminates this Agreement as permitted in Section 6.4(a) [Revocation of GIC Approval] or 6.4(e)(i) [Vendor Compliance and Deliverables, Vendor Reps & Warranties] or upon a Purchase Agreement Default; or
- (ii) either Party terminates this Agreement as permitted in Section 6.4(b) [No Prohibition], if the relevant Order or Legal Proceeding was made or initiated by or initiated by the Vendor; or
- (iii) either Party terminates this Agreement as permitted in Section 6.4(c)(i) [No Laws], if applicable law was amended, repealed, enacted, issued or promulgated by the Vendor;

this Agreement shall forthwith have no further force or effect and there shall be no liability on the part of any Party hereto, except that the Vendor shall pay to the Purchaser a fee [REDACTED] (the "Vendor Termination Fee"), which represents a genuine pre-estimate of the damages of the Purchaser. Upon payment of the Vendor Termination Fee in accordance with this Section 8.2(d), none of the Vendor, the Corporation, or any of their Affiliates or any of their respective shareholders, partners or Representatives (including CDEV) shall have any further liability in respect of the termination of this Agreement to the Purchaser or any Indemnified Parties.

8.3 Termination Sole Remedy.

For certainty, prior to Closing, a Party's rights of termination pursuant to this Part 8 are the sole and exclusive remedy of such Party in the event of a Purchase Agreement Default that is not waived pursuant to Part 6.

PART 9 GENERAL

9.1 Expenses.

Except as otherwise expressly provided herein, each Party shall be responsible for all costs and expenses (including any Taxes imposed on such expenses) incurred by it in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transaction (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors).

9.2 Arbitration.

All disputes and claims arising out of, in connection with, or in respect of this Agreement (and such other agreements, documents and instruments) and the matters contemplated hereby (and thereby), or in respect of any defined legal relationship associated therewith or derived therefrom (each a "Dispute"), shall be referred to and finally resolved by arbitration under the International Commercial Arbitration Rules of Procedure, as amended from time to time, of the British Columbia International Commercial Arbitration Centre ("BCICAC"). The appointing authority shall be the BCICAC and the Dispute shall be administered by the BCICAC in accordance with its Rules. The place of arbitration shall be Vancouver, British Columbia, Canada and the language of the arbitration shall be English. Any arbitration of a

Dispute shall be governed by the *Commercial Arbitration Act* (Canada), or its successor enactments and, for the purposes of such Act or enactments, this Section 9.2 is considered to be a submission to arbitration. Except where the context requires otherwise, the Supreme Court of British Columbia shall be the “court” or “competent court” for the purposes of the *Commercial Arbitration Act* (Canada).

For the purposes of this Section 9.2, the Parties acknowledge and agree that this Agreement, the Transaction and any Dispute are commercial in character. The parties further acknowledge that enforcement of any arbitral award against the Vendor or any Canadian judgment thereon remains subject to the *Crown Liability and Proceedings Act* (Canada).

9.3 Confidentiality and Public Announcements.

- (a) The terms of the Confidentiality Agreement are incorporated into this Agreement by reference and shall continue in full force and effect until the Closing, at which time the confidentiality obligations under the Confidentiality Agreement shall terminate. If, for any reason, the Transaction is not completed, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms.
- (b) The Purchaser acknowledges and agrees that the Corporation is owned by the Vendor, and the Corporation (until Closing) and the Vendor are subject to the *Access to Information Act* (Canada) and, as a result, may be compelled to disclose information the disclosure of which would otherwise be limited under the terms of this Agreement and that the disclosure by the Vendor of information it is compelled to disclose under the *Access to Information Act* (Canada) shall not be deemed to be a breach of the terms or conditions of this Agreement.
- (c) Notwithstanding anything to the contrary herein, the Vendor may make any press releases and public announcements relating to this Agreement and the Transaction (including disclosing this Agreement to the public) that it determines, in its discretion, is advisable from time to time. The Purchaser will not make any press release or other public announcement respecting this Agreement or the Transaction without the consent of the Vendor, such consent not to be unreasonably withheld unless the Purchaser is advised by its legal counsel that the release or announcement is, in their reasonable opinion, required to comply with any Applicable Law or the rules of any listing authority or stock exchange with which the Purchaser are bound to comply. Prior to any press release or public announcement, each Party, as applicable, shall, to the extent reasonably possible, provide the other Party with a draft of such statement in sufficient time prior to its release to enable them to review such draft and advise of any comments they may have with respect thereto. The Purchaser shall not unreasonably refuse to incorporate the requested changes in the public announcement that are necessary to protect the legitimate interests of the Vendor except to the extent the Purchaser’s legal counsel advises that doing so will result in their reasonable opinion in non-compliance with Applicable Law or the rules of the applicable listing authority or stock exchange. The Purchaser agrees that the Vendor may provide the SPV with copies of all draft press releases and public announcements in advance of public distribution, and will not distribute any press releases until the Vendor has confirmed that it has done so.

9.4 Notices.

The addresses of the Parties for notices, requests, consents, claims, demands, waivers and other communications required, permitted or desired hereunder shall be as follows:

- (a) if to the Vendor, to:

Canada Development Investment Corporation
1240 Bay Street, Suite 302
Toronto, ON M5R 2A7

Attention: Zoltan Ambrus
Email: zoltan.ambrus@cdev.gc.ca

with a copy to the Vendor's Counsel (which shall not constitute notice):

Fasken Martineau DuMoulin LLP
2900 - 500 Burrard Street
Vancouver, BC V6C 0A3
Attention: Kareen A. Zimmer
Email kzimmer@fasken.com

(b) if to the Purchaser, to:

[REDACTED]

And to:

[REDACTED]

with a copy to the Purchaser's counsel (which shall not constitute notice):

McCarthy Tetrault LLP
2400-745 Thurlow St.
Vancouver, BC V6E 0C5
Attention: Robin Mahood
Email: rmahood@mccarthy.ca

All such notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) on the date delivered, if delivered by hand or nationally recognized overnight courier, (b) on the third (3rd) day after the date mailed, if delivered by certified or registered mail, or (c) on the date sent via e-mail in PDF format, if sent during regular business hours of the recipient, or the next following Business Day if sent after normal business hours of the recipient. A Party may from time to time change its address for service by giving written notice of such change to the other Parties.

9.5 Time of Essence.

Time shall be of the essence of this Agreement.

9.6 Further Assurances.

Each Party shall from time to time promptly execute and deliver, or cause to be executed and delivered, all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Party may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

9.7 Remedies Cumulative.

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers or privileges otherwise available to that Party. Any single or partial exercise by any Party of any right or remedy for default or breach of any term, covenant or condition of this Agreement shall not be construed as an election of remedies by such Party.

9.8 Entire Agreement.

This Agreement, the Disclosure Letter, the Employee List, any Disclosure Supplement and the Closing Documents together with the Confidentiality Agreement, constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, undertakings, statements, arrangements, promises, representations and agreements, whether written or oral, between the Parties. There are no representations, warranties, conditions, undertakings, commitments, other agreements or acknowledgments, whether direct or collateral, express or implied, that form part of or affect this Agreement, or which induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement, the Disclosure Letter, the Employee List, any Disclosure Supplement, the Confidentiality Agreement or the Closing Documents.

9.9 Amendment.

This Agreement may be amended, modified or supplemented only by the written agreement of the Purchaser and either (i) the Minister of Transport, or (ii) CDEV, as agent for the Vendor.

9.10 Waiver.

A waiver of any default, breach or non-compliance under this Agreement shall not be effective unless in writing and signed by the Party to be bound by the waiver, and then only in the specific instance and for the specific purpose for which it has been given. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach or non-compliance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement will not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-compliance (whether of the same or any other nature).

9.11 Tender.

Unless otherwise indicated, any tender of documents or money hereunder may be made upon the Parties or their respective counsel and money shall be tendered in Canadian currency by official bank draft drawn upon a Canadian chartered bank or by negotiable cheque and certified by a Canadian chartered bank (if permissible under Applicable Law) or by confirmed wire transfer of immediately available funds to a bank account at a Canadian chartered bank designated by the Party entitled to receive such funds. All payments due on a particular day must be received in immediately available funds not later than 5:00 p.m.

(Vancouver time) on such day and any payment made after that time on such day will be deemed to have been made and received on the next Business Day.

9.12 Severability.

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall, to the extent necessary, negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the terms and other provisions of this Agreement remain as originally contemplated to the fullest extent possible.

9.13 Language.

The Parties have required that this Agreement and all documents and notices resulting from it be drawn up in English. *Les parties aux présentes ont exigé que la présente convention ainsi que tous les documents et avis qui s'y rattachent ou qui en découleront soient rédigés en anglais.*

9.14 Law and Attornment.

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in such Province, without regard to the conflict of law rules or principles of such laws that lead to the application of a different law and this Agreement shall be treated, in all respects, as a British Columbia contract. Subject, in all respects, to Section 9.2, the Parties agree that the courts of the Province of British Columbia will have the jurisdiction to determine all Disputes and each of the Parties hereby irrevocably attorns to the exclusive jurisdiction of such courts.

9.15 Successors and Assigns; Assignment.

- (a) This Agreement shall enure to the benefit of, and be binding on, the Parties hereto and their respective successors and permitted assigns.
- (b) Subject to the proviso set out in this Section 9.15(b), the Purchaser may not assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior written consent of the Vendor, such consent not to be unreasonably withheld, conditioned or delayed; provided, however, that no such consent shall be required in respect of (i) the Transfer of this Agreement, by the Purchaser to a Third Party Lender (as defined in the Transfer Restriction Agreement) that provided the Financing or the Alternative Financing, of the Purchaser's rights or obligations under this Agreement as security for any indebtedness owed by the Corporation, the Purchaser or any of their Affiliates to such Third Party Lender or (ii) any exercise by such Third Party Lender of rights in respect of such security in the event of default in respect of such indebtedness, in connection with any enforcement over any assets of the Purchaser and the Corporation. The proviso in subparagraph (i) and (ii) above shall not apply to any subsequent Transfer of this Agreement nor should it be construed as a substitute or replacement for any regulatory consent required in respect of such a Transfer of this Agreement (including pursuant to the Competition Act, Canada Transportation Act, Investment Canada Act or in connection with any Applicable Law).
- (c) The Vendor may, with notice to the Purchaser, assign or transfer its rights and obligations under this Agreement to CDEV.

9.16 Canada's Rights and Obligations.

The Vendor's rights and obligations under this Agreement may be performed or enforced by any Minister of the Crown in right of Canada, any department or agency of Canada, a Crown corporation, as defined in the FAA, or any federal government officials, and specifically including CDEV or any of its Representatives. The Closing Documents may be signed by CDEV, as the agent of the Vendor.

9.17 Third Party Beneficiaries.

This Agreement is for the sole benefit of the Parties, and except as specifically provided for in Section 7.9, nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

9.18 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by facsimile, e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above:

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA, as represented by the MINISTER
OF TRANSPORT**

By: _____
MARC GARNEAU

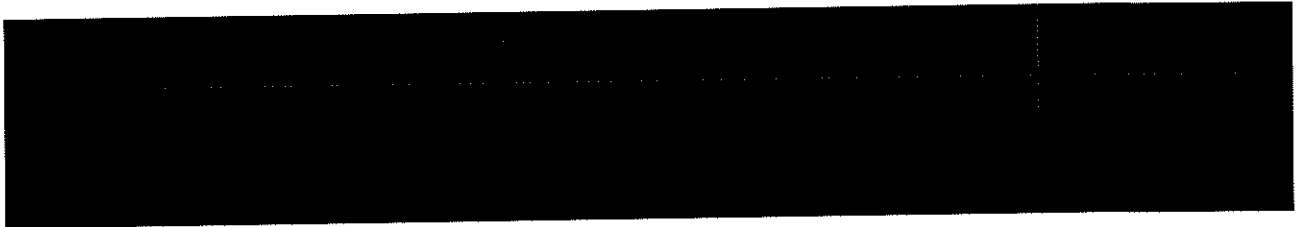
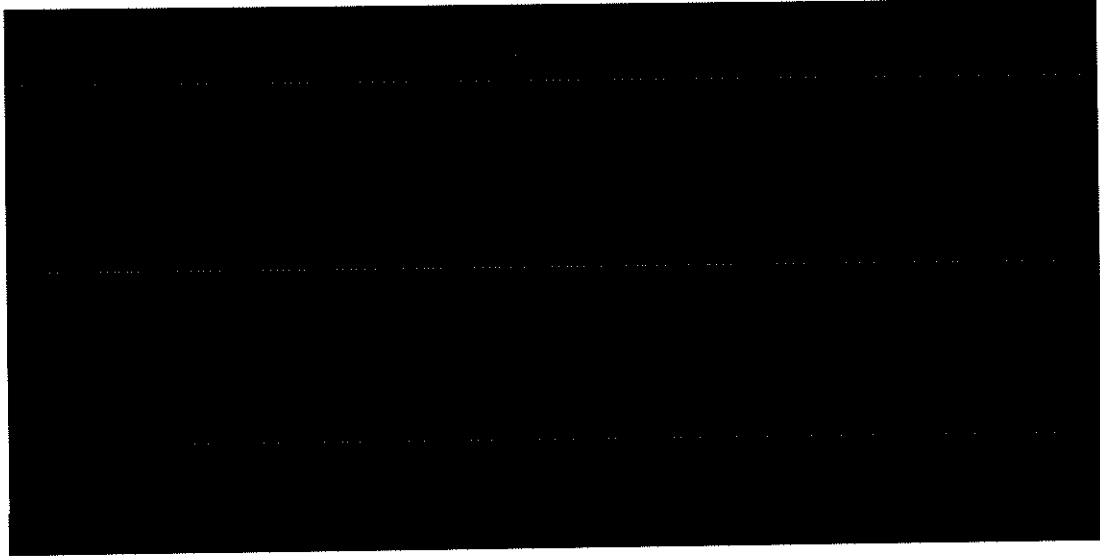
IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above:

1210565 B.C. LTD.

By: _____
Name:
Title:

SCHEDULE 2.3

ILLUSTRATIVE CLOSING DATE WORKING CAPITAL CALCULATION



SCHEDULE 3.2(L)

PURCHASER OWNERSHIP INFORMATION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SCHEDULE 4.2(N)

CAPITAL PLAN

