

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D)
OF THE SECURITIES EXCHANGE ACT OF 1934**

**March 15, 2021
Date of report (Date of earliest event reported):**

IMAX Corporation
(Exact Name of Registrant as Specified in Its Charter)

Canada
(State or Other Jurisdiction
of Incorporation)

001-35066
(Commission
File Number)

98-0140269
(I.R.S. Employer
Identification Number)

**2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
(905) 403-6500**

**902 Broadway, Floor 20
New York, New York, USA 10010
(212) 821-0100**

(Address of principal executive offices, zip code, telephone numbers)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Shares, no par value	IMAX	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement.

Indenture and Notes

On March 16, 2021, IMAX Corporation, a corporation amalgamated under the laws of Canada (the “Company”), agreed to sell to the several initial purchasers (the “Initial Purchasers”) for whom J.P. Morgan Securities LLC and Wells Fargo Securities, LLC acted as representatives (the “Representatives”), and the Initial Purchasers agreed to purchase from the Company, \$200 million aggregate principal amount of the Company’s 0.500% Convertible Senior Notes due 2026 (the “base notes”), pursuant to a purchase agreement (the “Purchase Agreement”) among the Company and the Representatives. The Company also granted the Initial Purchasers an option to purchase from the Company up to an additional \$30 million aggregate principal amount of the Company’s 0.500% Convertible Senior Notes due 2026 (the “additional notes” and, together with the base notes, the “notes”) pursuant to the Purchase Agreement for a period of 13 days from, and including, the date the base notes were issued. The issuance of the base notes was consummated on March 19, 2021 (the “Closing Date”). The notes issued on the Closing Date include \$30 million principal amount of the additional notes issued pursuant to the full exercise by the Initial Purchasers of their option to purchase additional notes.

The net proceeds from the offering of the notes will be approximately \$222.5 million, after deducting the Initial Purchasers’ discounts and commissions. The Company intends to use approximately \$150 million of the proceeds from the offering of the notes to repay a portion of the amounts outstanding under the Credit Facility (as defined below), and the remaining net proceeds from the offering for working capital or other general corporate purposes. On the Closing Date, the Company used cash on hand of approximately \$19.1 million to pay the cost of the Capped Call Transactions (as defined below).

The notes were issued pursuant to, and are governed by, an indenture, dated as of the Closing Date (the “Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”).

The notes bear interest at a rate of 0.500% per annum on the principal amount thereof, payable semi-annually in arrears on April 1 and October 1 of each year, beginning on October 1, 2021, to the holders of record of the notes as of the close of business on the immediately preceding March 15 and September 15, respectively. The notes will mature on April 1, 2026, unless earlier redeemed or repurchased by the Company or converted.

The notes are the senior, unsecured obligations of the Company and are equal in right of payment with the Company’s senior unsecured indebtedness, senior in right of payment to the Company’s indebtedness that is expressly subordinated to the notes, effectively subordinated to the Company’s senior secured indebtedness, to the extent of the value of the collateral securing that indebtedness, and structurally subordinated to all indebtedness and other liabilities, including trade payables, and (to the extent the Company is not a holder thereof) preferred equity, if any, of the Company’s subsidiaries.

Holders may convert their notes at their option in the following circumstances:

- during any calendar quarter commencing after the calendar quarter ending on June 30, 2021 (and only during such calendar quarter), if the last reported sale price per common share of the Company, no par value (“common shares”), exceeds 130% of the conversion price for each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter;
- during the five consecutive business days immediately after any ten consecutive trading day period (such ten consecutive trading day period, the “measurement period”) in which the trading price per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per common share on such trading day and the conversion rate on such trading day;
- upon the occurrence of certain corporate events or distributions on the common shares, as provided in the Indenture;
- if the Company calls such notes for redemption; and
- at any time from, and including, January 1, 2026 until the close of business on the second scheduled trading day immediately before the maturity date.

The initial conversion rate for the notes will be 34.7766 common shares per \$1,000 principal amount of notes, which represents an initial conversion price of approximately \$28.75 per common share, and is subject to adjustment upon the occurrence of certain specified events as set forth in the Indenture. Upon conversion, the Company will pay or deliver, as applicable, cash or a combination of cash and common shares. Upon the occurrence of a “make-whole fundamental change” (as defined in the Indenture), the Company will in certain circumstances increase the conversion rate for a specified period of time.

In addition, upon the occurrence of a “fundamental change” (as defined in the Indenture), holders of the notes may require the Company to repurchase their notes at a cash repurchase price equal to the principal amount of the notes to be repurchased, plus accrued and unpaid interest, if any.

The notes will be redeemable, in whole or in part, at the Company's option at any time, and from time to time, on or after April 6, 2024 and on or before the 40th scheduled trading day immediately before the maturity date, at a cash redemption price equal to the principal amount of the notes to be redeemed, plus accrued and unpaid interest, if any, but only if the last reported sale price per common share exceeds 130% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date we send the related redemption notice, and (ii) the trading day immediately before the date we send such notice. In addition, calling any note for redemption will constitute a "make-whole fundamental change" with respect to that note, in which case the conversion rate applicable to the conversion of that note will be increased in certain circumstances if such note is converted after it is called for redemption. No sinking fund is provided for the notes.

The events of default, as set forth in the Indenture, include (i) default by the Company in the payment when due (whether at maturity, upon redemption or repurchase upon fundamental change or otherwise) of the principal of, or the redemption price or fundamental change repurchase price for, any notes, (ii) default by the Company for 30 consecutive days in the payment when due of interest on any note, (iii) failure by the Company to deliver, when required by the Indenture, (x) a fundamental change notice, (y) a notice of a make-whole fundamental change or (z) a notice of certain corporate events as provided in the Indenture, if such failure is not cured within three business days after its occurrence, (iv) default by the Company in its obligations to convert a note in accordance with the Indenture upon the exercise of the conversion right with respect thereto, if such default is not cured within five business days after its occurrence, (v) default by the Company in its obligations under the Indenture in respect of certain amalgamation, consolidation, merger and asset sale transactions, (vi) default by the Company in its other obligations or agreements under the Indenture or the notes if such default is not cured or waived within 60 days after notice is given in accordance with the Indenture, (vii) certain defaults by the Company or any of its subsidiaries with respect to indebtedness for borrowed money of at least \$50.0 million and (viii) certain events of bankruptcy, insolvency and reorganization involving the Company or any of its "significant subsidiaries" (as defined in the Indenture).

If an event of default involving certain events of bankruptcy, insolvency or reorganization with respect to the Company occurs, then the principal amount of, and all accrued and unpaid interest on, all of the notes then outstanding will immediately become due and payable without any action or notice by any person. If any other event of default occurs and is continuing, either the Trustee, by notice to the Company, or the holders of at least 25% of the aggregate principal amount of the notes then outstanding, by notice to the Company and the Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the notes then outstanding to become due and payable immediately. Notwithstanding the foregoing, the Company may elect, at its option, that the sole remedy for an event of default relating to certain failures by the Company to comply with certain reporting covenants in the Indenture consists exclusively of the right of the holders of the notes to receive special interest on the notes for up to 180 days.

In certain circumstances if, at any time during the six-month period beginning on, and including, the date that is six months after the last date of original issuance of the notes, the Company fails to timely file certain documents or reports required to be filed with the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or the notes are not otherwise freely tradable by holders of the notes other than the Company's affiliates, additional interest will accrue on the notes during the period in which the Company's failure to file has occurred and is continuing or such notes are not otherwise freely tradable by holders other than the Company's affiliates.

In addition, if, and for so long as, the restrictive legend on the notes has not been removed in accordance with the terms of the Indenture and the notes, the notes are assigned a restricted CUSIP number or the notes are not otherwise freely tradable by holders other than the Company's affiliates (without restrictions pursuant to U.S. securities laws or the terms of the Indenture or the notes) as of the 15th day after the one-year anniversary of the last date of original issuance of the notes, the Company will pay additional interest on the notes during the period in which the notes remain so restricted.

The notes were offered and sold in a private placement conducted pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"). The offer and sale of the notes and any common shares issuable upon conversion thereof have not been and will not be registered under the Securities Act or any other securities laws, or qualified by way of a prospectus in any province or territory of Canada, and the notes and any such common shares may not be offered or sold except pursuant to an exemption from the registration requirements of the Securities Act and any applicable securities laws, and may not be offered or sold to persons located or resident in Canada except pursuant to an exemption from the prospectus requirements of applicable Canadian securities laws.

A copy of the Indenture and form of 0.500% Convertible Senior Note due 2026 are filed as Exhibit 4.1 and Exhibit 4.2, respectively, to this Current Report on Form 8-K and are incorporated by reference herein. The foregoing description of the Indenture and notes does not purport to be complete and is qualified in its entirety by reference to such exhibits.

Capped Call Transactions

In connection with the pricing of the base notes on March 16, 2021, the Company entered into privately negotiated capped call transactions (together, the "Base Capped Call Transactions") with each of Wells Fargo Bank, National Association, Mizuho Markets Americas LLC (with Mizuho Securities USA LLC acting as agent), JPMorgan Chase Bank, National Association and HSBC Bank USA, National Association (together, the "Option Counterparties"). In connection with the Initial Purchasers' exercise of their option to purchase additional notes, the Company entered into additional capped call transactions with the Option Counterparties (together, the "Additional Capped Call Transactions" and, together with the Base Capped Call Transactions, the "Capped Call Transactions"). The Capped Call Transactions cover, subject to anti-dilution adjustments substantially similar to those applicable to the notes, the aggregate number of common shares that initially underlie the notes, and are expected generally to reduce potential dilution to the common shares upon any conversion of notes and/or offset any potential cash payments the Company is required to make in excess of the principal amount of converted notes, as the case may be, with such reduction and/or offset subject to a cap, based on the cap price of the Capped Call Transactions. The cap price of the Capped Call Transactions is initially \$37.2750, which represents a premium of 75% over the last reported sale price of the common shares on March 16, 2020. The cost of the Capped Call Transactions was approximately \$19.1 million.

The Capped Call Transactions are separate transactions, in each case entered into between the Company and the respective Option Counterparty, and are not part of the terms of the notes and will not affect any holder's rights under the notes. Holders of the notes will not have any rights with respect to the Capped Call Transactions.

The Capped Call Transactions were entered into by the Company with the Option Counterparties in reliance upon Section 4(a)(2) of the Securities Act in transactions not involving any public offering.

Copies of the call option confirmations with respect to the Base Capped Call Transaction with each of the Option Counterparties are filed as Exhibits 10.1, 10.2, 10.3 and 10.4 to this Current Report on Form 8-K and are incorporated by reference herein. Copies of the call option confirmations with respect to the Additional Capped Call Transaction with each of the Option Counterparties are filed as Exhibits 10.5, 10.6, 10.7 and 10.8 to this Current Report on Form 8-K and are incorporated by reference herein. The foregoing description of the Capped Call Transactions does not purport to be complete and is qualified in its entirety by reference to such exhibits.

Credit Agreement Amendment

On March 15, 2021, the Company entered into the Second Amendment (the "Amendment") to the Fifth Amended and Restated Credit Agreement (as amended by the First Amendment to the Fifth Amended and Restated Credit Agreement, dated as of June 10, 2020, the "Credit Agreement") with Wells Fargo Bank, National Association, as agent, and a syndicate of lenders party thereto. The Amendment amended the Credit Agreement to, among other things, (i) extend (x) the "Designated Period" thereunder through the end of 2022, (y) the suspension of the senior secured net leverage ratio financial covenant thereunder through the first quarter of 2022 (and, once re-established, permit the Company to use "EBITDA" from the third and fourth quarters of 2019 in lieu of EBITDA for the corresponding quarters of 2021) and (z) the application of the \$75 million minimum liquidity covenant thereunder through the end of 2022 (or, if earlier, the end of the Designated Period), and (ii) permit the incurrence of the notes and related transactions, including the Capped Call Transactions, or other unsecured debt, in an amount not to exceed \$290 million.

A copy of the Amendment is filed as Exhibit 10.9 to this Current Report on Form 8-K and is incorporated by reference herein. The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to such exhibit.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The disclosure set forth under the heading "Indenture and Notes" in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 3.02. Unregistered Sales of Equity Securities.

The disclosure set forth in Item 1.01 of this Current Report is incorporated by reference into this Item 3.02.

The notes were issued to the Initial Purchasers in reliance upon Section 4(a)(2) of the Securities Act in transactions not involving any public offering. The notes were resold by the Initial Purchasers to persons whom the Initial Purchasers reasonably believe are "qualified institutional buyers" in accordance with Rule 144A under the Securities Act. Any common shares that may be issued upon conversion of the notes will be issued in reliance upon Section 3(a)(9) of the Securities Act as involving an exchange by the Company exclusively with its security holders.

The Capped Call Transactions were entered into by the Company with the Option Counterparties in reliance upon Section 4(a)(2) of the Securities Act in transactions not involving any public offering. The Company relied on this exemption from registration based in part on representations made by the Option Counterparties.

This report on Form 8-K is neither an offer to sell nor a solicitation of an offer to buy any security and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale would be unlawful.

Item 7.01. Other Events.

On March 15, 2021, the Company issued a press release announcing its intention to offer, subject to market conditions and other factors, the notes. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

On March 16, 2021, the Company issued a press release announcing the pricing of the notes. A copy of the press release is attached hereto as Exhibit 99.2 and is incorporated herein by reference.

The information in this Item 7.01 of this current report on Form 8-K, including the Exhibit attached hereto, shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, except as shall be expressly set forth by specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit Number</u>	<u>Exhibit Description</u>
4.1	<u>Indenture, dated as of March 19, 2021, between IMAX Corporation and U.S. Bank National Association.</u>
4.2	<u>Form of 0.500% Convertible Senior Notes due April 1, 2026 (included as Exhibit A to Exhibit 4.1).</u>
10.1	<u>Base Call Option Confirmation, dated as of March 16, 2021 between IMAX Corporation and Wells Fargo Bank, National Association.</u>
10.2	<u>Base Call Option Confirmation, dated as of March 16, 2021 between IMAX Corporation and Mizuho Markets Americas LLC.</u>
10.3	<u>Base Call Option Confirmation, dated as of March 16, 2021 between IMAX Corporation and JPMorgan Chase Bank, National Association.</u>
10.4	<u>Base Call Option Confirmation, dated as of March 16, 2021 between IMAX Corporation and HSBC Bank USA, National Association.</u>
10.5	<u>Additional Call Option Confirmation, dated as of March 18, 2021 between IMAX Corporation and Wells Fargo Bank, National Association.</u>
10.6	<u>Additional Call Option Confirmation, dated as of March 18, 2021 between IMAX Corporation and Mizuho Markets Americas LLC.</u>
10.7	<u>Additional Call Option Confirmation, dated as of March 18, 2021 between IMAX Corporation and JPMorgan Chase Bank, National Association.</u>
10.8	<u>Additional Call Option Confirmation, dated as of March 18, 2021 between IMAX Corporation and HSBC Bank USA, National Association.</u>
10.9	<u>Second Amendment to the Fifth Amended and Restated Credit Agreement entered into on March 15, 2021.</u>
99.1	<u>Launch Press Release issued by IMAX Corporation, dated March 15, 2021.</u>
99.2	<u>Pricing Press Release issued by IMAX Corporation, dated March 16, 2021.</u>
104	Cover Page Interactive Data File (formatted as Inline XBRL).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

IMAX Corporation

Dated: March 19, 2021

By: /s/ Patrick McClymont
Name: Patrick McClymont
Title: Chief Financial Officer & EVP

By: /s/ Robert D. Lister
Name: Robert D. Lister
Title: Chief Legal Officer & Sr. EVP

IMAX CORPORATION

and

U.S. BANK NATIONAL ASSOCIATION

as Trustee

INDENTURE

Dated as of March 19, 2021

0.500% Convertible Senior Notes due 2026

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INDENTURE, dated as of March 19, 2021, between IMAX Corporation, a corporation amalgamated under the laws of Canada, as issuer (the “**Company**”), and U.S. Bank National Association, as trustee (the “**Trustee**”).

Each party to this Indenture (as defined below) agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders (as defined below) of the Company’s 0.500% Convertible Senior Notes due 2026 (the “**Notes**”).

Article 1. DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. DEFINITIONS.

“**Additional Interest**” means any interest that accrues on any Note pursuant to **Section 3.04**.

“**Affiliate**” has the meaning set forth in Rule 144 as in effect on the Issue Date.

“**Affiliate Resale Legend**” means a legend substantially in the form set forth in **Exhibit B-3**.

“**Authorized Denomination**” means, with respect to a Note, a minimum principal amount thereof equal to \$1,000 or a principal amount that is any integral multiple of \$1,000 in excess thereof.

“**Bankruptcy Law**” means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

“**Bid Solicitation Agent**” means the Person who is required to obtain bids for the Trading Price in accordance with **Section 5.01(C)(i)(2)** and the definition of “Trading Price.” The initial Bid Solicitation Agent on the Issue Date will be the Company; *provided, however*, that the Company may appoint any other Person (including any of the Company’s Subsidiaries) to be the Bid Solicitation Agent at any time after the Issue Date without prior notice to the Holders.

“**Board of Directors**” means the board of directors of the Company or a committee of such board duly authorized to act on behalf of such board.

“**Business Day**” means any day other than a Saturday, a Sunday or any day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

“**Capital Stock**” of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into such equity.

“**Change in Tax Law**” means any change or amendment in the laws, rules or regulations of a Relevant Taxing Jurisdiction, or any change in an official written interpretation, administration or application of such laws, rules or regulations by any legislative body, court, governmental

agency, taxing authority or regulatory or administrative authority of such Relevant Taxing Jurisdiction (including the enactment of any legislation and the formal announcement or publication of any judicial decision or regulatory or administrative interpretation or determination), which change or amendment (i) had not been publicly announced and (ii) becomes effective, in each case, on or after March 16, 2021 (or, if the Relevant Taxing Jurisdiction was not a Relevant Taxing Jurisdiction on such date, the date on which such Relevant Taxing Jurisdiction became a Relevant Taxing Jurisdiction).

“**Close of Business**” means 5:00 p.m., New York City time.

“**Common Shares**” means the common shares, no par value per share, of the Company, subject to **Section 5.09**.

“**Company**” means the Person named as such in the first paragraph of this Indenture and, subject to **Article 6**, its successors and assigns.

“**Company Order**” means a written request or order signed on behalf of the Company by one of its Officers and delivered to the Trustee.

“**Conversion Date**” means, with respect to a Note, the first Business Day on which the requirements set forth in **Section 5.02(A)** to convert such Note are satisfied.

“**Conversion Price**” means, as of any time, an amount equal to (A) \$1,000 *divided by* (B) the Conversion Rate in effect at such time.

“**Conversion Rate**” initially means 34.7766 Common Shares per \$1,000 principal amount of Notes; *provided, however*, that the Conversion Rate is subject to adjustment pursuant to **Article 5**; *provided, further*, that whenever this Indenture refers to the Conversion Rate as of a particular date without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the Close of Business on such date.

“**Conversion Share**” means any Common Share issued or issuable upon conversion of any Note.

“**Daily Cash Amount**” means, with respect to any VWAP Trading Day, the lesser of (A) the applicable Daily Maximum Cash Amount and (B) the Daily Conversion Value for such VWAP Trading Day.

“**Daily Conversion Value**” means, with respect to any VWAP Trading Day, 1/40th of the product of (A) the Conversion Rate on such VWAP Trading Day and (B) the Daily VWAP per Common Share on such VWAP Trading Day.

“**Daily Maximum Cash Amount**” means, with respect to the conversion of any Note, the quotient obtained by dividing (A) the Specified Dollar Amount applicable to such conversion by (B) 40.

“**Daily Share Amount**” means, with respect to any VWAP Trading Day, the quotient obtained by dividing (A) the excess, if any, of the Daily Conversion Value for such VWAP Trading Day over the applicable Daily Maximum Cash Amount by (B) the Daily VWAP for such VWAP Trading Day. For the avoidance of doubt, the Daily Share Amount will be zero for such VWAP Trading Day if such Daily Conversion Value does not exceed such Daily Maximum Cash Amount.

“**Daily VWAP**” means, for any VWAP Trading Day, the per share volume-weighted average price of the Common Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page “IMAX <EQUITY> AQR” (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume-weighted average price is unavailable, the market value of one Common Share on such VWAP Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm selected by the Company, which may include any of the Initial Purchasers). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

“**De-Legending Deadline Date**” means, with respect to any Note, the 15th day after the Free Trade Date of such Note; *provided, however*, that if such 15th day is after an Interest Record Date and on or before the next Interest Payment Date, then the De-Legending Deadline Date for such Note will instead be the Business Day immediately after such Interest Payment Date.

“**Default**” means any event that is (or, after notice, passage of time or both, would be) an Event of Default.

“**Default Settlement Method**” means Combination Settlement with a Specified Dollar Amount of \$1,000 per \$1,000 principal amount of Notes; *provided, however*, that (x) subject to **Section 5.03(A)(iii)**, the Company may, from time to time, change the Default Settlement Method, to any Settlement Method that the Company is then permitted to elect, by sending notice of the new Default Settlement Method to the Holders, the Trustee and the Conversion Agent (it being understood, for the avoidance of doubt, that no such change will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to this Indenture); and (y) the Default Settlement Method will be subject to **Section 5.03(A)(ii)**.

“**Depository**” means The Depository Trust Company or its successor.

“**Depository Participant**” means any member of, or participant in, the Depository.

“**Depository Procedures**” means, with respect to any conversion, transfer, exchange or other transaction involving a Global Note or any beneficial interest therein, the rules and procedures of the Depository applicable to such conversion, transfer, exchange or transaction.

“**ERISA Legend**” means a legend substantially in the form set forth in **Exhibit B-4**.

“**Ex-Dividend Date**” means, with respect to an issuance, dividend or distribution on the Common Shares, the first date on which Common Shares trade on the applicable exchange or in

the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Shares under a separate ticker symbol or CUSIP number will not be considered “regular way” for this purpose.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Exempted Fundamental Change**” means any Fundamental Change with respect to which, in accordance with **Section 4.02(I)**, the Company does not offer to repurchase any Notes.

“**Free Trade Date**” means, with respect to any Note, the date that is one year after the Last Original Issue Date of such Note.

“**Freely Tradable**” means, with respect to any Note, that such Note would be eligible to be offered, sold or otherwise transferred pursuant to Rule 144 or otherwise if held by a Person that is not an Affiliate of the Company, and that has not been an Affiliate of the Company during the immediately preceding three months, without any requirements as to volume, manner of sale, availability of current public information or notice under the Securities Act (except that, during the six month period beginning on, and including, the date that is six months after the Last Original Issue Date of such Note, any such requirement as to the availability of current public information will be disregarded if the same is satisfied at that time); *provided, however*, that from and after the Free Trade Date of such Note, such Note will not be “Freely Tradable” unless such Note (x) is not identified by a “restricted” CUSIP or ISIN number and (y) is not represented by any certificate that bears the Restricted Note Legend. For the avoidance of doubt, whether a Note is deemed to be identified by a “restricted” CUSIP or ISIN number or to bear the Restricted Note Legend is subject to **Section 2.12**.

“**Fundamental Change**” means any of the following events:

(A) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans, files any report with the SEC indicating that such person or group has become the direct or indirect “beneficial owner” (as defined below) of Common Shares representing more than 50% of the voting power of all of the Company’s Common Shares; *provided, however*, that no “person” or “group” will be deemed to be the beneficial owner of any securities tendered pursuant to a tender or exchange offer made by or on behalf of such “person” or “group” until such tendered securities are accepted for purchase or exchange under such offer;

(B) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company’s Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of amalgamation, merger, arrangement, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Shares are exchanged for, converted into, acquired for or constitute solely the right to receive, other securities, cash or other property (other than changes resulting solely from a

subdivision or combination, or a change in par value, of the Common Shares); *provided, however*, that any amalgamation, merger, arrangement, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined below) all classes of the Company’s common equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than 50% of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (B)**;

(C) the Company’s shareholders approve any plan or proposal for the liquidation or dissolution of the Company; or

(D) the Common Shares cease to be listed on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors) for a period of at least one trading day;

provided, however, that a transaction or event described in **clause (A)** or **(B)** above will not constitute a Fundamental Change if at least 90% of the consideration received or to be received by the holders of Common Shares (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event, consists of shares of common stock or other corporate common equity interests listed (or depositary receipts representing shares of common stock or other corporate common equity interests, which depositary receipts are listed or quoted) on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors), or that will be so listed or quoted when issued or exchanged in connection with such transaction or event, and such transaction or event constitutes a Common Share Change Event for which the Reference Property consists of such consideration.

For the purposes of this definition, (x) any transaction or event described in both **clause (A)** and in **clause (B)(i)** or **(ii)** above (without regard to the proviso in **clause (B)**) will be deemed to occur solely pursuant to **clause (B)** above (subject to such proviso) and (y) whether a Person is a “beneficial owner,” whether shares are “beneficially owned” and percentage beneficial ownership will be determined in accordance with Rule 13d-3 under the Exchange Act.

“**Fundamental Change Repurchase Date**” means the date fixed for the repurchase of any Notes by the Company pursuant to a Repurchase Upon Fundamental Change, subject to **Section 4.02(c)**.

“**Fundamental Change Repurchase Notice**” means a notice (including a notice substantially in the form of the “Fundamental Change Repurchase Notice” set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 4.02(F)(i)** and **Section 4.02(F)(ii)**.

“**Fundamental Change Repurchase Price**” means the cash price payable by the Company to repurchase any Note upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 4.02(D)**.

“**Global Note**” means a Note that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Depository or its nominee, duly executed by the Company and authenticated by the Trustee, and deposited with the Trustee, as custodian for the Depository or its nominee.

“**Global Note Legend**” means a legend substantially in the form set forth in **Exhibit B-2**.

“**Holder**” means a person in whose name a Note is registered on the Registrar’s books.

“**Indenture**” means this Indenture, as amended or supplemented from time to time.

“**Initial Purchasers**” means J.P. Morgan Securities LLC, Wells Fargo Securities, LLC, Citigroup Global Markets Inc. and National Bank Financial Inc.

“**Interest Payment Date**” means, with respect to a Note, each April 1 and October 1 of each year. For the avoidance of doubt, the Maturity Date is an Interest Payment Date.

“**Interest Record Date**” has the following meaning with respect to an Interest Payment Date: (A) if such Interest Payment Date occurs on April 1, the immediately preceding March 15, whether or not a Business Day; and (B) if such Interest Payment Date occurs on October 1, the immediately preceding September 15, whether or not a Business Day.

“**Issue Date**” means March 19, 2021.

“**Last Original Issue Date**” means (A) with respect to any Notes issued pursuant to the Purchase Agreement, and any Notes issued in exchange therefor or in substitution thereof, the Issue Date; and (B) with respect to any Notes issued pursuant to **Section 2.03(B)**, and any Notes issued in exchange therefor or in substitution thereof, either (i) the later of (x) the date such Notes are originally issued and (y) the last date any Notes are originally issued as part of the same offering pursuant to the exercise of an option granted to the initial purchaser(s) of such Notes to purchase additional Notes; or (ii) such other date as is specified in an Officer’s Certificate delivered to the Trustee before the original issuance of such Notes.

“**Last Reported Sale Price**” of the Common Shares for any Trading Day means the closing sale price per Common Share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per Common Share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per Common Share) on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Shares are then listed. If the Common Shares are not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per Common Share on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Shares are not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per Common Share on such

Trading Day from a nationally recognized independent investment banking firm selected by the Company, which may include any of the Initial Purchasers. Neither the Trustee nor the Conversion Agent will have any duty to determine the Last Reported Sale Price.

“**Make-Whole Fundamental Change**” means (A) a Fundamental Change (determined after giving effect to the proviso immediately after **clause (D)** of the definition thereof, but without regard to the proviso to **clause (B)(ii)** of such definition) or (B) the sending of a Redemption Notice pursuant to **Section 4.03(G)**; *provided, however*, that, subject to **Section 4.03(K)**, the sending of a Redemption Notice will constitute a Make-Whole Fundamental Change only with respect to the Notes called (or deemed to be called pursuant to **Section 4.03(K)**) for Redemption pursuant to such Redemption Notice and not with respect to any other Notes.

“**Make-Whole Fundamental Change Conversion Period**” has the following meaning:

(A) in the case of a Make-Whole Fundamental Change pursuant to **clause (A)** of the definition thereof, the period from, and including, the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change to, and including, the 35th Trading Day after such Make-Whole Fundamental Change Effective Date (or, if such Make-Whole Fundamental Change also constitutes a Fundamental Change (other than an Exempted Fundamental Change), to, but excluding, the related Fundamental Change Repurchase Date); and

(B) in the case of a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof, the period from, and including, the Redemption Notice Date for the related Redemption to, and including, the second Business Day immediately before the related Redemption Date;

provided, however, that if the Conversion Date for the conversion of a Note that has been called (or deemed, pursuant to **Section 4.03(K)**, to be called) for Redemption occurs during the Make-Whole Fundamental Change Conversion Period for both a Make-Whole Fundamental Change occurring pursuant to **clause (A)** of the definition of “Make-Whole Fundamental Change” and a Make-Whole Fundamental Change resulting from such Redemption pursuant to **clause (B)** of such definition, then, notwithstanding anything to the contrary in **Section 5.07**, solely for purposes of such conversion, (x) such Conversion Date will be deemed to occur solely during the Make-Whole Fundamental Change Conversion Period for the Make-Whole Fundamental Change with the earlier Make-Whole Fundamental Change Effective Date; and (y) the Make-Whole Fundamental Change with the later Make-Whole Fundamental Change Effective Date will be deemed not to have occurred.

“**Make-Whole Fundamental Change Effective Date**” means (A) with respect to a Make-Whole Fundamental Change pursuant to **clause (A)** of the definition thereof, the date on which such Make-Whole Fundamental Change occurs or becomes effective; and (B) with respect to a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof, the applicable Redemption Notice Date.

“**Market Disruption Event**” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common

Shares are listed for trading or trade, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares.

“**Maturity Date**” means April 1, 2026.

“**Note Agent**” means any Registrar, Paying Agent or Conversion Agent.

“**Notes**” means the 0.500% Convertible Senior Notes due 2026 issued by the Company pursuant to this Indenture.

“**Observation Period**” means, with respect to any Note to be converted: (A) subject to **clause (B)** below, if the Conversion Date for such Note occurs on or before January 1, 2026, the 40 consecutive VWAP Trading Days beginning on, and including, the third VWAP Trading Day immediately after such Conversion Date; (B) if such Conversion Date occurs on or after the date the Company has sent a Redemption Notice calling such Note for Redemption pursuant to **Section 4.03(G)** and on or before the second Business Day immediately before the related Redemption Date, the 40 consecutive VWAP Trading Days beginning on, and including, the 41st Scheduled Trading Day immediately before such Redemption Date; and (C) subject to **clause (B)** above, if such Conversion Date occurs after January 1, 2026, the 40 consecutive VWAP Trading Days beginning on, and including, the 41st Scheduled Trading Day immediately before the Maturity Date.

“**Officer**” means the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of the Company.

“**Officer’s Certificate**” means a certificate that is signed on behalf of the Company by one of its Officers and that meets the requirements of **Section 11.03**.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Opinion of Counsel**” means an opinion, from legal counsel (including an employee of, or counsel to, the Company or any of its Subsidiaries) who is reasonably acceptable to the Trustee, that meets the requirements of **Section 11.03**, subject to customary qualifications and exclusions.

“**Person**” or “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate “person” under this Indenture.

“**Physical Note**” means a Note (other than a Global Note) that is represented by a certificate substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such Note and duly executed by the Company and authenticated by the Trustee.

“**Purchase Agreement**” means that certain purchase agreement, dated March 16, 2021, between the Company and the representatives of the Initial Purchasers.

“**Redemption**” means the repurchase of any Note by the Company pursuant to **Section 4.03**.

“**Redemption Date**” means the date fixed, pursuant to **Section 4.03(E)**, for the settlement of the repurchase of any Notes by the Company pursuant to a Redemption.

“**Redemption Notice Date**” means, with respect to a Redemption, the date on which the Company sends the Redemption Notice for such Redemption pursuant to **Section 4.03(G)**.

“**Redemption Price**” means the cash price payable by the Company to redeem any Note upon its Redemption, calculated pursuant to **Section 4.03(F)**.

“**Repurchase Upon Fundamental Change**” means the repurchase of any Note by the Company pursuant to **Section 4.02**.

“**Responsible Officer**” means (A) any officer within the corporate trust group of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of such officers; and (B) with respect to a particular corporate trust matter relating to this Indenture, any other officer to whom such matter is referred because of his or her knowledge of, and familiarity with, the particular subject and who, in each case, shall have direct responsibility for the administration of this Indenture.

“**Restricted Note Legend**” means a legend substantially in the form set forth in **Exhibit B-1**.

“**Restricted Stock Legend**” means, with respect to any Conversion Share, a legend substantially to the effect that the offer and sale of such Conversion Share have not been registered under the Securities Act and that such Conversion Share cannot be sold or otherwise transferred except pursuant to a transaction that is registered under the Securities Act or that is exempt from, or not subject to, the registration requirements of the Securities Act, and in respect of any Conversion Shares issued prior to July 20, 2021, includes the following legend: “UNLESS PERMITTED UNDER APPLICABLE CANADIAN SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THIS SECURITY BEFORE JULY 20, 2021.”

“**Rule 144**” means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

“**Rule 144A**” means Rule 144A under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then “Scheduled Trading Day” means a Business Day.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Security**” means any Note or Conversion Share.

“**Settlement Method**” means Cash Settlement or Combination Settlement.

“**Significant Subsidiary**” means, with respect to any Person, any Subsidiary of such Person that constitutes a “significant subsidiary” (as defined in Rule 1-02(w) of Regulation S-X under the Exchange Act) of such Person; *provided, however*, that, if a Subsidiary meets the criteria of clause (1)(iii), but not clause (1)(i) or (1)(ii), of the definition of “significant subsidiary” in Rule 1-02(w) (or, if applicable, the respective successor clauses to the aforementioned clauses), then such Subsidiary will be deemed not to be a Significant Subsidiary unless such Subsidiary’s income from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year before the date of determination exceeds \$50,000,000.

“**Special Interest**” means any interest that accrues on any Note pursuant to **Section 7.03**.

“**Specified Dollar Amount**” means, with respect to the conversion of a Note to which Combination Settlement applies, the maximum cash amount per \$1,000 principal amount of such Note deliverable upon such conversion (excluding cash in lieu of any fractional Common Share); *provided, however*, that in no event will the Specified Dollar Amount be less than \$1,000 per \$1,000 principal amount of such Note.

“**Share Price**” has the following meaning for any Make-Whole Fundamental Change: (A) if the holders of Common Shares receive only cash in consideration for their Common Shares in such Make-Whole Fundamental Change and such Make-Whole Fundamental Change is pursuant to **clause (B)** of the definition of “Fundamental Change,” then the Share Price is the amount of cash paid per Common Share in such Make-Whole Fundamental Change; and (B) in all other cases, the Share Price is the average of the Last Reported Sale Prices per Common Share for the five consecutive Trading Days ending on, and including, the Trading Day immediately before the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change.

“**Subsidiary**” means, with respect to any Person: (A) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than 50% of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or shareholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly

or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (B) any partnership or limited liability company where (i) more than 50% of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (ii) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Tax**” means any tax, duty, levy, impost, assessment or other governmental charge of a similar nature (including penalties and interest and other similar liabilities related thereto) that are imposed by any taxing authority.

“**Tax Redemption**” means the Redemption of any Note pursuant to **Section 4.03(C)**.

“**Trading Day**” means any day on which (A) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded and (B) there is no Market Disruption Event. If the Common Shares are not so listed or traded, then “Trading Day” means a Business Day.

“**Trading Price**” of the Notes on any Trading Day means the average of the secondary market bid quotations, expressed as a cash amount per \$1,000 principal amount of Notes, obtained by the Bid Solicitation Agent for \$1,000,000 (or such lesser amount as may then be outstanding) in principal amount of Notes at approximately 3:30 p.m., New York City time, on such Trading Day from three nationally recognized independent securities dealers selected by the Company, which may include any of the Initial Purchasers; *provided, however*, that, if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids will be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, then that one bid will be used. If, on any Trading Day, (A) the Bid Solicitation Agent cannot reasonably obtain at least one bid for \$1,000,000 (or such lesser amount as may then be outstanding) in principal amount of Notes from a nationally recognized independent securities dealer, (B) the Company is not acting as the Bid Solicitation Agent and the Company fails to instruct the Bid Solicitation Agent to obtain bids when required or (C) the Bid Solicitation Agent fails to solicit bids when required, then, in each case, the Trading Price per \$1,000 principal amount of Notes on such Trading Day will be deemed to be less than 98% of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day.

“**Transfer-Restricted Security**” means any Security that constitutes a “restricted security” (as defined in Rule 144); *provided, however*, that such Security will cease to be a Transfer-Restricted Security upon the earliest to occur of the following events:

(A) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(B) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a “restricted security” (as defined in Rule 144); and

(C) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice.

The Trustee is under no obligation to determine whether any Security is a Transfer-Restricted Security and may conclusively rely on an Officer’s Certificate with respect thereto.

“**Trust Indenture Act**” means the U.S. Trust Indenture Act of 1939, as amended.

“**Trustee**” means the Person named as such in the first paragraph of this Indenture until a successor replaces it in accordance with the provisions of this Indenture and, thereafter, means such successor.

“**VWAP Market Disruption Event**” means, with respect to any date, (A) the failure by the principal U.S. national or regional securities exchange on which the Common Shares are then listed, or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Shares are then traded, to open for trading during its regular trading session on such date or (B) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Shares or in any options contracts or futures contracts relating to the Common Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

“**VWAP Trading Day**” means a day on which (A) there is no VWAP Market Disruption Event; and (B) trading in the Common Shares generally occurs on the principal U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded. If the Common Shares are not so listed or traded, then “VWAP Trading Day” means a Business Day.

“**Wholly Owned Subsidiary**” of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 1.02. OTHER DEFINITIONS.

<u>Term</u>	<u>Defined in Section</u>
“Additional Amounts”	3.05(A)
“Additional Shares”	5.07(A)
“Business Combination Event”	6.01(A)
“Cash Settlement”	5.03(A)
“Code”	3.05(A)(v)
“Combination Settlement”	5.03(A)
“Common Share Change Event”	5.09(A)
“Conversion Agent”	2.06(A)
“Conversion Consideration”	5.03(B)
“Default Interest”	2.05(B)
“Defaulted Amount”	2.05(B)
“Event of Default”	7.01(A)
“Expiration Date”	5.05(A)(v)
“Expiration Time”	5.05(A)(v)
“Fundamental Change Notice”	4.02(E)
“Fundamental Change Repurchase Right”	4.02(A)
“Initial Notes”	2.03(A)
“Measurement Period”	5.01(C)(i)(2)
“Paying Agent”	2.06(A)
“Provisional Redemption”	4.03(B)
“Redemption Notice”	4.03(G)
“Reference Property”	5.09(A)
“Reference Property Unit”	5.09(A)
“Register”	2.06(B)
“Registrar”	2.06(A)
“Relevant Taxing Jurisdiction”	3.05(A)
“Reporting Event of Default”	7.03(A)
“Specified Courts”	11.07
“Spin-Off”	5.05(A)(iii)(2)
“Spin-Off Valuation Period”	5.05(A)(iii)(2)
“Stated Interest”	2.05(A)
“Successor Corporation”	6.01(A)(i)
“Successor Person”	5.09(A)
“Tax Act”	3.05(a)(iv)
“Tax Redemption Opt-Out Election”	4.03(C)(ii)
“Tax Redemption Opt-Out Election Notice”	4.03(C)(ii)(1)
“Tender/Exchange Offer Valuation Period”	5.05(A)(v)
“Trading Price Condition”	5.01(C)(i)(2)

Section 1.03. RULES OF CONSTRUCTION.

For purposes of this Indenture:

(A) “or” is not exclusive;

- (B) “including” means “including without limitation”;
- (C) “will” expresses a command;
- (D) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;
- (E) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;
- (F) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;
- (G) “herein,” “hereof” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;
- (H) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;
- (I) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture; and
- (J) the term “**interest**,” when used with respect to a Note, includes any Additional Interest, Special Interest or Default Interest, in each case to the extent the same is payable on such Note, unless the context requires otherwise.

Article 2. THE NOTES

Section 2.01. FORM, DATING AND DENOMINATIONS.

The Notes and the Trustee’s certificate of authentication will be substantially in the form set forth in **Exhibit A**. The Notes will bear the legends required by **Section 2.09** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary. Each Note will be dated as of the date of its authentication.

Except to the extent otherwise provided in a Company Order delivered to the Trustee in connection with the issuance and authentication thereof, the Notes will be issued initially in the form of one or more Global Notes. Global Notes may be exchanged for Physical Notes, and Physical Notes may be exchanged for Global Notes, only as provided in **Section 2.10**.

The Notes will be issuable only in registered form without interest coupons and only in Authorized Denominations.

Each certificate representing a Note will bear a unique registration number that is not affixed to any other certificate representing another outstanding Note.

The terms contained in the Notes constitute part of this Indenture, and, to the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, agree to such terms and to be bound thereby; *provided, however*, that, to the extent that any provision of any Note conflicts with the provisions of this Indenture, the provisions of this Indenture will control for purposes of this Indenture and such Note.

Section 2.02. EXECUTION, AUTHENTICATION AND DELIVERY.

(A) *Due Execution by the Company.* At least one duly authorized Officer will sign the Notes on behalf of the Company by manual, electronic or facsimile signature. A Note's validity will not be affected by the failure of any Officer whose signature is on any Note to hold, at the time such Note is authenticated, the same or any other office at the Company.

(B) *Authentication by the Trustee and Delivery.*

(i) No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

(ii) The Trustee will cause an authorized signatory of the Trustee (or a duly appointed authenticating agent) to manually sign the certificate of authentication of a Note only if (1) the Company delivers such Note to the Trustee; (2) such Note is executed by the Company in accordance with **Section 2.02(A)**; and (3) the Company delivers a Company Order to the Trustee that (a) requests the Trustee to authenticate such Note; and (b) sets forth the name of the Holder of such Note and the date as of which such Note is to be authenticated. If such Company Order also requests the Trustee to deliver such Note to any Holder or to the Depository, then the Trustee will promptly deliver such Note in accordance with such Company Order.

(iii) The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. A duly appointed authenticating agent may authenticate Notes whenever the Trustee may do so under this Indenture, and a Note authenticated as provided in this Indenture by such an agent will be deemed, for purposes of this Indenture, to be authenticated by the Trustee. Each duly appointed authenticating agent will have the same rights to deal with the Company as the Trustee would have if it were performing the duties that the authentication agent was validly appointed to undertake.

Section 2.03. INITIAL NOTES AND ADDITIONAL NOTES.

(A) *Initial Notes.* On the Issue Date, there will be originally issued \$230,000,000 aggregate principal amount of Notes, subject to the provisions of this Indenture (including **Section 2.02**). Notes issued pursuant to this **Section 2.03(A)**, and any Notes issued in exchange therefor or in substitution thereof, are referred to in this Indenture as the "**Initial Notes**."

(B) *Additional Notes.* Without the consent of any Holder, the Company may, subject to the provisions of this Indenture (including **Section 2.02**), originally issue additional Notes with

the same terms as the Initial Notes (except for accrued interest, if any, and, to the extent applicable, with respect to the Last Original Issue Date of such additional Notes), which additional Notes will, subject to the foregoing, be considered to be part of the same series of, and rank equally and ratably with, all other Notes issued under this Indenture; *provided, however*, that if any such additional Notes (and any Notes that are resold after such Notes have been purchased or otherwise acquired by the Company or its Affiliates) are not fungible with other Notes issued under this Indenture for purposes of U.S. federal income tax, Canadian federal income tax, U.S. federal securities laws or provincial Canadian securities laws or, if applicable, the Depository Procedures, then such additional Notes will be identified by a separate CUSIP number or by no CUSIP number.

Section 2.04. METHOD OF PAYMENT.

(A) *Global Notes.* The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Global Note to the Depository or its nominee, as the case may be, as the registered Holder of such Global Note, by wire transfer of immediately available funds no later than the time the same is due as provided in this Indenture.

(B) *Physical Notes.* The Company will pay, or cause the Paying Agent to pay, the principal (whether due upon maturity on the Maturity Date, Redemption on a Redemption Date or repurchase on a Fundamental Change Repurchase Date or otherwise) of, interest on, and any cash Conversion Consideration for, any Physical Note no later than the time the same is due as provided in this Indenture as follows: (i) if the principal amount of such Physical Note is at least \$5,000,000 (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Physical Note entitled to such payment has delivered to the Paying Agent or the Trustee, no later than the time set forth in the immediately following sentence, a written request that the Company make such payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and (ii) in all other cases, by check mailed to the address of the Holder of such Physical Note entitled to such payment as set forth in the Register. To be timely, such written request must be so delivered no later than the Close of Business on the following date: (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Interest Record Date; (y) with respect to any cash Conversion Consideration, the relevant Conversion Date; and (z) with respect to any other payment, the date that is 15 calendar days immediately before the date such payment is due.

Section 2.05. ACCRUAL OF INTEREST; DEFAULTED AMOUNTS; WHEN PAYMENT DATE IS NOT A BUSINESS DAY.

(A) *Accrual of Interest.* Each Note will accrue interest at a rate per annum equal to 0.500% (the “**Stated Interest**”), plus any Additional Interest and Special Interest that may accrue pursuant to **Section 3.04** and **Section 7.03**, respectively. Stated Interest on each Note will: (i) accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in the certificate representing such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest; and (ii) be, subject to **Sections 4.02(D)**, **4.03(F)** and **5.02(D)** (but without duplication of

any payment of interest), payable semi-annually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in the certificate representing such Note, to the Holder of such Note as of the Close of Business on the immediately preceding Interest Record Date. Stated Interest, and, if applicable, Additional Interest and Special Interest, on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months.

(B) *Defaulted Amounts.* If the Company fails to pay any amount (a “**Defaulted Amount**”) payable on a Note on or before the due date therefor as provided in this Indenture, then, regardless of whether such failure constitutes an Event of Default, (i) such Defaulted Amount will forthwith cease to be payable to the Holder of such Note otherwise entitled to such payment; (ii) to the extent lawful, interest (“**Default Interest**”) will accrue on such Defaulted Amount at a rate per annum equal to the rate per annum at which Stated Interest accrues for each day, if any, during the period from, and including, such due date to, but excluding, the date of payment of such Defaulted Amount and Default Interest; (iii) such Defaulted Amount and Default Interest will be paid on a payment date selected by the Company to the Holder of such Note as of the Close of Business on a special record date selected by the Company, *provided* that such special record date must be no more than 15, nor less than ten, calendar days before such payment date; and (iv) at least 15 calendar days before such special record date, the Company will send notice to the Trustee and the Holders that states such special record date, such payment date and the amount of such Defaulted Amount and Default Interest to be paid on such payment date.

(C) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on a Note as provided in this Indenture is not a Business Day, then, notwithstanding anything to the contrary in this Indenture or the Notes, such payment may be made on the immediately following Business Day and no interest will accrue on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a “Business Day.”

Section 2.06. REGISTRAR, PAYING AGENT AND CONVERSION AGENT.

(A) *Generally.* The Company will maintain (i) an office or agency in the continental United States where Notes may be presented for registration of transfer or for exchange (the “**Registrar**”); (ii) an office or agency in the continental United States where Notes may be presented for payment (the “**Paying Agent**”); and (iii) an office or agency in the continental United States where Notes may be presented for conversion (the “**Conversion Agent**”). The Company hereby designates the corporate trust offices of the Trustee in the continental United States as such offices. If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Trustee will act as such and will receive compensation therefor in accordance with this Indenture and any other agreement between the Trustee and the Company. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(B) *Duties of the Registrar.* The Registrar will keep a record (the “**Register**”) of the names and addresses of the Holders, the Notes held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of Notes. Absent manifest error, the entries in the Register will be conclusive and the Company and the Trustee may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(C) *Co-Agents; Company's Right to Appoint Successor Registrars, Paying Agents and Conversion Agents.* The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Indenture. Subject to **Section 2.06(A)**, the Company may change any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act in such capacity) without notice to any Holder. The Company will notify the Trustee (and, upon request, any Holder) of the name and address of each Note Agent, if any, not a party to this Indenture and will enter into an appropriate agency agreement with each such Note Agent, which agreement will implement the provisions of this Indenture that relate to such Note Agent.

(D) *Initial Appointments.* The Company appoints the Trustee as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

Section 2.07. PAYING AGENT AND CONVERSION AGENT TO HOLD PROPERTY IN TRUST.

The Company will require each Paying Agent or Conversion Agent that is not the Trustee to agree in writing that such Note Agent will (A) hold in trust for the benefit of Holders or the Trustee all money and other property held by such Note Agent for payment or delivery due on the Notes; and (B) notify the Trustee of any default by the Company in making any such payment or delivery. The Company, at any time, may, and the Trustee, while any Default continues, may, require a Paying Agent or Conversion Agent to pay or deliver, as applicable, all money and other property held by it to the Trustee, after which payment or delivery, as applicable, such Note Agent (if not the Company or any of its Subsidiaries) will have no further liability for such money or property. If the Company or any of its Subsidiaries acts as Paying Agent or Conversion Agent, then (A) it will segregate and hold in a separate trust fund for the benefit of the Holders or the Trustee all money and other property held by it as Paying Agent or Conversion Agent; and (B) references in this Indenture or the Notes to the Paying Agent or Conversion Agent holding cash or other property, or to the delivery of cash or other property to the Paying Agent or Conversion Agent, in each case for payment or delivery to any Holders or the Trustee or with respect to the Notes, will be deemed to refer to cash or other property so segregated and held separately, or to the segregation and separate holding of such cash or other property, respectively. Upon the occurrence of any event pursuant to **clause (viii) or (ix) of Section 7.01(A)** with respect to the Company (or with respect to any Subsidiary of the Company acting as Paying Agent or Conversion Agent), the Trustee will serve as the Paying Agent or Conversion Agent, as applicable, for the Notes.

Section 2.08. HOLDER LISTS.

If the Trustee is not the Registrar, then the Company will furnish to the Trustee, no later than seven Business Days before each Interest Payment Date, and at such other times as the Trustee may request, a list, in such form and as of such date or time as the Trustee may reasonably require, of the names and addresses of the Holders.

Section 2.09. LEGENDS.

(A) *Global Note Legend.* Each Global Note will bear the Global Note Legend (or any similar legend, not inconsistent with this Indenture, required by the Depositary for such Global Note).

(B) *Affiliate Resale Legend; ERISA Legend.* Each Note will bear the Affiliate Resale Legend. Each Note will bear the ERISA Legend

(C) *Restricted Note Legend.* Subject to **Section 2.12**:

(i) each Note that is a Transfer-Restricted Security will bear the Restricted Note Legend; and

(ii) if a Note is issued in exchange for, in substitution of, or to effect a partial conversion of, another Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.09(C)(ii)**), including pursuant to **Section 2.10(B), 2.10(C), 2.11** or **2.13**, then such Note will bear the Restricted Note Legend if such old Note bore the Restricted Note Legend at the time of such exchange or substitution, or on the related Conversion Date with respect to such conversion, as applicable; *provided, however*, that such Note need not bear the Restricted Note Legend if such Note does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Conversion Date, as applicable.

(D) *Other Legends.* A Note may bear any other legend or text, not inconsistent with this Indenture, as may be required by applicable law or by any securities exchange or automated quotation system on which such Note is traded or quoted.

(E) *Acknowledgment and Agreement by the Holders.* A Holder’s acceptance of any Note bearing any legend required by this **Section 2.09** will constitute such Holder’s acknowledgment of, and agreement to comply with, the restrictions set forth in such legend.

(F) *Restricted Stock Legend.*

(i) Each Conversion Share will bear the Restricted Stock Legend if the Note upon the conversion of which such Conversion Share was issued was (or would have been had it not been converted) a Transfer-Restricted Security at the time such Conversion Share was issued; *provided, however*, that such Conversion Share need not bear the Restricted Stock Legend if the Company determines, in its reasonable discretion, that such Conversion Share need not bear the Restricted Stock Legend.

(ii) Notwithstanding anything to the contrary in this **Section 2.09(F)**, a Conversion Share need not bear a Restricted Stock Legend if such Conversion Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including the assignment thereto of a “restricted” CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in the Restricted Stock Legend.

Section 2.10. TRANSFERS AND EXCHANGES; CERTAIN TRANSFER RESTRICTIONS.

(A) *Provisions Applicable to All Transfers and Exchanges.*

(i) *Generally.* Subject to this **Section 2.10**, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time. The Registrar will record each such transfer or exchange of Physical Notes in the Register. Beneficial interests in Global Notes will be transferred or exchanged in accordance with the Depositary Procedures.

(ii) *Transferred and Exchanged Notes Remain Valid Obligations of the Company.* Each Note issued upon transfer or exchange of any other Note (such other Note being referred to as the “old Note” for purposes of this **Section 2.10(A)(ii)**) or portion thereof in accordance with this Indenture will be the valid obligation of the Company, evidencing the same indebtedness, and entitled to the same benefits under this Indenture, as such old Note or portion thereof, as applicable.

(iii) *No Services Charge; Transfer Taxes.* The Company, the Trustee and the Note Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of Notes, but the Company, the Trustee, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Notes, other than exchanges pursuant to **Section 2.11, 2.17** or **8.05** not involving any transfer.

(iv) *Transfers and Exchanges Must Be in Authorized Denominations.* Notwithstanding anything to the contrary in this Indenture or the Notes, a Note may not be transferred or exchanged in part unless the portion to be so transferred or exchanged is in an Authorized Denomination.

(v) *Trustee’s Disclaimer.* The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any transfer restrictions imposed under this Indenture or applicable law with respect to any Note, other than to require the delivery of such certificates or other documentation or evidence as expressly required by this Indenture and to examine the same to determine substantial compliance as to form with the requirements of this Indenture.

(vi) *Legends.* Each Note issued upon transfer of, or in exchange for, another Note will bear each legend, if any, required by **Section 2.09**.

(vii) *Settlement of Transfers and Exchanges.* Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Note, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second Business Day after the date of such satisfaction.

(viii) *Interpretation.* For the avoidance of doubt, and subject to the terms of this Indenture, as used in this **Section 2.10**, an “exchange” of a Global Note or a Physical Note includes (x) an exchange effected for the sole purpose of removing any Restricted Note

Legend affixed to such Global Note or Physical Note; and (y) if such Global Note or Physical Note is identified by a “restricted” CUSIP number, an exchange effected for the sole purpose of causing such Global Note or Physical Note to be identified by an “unrestricted” CUSIP number.

(ix) Neither the Trustee nor any Note Agent will have any responsibility for any action taken or not taken by the Depositary.

(x) The Trustee and the Paying Agent will have no responsibility or obligation to any beneficial owner of a Global Note or a Depositary Participant or other Person with respect to the accuracy of the records of the Depositary or its nominee or of any participant or member thereof with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depositary) of any notice (including any Redemption Notice) or the payment of any amount, under or with respect to such Notes. The rights of beneficial owners in any Global Note will be exercised only through the Depositary subject to the Depositary Procedures. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its members, participants and any beneficial owners

(B) *Transfers and Exchanges of Global Notes.*

(i) *Certain Restrictions.* Subject to the immediately following sentence, no Global Note may be transferred or exchanged in whole except (x) by the Depositary to a nominee of the Depositary; (y) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary; or (z) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. No Global Note (or any portion thereof) may be transferred to, or exchanged for, a Physical Note; *provided, however*, that a Global Note will be exchanged, pursuant to customary procedures, for one or more Physical Notes if:

(1) (x) the Depositary notifies the Company or the Trustee that the Depositary is unwilling or unable to continue as depositary for such Global Note or (y) the Depositary ceases to be a “clearing agency” registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depositary within 90 days of such notice or cessation;

(2) an Event of Default has occurred and is continuing and the Company, the Trustee or the Registrar has received a written request from the Depositary, or from a holder of a beneficial interest in such Global Note, to exchange such Global Note or beneficial interest, as applicable, for one or more Physical Notes; or

(3) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Note for one or more Physical Notes at the request of the owner of such beneficial interest.

(ii) *Effecting Transfers and Exchanges.* Upon satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Global Note (or any portion thereof):

(1) the Trustee will reflect any resulting decrease of the principal amount of such Global Note by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such Global Note (and, if such notation results in such Global Note having a principal amount of zero, then the Company may (but is not required to) instruct the Trustee to cancel such Global Note pursuant to **Section 2.15**);

(2) if required to effect such transfer or exchange, then the Trustee will reflect any resulting increase of the principal amount of any other Global Note by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such other Global Note;

(3) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Global Note bearing each legend, if any, required by **Section 2.09**; and

(4) if such Global Note (or such portion thereof), or any beneficial interest therein, is to be exchanged for one or more Physical Notes, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Global Note to be so exchanged; (y) are registered in such name(s) as the Depository specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by **Section 2.09**.

(iii) *Compliance with Depository Procedures.* Each transfer or exchange of a beneficial interest in any Global Note will be made in accordance with the Depository Procedures.

(C) *Transfers and Exchanges of Physical Notes.*

(i) *Requirements for Transfers and Exchanges.* Subject to this **Section 2.10**, a Holder of a Physical Note may (x) transfer such Physical Note (or any portion thereof in an Authorized Denomination) to one or more other Person(s); (y) exchange such Physical Note (or any portion thereof in an Authorized Denomination) for one or more other Physical Notes in Authorized Denominations having an aggregate principal amount equal to the aggregate principal amount of the Physical Note (or portion thereof) to be so exchanged; and (z) if then permitted by the Depository Procedures, transfer such Physical Note (or any portion thereof in an Authorized Denomination) in exchange for a beneficial interest in one or more Global Notes; *provided, however*, that, to effect any such transfer or exchange, such Holder must:

(1) surrender such Physical Note to be transferred or exchanged to the office of the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Trustee or the Registrar; and

(2) deliver such certificates, documentation or evidence as may be required pursuant to **Section 2.10(D)**.

(ii) *Effecting Transfers and Exchanges*. Upon the satisfaction of the requirements of this Indenture to effect a transfer or exchange of any Physical Note (such Physical Note being referred to as the “old Physical Note” for purposes of this **Section 2.10(C)(ii)**) of a Holder (or any portion of such old Physical Note in an Authorized Denomination):

(1) such old Physical Note will be promptly cancelled pursuant to **Section 2.15**;

(2) if such old Physical Note is to be so transferred or exchanged only in part, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such old Physical Note not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**;

(3) in the case of a transfer:

(a) to the Depositary or a nominee thereof that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Global Notes, the Trustee will reflect an increase of the principal amount of one or more existing Global Notes by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of such Global Note(s), which increase(s) are in Authorized Denominations and aggregate to the principal amount to be so transferred, and which Global Note(s) bear each legend, if any, required by **Section 2.09**; *provided, however*, that if such transfer cannot be so effected by notation on one or more existing Global Notes (whether because no Global Notes bearing each legend, if any, required by **Section 2.09** then exist, because any such increase will result in any Global Note having an aggregate principal amount exceeding the maximum aggregate principal amount permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Global Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount that is to be so transferred but that is not effected by notation as provided above; and (y) bear each legend, if any, required by **Section 2.09**; and

(b) to a transferee that will hold its interest in such old Physical Note (or such portion thereof) to be so transferred in the form of one or more Physical Notes, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one

or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 2.09**; and

(4) in the case of an exchange, the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Note was registered; and (z) bear each legend, if any, required by **Section 2.09**.

(D) *Requirement to Deliver Documentation and Other Evidence.* If a Holder of any Note that is identified by a “restricted” CUSIP number or that bears a Restricted Note Legend or is a Transfer-Restricted Security requests to:

- (i) cause such Note to be identified by an “unrestricted” CUSIP number;
- (ii) remove such Restricted Note Legend; or
- (iii) register the transfer of such Note to the name of another Person,

then the Company, the Trustee and the Registrar may refuse to effect such identification, removal or transfer, as applicable, unless there is delivered to the Company, the Trustee and the Registrar such certificates or other documentation or evidence as the Company, the Trustee and the Registrar may reasonably require for the Company to determine that such identification, removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws; *provided, however*, that no such certificates, documentation or evidence need be so delivered (w) on and after the Free Trade Date with respect to such Note unless the Company determines, in its reasonable discretion, that such Note is not eligible to be offered, sold or otherwise transferred pursuant to Rule 144 or otherwise without any requirements as to volume, manner of sale, availability of current public information or notice under the Securities Act; (x) in connection with any transfer of such Note pursuant to Rule 144A; (y) in connection with any transfer of such Note to the Company or one of its Subsidiaries; or (z) in connection with any transfer of such Note pursuant to an effective registration statement under the Securities Act.

(E) *Transfers of Notes Subject to Redemption, Repurchase or Conversion.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Trustee and the Registrar will not be required to register the transfer of or exchange any Note that (i) has been surrendered for conversion, except to the extent that any portion of such Note is not subject to conversion; (ii) is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn, pursuant to **Section 4.02(F)**, except to the extent that any portion of such Note is not subject to such notice or the Company fails to pay the applicable Fundamental Change Repurchase Price when due; or (iii) has been selected for Redemption pursuant to a Redemption Notice, except to the extent that any portion of such Note is not subject to Redemption or the Company fails to pay the applicable Redemption Price when due.

Section 2.11. EXCHANGE AND CANCELLATION OF NOTES TO BE CONVERTED OR TO BE REPURCHASED PURSUANT TO A REPURCHASE UPON FUNDAMENTAL CHANGE OR REDEMPTION.

(A) *Partial Conversions of Physical Notes and Partial Repurchases of Physical Notes Pursuant to a Repurchase Upon Fundamental Change or Redemption.* If only a portion of a Physical Note of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, as soon as reasonably practicable after such Physical Note is surrendered for such conversion, redemption or repurchase, as applicable, the Company will cause such Physical Note to be exchanged, pursuant and subject to **Section 2.10(C)**, for (i) one or more Physical Notes that are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted, redeemed or repurchased, as applicable, and deliver such Physical Note(s) to such Holder; and (ii) a Physical Note having a principal amount equal to the principal amount to be so converted, redeemed or repurchased, as applicable, which Physical Note will be converted, redeemed or repurchased, as applicable, pursuant to the terms of this Indenture; *provided, however*, that the Physical Note referred to in this **clause (ii)** need not be issued at any time after which such principal amount subject to such conversion, redemption or repurchase, as applicable, is deemed to cease to be outstanding pursuant to **Section 2.18**.

(B) *Cancellation of Notes that Are Converted and Notes that Are Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redemption.*

(i) *Physical Notes.* If a Physical Note (or any portion thereof that has not theretofore been exchanged pursuant to **Section 2.11(A)**) of a Holder is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the later of the time such Physical Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18** and the time such Physical Note is surrendered for such conversion or repurchase, as applicable, (1) such Physical Note will be cancelled pursuant to **Section 2.15**; and (2) in the case of a partial conversion, redemption or repurchase, as applicable, the Company will issue, execute and deliver to such Holder, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, one or more Physical Notes that (x) are in Authorized Denominations and have an aggregate principal amount equal to the principal amount of such Physical Note that is not to be so converted or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 2.09**.

(ii) *Global Notes.* If a Global Note (or any portion thereof) is to be converted pursuant to **Article 5** or repurchased pursuant to a Repurchase Upon Fundamental Change or Redemption, then, promptly after the time such Note (or such portion) is deemed to cease to be outstanding pursuant to **Section 2.18**, the Trustee will reflect a decrease of the principal amount of such Global Note in an amount equal to the principal amount of such Global Note to be so converted, redeemed or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Note" forming part of such Global Note (and, if the principal amount of such Global Note is zero following such notation, cancel such Global Note pursuant to **Section 2.15**).

Section 2.12. REMOVAL OF TRANSFER RESTRICTIONS.

Without limiting the generality of any other provision of this Indenture (including **Section 3.04**), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this **Section 2.12** and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this **Section 2.12** and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided, however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable and (ii) for purposes of **Section 3.04** and the definition of Freely Tradable, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.13. REPLACEMENT NOTES.

If a Holder of any Note claims that such Note has been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a replacement Note upon surrender to the Trustee of such mutilated Note, or upon delivery to the Trustee of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Trustee and the Company. In the case of a lost, destroyed or wrongfully taken Note, the Company and the Trustee may require the Holder thereof to provide such security or indemnity that is satisfactory to the Company to protect the Company and the Trustee and that is satisfactory to the Trustee to protect the Trustee from any loss that any of them may suffer if such Note is replaced. The Company may charge for its and the Trustee's expenses in replacing a Note.

Every replacement Note issued pursuant to this **Section 2.13** will be an additional obligation of the Company and will be entitled to all of the benefits of this Indenture equally and ratably with all other Notes issued under this Indenture, whether or not the lost, destroyed or wrongfully taken Note will at any time be enforceable by anyone.

Section 2.14. REGISTERED HOLDERS; CERTAIN RIGHTS WITH RESPECT TO GLOBAL NOTES.

Only the Holder of a Note will have rights under this Indenture as the owner of such Note. Without limiting the generality of the foregoing, Depositary Participants will have no rights as such under this Indenture with respect to any Global Note held on their behalf by the Depositary or its nominee, or by the Trustee as its custodian, and the Company, the Trustee and the Note Agents, and their respective agents, may treat the Depositary as the absolute owner of such Global Note for all purposes whatsoever; *provided, however*, that (A) the Holder of any Global Note may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons

that hold interests in Notes through Depositary Participants, to take any action that such Holder is entitled to take with respect to such Global Note under this Indenture or the Notes; and (B) the Company and the Trustee, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

Section 2.15. CANCELLATION.

The Company may at any time deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Trustee each Note duly surrendered to them for transfer, exchange, payment or conversion. The Trustee will promptly cancel all Notes so surrendered to it in accordance with its customary procedures. Without limiting the generality of **Section 2.03(B)**, the Company may not originally issue new Notes to replace Notes that it has paid or that have been cancelled upon transfer, exchange, payment or conversion.

Section 2.16. NOTES HELD BY THE COMPANY OR ITS AFFILIATES.

Without limiting the generality of **Section 2.18**, in determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any of its Affiliates will be deemed not to be outstanding; *provided, however*, that, for purposes of determining whether the Trustee is protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned will be so disregarded.

Section 2.17. TEMPORARY NOTES.

Until definitive Notes are ready for delivery, the Company may issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. The Company will promptly prepare, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, definitive Notes in exchange for temporary Notes. Until so exchanged, each temporary Note will in all respects be entitled to the same benefits under this Indenture as definitive Notes.

Section 2.18. OUTSTANDING NOTES.

(A) *Generally*. The Notes that are outstanding at any time will be deemed to be those Notes that, at such time, have been duly executed and authenticated, excluding those Notes (or portions thereof) that have theretofore been (i) cancelled by the Trustee or delivered to the Trustee for cancellation in accordance with **Section 2.15**; (ii) assigned a principal amount of zero by notation on the “Schedule of Exchanges of Interests in the Global Note” forming part of any a Global Note representing such Note; (iii) paid in full (including upon conversion) in accordance with this Indenture; or (iv) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (B), (C) or (D)** of this **Section 2.18**.

(B) *Replaced Notes*. If a Note is replaced pursuant to **Section 2.13**, then such Note will cease to be outstanding at the time of its replacement, unless the Trustee and the Company receive

proof reasonably satisfactory to them that such Note is held by a “*bona fide* purchaser” under applicable law.

(C) *Maturing Notes and Notes Called for Redemption or Subject to Repurchase.* If, on a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date, the Paying Agent holds money sufficient to pay the aggregate Redemption Price, Fundamental Change Repurchase Price or principal amount, respectively, together, in each case, with the aggregate interest, in each case due on such date, then (unless there occurs a Default in the payment of any such amount) (i) the Notes (or portions thereof) to be redeemed or repurchased, or that mature, on such date will be deemed, as of such date, to cease to be outstanding, except to the extent provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**; and (ii) the rights of the Holders of such Notes (or such portions thereof), as such, will terminate with respect to such Notes (or such portions thereof), other than (x) the right to receive the Redemption Price, Fundamental Change Repurchase Price or principal amount, as applicable, of, and accrued and unpaid interest on, such Notes (or such portions thereof), in each case as provided in this Indenture and (y) if the Fundamental Change Repurchase Date or Redemption Date falls after an Interest Record Date but on or prior to the related Interest Payment Date, the right of the Holder of record on such Interest Record Date to receive the accrued and unpaid interest to, but excluding, the corresponding Interest Payment Date.

(D) *Notes to Be Converted.* At the Close of Business on the Conversion Date for any Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the payment or delivery of the Conversion Consideration or any interest due, pursuant to **Section 5.03(B)** or **Section 5.02(D)**, upon such conversion) be deemed to cease to be outstanding, except to the extent provided in **Section 5.02(D)** or **Section 5.08**.

(E) *Cessation of Accrual of Interest.* Except as provided in **Section 4.02(D)**, **4.03(F)** or **5.02(D)**, no interest will accrue on any Note from and after the date that such Note is deemed, pursuant to this **Section 2.18**, to cease to be outstanding, unless there occurs a default in the payment or delivery of any cash or other property due on such Note.

Section 2.19. REPURCHASES BY THE COMPANY.

Without limiting the generality of **Section 2.15**, the Company or its Subsidiaries may, from time to time, directly or indirectly, without delivering prior notice to Holders, repurchase Notes in the open market, in negotiated transactions or otherwise, whether through private or public tender or exchange offers, cash-settled swaps or other cash-settled derivatives.

Section 2.20. CUSIP AND ISIN NUMBERS.

Subject to **Section 2.12**, the Company may use one or more CUSIP or ISIN numbers to identify any of the Notes, and, if so, the Company and the Trustee will use such CUSIP or ISIN number(s) in notices to Holders; *provided, however*, that (i) the Trustee makes no representation as to the correctness or accuracy of any such CUSIP or ISIN number; and (ii) the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number. The Company will promptly notify the Trustee of any change in the CUSIP or ISIN number(s) identifying any Notes.

Article 3. COVENANTS

Section 3.01. PAYMENT ON NOTES.

(A) *Generally.* The Company will pay or cause to be paid all the principal of, the Fundamental Change Repurchase Price and Redemption Price for, interest on, and other amounts due with respect to, the Notes on the dates and in the manner set forth in this Indenture.

(B) *Deposit of Funds.* Before 11:00 A.M., New York City time, on each Redemption Date, each Fundamental Change Repurchase Date, each Interest Payment Date, the Maturity Date and each other date on which any cash amount is due on the Notes, the Company will deposit, or will cause there to be deposited, with the Paying Agent cash, in funds immediately available on such date, sufficient to pay the cash amount due on the applicable Notes on such date. The Paying Agent will return to the Company, as soon as practicable, any money not required for such purpose.

Section 3.02. EXCHANGE ACT REPORTS.

(A) *Generally.* The Company will send to the Trustee copies of all reports that the Company is required to file with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act within 15 calendar days after the date that the Company is required to file the same (after giving effect to all applicable grace periods under the Exchange Act); *provided, however*, that the Company need not send to the Trustee any material for which the Company has received, or is seeking in good faith and has not been denied, confidential treatment by the SEC. Any report that the Company files with the SEC through the EDGAR system (or any successor thereto) will be deemed to be sent to the Trustee at the time such report is so filed via the EDGAR system (or such successor), it being agreed that the Trustee shall not be responsible for determining whether such filing has been made or for such filing's timeliness or content. Upon the request of any Holder, the Trustee will provide to such Holder a copy of any report that the Company has sent the Trustee pursuant to this **Section 3.02(A)**, other than a report that is deemed to be sent to the Trustee pursuant to the preceding sentence. Delivery of reports, information and documents to the Trustee under this Indenture is for informational purposes only, and the Trustee's receipt thereof shall not constitute actual or constructive notice of any information contained therein, or determinable from information contained therein, including the Company's compliance with any of the covenants under this Indenture (as to which the Trustee is entitled to rely exclusively on an Officer's Certificate).

(B) *Trustee's Disclaimer.* The Trustee need not determine whether the Company has filed any material via the EDGAR system (or such successor). The sending or filing of reports pursuant to **Section 3.02(A)** will not be deemed to constitute constructive notice to the Trustee of any information contained, or determinable from information contained, therein, including the Company's compliance with any of its covenants under this Indenture.

Section 3.03. RULE 144A INFORMATION.

If the Company (or its successor) is not subject to Section 13 or 15(d) of the Exchange Act at any time when any Notes or Common Shares issuable upon conversion of the Notes are outstanding and constitute "restricted securities" (as defined in Rule 144), then the Company (or its successor) will promptly provide, to the Trustee and, upon written request, to any Holder,

beneficial owner or prospective purchaser of such Notes or Common Shares, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or Common Shares pursuant to Rule 144A. The Company (or its successor) will take such further action as any Holder or beneficial owner of such Notes or Common Shares may reasonably request to enable such Holder or beneficial owner to sell such Notes or Common Shares pursuant to Rule 144A.

Section 3.04. ADDITIONAL INTEREST.

(A) *Accrual of Additional Interest.*

(i) If, at any time during the six month period beginning on, and including, the date that is six months after the Last Original Issue Date of any Note,

(1) the Company fails to timely file any report (other than Form 8-K reports) that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act (after giving effect to all applicable grace periods thereunder); or

(2) such Note is not otherwise Freely Tradable;

then Additional Interest will accrue on such Note for each day during such period on which such failure is continuing or such Note is not Freely Tradable.

(ii) In addition, Additional Interest will accrue on a Note on each day on which such Note is not Freely Tradable on or after the De-Legending Deadline Date for such Note.

(B) *Amount and Payment of Additional Interest.* Any Additional Interest that accrues on a Note pursuant to **Section 3.04(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to 0.25% of the principal amount thereof for the first 90 days on which Additional Interest accrues and, thereafter, at a rate per annum equal to 0.50% of the principal amount thereof; *provided, however,* that in no event will Additional Interest, together with any Special Interest, accrue on any day on a Note at a combined rate per annum that exceeds 0.50%. For the avoidance of doubt, any Additional Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note and, subject to the proviso of the immediately preceding sentence, in addition to any Special Interest that accrues on such Note.

(C) *Notice of Accrual of Additional Interest; Trustee's Disclaimer.* The Company will send notice to the Holder of each Note, and to the Trustee, of the commencement and termination of any period in which Additional Interest accrues on such Note. In addition, if Additional Interest accrues on any Note, then, no later than five Business Days before each date on which such Additional Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Additional Interest on such Note on such date of payment; and (ii) the amount of such Additional Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Additional Interest

is payable or the amount thereof.

(D) *Controlled Affiliates*. The Company will use commercially reasonable efforts to prevent any of its controlled Affiliates from acquiring any Note (or any beneficial interest therein).

(E) *Exclusive Remedy*. The accrual of Additional Interest will be the exclusive remedy available to Holders for the failure of their Notes to become Freely Tradable.

Section 3.05. ADDITIONAL AMOUNTS.

(A) *Requirement to Pay Additional Amounts*. All payments and deliveries made by, or on behalf of, the Company under or with respect to the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the delivery of any Conversion Consideration due upon conversion of, any Note) will be made without withholding or deduction for, or on account of, any present or future Taxes, unless such withholding or deduction is required by law or regulation or by governmental policy having the force of law. If any Taxes imposed or levied by or on behalf of any jurisdiction (or any political subdivision or taxing authority thereof or therein) in which the Company or any Successor Corporation is, for tax purposes, incorporated, organized, resident or doing business or through which payment is made or deemed to be made (each such jurisdiction, subdivision or authority, as applicable, a “**Relevant Taxing Jurisdiction**”) are required to be withheld or deducted from any payments or deliveries made under or with respect to the Notes, then the Company or such Successor Corporation, as applicable, will pay to the Holder of each Note such additional amounts (the “**Additional Amounts**”) as may be necessary to ensure that the net amount received by the Holder or beneficial owner of such Note after such withholding or deduction (and after withholding or deducting any Taxes on the Additional Amounts) will equal the amounts that would have been received by such Holder or beneficial owner had no such withholding or deduction been required; *provided, however*, that such obligation to pay Additional Amounts will not apply to:

(i) any Tax that would not have been imposed but for:

(1) the existence of any present or former connection between the Holder or beneficial owner of such Note (or between a fiduciary, settlor, beneficiary, partner of, member or shareholder of, or possessor of a power over, the relevant Holder or beneficial owner, if the relevant Holder or beneficial owner is an estate, trust, nominee, partnership, limited liability company or corporation) and the Relevant Taxing Jurisdiction (other than any connection arising solely from the acquisition, ownership or holding of such Note or the receipt or enforcement of payments under such Note), including, without limitation, such Holder or beneficial owner being or having been a national, domiciliary or resident, or treated as a resident, of, or being or having been physically present or engaged in a trade or business, or having or having had a permanent establishment, in, such Relevant Taxing Jurisdiction;

(2) in cases where presentation of such Note is required to receive such payment or delivery, the presentation of such Note after a period of 30 days after the later of (x) the date on which such payment or delivery became due and payable

or deliverable, as applicable, pursuant to the terms of this Indenture and (y) the date such payment or delivery was made or duly provided for, except, in each case, to the extent that such Holder or beneficial owner would have been entitled to Additional Amounts if it presented such Note for payment or delivery, as applicable, on the last day of such 30-day period; or

(3) the failure of such Holder or beneficial owner to comply with a timely request from the Company or the Successor Corporation, addressed to such Holder or beneficial owner, to (x) provide certification, information, documentation or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with such Relevant Taxing Jurisdiction (including, without limitation, a certification that the Holder or beneficial owner is not resident in the Relevant Taxing Jurisdiction) or (y) make any declaration or satisfy any other reporting requirement relating to such matters, in each case, if and to the extent that such Holder or beneficial owner is legally entitled to comply with such request and due and timely compliance with such request is required by statute, treaty, regulation or administrative practice of such Relevant Taxing Jurisdiction in order to reduce or eliminate such withholding or deduction;

(ii) any estate, inheritance, gift, sale, excise, transfer, personal property or similar Tax;

(iii) any Tax that is payable other than by withholding or deduction from payments or deliveries under or with respect to the Notes;

(iv) any Taxes that are imposed as a result of the Holder or beneficial owner of Notes not dealing at arm's length with the Company or the Successor Corporation (within the meaning of the Income Tax Act (Canada) (the "**Tax Act**")) at the time of making such payment or as a result of the Holder or beneficial owner of Notes being, or not dealing at arm's length with any person who is, a "specified shareholder" of the Company or the Successor Corporation (as defined in subsection 18(5) of the Tax Act);

(v) any Taxes that are imposed or withheld pursuant to sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), and any current or future U.S. Treasury Regulations or rulings promulgated thereunder, any regulations or agreements thereunder, official interpretations thereof, any law or regulation adopted pursuant to an intergovernmental agreement with respect to the foregoing or any agreements entered into pursuant to section 1471(b)(1) of the Code;

(vi) any Taxes imposed on or with respect to any payment by the Company or the Successor Corporation to such Holder if such Holder is a fiduciary, partnership or any person other than the sole beneficial owner of such payment, to the extent that such payment would be required, under the laws of such Relevant Taxing Jurisdiction, to be included for tax purposes in the income of a beneficiary or settlor with respect to such fiduciary, a partner or member of such partnership, or a beneficial owner, who would not have been entitled to such Additional Amounts had such beneficiary, settlor, partner, member or beneficial owner been the Holder thereof; or

(vii) any combination of items referred to in the preceding **clauses (i) through (vi)**, inclusive, above.

(B) *Indemnification for Transfer Taxes.* In addition, the Company will pay any stamp, issue, registration, documentary or other similar Taxes and duties, including interest, penalties and Additional Amounts with respect thereto, payable in a Relevant Taxing Jurisdiction in respect of the creation, issue, offering, enforcement, redemption or retirement of the Notes (other than on or in connection with a transfer of a Note that occurs after the initial sale thereof by an Initial Purchaser) and limited, solely in the case of Taxes, duties, interest, penalties or Additional Amounts attributable to the receipt of any payments with respect thereto, to any such Taxes, duties, interest, penalties or Additional Amounts imposed in a Relevant Taxing Jurisdiction that are not excluded under **clauses (i), (ii), (iv), (v) and (vi) of Section 3.05(A)** (or any combination thereof).

(C) *Special Provision Regarding Interest.* For the avoidance of doubt, if the Company calls any Note for a Tax Redemption and the Redemption Date is after an Interest Record Date for an Interest Payment Date in respect of which any interest is due on such Note, and on or before such Interest Payment Date, then the Company's obligation to pay Additional Amounts will apply to the interest payment due on such Note on such Interest Payment Date unless such Note is subject to a Tax Redemption Opt-Out Election Notice.

(D) *Tax Receipts.* If the Company is required to make any deduction or withholding from any payments or deliveries with respect to the Notes, then it will use reasonable efforts to obtain certified copies of official tax receipts (or, if, after expending reasonable efforts, it is unable to obtain such receipts, other evidence of payments) evidencing the remittance to the relevant tax authorities of the amounts so withheld or deducted; and such copies of these receipts or evidence, as applicable, will be made available to the Holders and beneficial owners of the Notes upon reasonable request.

(E) *Interpretation of Indenture and Notes.* All references in this Indenture or the Notes to any payment on, or delivery with respect to, the Notes (including payment of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the delivery of any Conversion Consideration due upon conversion of, any Note) will, to the extent that Additional Amounts are payable in respect thereof, be deemed to include the payment of such Additional Amounts.

(F) *Survival of Obligations.* The obligations set forth in this **Section 3.05** will survive any transfer by a Holder or beneficial owner of its Notes.

Section 3.06. COMPLIANCE AND DEFAULT CERTIFICATES.

(A) *Annual Compliance Certificate.* Within one hundred and 120 days after December 31, 2021 and each fiscal year of the Company ending thereafter, the Company will deliver an Officer's Certificate to the Trustee stating (i) that the signatory thereto has supervised a review of the activities of the Company and its Subsidiaries during such fiscal year with a view towards determining whether any Default or Event of Default has occurred; and (ii) whether, to such signatory's knowledge, a Default or Event of Default has occurred or is continuing (and, if so, describing all such Defaults or Events of Default and what action the Company is taking or

proposes to take with respect thereto).

(B) *Default Certificate*. If a Default or Event of Default occurs, then the Company will, within 30 days after its first occurrence, deliver an Officer's Certificate to the Trustee describing the same and what action the Company is taking or proposes to take with respect thereto; *provided, however*, that the Company will not be required to deliver such notice if such Default or Event of Default, as applicable, has been cured within the applicable grace period, if any, provided herein.

Section 3.07. STAY, EXTENSION AND USURY LAWS.

To the extent that it may lawfully do so, the Company (A) agrees that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law (wherever or whenever enacted or in force) that may affect the covenants or the performance of this Indenture; and (B) expressly waives all benefits or advantages of any such law and agrees that it will not, by resort to any such law, hinder, delay or impede the execution of any power granted to the Trustee by this Indenture, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 3.08. ACQUISITION OF NOTES BY THE COMPANY AND ITS AFFILIATES.

Without limiting the generality of **Section 2.18**, Notes that the Company or any of its Affiliates have purchased or otherwise acquired will be deemed to remain outstanding (except to the extent provided in **Section 2.16**) until such time as such Notes are delivered to the Trustee for cancellation.

Article 4. REPURCHASE AND REDEMPTION

Section 4.01. NO SINKING FUND.

No sinking fund is required to be provided for the Notes.

Section 4.02. RIGHT OF HOLDERS TO REQUIRE THE COMPANY TO REPURCHASE NOTES UPON A FUNDAMENTAL CHANGE.

(A) *Right of Holders to Require the Company to Repurchase Notes Upon a Fundamental Change*. Subject to the other terms of this **Section 4.02**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase such Holder's Notes (or any portion thereof in an Authorized Denomination) on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(B) *Repurchase Prohibited in Certain Circumstances*. If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Fundamental Change Repurchase Date for a Repurchase Upon Fundamental Change (including as a result of the payment of the related Fundamental Change Repurchase Price, and any related interest pursuant to the proviso to **Section 4.02(D)**, on such Fundamental Change Repurchase Date), then (i) the Company may not repurchase any Notes pursuant to this **Section 4.02**; and (ii) the Company will cause any Notes theretofore surrendered for such Repurchase Upon

Fundamental Change to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Notes in accordance with the Depositary Procedures).

(C) *Fundamental Change Repurchase Date.* The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than 35, nor less than 20, Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 4.02(E)**.

(D) *Fundamental Change Repurchase Price.* The Fundamental Change Repurchase Price for any Note to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Fundamental Change Repurchase Date for such Fundamental Change; *provided, however,* that if such Fundamental Change Repurchase Date is after an Interest Record Date and on or before the related Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Interest Record Date will be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have been accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date), and (ii) the Fundamental Change Repurchase Price will not include accrued and unpaid interest on such Note to, but excluding, such Fundamental Change Repurchase Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Fundamental Change Repurchase Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Interest Record Date; and (y) the Fundamental Change Repurchase Price will include interest on the Notes to be repurchased from, and including, such Interest Payment Date to, but excluding, the Fundamental Change Repurchase Date.

(E) *Fundamental Change Notice.* On or before the 20th calendar day after the effective date of a Fundamental Change, the Company will send to each Holder (with a copy to the Trustee, the Paying Agent and the Conversion Agent) a notice of such Fundamental Change (a "**Fundamental Change Notice**").

Such Fundamental Change Notice must state:

- (i) briefly, the events causing such Fundamental Change;
- (ii) the effective date of such Fundamental Change;
- (iii) the procedures that a Holder must follow to require the Company to repurchase its Notes pursuant to this **Section 4.02**, including the deadline for exercising the Fundamental Change Repurchase Right and the procedures for submitting and withdrawing a Fundamental Change Repurchase Notice;

- (iv) the Fundamental Change Repurchase Date for such Fundamental Change;
- (v) the Fundamental Change Repurchase Price per \$1,000 principal amount of Notes for such Fundamental Change (and, if such Fundamental Change Repurchase Date is after an Interest Record Date and on or before the related Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.02(D)**);
- (vi) the name and address of the Paying Agent and the Conversion Agent;
- (vii) the Conversion Rate in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Conversion Rate that may result from such Fundamental Change (including pursuant to **Section 5.07**);
- (viii) that Notes for which a Fundamental Change Repurchase Notice has been duly tendered and not duly withdrawn must be delivered to the Paying Agent for the Holder thereof to be entitled to receive the Fundamental Change Repurchase Price;
- (ix) that Notes (or any portion thereof) that are subject to a Fundamental Change Repurchase Notice that has been duly tendered may be converted only if such Fundamental Change Repurchase Notice is withdrawn in accordance with this Indenture; and
- (x) the CUSIP and ISIN numbers, if any, of the Notes.

Neither the failure to deliver a Fundamental Change Notice nor any defect in a Fundamental Change Notice will limit the Fundamental Change Repurchase Right of any Holder or otherwise affect the validity of any proceedings relating to any Repurchase Upon Fundamental Change.

(F) *Procedures to Exercise the Fundamental Change Repurchase Right.*

(i) *Delivery of Fundamental Change Repurchase Notice and Notes to Be Repurchased.* To exercise its Fundamental Change Repurchase Right for a Note following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such Note; and

(2) such Note, duly endorsed for transfer (if such Note is a Physical Note) or by book-entry transfer (if such Note is a Global Note).

The Paying Agent will promptly deliver to the Company a copy of each Fundamental Change Repurchase Notice that it receives.

(ii) *Contents of Fundamental Change Repurchase Notices.* Each Fundamental

Change Repurchase Notice with respect to a Note must state:

- (1) if such Note is a Physical Note, the certificate number of such Note;
- (2) the principal amount of such Note to be repurchased, which must be an Authorized Denomination; and
- (3) that such Holder is exercising its Fundamental Change Repurchase Right with respect to such principal amount of such Note;

provided, however, that if such Note is a Global Note, then such Fundamental Change Repurchase Notice must comply with the Depositary Procedures (and any such Fundamental Change Repurchase Notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

(iii) *Withdrawal of Fundamental Change Repurchase Notice.* A Holder that has delivered a Fundamental Change Repurchase Notice with respect to a Note may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law). Such withdrawal notice must state:

- (1) if such Note is a Physical Note, the certificate number of such Note;
- (2) the principal amount of such Note to be withdrawn, which must be an Authorized Denomination; and
- (3) the principal amount of such Note, if any, that remains subject to such Fundamental Change Repurchase Notice, which must be an Authorized Denomination;

provided, however, that if such Note is a Global Note, then such withdrawal notice must comply with the Depositary Procedures (and any such withdrawal notice delivered in compliance with the Depositary Procedures will be deemed to satisfy the requirements of this **Section 4.02(F)**).

Upon receipt of any such withdrawal notice with respect to a Note (or any portion thereof), the Paying Agent will (x) promptly deliver a copy of such withdrawal notice to the Company; and (y) if such Note is surrendered to the Paying Agent, cause such Note (or such portion thereof in accordance with **Section 2.11**, treating such Note as having been then surrendered for partial repurchase in the amount set forth in such withdrawal notice as remaining subject to repurchase) to be returned to the Holder thereof (or, if applicable with respect to any Global Note, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interest in such Note in accordance with the Depositary Procedures).

(G) *Payment of the Fundamental Change Repurchase Price.* Without limiting the Company's obligation to deposit the Fundamental Change Repurchase Price within the time

proscribed by **Section 3.01(B)**, the Company will cause the Fundamental Change Repurchase Price for a Note (or portion thereof) to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the later of (i) the applicable Fundamental Change Repurchase Date; and (ii) the date (x) such Note is delivered to the Paying Agent (in the case of a Physical Note) or (y) the Depository Procedures relating to the repurchase, and the delivery to the Paying Agent, of such Holder's beneficial interest in such Note to be repurchased are complied with (in the case of a Global Note). For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.02(D)** on any Note to be repurchased pursuant to a Repurchase Upon Fundamental Change must be paid pursuant to such proviso regardless of whether such Note is delivered or such Depository Procedures are complied with pursuant to the first sentence of this **Section 4.02(G)**.

(H) *Third Party May Conduct Repurchase Offer In Lieu of the Company.* Notwithstanding anything to the contrary in this **Section 4.02**, the Company will be deemed to satisfy its obligations under this **Section 4.02** if (i) one or more third parties conducts any Repurchase Upon Fundamental Change and related offer to repurchase Notes otherwise required by this **Section 4.02** in a manner that would have satisfied the requirements of this **Section 4.02** if conducted directly by the Company; and (ii) an owner of a beneficial interest in any Note repurchased by such third party or parties will not receive a lesser amount (as a result of withholding or other similar taxes) than such owner would have received had the Company repurchased such Note.

(I) *No Requirement to Conduct an Offer to Repurchase Notes if the Fundamental Change Results in the Notes Becoming Convertible into an Amount of Cash Exceeding the Fundamental Change Repurchase Price.* Notwithstanding anything to the contrary in this **Section 4.02**, the Company will not be required to send a Fundamental Change Notice pursuant to **Section 4.02(E)**, or offer to repurchase or repurchase any Notes pursuant to this **Section 4.02**, in connection with a Fundamental Change occurring pursuant to **clause (B)(ii)** (or pursuant to **clause (A)** that also constitutes a Fundamental Change occurring pursuant to **clause (B)(ii)**) of the definition thereof, if (i) such Fundamental Change constitutes a Common Share Change Event for which the Reference Property consists entirely of cash in U.S. dollars; (ii) immediately after such Fundamental Change, the Notes become convertible, pursuant to **Section 5.09(A)** and, if applicable, **Section 5.07**, into consideration that consists solely of U.S. dollars in an amount per \$1,000 aggregate principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per \$1,000 aggregate principal amount of Notes (calculated assuming that such Fundamental Change Repurchase Price includes accrued and unpaid interest to, but excluding, the latest possible Fundamental Change Repurchase Date for such Fundamental Change); and (iii) the Company timely sends the notice relating to such Fundamental Change required pursuant to **Section 5.01(C)(i)(3)(b)** and includes, in such notice, a statement that the Company is relying on this **Section 4.02(I)**.

(J) *Compliance with Applicable Securities Laws.* To the extent applicable, the Company will comply, in all material respects, with all U.S. federal and state and Canadian provincial securities laws in connection with a Repurchase Upon Fundamental Change (including complying with Rules 13e-4 and 14e-1 under the Exchange Act and filing any required Schedule TO, to the extent applicable) so as to permit effecting such Repurchase Upon Fundamental Change in the manner set forth in this Indenture; *provided, however*, that, to the extent that the Company's

obligations pursuant to this **Section 4.02** conflict with any law or regulation that is applicable to the Company and enacted after the Issue Date, the Company's compliance with such law or regulation will not be considered to be a Default of such obligations.

(K) *Repurchase in Part.* Subject to the terms of this **Section 4.02**, Notes may be repurchased pursuant to a Repurchase Upon Fundamental Change in part, but only in Authorized Denominations. Provisions of this **Section 4.02** applying to the repurchase of a Note in whole will equally apply to the repurchase of a permitted portion of a Note.

Section 4.03. RIGHT OF THE COMPANY TO REDEEM THE NOTES.

(A) *No Right to Redeem Before April 6, 2024.* The Company may not redeem the Notes at its option at any time before April 6, 2024, except pursuant to a Tax Redemption.

(B) *Right to Redeem the Notes on or After April 6, 2024.* Subject to the terms of this **Section 4.03**, the Company has the right, at its election, to redeem (a "**Provisional Redemption**") all, or any portion in an Authorized Denomination, of the Notes, at any time, and from time to time, on a Redemption Date on or after April 6, 2024 and on or before the 40th Scheduled Trading Day immediately before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if the Last Reported Sale Price per Common Share exceeds 130% of the Conversion Price on (x) each of at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Days ending on, and including, the Trading Day immediately before the Redemption Notice Date for such Redemption and (y) the Trading Day immediately before such Redemption Notice Date. For the avoidance of doubt, the calling of any Notes for Redemption will constitute a Make-Whole Fundamental Change with respect to such Notes pursuant to **clause (B)** of the definition thereof.

(C) *Right to Redeem the Notes After a Change in Tax Law.*

(i) *Generally.* Subject to the terms of this **Section 4.03**, and without limiting the Company's right to redeem any Notes pursuant to **Section 4.03(B)**, the Company has the right, at its election, to redeem all, but not less than all, of the Notes, at any time, on a Redemption Date before the Maturity Date, for a cash purchase price equal to the Redemption Price, but only if (1) the Company has (or, on the next Interest Payment Date, would) become obligated to pay any Additional Amounts to Holders as a result of any Change in Tax Law, (2) the Company cannot avoid such obligation by taking commercially reasonable measures available to it (*provided* that changing the Company's jurisdiction of incorporation or organization is not a commercially reasonable measure for purposes of this **Section 4.03**) and (3) the Company delivers to the Trustee (x) an Opinion of Counsel from outside legal counsel of recognized standing in the Relevant Taxing Jurisdiction attesting to **clause (1)** above and (y) an Officer's Certificate attesting to **clauses (1)** and **(2)** above. For the avoidance of doubt, the calling of any Notes for a Tax Redemption will constitute a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof. The Trustee will accept such Officer's Certificate and Opinion of Counsel as sufficient evidence of the existence and satisfaction of the conditions precedent as described in this **clause (i)**, in which event it will be conclusive and binding on the Holders of the Notes.

(ii) If the Company calls the Notes for a Tax Redemption, then, notwithstanding anything to the contrary in this **Section 4.03** or in **Section 3.05**, each Holder will have the right to elect (a “**Tax Redemption Opt-Out Election**”) not to have such Holder’s Notes (or any portion thereof in an Authorized Denomination) redeemed pursuant to such Tax Redemption, in which case, from and after the Redemption Date for such Tax Redemption (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, from and after such time as the Company pays such Redemption Price in full), the Company will no longer have any obligation to pay any Additional Amounts with respect to such Notes solely as a result of such Change in Tax Law, and all future payments with respect to such Notes will be subject to the deduction or withholding of such Relevant Taxing Jurisdiction’s Taxes required by law to be deducted or withheld as a result of such Change in Tax Law; *provided, however*, that if such Holder converts such Notes with a Conversion Date occurring before such Redemption Date, then the Company will be obligated to pay Additional Amounts, if any, with respect to such conversion (subject to the exceptions set forth in **Section 3.05**).

(1) *Tax Redemption Opt-Out Election Notice.* To make a Tax Redemption Opt-Out Election with respect to any Note (or any portion thereof in an Authorized Denomination), the Holder of such Note must deliver a notice (a “**Tax Redemption Opt-Out Election Notice**”) to the Paying Agent before the Close of Business on the second Business Day immediately before the related Redemption Date, which notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election will apply, which must be an Authorized Denomination; and (z) that such Holder is making a Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided, however*, that if such Note is a Global Note, then such notice must comply with the Depository Procedures (and any such notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(2) *Withdrawal of Tax Redemption Opt-Out Election Notice.* A Holder that has delivered a Tax Redemption Opt-Out Election Notice with respect to any Note (or any portion thereof in an Authorized Denomination) may withdraw such Tax Redemption Opt-Out Election Notice by delivering a withdrawal notice to the Paying Agent at any time before the Close of Business on the second Business Day immediately before the related Redemption Date, which withdrawal notice must state: (x) if such Note is a Physical Note, the certificate number of such Note; (y) the principal amount of such Note as to which the Tax Redemption Opt-Out Election is being withdrawn, which must be an Authorized Denomination; and (z) that such Holder is withdrawing the Tax Redemption Opt-Out Election with respect to such Note (or such portion thereof); *provided, however*, that if such Note is a Global Note, then such withdrawal notice must comply with the Depository Procedures (and any such withdrawal notice delivered in compliance with the Depository Procedures will be deemed to satisfy the requirements of this **Section 4.03(C)(ii)(1)**).

(iii) *Right to Convert Not Affected.* For the avoidance of doubt, a Tax Redemption will not affect any Holder's right to convert any Notes (and the Company's obligation, if the Conversion Date for such conversion occurs before the applicable Redemption Date, to pay any Additional Amounts with respect to such conversion). For the avoidance of doubt, the calling of Notes for Tax Redemption will constitute a Make-Whole Fundamental Change with respect to the Notes pursuant to **clause (B)** of the definition thereof.

(D) *Redemption Prohibited in Certain Circumstances.* If the principal amount of the Notes has been accelerated and such acceleration has not been rescinded on or before the Redemption Date (including as a result of the payment of the related Redemption Price, and any related interest pursuant to the proviso to **Section 4.03(F)**, on such Redemption Date), then (i) the Company may not call for Redemption or otherwise redeem any Notes pursuant to this **Section 4.03**; and (ii) the Company will cause any Notes theretofore surrendered for such Redemption to be returned to the Holders thereof (or, if applicable with respect to Global Notes, cancel any instructions for book-entry transfer to the Company, the Trustee or the Paying Agent of the applicable beneficial interests in such Notes in accordance with the Depository Procedures).

(E) *Redemption Date.* The Redemption Date for any Redemption will be a Business Day of the Company's choosing that is no more than 65, nor less than 45, Scheduled Trading Days after the Redemption Notice Date for such Redemption.

(F) *Redemption Price.* The Redemption Price for any Note called for Redemption is an amount in cash equal to the principal amount of such Note plus accrued and unpaid interest on such Note to, but excluding, the Redemption Date for such Redemption; *provided, however*, that if such Redemption Date is after an Interest Record Date and on or before the related Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Interest Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Redemption Price will not include accrued and unpaid interest on such Note to, but excluding, such Redemption Date. For the avoidance of doubt, if an Interest Payment Date is not a Business Day within the meaning of **Section 2.05(C)** and such Redemption Date occurs on the Business Day immediately after such Interest Payment Date, then (x) accrued and unpaid interest on Notes to, but excluding, such Interest Payment Date will be paid, in accordance with **Section 2.05(C)**, on the next Business Day to Holders as of the Close of Business on the immediately preceding Interest Record Date; and (y) the Redemption Price will include interest on Notes to be redeemed from, and including, such Interest Payment Date to, but excluding, such Redemption Date.

(G) *Notices to Trustee.* If the Company elects to redeem Notes pursuant to this **Section 4.03**, then it will furnish to the Trustee, at least three calendar days before the related Redemption Notice Date (unless a shorter notice period is satisfactory to the Trustee), an Officer's Certificate setting forth the Section of this Indenture pursuant to which the Redemption will occur, the

applicable Redemption Date, the principal amount of Notes to be redeemed and the Redemption Price. If the Registrar is not the Trustee, then the Company will, concurrently with each Redemption Notice, deliver, or cause the Registrar to deliver, to the Trustee a certificate (upon which the Trustee may conclusively rely exclusively) setting forth the principal amounts of Notes held by each Holder

(H) *Redemption Notice*. To call any Notes for Redemption, the Company must send to each Holder of such Notes, the Trustee and the Paying Agent a written notice of such Redemption (a “**Redemption Notice**”).

Such Redemption Notice must state:

- (i) that such Notes have been called for Redemption, briefly describing the Company’s Redemption right under this Indenture;
- (ii) the Redemption Date for such Redemption;
- (iii) the Redemption Price per \$1,000 principal amount of Notes for such Redemption (and, if the Redemption Date is after an Interest Record Date and on or before the related Interest Payment Date, the amount, manner and timing of the interest payment payable pursuant to the proviso to **Section 4.03(F)**);
- (iv) the name and address of the Paying Agent and the Conversion Agent;
- (v) that Notes called for Redemption may be converted at any time before the Close of Business on the second Business Day immediately before the Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);
- (vi) the Conversion Rate in effect on the Redemption Notice Date for such Redemption and a description and quantification of any adjustments to the Conversion Rate that may result from such Redemption (including pursuant to **Section 5.07**);
- (vii) the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after such Redemption Notice Date and on or before the second Business Day immediately before such Redemption Date; and
- (viii) the CUSIP and ISIN numbers, if any, of the Notes.

On or before the Redemption Notice Date, the Company will send a copy of such Redemption Notice to the Trustee, the Paying Agent and the Conversion Agent.

(I) *Special Requirement for Notice of Tax Redemption*. A Redemption Notice relating to a Tax Redemption must be sent pursuant to **Section 4.03(G)** no earlier than 180 calendar days before the earliest date on which the Company would have been required to make the related payment or withholding (assuming a payment in respect of the Notes were then due), and the obligation to pay Additional Amounts must be in effect as of the date the Company sends such Redemption Notice and must be expected to remain in effect at the time of the next payment or delivery in respect of the Notes.

(J) *Selection and Conversion of Notes to Be Redeemed in Part.*

(i) If less than all Notes then outstanding are called for Redemption, then the Notes to be redeemed will be selected by the Company as follows: (1) in the case of Global Notes, in accordance with the Depositary Procedures; and (2) in the case of Physical Notes, pro rata, by lot or by such other method the Trustee considers fair and appropriate; and

(ii) If only a portion of a Note is subject to Redemption (including as a result of a Tax Redemption Opt-Out Election Notice that applies to only a portion of such Note) and such Note is converted in part, then the converted portion of such Note will be deemed to be from the portion of such Note that was subject to Redemption.

(K) *Payment of the Redemption Price.* Without limiting the Company's obligation to deposit the Redemption Price by the time proscribed by **Section 3.01(B)**, the Company will cause the Redemption Price for a Note (or portion thereof) subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. For the avoidance of doubt, interest payable pursuant to the proviso to **Section 4.03(F)** on any Note (or portion thereof) subject to Redemption must be paid pursuant to such proviso.

(L) *Special Provisions for Partial Calls.* If the Company elects to redeem less than all of the outstanding Notes pursuant to this **Section 4.03**, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the Close of Business on the 42nd Scheduled Trading Day immediately before the Redemption Date for such Redemption, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the Close of Business on the second Business Day immediately before such Redemption Date, and each such conversion will be deemed to be of a Note called for Redemption for purposes of this **Section 4.03** and **Sections 5.01(C)(i)(4)** and **5.07**. The Trustee shall have no obligation to make any determination in connection with the foregoing.

Article 5. CONVERSION

Section 5.01. RIGHT TO CONVERT.

(A) *Generally.* Subject to the provisions of this **Article 5**, each Holder may, at its option, convert such Holder's Notes into Conversion Consideration.

(B) *Conversions in Part.* Subject to the terms of this Indenture, Notes may be converted in part, but only in Authorized Denominations. Provisions of this **Article 5** applying to the conversion of a Note in whole will equally apply to conversions of a permitted portion of a Note.

(C) *When Notes May Be Converted.*

(i) *Generally.* Subject to **Section 5.01(C)(ii)**, a Note may be converted only in the following circumstances:

(1) *Conversion upon Satisfaction of Common Share Sale Price Condition.* A Holder may convert its Notes during any calendar quarter (and only during such calendar quarter) commencing after the calendar quarter ending on June 30, 2021, if the Last Reported Sale Price per Common Share exceeds 130% of the Conversion Price for each of at least 20 Trading Days (whether or not consecutive) during the 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter.

(2) *Conversion upon Satisfaction of Note Trading Price Condition.* A Holder may convert its Notes during the five consecutive Business Days immediately after any ten consecutive Trading Day period (such ten consecutive Trading Day period, the “**Measurement Period**”) if the Trading Price per \$1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth below, for each Trading Day of the Measurement Period was less than 98% of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day. The condition set forth in the preceding sentence is referred to in this Indenture as the “**Trading Price Condition**.”

The Trading Price will be determined by the Bid Solicitation Agent pursuant to this **Section 5.01(C)(i)(2)** and the definition of “Trading Price.” The Bid Solicitation Agent (if not the Company) will have no obligation to determine the Trading Price of the Notes unless the Company has requested such determination in writing, and the Company will have no obligation to make such request (or seek bids itself) unless a Holder holding at least \$2,000,000 in aggregate principal amount of Notes (or such lesser principal amount of Notes as may then be outstanding) provides the Company with reasonable evidence that the Trading Price per \$1,000 principal amount of Notes would be less than 98% of the product of the Last Reported Sale Price per Common Share and the Conversion Rate. If a Holder provides such evidence, then the Company will (if acting as Bid Solicitation Agent), or will instruct the Bid Solicitation Agent to, determine the Trading Price of the Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day. If the Trading Price Condition has been met as set forth above, then the Company will notify the Holders, the Trustee and the Conversion Agent of the same. Any determination of the Trading Price per \$1,000 principal amount of Notes will be conclusive absent manifest error. If, on any Trading Day after the Trading Price Condition has been met as set forth above, the Trading Price per \$1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price per Common Share on such Trading Day and the Conversion Rate on such Trading Day, then the Company will notify the Holders, the Trustee and the Conversion Agent of the same.

(3) *Conversion upon Specified Corporate Events.*

(a) *Certain Distributions.* If, prior to the Close of Business on the Business Day immediately preceding January 1, 2026, the Company elects to:

(I) distribute, to all or substantially all holders of Common Shares, any rights, options or warrants (other than rights issued pursuant to a shareholder rights plan, so long as such rights have not separated from the Common Shares and are not exercisable until the occurrence of a triggering event, except that such rights will be deemed to be distributed under this **clause (I)** upon their separation from the Common Shares or upon the occurrence of such triggering event) entitling them, for a period of not more than 60 calendar days after the record date of such distribution, to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced (determined in the manner set forth in the third paragraph of **Section 5.05(A)(ii)**); or

(II) distribute, to all or substantially all holders of Common Shares, assets or securities of the Company or rights to purchase the Company's securities, which distribution per Common Share has a value, as reasonably determined by the Company in good faith, exceeding 15% of the Last Reported Sale Price per Common Share on the Trading Day immediately before the date such distribution is announced,

then, in either case, (x) the Company will send notice of such distribution, and of the related right to convert Notes, to Holders, the Trustee and the Conversion Agent at least 45 Scheduled Trading Days before the Ex-Dividend Date for such distribution (or, if later in the case of any such separation of rights issued pursuant to a shareholder rights plan or the occurrence of any such triggering event under a shareholder rights plan, as soon as reasonably practicable after the Company becomes aware that such separation or triggering event has occurred or will occur); and (y) once the Company has sent such notice, Holders may convert their Notes at any time until the earlier of the Close of Business on the Business Day immediately before such Ex-Dividend Date and the Company's announcement that such distribution will not take place; *provided, however*, that the Notes will not become convertible pursuant to clause (y) above (but the Company will be required to send notice of such distribution pursuant to clause (x) above) on account of such distribution if each Holder participates, at the same time and on the same terms as holders of Common Shares, and solely by virtue of being a Holder, in such distribution without having to convert such

Holder's Notes and as if such Holder held a number of Common Shares equal to the product of (i) the Conversion Rate in effect on the record date for such distribution; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such record date.

(b) *Certain Corporate Events.* If a Fundamental Change, Make-Whole Fundamental Change (other than a Make-Whole Fundamental Change pursuant to **clause (B)** of the definition thereof) or Common Share Change Event occurs (other than an amalgamation, merger or other business combination transaction that is effected solely to change the Company's jurisdiction of incorporation and that does not constitute a Fundamental Change or a Make-Whole Fundamental Change), then, in each case, Holders may convert their Notes at any time from, and including, the effective date of such transaction or event to, and including, the 35th Trading Day after such effective date (or, if such transaction or event also constitutes a Fundamental Change (other than an Exempted Fundamental Change), to, but excluding, the related Fundamental Change Repurchase Date); *provided, however*, that if the Company does not provide the notice referred to in the immediately following sentence by such effective date, then the last day on which the Notes are convertible pursuant to this sentence will be extended by the number of Business Days from, and including, such effective date to, but excluding, the date the Company provides such notice. No later than the second Business Day after such effective date, the Company will send notice to the Holders, the Trustee and the Conversion Agent of such transaction or event, such effective date and the related right to convert Notes.

(4) *Conversion upon Redemption.* If the Company calls any Note for Redemption, then the Holder of such Note may convert such Note at any time before the Close of Business on the second Business Day immediately before the related Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full).

(5) *Conversions During Free Convertibility Period.* A Holder may convert its Notes at any time from, and including, January 1, 2026 until the Close of Business on the second Scheduled Trading Day immediately before the Maturity Date.

For the avoidance of doubt, the Notes may become convertible pursuant to any one or more of the preceding sub-paragraphs of this **Section 5.01(C)(i)** and the Notes ceasing to be convertible pursuant to a particular sub-paragraph of this **Section 5.01(C)(i)** will not preclude the Notes from being convertible pursuant to any other sub-paragraph of this **Section 5.01(C)(i)**.

(ii) *Limitations and Closed Periods.* Notwithstanding anything to the contrary in this Indenture or the Notes:

- (1) Notes may be surrendered for conversion only after the Open of Business and before the Close of Business on a day that is a Business Day;
- (2) in no event may any Note be converted after the Close of Business on the second Scheduled Trading Day immediately before the Maturity Date;
- (3) if the Company calls any Note for Redemption pursuant to **Section 4.03**, then the Holder of such Note may not convert such Note after the Close of Business on the second Business Day immediately before the applicable Redemption Date, except to the extent the Company fails to pay the Redemption Price for such Note in accordance with this Indenture; and
- (4) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 4.02(F)** with respect to any Note, then such Note may not be converted, except to the extent (a) such Note is not subject to such notice; (b) such notice is withdrawn in accordance with **Section 4.02(F)**; or (c) the Company fails to pay the Fundamental Change Repurchase Price for such Note on the Fundamental Change Repurchase Date in accordance with this Indenture.

Section 5.02. CONVERSION PROCEDURES.

(A) *Generally.*

(i) *Global Notes.* To convert a beneficial interest in a Global Note that is convertible pursuant to **Section 5.01(C)**, the owner of such beneficial interest must (1) comply with the Depositary Procedures for converting such beneficial interest (at which time such conversion will become irrevocable); and (2) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(ii) *Physical Notes.* To convert all or a portion of a Physical Note that is convertible pursuant to **Section 5.01(C)**, the Holder of such Note must (1) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Note or a facsimile of such conversion notice; (2) deliver such Physical Note to the Conversion Agent (at which time such conversion will become irrevocable); (3) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (4) pay any amounts due pursuant to **Section 5.02(D)** or **Section 5.02(E)**.

(B) *Effect of Converting a Note.* At the Close of Business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion) will (unless there occurs a Default in the delivery of the Conversion Consideration or interest due, pursuant to **Section 5.03(B)** or **5.02(D)**, upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the Close of Business on such Conversion Date), except to the extent provided in **Section 5.02(D)**.

(C) *Holder of Record of Conversion Shares.* The Person in whose name any Common Share is issuable upon conversion of any Note will be deemed to become the holder of record of such share as of the Close of Business on the last VWAP Trading Day of the Observation Period for such conversion.

(D) *Interest Payable upon Conversion in Certain Circumstances.* If the Conversion Date of a Note is after an Interest Record Date and before the related Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Interest Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or at the Company's election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in **clause (i)** above; *provided, however*, that the Holder surrendering such Note for conversion need not deliver such cash: (w) if the Company has specified a Redemption Date that is after such Interest Record Date and on or before the second Business Day immediately after such Interest Payment Date; (x) if such Conversion Date occurs after the Interest Record Date immediately before the Maturity Date; (y) if the Company has specified a Fundamental Change Repurchase Date that is after such Interest Record Date and on or before the Business Day immediately after such Interest Payment Date; or (z) to the extent of any overdue interest or interest that has accrued on any overdue interest. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Interest Record Date immediately before the Maturity Date, any Redemption Date and any Fundamental Change Repurchase Date described in the preceding sentence, then the Company will pay, as provided above, the full interest if any, that would have been due on such Note on the Maturity Date or other applicable Interest Payment Date (or, if the Maturity Date or such other applicable Interest Payment Date is not a Business Day, the next Business Day) to Holders as of the Close of Business on the Interest Record Date immediately before the Maturity Date or other applicable Interest Payment Date had such Note not been converted. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Interest Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this **Section 5.02(D)**.

(E) *Taxes and Duties.* If a Holder converts a Note, the Company will pay any stamp, issue, registration, documentary or other similar Taxes and duties, including interest, penalties and Additional Amounts with respect thereto, due on the issue or delivery of any Common Shares upon such conversion; *provided, however*, that if any Taxes, duties, interest, penalties or Additional Amounts that are due because such Holder requested such shares to be registered in a name other than such Holder's name, then such Holder will pay such Tax or duty and, until having received a sum sufficient to pay such Tax or duty, the Conversion Agent may refuse to deliver any such Common Shares to be issued in a name other than that of such Holder.

(F) *Conversion Agent to Notify Company of Conversions.* If any Note is submitted for conversion to the Conversion Agent or the Conversion Agent receives any notice of conversion with respect to a Note, then the Conversion Agent will promptly (and, in any event, no later than the Business Day following the date on which the Conversion Agent receives such Note or notice) notify the Company and the Trustee of such occurrence, together with any other information reasonably requested by the Company, and will cooperate with the Company to determine the Conversion Date for such Note.

Section 5.03. SETTLEMENT UPON CONVERSION.

(A) *Settlement Method.* Upon the conversion of any Note, the Company will settle such conversion by paying or delivering, as applicable and as provided in this **Article 5**, either (x) solely cash as provided in **Section 5.03(B)(i)(1)** (a “**Cash Settlement**”); or (y) a combination of cash and Common Shares, together, if applicable, with cash in lieu of fractional shares as provided in **Section 5.03(B)(i)(2)** (a “**Combination Settlement**”).

(i) *The Company’s Right to Elect Settlement Method.* The Company will have the right to elect the Settlement Method applicable to any conversion of a Note; *provided, however*, that:

(1) subject to **clause (3)** below, all conversions of Notes with a Conversion Date that occurs on or after January 1, 2026 will be settled using the same Settlement Method, and the Company will send notice of such Settlement Method to Holders, the Trustee and the Conversion Agent no later than the Open of Business on January 1, 2026;

(2) subject to **clause (3)** below, if the Company elects a Settlement Method with respect to the conversion of any Note whose Conversion Date occurs before January 1, 2026, then the Company will send notice of such Settlement Method to the Holder of such Note, the Trustee and the Conversion Agent no later than the Close of Business on the Business Day immediately after such Conversion Date;

(3) if any Notes are called for Redemption, then (1) the Company will specify, in the related Redemption Notice (and, in the case of a Redemption of less than all outstanding Notes, in a notice simultaneously sent to all Holders of Notes not called for Redemption) sent pursuant to **Section 4.03(G)**, the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the related Redemption Notice Date and on or before the second Business Day immediately before the related Redemption Date and (2) if such Redemption Date occurs on or after January 1, 2026, then such Settlement Method must be the same Settlement Method that, pursuant to **clause (1)** above, applies to all conversions of Notes with a Conversion Date that occurs on or after January 1, 2026;

(4) the Company will use the same Settlement Method for all conversions of Notes with the same Conversion Date (and, for the avoidance of doubt, the Company will not be obligated to use the same Settlement Method with respect to conversions of Notes with different Conversion Dates, except as provided in **clause (1)** or **(3)** above);

(5) if the Company does not timely elect a Settlement Method with respect to the conversion of a Note, then the Company will be deemed to have elected the Default Settlement Method (and, for the avoidance of doubt, the failure to timely make such election will not constitute a Default or Event of Default);

(6) if the Company timely elects Combination Settlement with respect to the conversion of a Note but does not timely notify the Holder of such Note, the Trustee and the Conversion Agent of the applicable Specified Dollar Amount, then the Specified Dollar Amount for such conversion will be deemed to be \$1,000 per \$1,000 principal amount of Notes (and, for the avoidance of doubt, the failure to timely send such notification will not constitute a Default or Event of Default); and

(7) the Settlement Method will be subject to **Section 5.09(A)(2)**.

(ii) *The Company's Right to Irrevocably Fix the Settlement Method.* The Company will have the right, exercisable at its election by sending notice of such exercise to the Holders (with a copy to the Trustee and the Conversion Agent), to (1) irrevocably fix the Settlement Method that will apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders; or (2) irrevocably elect Combination Settlement to apply to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders, and eliminate a Specified Dollar Amount or range of Specified Dollar Amounts that will apply to such conversions, *provided*, in each case, that (v) in no event will the Company elect Combination Settlement with a specified dollar amount that is less than \$1,000 per \$1,000 principal amount of Notes; (w) the Settlement Method(s) so elected pursuant to **clause (1)** or **(2)** above must be a Settlement Method or Settlement Method(s), as applicable, that the Company is then permitted to elect (for the avoidance of doubt, including pursuant to, and subject to, the other provisions of this **Section 5.03(A)**); (x) no such irrevocable election will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to this Indenture (including pursuant to **Section 8.01(G)** or this **Section 5.03(A)**); (y) upon any such irrevocable election pursuant to **clause (1)** above, the Default Settlement Method will automatically be deemed to be set to the Settlement Method so fixed; and (z) upon any such irrevocable election pursuant to **clause (2)** above, the Company will, if needed, simultaneously change the Default Settlement Method to Combination Settlement with a Specified Dollar Amount that is consistent with such irrevocable election. Such notice, if sent, must set forth the applicable Settlement Method and expressly state that the election is irrevocable and applicable to all conversions of Notes with a Conversion Date that occurs on or after the date such notice is sent to Holders. For the avoidance of doubt, such an irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to **Section 8.01(G)** (it being understood, however, that the Company may nonetheless choose to execute such an amendment at its option).

(iii) *Requirement to Publicly Disclose the Fixed or Default Settlement Method.* If the Company changes the Default Settlement Method pursuant to **clause (x)** of the proviso to the definition of such term or irrevocably fixes the Settlement Method(s) pursuant **Section 5.03(A)(ii)**, then the Company will either post the Default Settlement Method or fixed Settlement Method(s), as applicable, on its website or disclose the same in a Current Report on Form 8-K (or any successor form) that is filed with, or furnished to, the SEC.

(B) *Conversion Consideration.*

(i) *Generally.* Subject to **Sections 5.03(B)(ii)**, and **5.03(B)(iii)** and **5.09(A)(2)**, the type and amount of consideration (the “**Conversion Consideration**”) due in respect of each \$1,000 principal amount of a Note to be converted will be as follows:

(1) if Cash Settlement applies to such conversion, cash in an amount equal to the sum of the Daily Conversion Values for each VWAP Trading Day in the Observation Period for such conversion; or

(2) if Combination Settlement applies to such conversion, consideration consisting of (a) a number of Common Shares equal to the sum of the Daily Share Amounts for each VWAP Trading Day in the Observation Period for such conversion; and (b) an amount of cash equal to the sum of the Daily Cash Amounts for each VWAP Trading Day in such Observation Period.

(ii) *Cash in Lieu of Fractional Shares.* If Combination Settlement applies to the conversion of any Note and the number of Common Shares deliverable pursuant to **Section 5.03(B)(i)** upon such conversion is not a whole number, then such number will be rounded down to the nearest whole number and the Company will deliver, in addition to the other consideration due upon such conversion, cash in lieu of the related fractional share in an amount equal to the product of (1) such fraction and (2) the Daily VWAP on the last VWAP Trading Day of the Observation Period for such conversion.

(iii) *Conversion of Multiple Notes by a Single Holder.* If a Holder converts more than one Note on a single Conversion Date, then the Conversion Consideration due in respect of such conversion will (in the case of any Global Note, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total principal amount of Notes converted on such Conversion Date by such Holder.

(iv) *Notice of Calculation of Conversion Consideration.* If any Note is to be converted, then the Company will determine the Conversion Consideration due thereupon promptly following the last VWAP Trading Day of the applicable Observation Period and will promptly thereafter send notice to the Trustee and the Conversion Agent of the same and the calculation thereof in reasonable detail. Neither the Trustee nor the Conversion Agent will have any duty to make any such determination.

(C) *Delivery of the Conversion Consideration.* Except as set forth in **Sections 5.05(D)** and **5.09**, the Company will pay or deliver, as applicable, the Conversion Consideration due upon the conversion of any Note to the Holder on the second Business Day immediately after the last VWAP Trading Day of the Observation Period for such conversion.

(D) *Deemed Payment of Principal and Interest; Settlement of Accrued Interest Notwithstanding Conversion.* If a Holder converts a Note, then the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, except as provided in **Section 5.02(D)**, the Company's payment or delivery of the Conversion Consideration due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date. As a result, except as provided in **Section 5.02(D)**, any accrued and unpaid interest on a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, subject to **Section 5.02(D)**, if the Conversion Consideration for a Note consists of both cash and Common Shares, then accrued and unpaid interest that is deemed to be paid therewith will be deemed to be paid first out of such cash.

Section 5.04. RESERVE AND STATUS OF COMMON SHARES ISSUED UPON CONVERSION.

(A) *Share Reserve.* At all times when any Notes are outstanding, the Company will reserve (out of its authorized and not outstanding but unissued Common Shares that are not reserved for other purposes) a number of Common Shares equal to the product of (i) the aggregate principal amount (expressed in thousands) of all then-outstanding Notes; and (ii) the Conversion Rate then in effect (assuming, for these purposes, that the Conversion Rate is increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to **Section 5.07**). To the extent the Company delivers Common Shares held in its treasury in settlement of the conversion of any Notes, each reference in this Indenture or the Notes to the issuance of Common Shares in connection therewith will be deemed to include such delivery, *mutatis mutandis*.

(B) *Status of Conversion Shares; Listing.* Each Conversion Share, if any, delivered upon conversion of any Note will be a newly issued or treasury share (except that any Conversion Share delivered by a designated financial institution pursuant to **Section 5.08** need not be a newly issued or treasury share) and will be duly authorized, validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of the Holder of such Note or the Person to whom such Conversion Share will be delivered). If the Common Shares are then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will use commercially reasonable efforts to cause each Conversion Share, when delivered upon conversion of any Note, to be admitted for listing on such exchange or quotation on such system.

Section 5.05. ADJUSTMENTS TO THE CONVERSION RATE.

(A) *Events Requiring an Adjustment to the Conversion Rate.* The Conversion Rate will be adjusted from time to time as follows:

(i) *Share Dividends, Splits and Combinations.* If the Company issues solely Common Shares as a dividend or distribution on all or substantially all Common Shares, or if the Company effects a share split or a share combination of the Common Shares (in each case excluding an issuance solely pursuant to a Common Share Change Event, as to which **Section 5.09** will apply), then the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution, or immediately before the Open of Business on the effective date of such share split or share combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or effective date, as applicable;

OS_0 = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date or effective date, as applicable, without giving effect to such dividend, distribution, share split or share combination; and

OS_1 = the number of Common Shares outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

If any dividend, distribution, share split or share combination of the type described in this **Section 5.05(A)(i)** is declared or announced, but not so paid or made, then the Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such share split or share combination, to the Conversion Rate that would then be in effect had such dividend, distribution, share split or share combination not been declared or announced.

(ii) *Rights, Options and Warrants.* If the Company distributes, to all or substantially all holders of Common Shares, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a shareholder rights plan, as to which **Sections 5.05(A)(iii)(1)** and **5.05(F)** will apply) entitling such holders, for a period of not more than 60 calendar days after the record date of such distribution, to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS+X}{OS+Y}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS = the number of Common Shares outstanding immediately before the Open of Business on such Ex-Dividend Date;

X = the total number of Common Shares issuable pursuant to such rights, options or warrants; and

Y = a number of Common Shares obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per Common Share for the ten consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants are not so distributed, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that Common Shares are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the increase to the Conversion Rate for such distribution been made on the basis of delivery of only the number of Common Shares actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 5.05(A)(ii)** and **Section 5.01(C)(i)(3)(a)(I)**, in determining whether any rights, options or warrants entitle holders of Common Shares to subscribe for or purchase Common Shares at a price per share that is less than the average of the Last Reported Sale Prices per Common Share for the ten consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Company in good faith.

(iii) *Spin-Offs and Other Distributed Property.*

(1) *Distributions Other than Spin-Offs.* If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company, or rights, options or warrants to acquire Capital Stock of the Company or other securities, to all or substantially all holders of the Common Shares, excluding:

(u) dividends, distributions, rights, options or warrants for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(i)** or **5.05(A)(ii)**;

(v) dividends or distributions paid exclusively in cash for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iv)**;

(w) rights issued or otherwise distributed pursuant to a shareholder rights plan, except to the extent provided in **Section 5.05(F)**;

(x) Spin-Offs for which an adjustment to the Conversion Rate is required (or would be required without regard to **Section 5.05(C)**) pursuant to **Section 5.05(A)(iii)(2)**;

(y) a distribution solely pursuant to a tender offer or exchange offer for Common Shares, as to which **Section 5.05(A)(v)** will apply; and

(z) a distribution solely pursuant to a Common Share Change Event, as to which **Section 5.09** will apply;

then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the average of the Last Reported Sale Prices per Common Share for the ten consecutive Trading Days ending on, and including, the Trading Day immediately before such Ex-Dividend Date; and

FMV = the fair market value (as determined by the Company in good faith), as of such Ex-Dividend Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per Common Share pursuant to such distribution;

provided, however, that if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such distribution, at the same time and on the same terms as holders of Common Shares, and without having to convert its Notes, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such distribution is not so paid or made, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(2) *Spin-Offs*. If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to an Affiliate, a Subsidiary or other business unit of the Company to all or substantially all holders of the Common Shares (other than solely pursuant to (x) a Common Share Change Event, as to which **Section 5.09** will apply; or (y) a tender offer or exchange offer for Common Shares, as to which **Section 5.05(A)(v)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a "**Spin-Off**"), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

- CR₀* = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;
- CR₁* = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;
- FMV* = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten consecutive Trading Day period (the "**Spin-Off Valuation Period**") beginning on, and including, such Ex-Dividend Date for such Spin-Off (such average to be determined as if references to Common Shares in the definitions of Last Reported Sale Price, Trading Day and Market Disruption Event were instead references to such Capital Stock or equity interests) and (y) the number of shares or units of such Capital Stock or equity interests distributed per Common Share in such Spin-Off; and
- SP* = the average of the Last Reported Sale Prices per Common Share for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 5.05(A)(iii)(2)**, if any VWAP Trading Day of the Observation Period for a Note to be converted occurs during the Spin-Off Valuation Period for such Spin-Off, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such VWAP Trading Day.

To the extent any dividend or distribution of the type set forth in this **Section 5.05(A)(iii)(2)** is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(iv) *Cash Dividends or Distributions.* If any cash dividend or distribution is made to all or substantially all holders of Common Shares, then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

CR_0 = the Conversion Rate in effect immediately before the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

SP = the Last Reported Sale Price per Common Share on the Trading Day immediately before such Ex-Dividend Date; and

D = the cash amount distributed per Common Share in such dividend or distribution;

provided, however, that if D is equal to or greater than SP , then, in lieu of the foregoing adjustment to the Conversion Rate, each Holder will receive, for each \$1,000 principal amount of Notes held by such Holder on the record date for such dividend or distribution, at the same time and on the same terms as holders of Common Shares, and without having to convert its Notes, the amount of cash that such Holder would have received if such Holder had owned, on such record date, a number of Common Shares equal to the Conversion Rate in effect on such record date.

To the extent such dividend or distribution is declared but not made or paid, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(v) *Tender Offers or Exchange Offers*. If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer (with “tender offer or exchange offer” including an issuer bid (as defined under Canadian provincial securities laws) for purposes of this **clause (v)**) for Common Shares (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time by the Company in good faith) of the cash and other consideration paid per Common Share in such tender or exchange offer exceeds the Last Reported Sale Price per Common Share on the Trading Day immediately after the last date (the “**Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

- CR_0 = the Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;
- CR_1 = the Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;
- AC = the aggregate value (determined as of the time (the “**Expiration Time**”) such tender or exchange offer expires by the Company in good faith) of all cash and other consideration paid for Common Shares purchased or exchanged in such tender or exchange offer;
- OS_0 = the number of Common Shares outstanding immediately before the Expiration Time (including all Common Shares accepted for purchase or exchange in such tender or exchange offer);
- OS_1 = the number of Common Shares outstanding immediately after the Expiration Time (excluding all Common Shares accepted for purchase or exchange in such tender or exchange offer); and
- SP = the average of the Last Reported Sale Prices per Common Share over the ten consecutive Trading Day period (the “**Tender/Exchange Offer Valuation Period**”) beginning on, and including, the Trading Day immediately after the Expiration Date;

provided, however, that the Conversion Rate will in no event be adjusted down pursuant to this **Section 5.05(A)(v)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 5.05(A)(v)**, if any VWAP Trading Day of the Observation Period for a Note to be converted occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date for such tender or exchange offer to, and including, such VWAP Trading Day.

To the extent such tender or exchange offer is announced but not consummated (including as a result of the Company being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of Common Shares in such tender or exchange offer are rescinded, the Conversion Rate will be readjusted to the Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of Common Shares, if any, actually made, and not rescinded, in such tender or exchange offer.

(B) *No Adjustments in Certain Cases.*

(i) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 5.05(A)**, the Company will not be obligated to adjust the Conversion Rate on account of a transaction or other event otherwise requiring an adjustment pursuant to **Section 5.05(A)** (other than a share split or combination of the type set forth in **Section 5.05(A)(i)**) or a tender or exchange offer of the type set forth in **Section 5.05(A)(v)** if each Holder participates, at the same time and on the same terms as holders of Common Shares, and solely by virtue of being a Holder of Notes, in such transaction or event without having to convert such Holder's Notes and as if such Holder held a number of Common Shares equal to the product of (i) the Conversion Rate in effect on the related record date; and (ii) the aggregate principal amount (expressed in thousands) of Notes held by such Holder on such date.

(ii) *Certain Events.* The Company will not be required to adjust the Conversion Rate except as provided in **Section 5.05** or **Section 5.07**. Without limiting the foregoing, the Company will not be obligated to adjust the Conversion Rate on account of:

- (1) except as otherwise provided in **Section 5.05**, the sale of Common Shares for a purchase price that is less than the market price per Common Share or less than the Conversion Price;
- (2) the issuance of any Common Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in Common Shares under any such plan;

- (3) the issuance of any Common Shares or options or rights to purchase Common Shares pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;
- (4) the issuance of any Common Shares pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding as of the Issue Date;
- (5) solely a change in the par value of the Common Shares; or
- (6) accrued and unpaid interest on the Notes.

(C) *Adjustment Deferral.* If an adjustment to the Conversion Rate otherwise required by this **Article 5** would result in a change of less than 1% to the Conversion Rate, then, notwithstanding anything to the contrary in this **Article 5**, the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (i) when all such deferred adjustments would result in a change of at least 1% to the Conversion Rate; (ii) any VWAP Trading Day of an Observation Period for any Note; (iii) the date a Fundamental Change or Make-Whole Fundamental Change occurs; (iv) the date the Company calls any Notes for Redemption; and (v) January 1, 2026.

(D) *Adjustments Not Yet Effective.* Notwithstanding anything to the contrary in this Indenture or the Notes, if:

- (i) a Note is to be converted pursuant to Combination Settlement;
- (ii) the record date, effective date or Expiration Time for any event that requires an adjustment to the Conversion Rate pursuant to **Section 5.05(A)** has occurred on or before any VWAP Trading Day in the Observation Period for such conversion, but an adjustment to the Conversion Rate for such event has not yet become effective as of such VWAP Trading Day;
- (iii) the Conversion Consideration due in respect of such VWAP Trading Day includes any whole or fractional Common Shares; and
- (iv) such shares are not entitled to participate in such event (because they were not held on the related record date or otherwise);

then, solely for purposes of such conversion, the Company will, without duplication, give effect to such adjustment on such VWAP Trading Day. In such case, if the date on which the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such conversion until the second Business Day after such first date.

(E) *Conversion Rate Adjustments where Converting Holders Participate in the Relevant Transaction or Event.* Notwithstanding anything to the contrary in this Indenture or the Notes, if:

- (i) a Conversion Rate adjustment for any dividend or distribution becomes effective on any Ex-Dividend Date pursuant to **Section 5.05(A)**;
- (ii) a Note is to be converted pursuant to Combination Settlement;
- (iii) any VWAP Trading Day in the Observation Period for such conversion occurs on or after such Ex-Dividend Date and on or before the related record date;
- (iv) the Conversion Consideration due in respect of such VWAP Trading Day includes any whole or fractional Common Shares based on a Conversion Rate that is adjusted for such dividend or distribution; and
- (v) such shares would be entitled to participate in such dividend or distribution (including pursuant to **Section 5.02(C)**);

then the Conversion Rate adjustment relating to such Ex-Dividend Date will be made for such conversion in respect of such VWAP Trading Day, but the Common Shares issuable with respect to such VWAP Trading Day based on such adjusted Conversion Rate will not be entitled to participate in such dividend or distribution.

(F) *Shareholder Rights Plans.* If any Common Shares are to be issued upon conversion of any Note and, at the time of such conversion, the Company has a shareholder rights plan, then the Holder of that Note will be entitled to receive, in addition to, and concurrently with the delivery of, the Conversion Consideration otherwise due upon such conversion, the rights set forth in such shareholder rights plan, unless such rights have separated from the Common Shares at such time, in which case, and only in such case, the Conversion Rate will be adjusted pursuant to **Section 5.05(A)(iii)(1)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in **Section 5.05(A)(iii)(1)** to all holders of the Common Shares, subject to potential readjustment pursuant to the last paragraph of **Section 5.05(A)(iii)(1)**.

(G) *Limitation on Effecting Transactions Resulting in Certain Adjustments.* The Company will not engage in or be a party to any transaction or event that would require the Conversion Rate to be adjusted pursuant to **Section 5.05(A)** or **Section 5.07** to an amount that would result in the Conversion Price per Common Share being less than the par value per Common Share.

(H) *Equitable Adjustments to Prices.* Whenever any provision of this Indenture requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate the Share Price or an adjustment to the Conversion Rate), or to calculate Daily VWAPs over an Observation Period, the Company will make proportionate adjustments to such calculations to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period or Observation Period, as applicable.

(I) *Calculation of Number of Outstanding Common Shares.* For purposes of **Section 5.05(A)**, the number of Common Shares outstanding at any time will (i) include shares issuable in respect of scrip certificates issued in lieu of fractions of Common Shares; and (ii) exclude Common Shares held in the Company's treasury (unless the Company pays any dividend or makes any distribution on Common Shares held in its treasury).

(J) *Calculations.* All calculations with respect to the Conversion Rate and adjustments thereto will be made to the nearest 1/10,000th of a Common Share (with 5/100,000ths rounded upward).

(K) *Notice of Conversion Rate Adjustments.* Upon the effectiveness of any adjustment to the Conversion Rate pursuant to **Section 5.05(A)**, the Company will promptly send notice to the Holders, the Trustee and the Conversion Agent containing (i) a brief description of the transaction or other event on account of which such adjustment was made, (ii) the Conversion Rate in effect immediately after such adjustment and (iii) the effective time of such adjustment.

Section 5.06. VOLUNTARY ADJUSTMENTS.

(A) *Generally.* To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase the Conversion Rate by any amount if: (i) the Board of Directors determines that such increase is either (x) in the best interest of the Company; or (y) advisable to avoid or diminish any income tax imposed on holders of Common Shares or rights to purchase Common Shares as a result of any dividend or distribution of Common Shares (or rights to acquire Common Shares) or any similar event; (ii) such increase is in effect for a period of at least 20 Business Days; and (iii) such increase is irrevocable during such period.

(B) *Notice of Voluntary Increases.* If the Board of Directors determines to increase the Conversion Rate pursuant to **Section 5.06(A)**, then, no later than the first Business Day of the related 20 Business Day period referred to in **Section 5.06(A)**, the Company will send notice to each Holder, the Trustee and the Conversion Agent of such increase, the amount thereof and the period during which such increase will be in effect.

Section 5.07. ADJUSTMENTS TO THE CONVERSION RATE IN CONNECTION WITH A MAKE-WHOLE FUNDAMENTAL CHANGE.

(A) *Generally.* If a Make-Whole Fundamental Change occurs and the Conversion Date for the conversion of a Note occurs during the related Make-Whole Fundamental Change Conversion Period, then, subject to this **Section 5.07**, the Conversion Rate applicable to such conversion will be increased by a number of shares (the "**Additional Shares**") set forth in the table below corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Fundamental Change Effective Date and the Share Price of such Make-Whole Fundamental Change:

Make-Whole Fundamental Change Effective Date	Share Price											
	<u>\$21.30</u>	<u>\$25.00</u>	<u>\$28.75</u>	<u>\$33.00</u>	<u>\$37.38</u>	<u>\$45.00</u>	<u>\$54.00</u>	<u>\$65.00</u>	<u>\$78.00</u>	<u>\$93.00</u>	<u>\$110.00</u>	<u>\$129.00</u>
March 19, 2021	12.1717	8.8260	6.4650	4.6567	3.3903	2.0213	1.1348	0.5675	0.2394	0.0708	0.0049	0.0000
April 1, 2022	12.1717	8.6412	6.1965	4.3548	3.0899	1.7596	0.9326	0.4297	0.1579	0.0332	0.0000	0.0000
April 1, 2023	12.1717	8.3036	5.7680	3.9033	2.6608	1.4091	0.6802	0.2722	0.0756	0.0049	0.0000	0.0000
April 1, 2024	12.1717	7.7972	5.1308	3.2509	2.0639	0.9598	0.3900	0.1165	0.0137	0.0000	0.0000	0.0000
April 1, 2025	12.1717	6.9500	4.0515	2.1982	1.1782	0.4016	0.1035	0.0083	0.0000	0.0000	0.0000	0.0000
April 1, 2026	12.1717	5.2234	0.0059	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If such Make-Whole Fundamental Change Effective Date or Share Price is not set forth in the table above, then:

(i) if such Share Price is between two Share Prices in the table above or the Make-Whole Fundamental Change Effective Date is between two dates in the table above, then the number of Additional Shares will be determined by straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower Share Prices in the table above or the earlier and later dates in the table above, based on a 365- or 366-day year, as applicable; and

(ii) if the Share Price is greater than \$129.00 (subject to adjustment in the same manner as the Share Prices set forth in the column headings of the table above are adjusted pursuant to **Section 5.07(B)**), or less than \$21.30 (subject to adjustment in the same manner), per Common Share, then no Additional Shares will be added to the Conversion Rate.

Notwithstanding anything to the contrary in this Indenture or the Notes, in no event will the Conversion Rate be increased to an amount that exceeds 46.9483 Common Shares per \$1,000 principal amount of Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to **Section 5.05(A)**.

For the avoidance of doubt, but subject to **Section 4.03(L)**, (x) the sending of a Redemption Notice with respect to a Provisional Redemption will constitute a Make-Whole Fundamental Change only with respect to the Notes called (or deemed called) for Provisional Redemption pursuant to such Redemption Notice, and not with respect to any other Notes, and (y) the Conversion Rate applicable to the Notes not so called (or not deemed called) for Provisional Redemption will not be subject to increase pursuant to this **Section 5.07** on account of such Redemption Notice.

(B) *Adjustment of Share Prices and Number of Additional Shares.* The Share Prices in the first row (*i.e.*, the column headers) of the table set forth in **Section 5.07(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of **Section 5.05(A)**. The numbers of Additional Shares in the table set forth in **Section 5.07(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to **Section 5.05(A)**.

(C) *Notice of the Occurrence of a Make-Whole Fundamental Change.* The Company will notify the Holders, the Trustee and the Conversion Agent of each Make-Whole Fundamental Change (i) occurring pursuant to **clause (A)** of the definition thereof in accordance with **Section 5.01(C)(i)(3)(b)**; and (ii) occurring pursuant to **clause (B)** of the definition thereof in accordance with **Section 4.03(H)**.

Section 5.08. EXCHANGE IN LIEU OF CONVERSION.

Notwithstanding anything to the contrary in this **Article 5**, and subject to the terms of this **Section 5.08**, if a Note is submitted for conversion, the Company may elect to arrange to have such Note exchanged in lieu of conversion by a financial institution designated by the Company. To make such election, the Company must send notice of such election to the Holder of such Note, the Trustee and the Conversion Agent before the Close of Business on the Business Day immediately following the Conversion Date for such Note. If the Company has made such election, then:

(A) no later than the Business Day immediately following such Conversion Date, the Company must deliver (or cause the Conversion Agent to deliver) such Note, together with delivery instructions for the Conversion Consideration due upon such conversion (including wire instructions, if applicable), to a financial institution designated by the Company that has agreed to deliver such Conversion Consideration in the manner and at the time the Company would have had to deliver the same pursuant to this **Article 5**;

(B) if such Note is a Global Note, then such designated institution will (i) send written confirmation to the Conversion Agent promptly after wiring the cash Conversion Consideration, if any, and delivering any other Conversion Consideration, due upon such conversion to the Holder of such Note; and (ii) contact such Holder's custodian with the Depository to confirm receipt of the same; and

(C) such Note will not cease to be outstanding by reason of such exchange in lieu of conversion;

provided, however, that if such financial institution does not accept such Note or fails to timely deliver such Conversion Consideration, then the Company will be responsible for delivering such Conversion Consideration in the manner and at the time provided in this **Article 5** as if the Company had not elected to make an exchange in lieu of conversion. The Conversion Agent will be entitled to conclusively rely upon the Company's instruction in connection with effecting such exchange election and will have no liability in respect of such exchange election.

Section 5.09. EFFECT OF COMMON SHARE CHANGE EVENT.

(A) *Generally*. If there occurs any:

(i) recapitalization, reclassification or change of the Common Shares (other than (x) changes solely resulting from a subdivision or combination of the Common Shares, (y) a change only in par value or from par value to no par value or no par value to par value and (z) share splits and share combinations that do not involve the issuance of any other series or class of securities);

(ii) amalgamation, arrangement, consolidation, merger, combination or binding or statutory share exchange involving the Company;

(iii) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(iv) other similar event;

and, as a result of which, the Common Shares are converted into, or are exchanged for, or represent solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a “**Common Share Change Event**,” and such other securities, cash or property, the “**Reference Property**,” and the amount and kind of Reference Property that a holder of one Common Share would be entitled to receive on account of such Common Share Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a “**Reference Property Unit**”), then, notwithstanding anything to the contrary in this Indenture or the Notes:

(1) from and after the effective time of such Common Share Change Event: (I) the Conversion Consideration due upon conversion of any Note, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Common Shares in this **Article 5** (or in any related definitions) were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 4.03**, each reference to any number of Common Shares in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definitions of “Fundamental Change” and “Make-Whole Fundamental Change,” references to “Common Shares” and the Company’s “common equity” will be deemed to refer to the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property;

(2) if such Reference Property Unit consists entirely of cash, then: (I) each conversion of any Note with a Conversion Date that occurs on or after the effective date of such Common Share Change Event will be settled entirely in cash in an amount, per \$1,000 principal amount of such Note being converted, equal to the product of (x) the Conversion Rate in effect on such Conversion Date (including, for the avoidance of doubt, any increase to such Conversion Rate pursuant to **Section 5.07**, if applicable); and (y) the amount of cash constituting such Reference Property Unit; and (II) the Company will settle each such conversion no later than the fifth Business Day after the relevant Conversion Date; and

(3) for these purposes, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of “Daily VWAP,” substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of shareholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per Common Share, by the holders of Common Shares. The Company will notify Holders, the Trustee and the Conversion Agent of such weighted average as soon as practicable after such determination is made.

At or before the effective time of such Common Share Change Event, the Company and the resulting, surviving or transferee Person (if not the Company) of such Common Share Change Event (the “**Successor Person**”) will execute and deliver to the Trustee a supplemental indenture pursuant to **Section 8.01(F)**, which supplemental indenture will (x) provide for subsequent conversions of Notes in the manner set forth in this **Section 5.09**, (y) provide for subsequent adjustments to the Conversion Rate pursuant to **Section 5.05(A)** in a manner consistent with this **Section 5.09** and (z) contain such other provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of the Holders and to give effect to the provisions of this **Section 5.09(A)**. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person, then such other Person will also execute such supplemental indenture and such supplemental indenture will contain such additional provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of the Holders.

(B) *Notice of Common Share Change Events.* The Company will provide notice of each Common Share Change Event to Holders, the Trustee and the Conversion Agent no later than the second Business Day after the effective date of such Common Share Change Event.

(C) *Compliance Covenant.* The Company will not become a party to any Common Share Change Event unless its terms are consistent with this **Section 5.09**.

Article 6. SUCCESSORS

Section 6.01. WHEN THE COMPANY MAY MERGE, ETC.

(A) *Generally.* The Company will not amalgamate or consolidate with or merge with or into, or (directly, or indirectly through one or more of its Subsidiaries) sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person (a “**Business Combination Event**”), unless:

(i) the resulting, surviving or transferee Person either (x) is the Company or (y) if not the Company, is a corporation (or equivalent entity) duly organized and existing under the laws of Canada, any province thereof, the United States of America, any State thereof or the District of Columbia (such corporation or equivalent entity, “**Successor Corporation**”) that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplemental indenture pursuant to **Section 8.01(E)**) all of the Company’s obligations under this Indenture and the Notes (including, for the avoidance of doubt, to pay Additional Amounts pursuant to **Section 3.05**); and

(ii) immediately after giving effect to such Business Combination Event, no Default or Event of Default will have occurred and be continuing.

(B) *Delivery of Officer's Certificate and Opinion of Counsel to the Trustee.* Before the effective time of any Business Combination Event, the Company will deliver to the Trustee an Officer's Certificate and Opinion of Counsel, each stating that (i) such Business Combination Event (and, if applicable, the related supplemental indenture) comply with **Section 6.01(A)**; and (ii) all conditions precedent to such Business Combination Event provided in this Indenture have been satisfied.

Section 6.02. SUCCESSOR CORPORATION SUBSTITUTED.

At the effective time of any Business Combination Event that complies with **Section 6.01**, the Successor Corporation (if not the Company) will succeed to, and may exercise every right and power of, the Company under this Indenture and the Notes with the same effect as if such Successor Corporation had been named as the Company in this Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes.

Section 6.03. EXCLUSION FOR ASSET TRANSFERS WITH WHOLLY OWNED SUBSIDIARIES.

Notwithstanding anything to the contrary in this **Article 6**, this **Article 6** will not apply to any transfer of assets between or among the Company and any one or more of its Wholly Owned Subsidiaries not effected by amalgamation, merger or consolidation.

Article 7. DEFAULTS AND REMEDIES

Section 7.01. EVENTS OF DEFAULT.

(A) *Definition of Events of Default.* "**Event of Default**" means the occurrence of any of the following:

(i) a default in the payment when due (whether at maturity, upon Redemption, Repurchase Upon Fundamental Change or otherwise) of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, any Note;

(ii) a default for 30 consecutive days in the payment when due of interest on any Note;

(iii) the Company's failure to deliver, when required by this Indenture, a Fundamental Change Notice, or a notice pursuant to **Section 5.01(C)(i)(3)**, if such failure is not cured within three Business Days after its occurrence;

(iv) a default in the Company's obligation to convert a Note in accordance with **Article 5** upon the exercise of the conversion right with respect thereto, if such default is not cured within five Business Days after its occurrence;

(v) a default in the Company's obligations under **Article 6**;

(vi) a default in any of the Company's obligations or agreements under this Indenture or the Notes (other than a default set forth in **clause (i), (ii), (iii), (iv) or (v)** of this **Section 7.01(A)**) where such default is not cured or waived within 60 days after notice

to the Company by the Trustee, or to the Company and the Trustee by Holders of at least 25% of the aggregate principal amount of Notes then outstanding, which notice must specify such default, demand that it be remedied and state that such notice is a "Notice of Default";

(vii) a default by the Company or any of the Company's Subsidiaries with respect to any one or more mortgages, agreements or other instruments under which there is outstanding, or by which there is secured or evidenced, any indebtedness for money borrowed of at least \$50,000,000 (or its foreign currency equivalent) in the aggregate of the Company or any of the Company's Subsidiaries, whether such indebtedness exists as of the Issue Date or is thereafter created, where such default:

- (1) constitutes a failure to pay the principal of such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise, in each case after the expiration of any applicable grace period; or
- (2) results in such indebtedness becoming or being declared due and payable before its stated maturity,

in each case where such default is not cured or waived, or such indebtedness is not paid or discharged in full, within 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least 25% of the aggregate principal amount of Notes then outstanding;

(viii) the Company or any of its Significant Subsidiaries, pursuant to or within the meaning of any Bankruptcy Law, either:

- (1) commences a voluntary case or proceeding;
- (2) consents to the entry of an order for relief against it in an involuntary case or proceeding;
- (3) consents to the appointment of a custodian of it or for any substantial part of its property;
- (4) makes a general assignment for the benefit of its creditors;
- (5) takes any comparable action under any foreign Bankruptcy Law; or
- (6) generally is not paying its debts as they become due; or

(ix) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that either:

- (1) is for relief against the Company or any of its Significant Subsidiaries in an involuntary case or proceeding;

(2) appoints a custodian of the Company or any of its Significant Subsidiaries, or for any substantial part of the property of the Company or any of its Significant Subsidiaries;

(3) orders the winding up or liquidation of the Company or any of its Significant Subsidiaries; or

(4) grants any similar relief under any foreign Bankruptcy Law;

and, in each case under this **Section 7.01(A)(ix)**, such order or decree remains unstayed and in effect for at least 60 days.

(B) *Cause Irrelevant.* Each of the events set forth in **Section 7.01(A)** will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 7.02. ACCELERATION.

(A) *Automatic Acceleration in Certain Circumstances.* If an Event of Default set forth in **Section 7.01(A)(viii)** or **7.01(A)(ix)** occurs with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding will immediately become due and payable without any further action or notice by any Person.

(B) *Optional Acceleration.* Subject to **Section 7.03**, if an Event of Default (other than an Event of Default set forth in **Section 7.01(A)(viii)** or **7.01(A)(ix)** with respect to the Company and not solely with respect to a Significant Subsidiary of the Company) occurs and is continuing, then the Trustee, by notice to the Company, or Holders of at least 25% of the aggregate principal amount of Notes then outstanding, by notice to the Company and the Trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding to become due and payable immediately.

(C) *Rescission of Acceleration.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Holders of a majority in aggregate principal amount of the Notes then outstanding, by notice to the Company and the Trustee, may, on behalf of all Holders, rescind any acceleration of the Notes and its consequences if (i) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (ii) all existing Events of Default (except the non-payment of principal of, or interest on, the Notes that has become due solely because of such acceleration) have been cured or waived. No such rescission will affect any subsequent Default or impair any right consequent thereto.

Section 7.03. SOLE REMEDY FOR A FAILURE TO REPORT.

(A) *Generally.* Notwithstanding anything to the contrary in this Indenture or the Notes, the Company may elect that the sole remedy for any Event of Default (a "**Reporting Event of Default**") pursuant to **Section 7.01(A)(vi)** arising from the Company's failure to comply with **Section 3.02** will, for each of the first 365 calendar days on which a Reporting Event of Default

has occurred and is continuing, consist exclusively of the accrual of Special Interest on the Notes. If the Company has made such an election, then (i) the Notes will be subject to acceleration pursuant to **Section 7.02** on account of the relevant Reporting Event of Default from, and including, the 366th calendar day on which a Reporting Event of Default has occurred and is continuing or if the Company fails to pay any accrued and unpaid Special Interest when due and (ii) Special Interest will cease to accrue on any Notes from, and including, the earlier of (x) the date such reporting Event of Default is cured or waived and (y) such 366th calendar day (it being understood that interest on any defaulted Special Interest will nonetheless accrue pursuant to **Section 2.05(B)**).

(B) *Amount and Payment of Special Interest.* Any Special Interest that accrues on a Note pursuant to **Section 7.03(A)** will be payable on the same dates and in the same manner as the Stated Interest on such Note and will accrue at a rate per annum equal to 0.25% of the principal amount thereof for the first 180 days on which Special Interest accrues and, thereafter, at a rate per annum equal to 0.50% of the principal amount thereof; *provided, however,* that in no event will Special Interest, together with any Additional Interest, accrue on any day on a Note at a combined rate per annum that exceeds 0.50%. For the avoidance of doubt, any Special Interest that accrues on a Note will be in addition to the Stated Interest that accrues on such Note and, subject to the proviso of the immediately preceding sentence, in addition to any Additional Interest that accrues on such Note.

(C) *Notice of Election.* To make the election set forth in **Section 7.03(A)**, the Company must send to the Holders, the Trustee and the Paying Agent, before the date on which each Reporting Event of Default first occurs, a notice that (i) briefly describes the report(s) that the Company failed to file with the SEC; (ii) states that the Company is electing that the sole remedy for such Reporting Event of Default consist of the accrual of Special Interest; and (iii) briefly describes the periods during which and rate at which Special Interest will accrue and the circumstances under which the Notes will be subject to acceleration on account of such Reporting Event of Default.

(D) *Notice to Trustee and Paying Agent; Trustee's Disclaimer.* If Special Interest accrues on any Note, then, no later than five Business Days before each date on which such Special Interest is to be paid, the Company will deliver an Officer's Certificate to the Trustee and the Paying Agent stating (i) that the Company is obligated to pay Special Interest on such Note on such date of payment; and (ii) the amount of such Special Interest that is payable on such date of payment. The Trustee will have no duty to determine whether any Special Interest is payable or the amount thereof.

(E) *No Effect on Other Events of Default.* No election pursuant to this **Section 7.03** with respect to a Reporting Event of Default will affect the rights of any Holder with respect to any other Event of Default, including with respect to any other Reporting Event of Default.

Section 7.04. OTHER REMEDIES.

(A) *Trustee May Pursue All Remedies.* If an Event of Default occurs and is continuing, then the Trustee may pursue any available remedy to collect the payment of any amounts due with respect to the Notes or to enforce the performance of any provision of this Indenture or the Notes.

(B) *Procedural Matters.* The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in such proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy following an Event of Default will not impair the right or remedy or constitute a waiver of, or acquiescence in, such Event of Default. All remedies will be cumulative to the extent permitted by law.

Section 7.05. WAIVER OF PAST DEFAULTS.

An Event of Default pursuant to **clause (i), (ii), (iv) or (vi)** of **Section 7.01(A)** (that, in the case of **clause (vi)** only, results from a Default under any covenant that cannot be amended without the consent of each affected Holder), and a Default that could lead to such an Event of Default, can be waived only with the consent of each affected Holder. Each other Default or Event of Default may be waived, on behalf of all Holders, by the Holders of a majority in aggregate principal amount of the Notes then outstanding. If an Event of Default is so waived, then it will cease to exist. If a Default is so waived, then it will be deemed to be cured and any Event of Default arising therefrom will be deemed not to occur. However, no such waiver will extend to any subsequent or other Default or Event of Default or impair any right arising therefrom.

Section 7.06. CONTROL BY MAJORITY.

Holders of a majority in aggregate principal amount of the Notes then outstanding may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law, this Indenture or the Notes, or that, subject to **Section 10.01**, the Trustee determines may be unduly prejudicial to the rights of other Holders or may involve the Trustee in liability, unless the Trustee is offered, and, if requested, provided security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such direction (it being understood that the Trustee does not have an affirmative duty to determine whether any direction is prejudicial to any Holder).

Section 7.07. LIMITATION ON SUITS.

No Holder may pursue any remedy with respect to this Indenture or the Notes (except to enforce (x) its rights to receive the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or interest on, any Notes; or (y) the Company's obligations to convert any Notes pursuant to **Article 5**), unless:

- (A) such Holder has previously delivered to the Trustee notice that an Event of Default is continuing;
- (B) Holders of at least 25% in aggregate principal amount of the Notes then outstanding deliver a request to the Trustee to pursue such remedy;
- (C) such Holder or Holders offer and, if requested, provide to the Trustee security and indemnity satisfactory to the Trustee against any loss, liability or expense to the Trustee that may result from the Trustee's following such request;

(D) the Trustee does not comply with such request within 60 calendar days after its receipt of such request and such offer of security or indemnity; and

(E) during such 60 calendar day period, Holders of a majority in aggregate principal amount of the Notes then outstanding do not deliver to the Trustee a direction that is inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder. The Trustee will have no duty to determine whether any Holder's use of this Indenture complies with the preceding sentence.

Section 7.08. ABSOLUTE RIGHT OF HOLDERS TO INSTITUTE SUIT FOR THE ENFORCEMENT OF THE RIGHT TO RECEIVE PAYMENT AND CONVERSION CONSIDERATION.

Notwithstanding anything to the contrary in this Indenture or the Notes (but without limiting **Section 8.01**), the right of each Holder of a Note to bring suit for the enforcement of any payment or delivery, as applicable, of the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or the Conversion Consideration due pursuant to **Article 5** upon conversion of, such Note on or after the respective due dates therefor provided in this Indenture and the Notes, will not be impaired or affected without the consent of such Holder.

Section 7.09. COLLECTION SUIT BY TRUSTEE.

The Trustee will have the right, upon the occurrence and continuance of an Event of Default pursuant to **clause (i), (ii) or (iv) of Section 7.01(A)**, to recover judgment in its own name and as trustee of an express trust against the Company for the total unpaid or undelivered principal of, or Redemption Price or Fundamental Change Repurchase Price for, or interest on, or Conversion Consideration due pursuant to **Article 5** upon conversion of, the Notes, as applicable, and, to the extent lawful, any Default Interest on any Defaulted Amounts, and such further amounts sufficient to cover the costs and expenses of collection, including compensation provided for in **Section 10.06**.

Section 7.10. TRUSTEE MAY FILE PROOFS OF CLAIM.

The Trustee has the right to (A) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes) or its creditors or property and (B) collect, receive and distribute any money or other property payable or deliverable on any such claims. Each Holder authorizes any custodian in such proceeding to make such payments to the Trustee, and, if the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to the Trustee for the reasonable compensation, expenses, disbursements and advances of the Trustee, and its agents and counsel, and any other amounts payable to the Trustee pursuant to **Section 10.06**. To the extent that the payment of any such compensation, expenses, disbursements, advances and other amounts out of the estate in such proceeding, is denied for any reason, payment of the same will be secured by a lien (senior to the rights of Holders) on, and will be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such

proceeding (whether in liquidation or under any plan of reorganization or arrangement or otherwise). Nothing in this Indenture will be deemed to authorize the Trustee to authorize, consent to, accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 7.11. PRIORITIES.

The Trustee will pay or deliver in the following order any money or other property that it collects pursuant to this **Article 7**:

First: to the Trustee, the Note Agents and each of their respective agents and attorneys for amounts due under **Section 10.06**, including payment of all fees, compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the Note Agents and the costs and expenses of collection;

Second: to Holders for unpaid amounts or other property due on the Notes, including the principal of, or the Redemption Price or Fundamental Change Repurchase Price for, or any interest on, or any Conversion Consideration due upon conversion of, the Notes, ratably, and without preference or priority of any kind, according to such amounts or other property due and payable on all of the Notes; and

Third: to the Company or such other Person as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment or delivery to the Holders pursuant to this **Section 7.11**, in which case the Trustee will instruct the Company to, and the Company will, deliver, at least 15 calendar days before such record date, to each Holder and the Trustee a notice stating such record date, such payment date and the amount of such payment or nature of such delivery, as applicable.

Section 7.12. UNDERTAKING FOR COSTS.

In any suit for the enforcement of any right or remedy under this Indenture or the Notes or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court, in its discretion, may (A) require the filing by any litigant party in such suit of an undertaking to pay the costs of such suit, and (B) assess reasonable costs (including reasonable attorneys' fees) against any litigant party in such suit, having due regard to the merits and good faith of the claims or defenses made by such litigant party; *provided, however*, that this **Section 7.12** does not apply to any suit by the Trustee, any suit by a Holder pursuant to **Section 7.08** or any suit by one or more Holders of more than 10% in aggregate principal amount of the Notes then outstanding.

Article 8. AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 8.01. WITHOUT THE CONSENT OF HOLDERS.

Notwithstanding anything to the contrary in **Section 8.02**, the Company and the Trustee may amend or supplement this Indenture or the Notes without the consent of any Holder to:

- (A) cure any ambiguity or correct any omission, defect or inconsistency in this Indenture or the Notes;
- (B) add guarantees with respect to the Company's obligations under this Indenture or the Notes;
- (C) secure the Notes;
- (D) add to the Company's covenants or Events of Default for the benefit of the Holders or surrender any right or power conferred on the Company;
- (E) provide for the assumption of the Company's obligations under this Indenture and the Notes pursuant to, and in compliance with, **Article 6**;
- (F) enter into supplemental indentures pursuant to, and in accordance with, **Section 5.09** in connection with a Common Share Change Event;
- (G) irrevocably elect or eliminate any Settlement Method or Specified Dollar Amount; *provided, however*, that no such election or elimination will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to **Section 5.03(A)**;
- (H) evidence or provide for the acceptance of the appointment, under this Indenture, of a successor Trustee, Registrar, Paying Agent, Bid Solicitation Agent or Conversion Agent or facilitate the administration of the trusts under this Indenture by more than one trustee;
- (I) conform the provisions of this Indenture and the Notes to the "Description of notes" section of the Company's offering memorandum, dated March 16, 2021;
- (J) increase the Conversion Rate as provided in this Indenture;
- (K) provide for or confirm the issuance of additional Notes pursuant to **Section 2.03(B)**;
- (L) comply with any requirement of the SEC in connection with any qualification of this Indenture or any supplemental indenture under the Trust Indenture Act, as then in effect;
- (M) comply with the rules of the securities depository for the Notes in a manner that does not adversely affect the rights of any Holder; or
- (N) make any other change to this Indenture or the Notes that does not, individually or in the aggregate with all other such changes, adversely affect the rights of the Holders, as such, in any material respect.

At the written request of any Holder of a Note or owner of a beneficial interest in a Global Note, the Company will provide a copy of the “Description of notes” section referred to in **Section 8.01(I)**.

Section 8.02. WITH THE CONSENT OF HOLDERS.

(A) *Generally.* Subject to **Sections 8.01, 7.05 and 7.08** and the immediately following sentence, the Company and the Trustee may, with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding, amend or supplement this Indenture or the Notes or waive compliance with any provision of this Indenture or the Notes. Notwithstanding anything to the contrary in the foregoing sentence, but subject to **Section 8.01**, without the consent of each affected Holder, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may:

- (i) reduce the principal, or change the stated maturity, of any Note;
- (ii) reduce the Redemption Price or Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be redeemed or repurchased by the Company;
- (iii) reduce the rate, or change the time for the payment, of interest on any Note;
- (iv) make any change that adversely affects the conversion rights of any Note;
- (v) impair the rights of any Holder set forth in **Section 7.08** (as such Section is in effect on the Issue Date);
- (vi) change the ranking of the Notes in a manner that adversely affects any Holder;
- (vii) make any Note payable in money, or at a place of payment, other than that stated in this Indenture or the Note;
- (viii) make any direct or indirect change to **Section 3.05** in any manner that is adverse to the rights of the Holders or beneficial owners of the Notes;
- (ix) reduce the amount of Notes whose Holders must consent to any amendment, supplement, waiver or other modification; or
- (x) make any direct or indirect change to any amendment, supplement, waiver or modification provision of this Indenture or the Notes that requires the consent of each affected Holder.

For the avoidance of doubt, pursuant to **clauses (i), (ii), (iii) and (iv)** of this **Section 8.02(A)**, no amendment or supplement to this Indenture or the Notes, or waiver of any provision of this Indenture or the Notes, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, a Redemption Date, a Fundamental Change Repurchase Date or the Maturity Date or upon conversion, or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

(B) *Holder's Need Not Approve the Particular Form of any Amendment.* A consent of any Holder pursuant to this **Section 8.02** need approve only the substance, and not necessarily the particular form, of the proposed amendment, supplement or waiver.

Section 8.03. NOTICE OF AMENDMENTS, SUPPLEMENTS AND WAIVERS.

As soon as reasonably practicable after any amendment, supplement or waiver pursuant to **Section 8.01** or **8.02** becomes effective, the Company will send to the Holders and the Trustee notice that (A) describes the substance of such amendment, supplement or waiver in reasonable detail and (B) states the effective date thereof; *provided, however*, that the Company will not be required to provide such notice to the Holders if such amendment, supplement or waiver is included in a periodic report filed by the Company with the SEC within four Business Days of its effectiveness. The failure to send, or the existence of any defect in, such notice will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.04. REVOCATION, EFFECT AND SOLICITATION OF CONSENTS; SPECIAL RECORD DATES; ETC.

(A) *Revocation and Effect of Consents.* The consent of a Holder of a Note to an amendment, supplement or waiver will bind (and constitute the consent of) each subsequent Holder of any Note to the extent the same evidences any portion of the same indebtedness as the consenting Holder's Note, subject to the right of any Holder of a Note to revoke (if not prohibited pursuant to **Section 8.04(B)**) any such consent with respect to such Note by delivering notice of revocation to the Trustee before the time such amendment, supplement or waiver becomes effective.

(B) *Special Record Dates.* The Company may, but is not required to, fix a record date for the purpose of determining the Holders entitled to consent or take any other action in connection with any amendment, supplement or waiver pursuant to this **Article 8**. If a record date is fixed, then, notwithstanding anything to the contrary in **Section 8.04(A)**, only Persons who are Holders as of such record date (or their duly designated proxies) will be entitled to give such consent, to revoke any consent previously given or to take any such action, regardless of whether such Persons continue to be Holders after such record date; *provided, however*, that no such consent will be valid or effective for more than 120 calendar days after such record date.

(C) *Solicitation of Consents.* For the avoidance of doubt, each reference in this Indenture or the Notes to the consent of a Holder will be deemed to include any such consent obtained in connection with a repurchase of, or tender or exchange offer for, any Notes.

(D) *Effectiveness and Binding Effect.* Each amendment, supplement or waiver pursuant to this **Article 8** will become effective in accordance with its terms and, when it becomes effective with respect to any Note (or any portion thereof), will thereafter bind every Holder of such Note (or such portion).

Section 8.05. NOTATIONS AND EXCHANGES.

If any amendment, supplement or waiver changes the terms of a Note, then the Trustee or the Company may, in its discretion, require the Holder of such Note to deliver such Note to the Trustee so that the Trustee may place an appropriate notation prepared by the Company on such Note and return such Note to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Note, issue, execute and deliver, and the Trustee will authenticate, in each case in accordance with **Section 2.02**, a new Note that reflects the changed terms. The failure to make any appropriate notation or issue a new Note pursuant to this **Section 8.05** will not impair or affect the validity of such amendment, supplement or waiver.

Section 8.06. TRUSTEE TO EXECUTE SUPPLEMENTAL INDENTURES.

The Trustee will execute and deliver any amendment or supplemental indenture authorized pursuant to this **Article 8**; *provided, however*, that the Trustee need not (but may, in its sole and absolute discretion) execute or deliver any such amendment or supplemental indenture that the Trustee concludes adversely affects the Trustee's rights, duties, liabilities or immunities. In executing any amendment or supplemental indenture, the Trustee will be entitled to receive, and (subject to **Sections 10.01** and **10.02**) will be fully protected in relying on, an Officer's Certificate and an Opinion of Counsel stating that (A) the execution and delivery of such amendment or supplemental indenture is authorized or permitted by this Indenture; and (B) in the case of the Opinion of Counsel, such amendment or supplemental indenture is valid, binding and enforceable against the Company in accordance with its terms.

Article 9. SATISFACTION AND DISCHARGE

Section 9.01. TERMINATION OF COMPANY'S OBLIGATIONS.

This Indenture will be discharged, and will cease to be of further effect as to all Notes issued under this Indenture, when:

(A) all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**) have (i) been delivered to the Trustee for cancellation; or (ii) become due and payable (whether on a Redemption Date, a Fundamental Change Repurchase Date, the Maturity Date, upon conversion or otherwise) for an amount of cash or Conversion Consideration, as applicable, that has been fixed;

(B) the Company has caused there to be irrevocably deposited with the Trustee, or with the Paying Agent (or, with respect to Conversion Consideration, the Conversion Agent), in each case for the benefit of the Holders, or has otherwise caused there to be delivered to the Holders, cash or other property (or, with respect to Notes to be converted, Conversion Consideration) sufficient to satisfy all amounts (including, if applicable, all related Additional Amounts) due on all Notes then outstanding (other than Notes replaced pursuant to **Section 2.13**);

(C) the Company has paid all other amounts payable by it under this Indenture; and

(D) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that the conditions precedent to the discharge of this Indenture have been satisfied;

provided, however, that **Article 10** and **Section 11.01** will survive such discharge and, until no Notes remain outstanding, **Section 2.15** and the obligations of the Trustee, the Paying Agent and the Conversion Agent with respect to money or other property deposited with them will survive such discharge.

At the Company's request contained in an Officer's Certificate and at the expense of the Company, the Trustee will acknowledge the satisfaction and discharge of this Indenture.

Section 9.02. REPAYMENT TO COMPANY.

Subject to applicable unclaimed property law, the Trustee, the Paying Agent and the Conversion Agent will promptly notify the Company if there exists (and, at the Company's request, promptly deliver to the Company) any cash, Conversion Consideration or other property held by any of them for payment or delivery on the Notes that remain unclaimed two years after the date on which such payment or delivery was due. After such delivery to the Company, the Trustee, the Paying Agent and the Conversion Agent will have no further liability to any Holder with respect to such cash, Conversion Consideration or other property, and Holders entitled to the payment or delivery of such cash, Conversion Consideration or other property must look to the Company for payment as a general creditor of the Company.

Section 9.03. REINSTATEMENT.

If the Trustee, the Paying Agent or the Conversion Agent is unable to apply any cash or other property deposited with it pursuant to **Section 9.01** because of any legal proceeding or any order or judgment of any court or other governmental authority that enjoins, restrains or otherwise prohibits such application, then the discharge of this Indenture pursuant to **Section 9.01** will be rescinded; *provided, however*, that if the Company thereafter pays or delivers any cash or other property due on the Notes to the Holders thereof, then the Company will be subrogated to the rights of such Holders to receive such cash or other property from the cash or other property, if any, held by the Trustee, the Paying Agent or the Conversion Agent, as applicable.

Article 10. TRUSTEE

Section 10.01. DUTIES OF THE TRUSTEE.

(A) If an Event of Default has occurred and is continuing of which a Responsible Officer of the Trustee has written notice or actual knowledge, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; *provided* that the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered, and if requested, provided, to the Trustee indemnity or security satisfactory to Trustee against any loss, liability or expense that might be incurred by it in compliance with such request or direction.

- (B) Except during the continuance of an Event of Default:
- (i) the duties of the Trustee will be determined solely by the express provisions of this Indenture, and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations will be read into this Indenture against the Trustee; and
 - (ii) in the absence of bad faith or willful misconduct on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon Officer's Certificates or Opinions of Counsel that are provided to the Trustee and conform to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).
- (C) The Trustee may not be relieved from liabilities for its negligence, bad faith or willful misconduct, except that:
- (i) this paragraph will not limit the effect of **Section 10.01(B)**;
 - (ii) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts;
 - (iii) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to **Section 7.06**; and
 - (iv) no provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability in the performance of any of its duties under this Indenture, or in the exercise of any of its rights or powers, if it has reasonable grounds to believe that repayment of such funds or adequate indemnity against such liability is not reasonably assured to it.
- (D) Each provision of this Indenture that in any way relates to the Trustee is subject to **paragraphs (A), (B) and (C)** of this **Section 10.01**, regardless of whether such provision so expressly provides.
- (E) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability.
- (F) The Trustee will not be liable for interest on any money received by it, except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds, except to the extent required by law.
- (G) Whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee will be subject to the provisions of this **Section 10.01**.

(H) The Trustee will not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent (except in its capacity as Paying Agent pursuant to the terms of this Indenture) or any records maintained by any co-Note Registrar with respect to the Notes.

(I) If any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred, unless a Responsible Officer of the Trustee had actual knowledge of such event.

(J) Under no circumstances will the Trustee be liable in its individual capacity for the obligations evidenced by the Notes.

Section 10.02. RIGHTS OF THE TRUSTEE.

(A) The Trustee may conclusively rely on any document that it believes to be genuine and signed or presented by the proper Person, and the Trustee need not investigate any fact or matter stated in such document.

(B) Before the Trustee acts or refrains from acting, it may require, and may conclusively rely on, an Officer's Certificate, an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel; and the written advice of such counsel, or any Opinion of Counsel, will constitute full and complete authorization of the Trustee to take or omit to take any action in good faith in reliance thereon without liability.

(C) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any such agent appointed with due care.

(D) The Trustee will not be liable for any action it takes or omits to take in good faith and that it believes to be authorized or within the rights or powers vested in it by this Indenture.

(E) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(F) The Trustee need not exercise any rights or powers vested in it by this Indenture at the request or direction of any Holder unless such Holder has offered and, if requested, provided the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense that it may incur in complying with such request or direction (it being understood that the Trustee does not have an affirmative duty to determine whether any direction is prejudicial to any Holder).

(G) The Trustee will not be responsible or liable for any punitive, special, indirect or consequential loss or damage (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(H) The permissive rights of the Trustee enumerated herein will not be construed as duties.

(I) The Trustee will not be required to give any bond or surety in respect of the execution of this Indenture or otherwise.

(J) The Trustee will not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, judgment, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and the Trustee will incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(K) The Trustee will not be deemed to have notice of any Default or Event of Default unless written notice of any event that is a Default or Event of Default is received by a Responsible Officer of the Trustee at the corporate trust office of the Trustee specified in Section 11.01, and such notice references the Notes and this Indenture and states that it is a "Notice of Default."

(L) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and will be enforceable by, the Trustee in each of its capacities under this Indenture, including as Note Agent.

(M) The Trustee may request that the Company deliver a certificate setting forth the names of individuals or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(N) Neither the Trustee nor any Note Agent will have any responsibility or liability for any actions taken or not taken by the Depository.

(O) Notwithstanding anything to the contrary in this Indenture, other than this Indenture and the Notes, the Trustee will have no duty to know or inquire as to the performance or nonperformance of any provision of any other agreement, instrument or contract, nor will the Trustee be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or contract, whether or not a copy of such agreement has been provided to the Trustee.

Section 10.03. INDIVIDUAL RIGHTS OF THE TRUSTEE.

The Trustee, in its individual or any other capacity, may become the owner or pledgee of any Note and may otherwise deal with the Company or any of its Affiliates with the same rights that it would have if it were not Trustee; *provided, however*, that if the Trustee acquires a "conflicting interest" (within the meaning of Section 310(b) of the Trust Indenture Act), then it must eliminate such conflict within 90 days or resign as Trustee. Each Note Agent will have the same rights and duties as the Trustee under this **Section 10.02(J)**.

Section 10.04. TRUSTEE'S DISCLAIMER.

The Trustee will not be (A) responsible for, and makes no representation as to, the validity or adequacy of this Indenture or the Notes; (B) accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture; (C) responsible for the use or application of any money received by

any Paying Agent other than the Trustee; and (D) responsible for any statement or recital in this Indenture, the Notes or any other document relating to the sale of the Notes or this Indenture, other than the Trustee's certificate of authentication.

Section 10.05. NOTICE OF DEFAULTS.

If a Default or Event of Default occurs and is continuing and is known to the Trustee, then the Trustee will send Holders a notice of such Default or Event of Default within 90 days after it occurs or, if it is not known to the Trustee at such time, promptly (and in any event within ten Business Days) after it becomes known to the Trustee; *provided, however*, that, except in the case of a Default or Event of Default in the payment of the principal of, or interest, if any, on, any Note, or a Default in the payment or delivery of any Conversion Consideration due upon conversion of any Note, the Trustee may withhold such notice if and for so long as it in good faith determines that withholding such notice is in the interests of the Holders. The Trustee will not be deemed to have notice or be charged with knowledge of any Default or Event of Default unless written notice thereof has been received by a Responsible Officer, and such notice references the Notes and this Indenture and states on its face that a Default or Event of Default has occurred.

Section 10.06. COMPENSATION AND INDEMNITY.

(A) The Company will, from time to time, pay the Trustee and the Note Agents reasonable compensation for its acceptance of this Indenture and services under this Indenture as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. In addition to the compensation for the Trustee's services, the Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it under this Indenture, including the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(B) The Company will indemnify the Trustee (in each of its capacities) and its directors, officers, employees and agents, in their capacities as such, against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this **Section 10.06**) and defending itself against any claim (whether asserted by the Company, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties under this Indenture, except to the extent any such loss, liability or expense is attributable to its gross negligence, bad faith or willful misconduct, as determined by a final non-appealable order of a court of competent jurisdiction. The Trustee will promptly notify the Company of any claim for which it may seek indemnity, but the Trustee's failure to so notify the Company will not relieve the Company of its obligations under this **Section 10.06(B)**, except to the extent the Company is materially prejudiced by such failure. The Company will defend such claim, and the Trustee will cooperate in such defense. If the Trustee is advised by counsel that it may have defenses available to it that are in conflict with the defenses available to the Company, or that there is an actual or potential conflict of interest, then the Trustee may retain separate counsel, and the Company will pay the reasonable fees and expenses of such counsel (including the reasonable fees and expenses of counsel to the Trustee incurred in evaluating whether such a conflict exists). The Company need not pay for any settlement of any such claim made without its consent, which consent will not be unreasonably withheld.

(C) The obligations of the Company under this **Section 10.06** will survive the resignation or removal of the Trustee and the discharge of this Indenture.

(D) To secure the Company's payment obligations in this **Section 10.06**, the Trustee will have a lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal of, or interest, if any, on, particular Notes, which lien will survive the discharge of this Indenture.

(E) If the Trustee incurs expenses or renders services after an Event of Default pursuant to **clause (viii) or (ix) of Section 7.01(A)** occurs, then such expenses and the compensation for such services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 10.07. REPLACEMENT OF THE TRUSTEE.

(A) Notwithstanding anything to the contrary in this **Section 10.07**, a resignation or removal of the Trustee, and the appointment of a successor Trustee, will become effective only upon such successor Trustee's acceptance of appointment as provided in this **Section 10.07**.

(B) The Trustee may resign at any time and be discharged from the trust created by this Indenture by so notifying the Company. The Holders of a majority in aggregate principal amount of the Notes then outstanding may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

- (i) the Trustee fails to comply with **Section 10.09**;
- (ii) the Trustee is adjudged to be bankrupt or insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (iii) a custodian or public officer takes charge of the Trustee or its property; or
- (iv) the Trustee becomes incapable of acting.

(C) If the Trustee resigns or is removed, or if a vacancy exists in the office of the Trustee for any reason, then (i) the Company will promptly appoint a successor Trustee; and (ii) at any time within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the Notes then outstanding may appoint a successor Trustee to replace such successor Trustee appointed by the Company.

(D) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, then the retiring Trustee, the Company or the Holders of at least 10% in aggregate principal amount of the Notes then outstanding may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(E) If the Trustee, after written request by a Holder of at least six months, fails to comply with **Section 10.09**, then such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(F) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company, upon which notice the resignation or removal of the retiring Trustee will become effective and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will send notice of its succession to Holders. The retiring Trustee will, upon payment of all amounts due to it under this Indenture, promptly transfer all property held by it as Trustee to the successor Trustee, which property will, for the avoidance of doubt, be subject to the lien provided for in **Section 10.06(D)**.

Section 10.08. SUCCESSOR TRUSTEE BY MERGER, ETC.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, then such corporation will become the successor Trustee without any further act.

Section 10.09. ELIGIBILITY; DISQUALIFICATION.

There will at all times be a Trustee under this Indenture that is a corporation organized and doing business under the laws of the United States of America or of any state thereof, that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100.0 million as set forth in its most recent published annual report of condition.

Article 11. MISCELLANEOUS

Section 11.01. NOTICES.

Any notice or communication by the Company or the Trustee to the other will be deemed to have been duly given if in writing (including any notice pursuant to Article 5) and delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission, electronic transmission or other similar means of unsecured electronic communication or overnight air courier guaranteeing next day delivery, or to the other's address, which initially is as follows:

If to the Company:

IMAX Corporation
902 Broadway, Floor 20
New York, New York 10010
Attention: General Counsel

with a copy (which will not constitute notice) to:

Latham & Watkins LLP
555 Eleventh St. NW, Suite 1000
Washington, District of Columbia 20004
Attention: Patrick H. Shannon, Esq.; Christopher J. Clark, Esq.

If to the Trustee:

U.S. Bank National Association
West Side Flats
60 Livingston Avenue
EP-MN-WS3C
St. Paul, Minnesota 55107
Attention: B. Bonfig (IMAX)

The Company or the Trustee, by notice to the other, may designate additional or different addresses (including facsimile numbers and electronic addresses) for subsequent notices or communications.

Any communication sent to Trustee under this Indenture that requires a signature must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to Trustee by an authorized representative of the Company). The Company agrees to assume all risks arising out of its use of digital signatures and electronic methods to submit communications to Trustee, including the risk of the Trustee acting on unauthorized instructions and the risk of interception and misuse by third parties.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: (A) at the time delivered by hand, if personally delivered; (B) five Business Days after being deposited in the mail, postage prepaid, if mailed; (C) when receipt acknowledged, if transmitted by facsimile, electronic transmission or other similar means of unsecured electronic communication; and (D) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

All notices or communications required to be made to a Holder pursuant to this Indenture must be made in writing and will be deemed to be duly sent or given in writing if mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to its address shown on the Register; *provided, however*, that a notice or communication to a Holder of a Global Note may, but need not, instead be sent pursuant to the Depositary Procedures (in which case, such notice will be deemed to be duly sent or given in writing). The failure to send a notice or communication to a Holder, or any defect in such notice or communication, will not affect its sufficiency with respect to any other Holder.

If the Trustee is then acting as the Depositary's custodian for the Notes, then, at the reasonable request of the Company to the Trustee, the Trustee will cause any notice prepared by the Company to be sent to any Holder(s) pursuant to the Depositary Procedures, *provided* such request is evidenced in a Company Order delivered, together with the text of such notice, to the Trustee at least two Business Days before the date such notice is to be so sent. For the avoidance of doubt, such Company Order need not be accompanied by an Officer's Certificate or Opinion of Counsel. The Trustee will not have any liability relating to the contents of any notice that it sends to any Holder pursuant to any such Company Order.

If a notice or communication is mailed or sent in the manner provided above within the time prescribed, it will be deemed to have been duly given, whether or not the addressee receives it.

Notwithstanding anything to the contrary in this Indenture or the Notes, (A) whenever any provision of this Indenture requires a party to send notice to another party, no such notice need be sent if the sending party and the recipient are the same Person acting in different capacities; and (B) whenever any provision of this Indenture requires a party to send notice to more than one receiving party, and each receiving party is the same Person acting in different capacities, then only one such notice need be sent to such Person.

Section 11.02. DELIVERY OF OFFICER'S CERTIFICATE AND OPINION OF COUNSEL AS TO CONDITIONS PRECEDENT.

Upon any request or application by the Company to the Trustee to take any action under this Indenture (other than the initial authentication of Notes under this Indenture), the Company will furnish to the Trustee:

(A) an Officer's Certificate in form reasonably satisfactory to the Trustee that complies with **Section 11.03** and states that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to such action have been satisfied; and

(B) an Opinion of Counsel in form reasonably satisfactory to the Trustee that complies with **Section 11.03** and states that, in the opinion of such counsel, all such conditions precedent and covenants, if any, have been satisfied.

Section 11.03. STATEMENTS REQUIRED IN OFFICER'S CERTIFICATE AND OPINION OF COUNSEL.

Each Officer's Certificate (other than an Officer's Certificate pursuant to **Section 3.05**) or Opinion of Counsel with respect to compliance with a covenant or condition provided for in this Indenture will include:

(A) a statement that the signatory thereto has read such covenant or condition;

(B) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained therein are based;

(C) a statement that, in the opinion of such signatory, he, she or it has made such examination or investigation as is necessary to enable him, her or it to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(D) a statement as to whether, in the opinion of such signatory, such covenant or condition has been satisfied.

Section 11.04. RULES BY THE TRUSTEE, THE REGISTRAR AND THE PAYING AGENT.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar, Paying Agent or Conversion Agent may make reasonable rules and set reasonable requirements for its functions.

Section 11.05. NO PERSONAL LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS.

No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under this Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

Section 11.06. GOVERNING LAW; WAIVER OF JURY TRIAL.

THIS INDENTURE AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE TRUSTEE AND EACH HOLDER (BY ITS ACCEPTANCE OF ANY NOTE) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE OR THE NOTES.

Section 11.07. SUBMISSION TO JURISDICTION.

Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party’s address set forth in **Section 11.01** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum. To the extent that the Company has or may acquire any sovereign or other immunity from jurisdiction of any court or from any legal process with respect to the Company or its property, the Company irrevocably waives such immunity in respect of its obligations under this Indenture or under any Note.

Section 11.08. NO ADVERSE INTERPRETATION OF OTHER AGREEMENTS.

Neither this Indenture nor the Notes may be used to interpret any other indenture, note, loan or debt agreement of the Company or its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes.

Section 11.09. SUCCESSORS.

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors.

Section 11.10. FORCE MAJEURE.

The Trustee and each Note Agent will not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility under this Indenture or the Notes by reason of any occurrence beyond its control (including any act or provision of any present or future law or regulation or governmental authority, act of God or war, civil unrest, local or national disturbance or disaster, act of terrorism or unavailability of the Federal Reserve Bank wire or facsimile or other wire or communication facility).

Section 11.11. U.S.A. PATRIOT ACT.

The Company acknowledges that, in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee, like all financial institutions, in order to help fight the funding of terrorism and money laundering, is required to obtain, verify and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The Company agrees to provide the Trustee with such information as it may request to enable the Trustee to comply with the U.S.A. PATRIOT Act.

Section 11.12. CALCULATIONS.

Except as otherwise provided in this Indenture, the Company will be responsible for making all calculations called for under this Indenture or the Notes, including determinations of the Last Reported Sale Price, the Trading Price, the Daily Conversion Value, the Daily Cash Amount, the Daily Share Amount, accrued interest on the Notes, the Conversion Rate, the Redemption Price and whether the Notes are convertible.

The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of its calculations to the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent may rely conclusively on the accuracy of the Company's calculations without independent verification. The Trustee will promptly forward a copy of each such schedule to a Holder upon its written request therefor. For the avoidance of doubt, the Trustee will not be obligated to make or confirm any calculations called for under this Indenture or the Notes.

Section 11.13. SEVERABILITY.

If any provision of this Indenture or the Notes is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Indenture or the Notes will not in any way be affected or impaired thereby.

Section 11.14. COUNTERPARTS.

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Indenture by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

Section 11.15. TABLE OF CONTENTS, HEADINGS, ETC.

The table of contents and the headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions of this Indenture.

Section 11.16. CURRENCY INDEMNITY.

U.S. dollars are the sole currency of account and payment for all sums payable by the Company under or in connection with the Notes, including damages. Any amount received or recovered in a currency other than U.S. dollars (as a result of, or through the enforcement of, a judgment or order of a court of any jurisdiction, in the Company's winding-up or dissolution or otherwise) by any Holder of a Note in respect of any sum expressed to be due to it from the Company will only constitute a discharge to the Company to the extent of the U.S. dollar amount that the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. dollar amount is less than the U.S. dollar amount expressed to be due to the recipient under any Note, the Company will indemnify such Holder against any loss sustained by it as a result; and if the amount of U.S. dollars so purchased is greater than the sum originally due to such Holder, such Holder will, by accepting a Note, be deemed to have agreed to repay such excess. In any event, the Company will indemnify the recipient against the cost of making any such purchase.

Section 11.17. INTEREST ACT (CANADA).

For purposes of disclosure pursuant to the Interest Act (Canada), as amended, restated, replaced or re-enacted from time to time, the yearly rate of interest to which any rate of interest or other amount payable under the Indenture or the Notes which is to be calculated on the basis of a number of days that is less than a full calendar year is equivalent, may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties to this Indenture have caused this Indenture to be duly executed as of the date first written above.

IMAX CORPORATION

By: /s/ Patrick McClymont

Name: Patrick McClymont

Title: Chief Financial Officer & EVP

By: /s/ Robert D. Lister

Name: Robert D. Lister

Title: Chief Legal Officer & Sr. EVP

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Donald T. Hurrelbrink

Name: Donald T. Hurrelbrink

Title: Vice President

[Signature Page to Indenture]

FORM OF NOTE*[Insert Global Note Legend, if applicable]**[Insert Restricted Note Legend, if applicable]**[Insert Affiliate Resale Legend]***IMAX Corporation****0.500% Convertible Senior Note due 2026**CUSIP No.: [] *[Insert for a "restricted" CUSIP number: *]*

Certificate No. []

ISIN No.: [] *[Insert for a "restricted" ISIN number: *]*

IMAX Corporation, a corporation amalgamated under the laws of Canada, for value received, promises to pay to [Cede & Co.], or its registered assigns, the principal sum of [] dollars (\$[]) [(as revised by the attached Schedule of Exchanges of Interests in the Global Note)][†] on April 1, 2026 and to pay interest thereon, as provided in the Indenture referred to below, until the principal and all accrued and unpaid interest are paid or duly provided for.

Interest Payment Dates: April 1 and October 1 of each year.

Interest Record Dates: March 15 and September 15 (whether or not a Business Day).

Additional provisions of this Note are set forth on the other side of this Note.

[Signature Page Follows]

* This Note will be deemed to be identified by CUSIP No. 45245E AJ8 and ISIN No. US45245E AJ82 from and after such time when the Company delivers, pursuant to Section 2.12 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.

† Insert bracketed language for Global Notes only.

IN WITNESS WHEREOF, IMAX Corporation has caused this instrument to be duly executed as of the date set forth below.

IMAX CORPORATION

Date: _____

By: _____

Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. Bank National Association, as Trustee, certifies that this is one of the Notes referred to in the within-mentioned Indenture.

Date: _____

By: _____

Authorized Signatory

IMAX Corporation

0.500% Convertible Senior Note due 2026

This Note is one of a duly authorized issue of notes of IMAX Corporation, a corporation amalgamated under the laws of Canada (the “**Company**”), designated as its 0.500% Convertible Senior Notes due 2026 (the “**Notes**”), all issued or to be issued pursuant to an indenture, dated as of March 19, 2021 (as the same may be amended from time to time, the “**Indenture**”), between the Company and U.S. Bank National Association, as trustee. Capitalized terms used in this Note without definition have the respective meanings ascribed to them in the Indenture.

The Indenture sets forth the rights and obligations of the Company, the Trustee and the Holders and the terms of the Notes. Notwithstanding anything to the contrary in this Note, to the extent that any provision of this Note conflicts with the provisions of the Indenture, the provisions of the Indenture will control.

1. **Interest.** This Note will accrue interest at a rate and in the manner set forth in Sections 2.05, 7.03 and 3.04 of the Indenture. Stated Interest on this Note will begin to accrue from, and including, [date].

2. **Maturity.** This Note will mature on April 1, 2026, unless earlier repurchased, redeemed or converted.

3. **Method of Payment.** Cash amounts due on this Note will be paid in the manner set forth in Section 2.04 of the Indenture.

4. **Persons Deemed Owners.** The Holder of this Note will be treated as the owner of this Note for all purposes.

5. **Denominations; Transfers and Exchanges.** All Notes will be in registered form, without coupons, in principal amounts equal to any Authorized Denominations. Subject to the terms of the Indenture, the Holder of this Note may transfer or exchange this Note by presenting it to the Registrar and delivering any required documentation or other materials.

6. **Right of Holders to Require the Company to Repurchase Notes upon a Fundamental Change.** If a Fundamental Change (other than an Exempted Fundamental Change) occurs, then each Holder will have the right to require the Company to repurchase such Holder’s Notes (or any portion thereof in an Authorized Denomination) for cash in the manner, and subject to the terms, set forth in Section 4.02 of the Indenture.

7. **Right of the Company to Redeem the Notes.** The Company will have the right to redeem the Notes for cash in the manner, and subject to the terms, set forth in Section 4.03 of the Indenture.

8. **Conversion.** The Holder of this Note may convert this Note into Conversion Consideration in the manner, and subject to the terms, set forth in Article 5 of the Indenture.

9. **When the Company May Merge, Etc.** Article 6 of the Indenture places limited restrictions on the Company's ability to be a party to a Business Combination Event.

10. **Defaults and Remedies.** If an Event of Default occurs, then the principal amount of, and all accrued and unpaid interest on, all of the Notes then outstanding may (and, in certain circumstances, will automatically) become due and payable in the manner, and subject to the terms, set forth in Article 7 of the Indenture.

11. **Amendments, Supplements and Waivers.** The Company and the Trustee may amend or supplement the Indenture or the Notes or waive compliance with any provision of the Indenture or the Notes in the manner, and subject to the terms, set forth in Section 7.05 and Article 8 of the Indenture.

12. **No Personal Liability of Directors, Officers, Employees and Shareholders.** No past, present or future director, officer, employee, incorporator or shareholder of the Company, as such, will have any liability for any obligations of the Company under the Indenture or the Notes or for any claim based on, in respect of, or by reason of, such obligations or their creation. By accepting any Note, each Holder waives and releases all such liability. Such waiver and release are part of the consideration for the issuance of the Notes.

13. **Authentication.** No Note will be valid until it is authenticated by the Trustee. A Note will be deemed to be duly authenticated only when an authorized signatory of the Trustee (or a duly appointed authenticating agent) manually signs the certificate of authentication of such Note.

14. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

15. **Governing Law.** THIS NOTE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS NOTE, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

* * *

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address:

IMAX Corporation
902 Broadway, Floor 20
New York, New York 10010
Attention: General Counsel

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SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE*

INITIAL PRINCIPAL AMOUNT OF THIS GLOBAL NOTE: \$[]

The following exchanges, transfers or cancellations of this Global Note have been made:

Date	Amount of Increase (Decrease) in Principal Amount of this Global Note	Principal Amount of this Global Note After Such Increase (Decrease)	Signature of Authorized Signatory of Trustee

* Insert for Global Notes only.

CONVERSION NOTICE

IMAX Corporation

0.500% Convertible Senior Notes due 2026

Subject to the terms of the Indenture, by executing and delivering this Conversion Notice, the undersigned Holder of the Note identified below directs the Company to convert (check one):

- the entire principal amount of
- \$_____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that if the Conversion Date of a Note to be converted is after an Interest Record Date and before the next Interest Payment Date, then such Note, when surrendered for conversion, must, in certain circumstances, be accompanied with an amount of cash equal to the interest that would have accrued on such Note to, but excluding, such Interest Payment Date.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____

Authorized Signatory

* Must be an Authorized Denomination.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

IMAX Corporation

0.500% Convertible Senior Notes due 2026

Subject to the terms of the Indenture, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Note identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

- the entire principal amount of
- \$_____ * aggregate principal amount of

the Note identified by CUSIP No. _____ and Certificate No. _____.

The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____

(Legal Name of Holder)

By: _____
Name:
Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____
Authorized Signatory

* Must be an Authorized Denomination.

ASSIGNMENT FORM

IMAX Corporation

0.500% Convertible Senior Notes due 2026

Subject to the terms of the Indenture, the undersigned Holder of the Notes identified below assigns (check one):

- the entire principal amount of
- \$_____ * aggregate principal amount of

the Notes identified by CUSIP No. _____ and Certificate No. _____, and all rights thereunder, to:

Name: _____

Address: _____

Social security or tax id. #: _____

and irrevocably appoints: _____

as agent to transfer the within Note on the books of the Company. The agent may substitute another to act for him/her.

Date: _____

(Legal Name of Holder)

By: _____

Name:

Title:

Signature Guaranteed:

Participant in a Recognized Signature
Guarantee Medallion Program

By: _____

Authorized Signatory

* Must be an Authorized Denomination.

TRANSFEROR ACKNOWLEDGMENT

If the within Note bears a Restricted Note Legend, the undersigned further certifies that (check one):

- 1. Such Transfer is being made to the Company or a Subsidiary of the Company.
- 2. Such Transfer is being made pursuant to, and in accordance with, a registration statement that is effective under the Securities Act at the time of the Transfer.
- 3. Such Transfer is being made pursuant to, and in accordance with, Rule 144A under the Securities Act, and, accordingly, the undersigned further certifies that the within Note is being transferred to a Person that the undersigned reasonably believes is purchasing the within Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act in a transaction meeting the requirements of Rule 144A. **If this item is checked, then the transferee must complete and execute the acknowledgment contained on the next page.**
- 4. Such Transfer is being made pursuant to, and in accordance with, any other available exemption from the registration requirements of the Securities Act (including, if available, the exemption provided by Rule 144 under the Securities Act).

Dated: _____

(Legal Name of Holder)

By: _____

Name:
Title:

Signature Guaranteed:

(Participant in a Recognized Signature
Guarantee Medallion Program)

By: _____

Authorized Signatory

TRANSFEREE ACKNOWLEDGMENT

The undersigned represents that it is purchasing the within Note for its own account, or for one or more accounts with respect to which the undersigned exercises sole investment discretion, and that and the undersigned and each such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act. The undersigned acknowledges that the transferor is relying, in transferring the within Note on the exemption from the registration and prospectus-delivery requirements of the Securities Act of 1933, as amended, provided by Rule 144A and that the undersigned has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A.

Dated: _____

(Name of Transferee)

By: _____

Name:

Title:

FORM OF RESTRICTED NOTE LEGEND

THE OFFER AND SALE OF THIS NOTE AND THE COMMON SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

- (1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT; AND
- (2) AGREES FOR THE BENEFIT OF IMAX CORPORATION (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN, EXCEPT ONLY:
 - (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF;
 - (B) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT;
 - (C) TO A PERSON REASONABLY BELIEVED TO BE A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT;
 - (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT; OR
 - (E) PURSUANT TO ANY OTHER EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

BEFORE THE REGISTRATION OF ANY SALE OR TRANSFER IN ACCORDANCE WITH (2)(D) OR (E) ABOVE, THE COMPANY, THE TRUSTEE AND THE REGISTRAR RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH CERTIFICATES OR OTHER DOCUMENTATION OR EVIDENCE AS THEY MAY REASONABLY REQUIRE IN ORDER TO DETERMINE THAT THE PROPOSED SALE OR TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS.*

* This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.12 of the within-mentioned Indenture.

UNLESS PERMITTED UNDER APPLICABLE CANADIAN SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THIS SECURITY AND THE SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY, BEFORE JULY 20, 2021.

B1-2

FORM OF GLOBAL NOTE LEGEND

THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THIS NOTE FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN ARTICLE 2 OF THE INDENTURE HEREINAFTER REFERRED TO.

FORM OF AFFILIATE RESALE LEGEND

ANY AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY THAT ACQUIRES THIS NOTE OR ANY COMMON SHARE ISSUED UPON CONVERSION OF THIS NOTE (OR ANY INTEREST IN ANY OF THE FOREGOING) MAY NOT RESELL SUCH NOTE OR SHARE (OR INTEREST THEREIN), AS APPLICABLE, UNLESS IN A TRANSACTION THAT IS REGISTERED UNDER THE SECURITIES ACT OR PURSUANT TO AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IN A TRANSACTION IMMEDIATELY FOLLOWING WHICH SUCH RESOLD NOTE OR SHARE (OR INTEREST THEREIN), AS APPLICABLE, IS NOT A "RESTRICTED SECURITY" (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT).

FORM OF ERISA LEGEND

BY ITS ACQUISITION OF THIS SECURITY, THE HOLDER THEREOF WILL BE DEEMED TO HAVE REPRESENTED AND WARRANTED THAT EITHER (1) NO PORTION OF THE ASSETS USED BY SUCH HOLDER TO PURCHASE OR HOLD THIS SECURITY CONSTITUTES THE ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), ANY PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE") OR PROVISIONS UNDER ANY OTHER U.S. OR NON-U.S. FEDERAL, STATE, LOCAL OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO SUCH PROVISIONS OF ERISA OR THE CODE ("SIMILAR LAWS"), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE "PLAN ASSETS" OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT, OR (2) THE PURCHASE, HOLDING AND DISPOSITION OF THIS SECURITY WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS.

B4-1

Wells Fargo Bank, National Association
30 Hudson Yards
New York, NY 10001-2170
Email: CorporateDerivativeNotifications@wellsfargo.com

March 16, 2021

To: IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance
& Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com; KWeissman@imax.com

Re: Base Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between Wells Fargo Bank, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by up to an aggregate principal amount of USD 30,000,000 if and to the extent that the Initial Purchasers (as defined herein) exercise their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
 - (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided that* “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 16, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	200,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	25%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.

Strike Price: USD 28.7550
Cap Price: USD 37.2750
Premium: USD 4,145,000
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation

imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Combination Settlement:

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:

If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “**Cash Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period

	for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, <i>less</i> (B) the Strike Price on such Valid Day; <i>provided</i> that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by

Settlement Averaging Period:	the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.
Settlement Date:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41 st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “ Securities Act ”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. **Additional Terms applicable to the Transaction.**

Adjustments applicable to the Transaction:

Potential Adjustment Events:	Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or
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Method of Adjustment:

(y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers:

Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events / Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however*, that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be commercially reasonable to do so, shall)”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event”

shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of “Merger Event” following the definition of “Reverse Merger” therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the

same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:
“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and
- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party:

For all applicable Extraordinary Events, Dealer; *provided* that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation

Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
ABA: 121-000-248
Wells Fargo Bank, National Association
Charlotte, NC
Internal Acct No. 01020304464228
A/C Name: WFB Equity Derivatives
Account for delivery of Shares from Dealer:
DTC Number: 2072
Agent ID: 52196
Institution ID: 52196

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: Charlotte

7. **Notices.**

- (a) Address for notices or communications to Counterparty:
IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1

Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010

Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

- (b) Address for notices or communications to Dealer:

Notwithstanding anything to the contrary in the Agreement, all notices to Dealer in connection with the Transaction are effective only upon receipt of email message to

CorporateDerivativeNotifications@wellsfargo.com

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.
- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.

- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade

Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the Cares Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).

- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such

failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
 - (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;
 - (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;

- (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty's consent, transfer or assign (a "**Transfer**") all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer

and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a "**Dealer Designated Affiliate**") to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).

- (f) Staggered Settlement. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer's commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [Reserved.]
- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a "Notice of Conversion" (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the "Conversion Date" (as defined in the Indenture) for such Early Conversion, provide written notice (an "**Early Conversion Notice**") to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the "**Affected Convertible Notes**") and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
 - (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the "**Affected Number of Options**") equal to the lesser of (x) the number of Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
 - (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional

- Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
- (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
- (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a

Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

(iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

(i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”

(i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; *provided* that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”

- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) *Setoff.* Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) *Adjustments.* For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.
- (m) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty’s control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a “**Payment Obligation**”), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the “ Exchange Property ”), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable.
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.
(n)	<u>Waiver of Jury Trial</u> . Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.
(o)	<u>Registration</u> . Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“ Hedge Shares ”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering,

make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.

- (p) *Tax Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) *Right to Extend*. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer’s commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.
- (r) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’s right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer’s rights in respect of any transactions other than the Transaction.
- (s) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a “securities contract” and a “swap agreement” as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party’s right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a “contractual right” as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a “margin payment” or “settlement payment” and a “transfer” as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an “eligible financial contract” as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.

- (t) Notice of Certain Other Events. Counterparty covenants and agrees that:
- (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the “**Consideration Notification Date**”); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) Wall Street Transparency and Accountability Act. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“**WSTAA**”), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party’s otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).
- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Underwritten Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.
- (z) Delivery of Tax Certificates. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.
- (aa) Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

- (bb) *Incorporation of ISDA 2015 Section 871(m) Protocol Provisions.* To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) *Payee Tax Representations.* For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable:
- Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer represents that it is a national banking association organized or formed under the laws of the United States and is a United States resident for United States federal income tax purposes and is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) *U.S. Resolution Stay Protocol.* The parties agree that (i) to the extent that prior to the date hereof all parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a Protocol Covered Agreement and each party shall be deemed to have the same status as Regulated Entity and/or Adhering Party as applicable to it under the Protocol; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of this Agreement and each party shall be deemed to have the status of “Covered Entity” or “Counterparty Entity” (or other similar term) as applicable to it under the Bilateral Agreement; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a “Covered Agreement,” Wells Fargo Bank, National Association shall be deemed “Covered Entities” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of this Agreement, all parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “this Agreement” include any related credit enhancements entered into between the parties or provided by one to the other.

“QFC Stay Rules” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

Wells Fargo Bank, National Association

By: /s/ Cathleen Burke

Authorized Signatory

Name: Cathleen Burke

Accepted and confirmed
as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Base Capped Call Confirmation]

Mizuho Markets Americas LLC
c/o Mizuho Securities USA LLC, as agent
1271 Avenue of the Americas
New York, NY 10020

March 16, 2021

To: IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance
& Corporate Treasurer
Telephone No.: (905) 403-6457
Email: N Fernandes@imax.com; K Weissman@imax.com

Re: Base Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between Mizuho Markets Americas LLC (“**MMA**”) (with Mizuho Securities USA LLC (“**MSUSA**”) acting as agent) (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto. MMA is acting as principal in its capacity as Dealer hereunder and MSUSA, its affiliate, is acting as agent for MMA, in its capacity as Dealer hereunder, and Counterparty hereunder. This Confirmation is a confirmation for purposes of Rule 10b-10 promulgated under the Exchange Act (as defined below). **MMA is not a member of the Securities Investor Protection Corporation.**

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by up to an aggregate principal amount of USD 30,000,000 if and to the extent that the Initial Purchasers (as defined herein) exercise their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency;
 - (b) (i) the election of an executed guarantee of Mizuho Bank, Ltd. ("**Guarantor**") dated as of the Trade Date in substantially the form attached hereto as Schedule 1 as a Credit Support Document, and (ii) the election of Guarantor as Credit Support Provider in relation to Dealer; and
 - (c) (i) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a "Threshold Amount" of three percent of Dealer's ultimate parent's shareholders' equity as of the Trade Date; *provided* that "Specified Indebtedness" shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business, (ii) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay."

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 16, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	"Modified American", as described under "Procedures for Exercise" below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: "IMAX").
Number of Options:	200,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.

Applicable Percentage: 25%

Option Entitlement: A number equal to the product of the Applicable Percentage and 34.7766.

Strike Price: USD 28.7550

Cap Price: USD 37.2750

Premium: USD 4,145,000

Premium Payment Date: March 19, 2021

Exchange: The New York Stock Exchange

Related Exchange(s): All Exchanges

Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred shall be deemed to be automatically

exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid

Combination Settlement:

Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

	Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.
Cash Settlement:	If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “Cash Settlement Amount”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, <i>less</i> (B) the Strike Price on such Valid Day; <i>provided</i> that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.
Settlement Averaging Period:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41 st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Date:	For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “ Securities Act ”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. **Additional Terms applicable to the Transaction.**

Adjustments applicable to the Transaction:

Potential Adjustment Events:	Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of
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a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion

Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers:

Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events /
Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however*, that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be

commercially reasonable to do so, shall)", (y) the phrase "exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)" shall be replaced with the phrase "Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)" and the words "whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event" shall be inserted prior to the word "which" in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of "Merger Event" following the definition of "Reverse Merger" therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or

its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted

on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:
“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and
- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and

manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party:

For all applicable Extraordinary Events, Dealer; *provided* that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments
Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
ABA: 021000018
BIC: IRVTUS3N
Account: 8901498653
Beneficiary: Mizuho Markets Americas LLC
Account for delivery of Shares from Dealer:
To be provided by Dealer

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: New York

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

(b) Address for notices or communications to Dealer:

Mizuho Securities USA LLC
1271 Avenue of the Americas
New York, NY 10020
Attention: Mariano Gaut, Managing Director
Telephone: (212) 205-7608
Email: mariano.gaut@mizuhogroup.com

With a copy to:

Mizuho Markets Americas LLC
c/o Mizuho Securities USA LLC, as agent
1271 Avenue of the Americas
New York, NY 10020
Attention: US Equity Derivatives Notices
Telephone: (646) 949-9531
Email: Derivs-EQNoticesUS@mizuhogroup.com

Notwithstanding any provisions of the Agreement, all communications relating to the Transaction, this Confirmation or the Agreement shall be transmitted exclusively through MSUSA at the address provided in Section 7(b) above.

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.

- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.
- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature,

(C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.

- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).
- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.

- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.
9. **Representation and Warranty of the Dealer.**
- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.
10. **Other Provisions.**
- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith

with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney's fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty's failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty's failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.

(e) Transfer or Assignment.

- (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
- (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;
 - (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty’s consent, transfer or assign (a “**Transfer**”) all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer’s credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer’s ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or

assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and

(ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number

of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).
- (f) Staggered Settlement. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer’s commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) as follows:
 - (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) Role of Agent.
 - (i) MSUSA received or will receive other remuneration from MMA in relation to this Confirmation and the Transaction hereunder. The amount and source of such other remuneration will be furnished upon written request.
 - (ii) Counterparty understands and agrees that MSUSA will act as agent for MMA with respect to the Transaction and has no obligation, by way of issuance, endorsement, guarantee or otherwise with respect to the performance of either party under the Transaction. MSUSA shall have no responsibility or personal liability to Counterparty arising from any failure by MMA to pay or perform any obligations hereunder or to monitor or enforce compliance by MMA or Counterparty with any obligation hereunder, including, without limitation, any obligations to maintain collateral. MSUSA is so acting solely in its capacity as agent for MMA pursuant to instructions from MMA. Each of MMA and Counterparty agrees to proceed solely against the other to collect or recover any securities or monies owing to it in connection with or as a result of the Transaction.

- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a “Notice of Conversion” (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
- (A) Counterparty shall, within five Scheduled Trading Days of the “Conversion Date” (as defined in the Indenture) for such Early Conversion, provide written notice (an “**Early Conversion Notice**”) to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the “**Affected Convertible Notes**”) and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
- (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the “**Affected Number of Options**”) equal to the lesser of (x) the number of Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
- (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
- (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and

- (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holder**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).
- (j) Amendments to Equity Definitions.
- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”
- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.

(m) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty's control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:

A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price:

The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:

One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "**Exchange Property**"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without

consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver:

Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption "Representation and Agreement" in Section 2 will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Termination Settled" and all references to "Shares" shall be read as references to "Share Termination Delivery Units". "Share Termination Settled" in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.
- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares ("**Hedge Shares**") acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no "comfort letter" or accountants' consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.

- (p) *Tax Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) *Right to Extend*. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.
- (r) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.
- (s) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an "eligible financial contract" as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) *Notice of Certain Other Events*. Counterparty covenants and agrees that:
- (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.

- (u) Wall Street Transparency and Accountability Act. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“WSTAA”), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party’s otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).
- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Underwritten Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.
- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A)

and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.

- (z) *Delivery of Tax Certificates*. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.
- (aa) *Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act*. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) *Incorporation of ISDA 2015 Section 871(m) Protocol Provisions*. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.

- (cc) Payee Tax Representations. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable:
- Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer is a U.S. limited liability company organized under the laws of the State of Delaware. For U.S. Federal income tax purposes, it is a Disregarded Entity of Mizuho Americas LLC, a limited liability company organized under the laws of the State of Delaware. For U.S. Federal income tax purposes, Mizuho Americas LLC has elected to be classified as a corporation. Dealer is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) U.S. Resolution Stay Protocol. The parties acknowledge and agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement, the Dealer shall be deemed a Regulated Entity and Counterparty shall be deemed an Adhering Party; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Covered Agreement, Dealer shall be deemed a Covered Entity and Counterparty shall be deemed a Counterparty Entity; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. GSIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a “Covered Agreement,” Dealer shall be deemed a “Covered Entity” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “the Agreement” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider.
- “**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.
- (ee) MMA hereby provides notice that the Securities Investor Protection Act of 1970 does not protect Counterparty and MMA is not a member of the Securities Investor Protection Corporation.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

MIZUHO MARKETS AMERICAS LLC

By: /s/ Adam Hopkins

Name: Adam Hopkins

Title: Authorized Signatory

**MIZUHO SECURITIES USA LLC,
acting solely as Agent in connection with this
Confirmation**

By: /s/ Mariano Gaut

Name: Mariano Gaut

Title: Managing Director

Accepted and confirmed as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Base Capped Call Confirmation]

Guaranty

Guaranty, dated as of [], [] by Mizuho Bank, Ltd., a banking corporation organized and existing under the laws of Japan (the “Guarantor”), in favor of [] (the “Counterparty”).

1. **Guaranty.** In connection with certain equity derivative transactions by and between Mizuho Markets Americas LLC (“Mizuho Obligor”), a wholly-owned subsidiary of the Guarantor, and the Counterparty and related terms evidenced by a trade confirmation dated on or about [], [] (together with any Additional Confirmations, the “Confirmation”), the Guarantor hereby unconditionally and irrevocably guaranties to the Counterparty, its successors and assigns the prompt payment when due, subject to any applicable grace period under such Confirmation(s), of all present and future obligations and liabilities of all kinds of Mizuho Obligor to the Counterparty arising out of such Confirmations (the “Obligations”). Capitalized terms used and not otherwise defined in this Guaranty shall have in this Guaranty the respective meanings provided for them in the relevant Confirmation.
2. **Absolute Guaranty.** The Guarantor’s obligations hereunder shall not be affected by the genuineness, validity or enforceability of the Obligations or any instrument evidencing any Obligations, or by the existence, validity, enforceability, perfection, or extent of any collateral therefor or by any other circumstance relating to the Obligations which might vary the risk of the Guarantor or otherwise constitute a defense to this Guaranty. Further, the Guarantor shall not be discharged, nor shall its liability be affected, by any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Counterparty makes no representation or warranty in respect of any such circumstance and has no duty or responsibility whatsoever to the Guarantor in respect of the management and maintenance of the Obligations or any collateral therefor. The Counterparty shall not be obligated to file any claim relating to the Obligations in the event that Mizuho Obligor becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Counterparty so to file shall not affect the Guarantor’s obligations hereunder. This Guaranty constitutes a guaranty of payment when due and not of collection. In the event that any payment by Mizuho Obligor or the Guarantor in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder in respect of such Obligations as if such payment had not been made.
3. **Consents, Waivers and Renewals.** The Guarantor agrees that the Counterparty may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, exchange or surrender any collateral for, or renew any of the Obligations, and may also make any agreement with Mizuho Obligor or with any other party to or person liable on any of the Obligations, or interested therein, for the extension, renewal, payment, compromise, discharge or release thereof, in whole or in part, or for any modification of the terms thereof or of any agreement between the Counterparty and Mizuho Obligor or any such other party or person, without in any way impairing or affecting this Guaranty. The Guarantor agrees that the Counterparty may resort to the Guarantor for payment of any of the Obligations, whether or not the Counterparty shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Obligations.
4. **Expenses.** The Guarantor agrees to pay on demand all out-of-pocket expenses, including without limitation the reasonable fees and disbursements of Counterparty’s counsel, in any way relating to the enforcement or protection of the rights of the Counterparty hereunder; provided, that the Guarantor shall not be liable for any expenses of the Counterparty if no payment under this Guaranty is due.
5. **Subrogation.** The Guarantor shall not exercise any rights which it may acquire by way of subrogation in consequence of its payment of any of the Obligations until all the Obligations shall have been paid in full. If any amount shall be paid to the Guarantor in violation of the preceding sentence, such amount shall be held in trust for the benefit of the Counterparty and shall forthwith be paid to the Counterparty to be credited and applied to the Obligations, whether matured or unmatured. Subject to the foregoing, upon payment of all the Obligations, the Guarantor shall be subrogated to the rights of the Counterparty against Mizuho Obligor, and the Counterparty agrees to take at the Guarantor’s expense such steps as the Guarantor may reasonably request to implement such subrogation.
6. **Continuing Guaranty.** This Guaranty is absolute and unconditional and shall remain in full force and effect and be binding upon the Guarantor, its successors and assigns until all the Obligations have been satisfied in full. If any of the present or future Obligations are guaranteed by persons, partnerships or corporations in addition to the Guarantor, the death, release or discharge, in whole or in part, or the bankruptcy, liquidation or dissolution of one or more of them shall not discharge or affect the liabilities of the Guarantor under this Guaranty.

7. No Waiver; Cumulative Rights. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the Counterparty or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the Counterparty from time to time.

8. Waiver of Notice. The undersigned waives notice of the acceptance of this Guaranty, presentment to or demand of payment from anyone whomsoever liable upon any of the Obligations, presentment, promptness, diligence, order, notice of nonpayment by Mizuho Obligor, demand, notice of dishonor, protest, notice of any sale of collateral security and all other notices whatsoever.

9. Representations and Warranties.

- (a) The Guarantor is a Japanese corporation duly organized, validly existing and in good standing under the laws of Japan and has full corporate power to execute, deliver and perform this Guaranty.
- (b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of the Guarantor's certificate of incorporation or By-laws, as amended to date, or any law, regulation, rule, decree, order, judgement or contractual restriction binding on the Guarantor or its assets.
- (c) All consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guaranty.
- (d) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

10. Assignment. Neither the Guarantor nor the Counterparty may assign its rights or interests or delegate its obligations hereunder to any other person without the prior written consent of the Guarantor or the Counterparty, as the case may be; provided, however, that the Counterparty may assign its rights, interests and obligations hereunder to an assignee or transferee to which it has transferred its interests and obligations under the Confirmation pursuant to the terms thereof.

11. Governing Law and Jurisdiction. (a) **THIS GUARANTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED WITHIN SUCH STATE, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.**

(b) Section 13(b) of the Agreement (as defined in the Confirmation) is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, the words "this Agreement" in such Section shall be deemed to refer to this Guaranty, the words "each party" in line two of such Section shall be deemed to refer to the Guarantor and the words "either party" in line eleven of such Section shall be deemed to refer to the Counterparty.

(c) The Guarantor irrevocably consents to service of process given in the manner provided for notices in Section 14 of this Guaranty. Nothing in this Guaranty will affect the right of the Counterparty to serve process in any other manner permitted by law.

12. Taxes. Section 2(d) of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, (i) the words “this Agreement” in such Section shall be deemed to refer to this Guaranty, (ii) any references in such Section to defined terms shall have the same meanings as defined in the Agreement, except that for purposes hereof (A) all references in such defined terms to the words “this Agreement” shall be deemed to be references to the word “Guaranty”, and (B) the references in such defined terms to the words “or a Credit Support Document” shall be deemed to be deleted, (iii) the words “Section 2(d)” in such Section shall be deemed to refer to such Section as incorporated herein, (iv) other references in such Section to Sections of the Agreement shall continue to refer to such Sections and (v) “X” in such Section shall be deemed to refer to the Guarantor and “Y” in such Section shall be deemed to refer to the Counterparty.

13. Contractual Currency. Section 8 of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, the words “this Agreement” in such Section shall be deemed to refer to this Guaranty and the words “Section 8” in such Section shall refer to such Section as incorporated herein; provided, however, that in line two of Section 8(a) of the Agreement, the words “this Agreement” shall continue to refer to the Agreement.

14. Notices. Section 12 of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, (a) the words “this Agreement” in such Section shall be deemed to refer to this Guaranty and (b) the address and numbers of the Guarantor described in line three of Section 12(a) of the Agreement shall be deemed to be the following:

Mizuho Bank, Ltd.
Global Markets Coordination Department
Otemachi Tower, 1-5-5, Otemachi, Chiyoda-ku,
Tokyo, Japan 100-8176
Attention: Mitsuhsa Hirose
Facsimile number: (813) 3211-5848
Telephone number: (813) 6838-6258

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on the date specified below with effect from the date specified on the first page of this Guaranty.

MIZUHO BANK, LTD.

By:

Name: Hiroshi Minegishi

Title: Joint General Manager
Global Markets Coordination Department
Mizuho Bank, Ltd.

JPMorgan Chase Bank, National Association
New York Branch
383 Madison Avenue
New York, NY 10179

March 16, 2021

To: IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1

Attention: Natasha Fernandes, Vice-President, Finance
& Corporate Treasurer

Telephone No.: (905) 403-6457
Email: NFernandes@imax.com; KWeissman@imax.com

Re: Base Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between JPMorgan Chase Bank, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by up to an aggregate principal amount of USD 30,000,000 if and to the extent that the Initial Purchasers (as defined herein) exercise their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
 - (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided* that “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 16, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	200,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	35%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.

Strike Price: USD 28.7550
Cap Price: USD 37.2750
Premium: USD 5,803,000
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation

imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Combination Settlement:

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied* by the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:

If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “**Cash Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period

	for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, <i>less</i> (B) the Strike Price on such Valid Day; <i>provided</i> that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by

Settlement Averaging Period:	the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.
Settlement Date:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41 st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “ Securities Act ”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. Additional Terms applicable to the Transaction.

Adjustments applicable to the Transaction:

Potential Adjustment Events:

Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or

Method of Adjustment:

(y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers:

Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events /
Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however*, that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be commercially reasonable to do so, shall)”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event”

shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of “Merger Event” following the definition of “Reverse Merger” therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the

same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:
“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and
- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential

Determining Party:	<p>data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.</p> <p>For all applicable Extraordinary Events, Dealer; <i>provided</i> that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.</p> <p>Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.</p>
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
4. Calculation Agent.	<p>Dealer; <i>provided</i> that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.</p>

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
Bank: JPMorgan Chase Bank, N.A.
ABA#: 021000021
Acct No.: 099997979
Beneficiary: JPMorgan Chase Bank, N.A. New York
Ref: Derivatives

Account for delivery of Shares from Dealer:
To be provided by Dealer

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: New York

7. **Notices.**

- (a) Address for notices or communications to Counterparty:
IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

(b) Address for notices or communications to Dealer:

JPMorgan Chase Bank, National Association
EDG Marketing Support
Email: edg_notices@jpmorgan.com and edg.us.flow.corporates.mo@jpmorgan.com
Facsimile No: 1-866-886-4506

With a copy to:

Attention: Santosh Sreenivasan
Title: Managing Director
Telephone No: (212) 622-5604
Email: santosh.sreenivasan@jpmorgan.com

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.

- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of

Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others

Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
 - (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;

- (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty's consent, transfer or assign (a "**Transfer**") all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible

contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an “**Excess Ownership Position**”), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer’s commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the “**Terminated Portion**”), such that (after giving effect to such transfer or assignment and any resulting change in Dealer’s commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The “**Section 16 Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the “beneficial ownership” test under Section 13 of the Exchange Act, or any “group” (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The “**Option Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The “**Share Amount**” as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a “**Dealer Person**”) under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares (“**Applicable Restrictions**”), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The “**Applicable Share Limit**” means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and

any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).

- (f) Staggered Settlement. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer's commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [Reserved.]
- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a "Notice of Conversion" (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the "Conversion Date" (as defined in the Indenture) for such Early Conversion, provide written notice (an "**Early Conversion Notice**") to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the "**Affected Convertible Notes**") and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
 - (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the "**Affected Number of Options**") equal to the lesser of (x) the number of Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;

- (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
 - (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
 - (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
 - (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the

Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”

- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.
- (m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty’s control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a “**Payment Obligation**”), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the “ Exchange Property ”), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable.
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.

- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“**Hedge Shares**”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer’s commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.
- (r) Status of Claims in Bankruptcy. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’s right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer’s rights in respect of any transactions other than the Transaction.

- (s) Securities Contract; Swap Agreement. The parties hereto intend for (i) the Transaction to be a “securities contract” and a “swap agreement” as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party’s right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a “contractual right” as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a “margin payment” or “settlement payment” and a “transfer” as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an “eligible financial contract” as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) Notice of Certain Other Events. Counterparty covenants and agrees that:
- (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the “**Consideration Notification Date**”); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
- (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) Wall Street Transparency and Accountability Act. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“**WSTAA**”), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party’s otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).
- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Underwritten Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged

by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.
- (z) Delivery of Tax Certificates. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.

- (aa) Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) Incorporation of ISDA 2015 Section 871(m) Protocol Provisions. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) Payee Tax Representations. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable:
- Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer represents that it is a “U.S. person” (as that term is used in Section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations) for U.S. federal income tax purposes and is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) Communications with Employees of J.P. Morgan Securities LLC. If Counterparty interacts with any employee of J.P. Morgan Securities LLC with respect to the Transaction, Counterparty is hereby notified that such employee will act solely as an authorized representative of JPMorgan Chase Bank, N.A. (and not as a representative of J.P. Morgan Securities LLC) in connection with such Transaction.
- (ee) U.S. Resolution Stay Protocol. The parties acknowledge and agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement, the J.P. Morgan entity that is a party to the Agreement (“**J.P. Morgan**”) shall be deemed a Regulated Entity and the other entity that is a party to the Agreement (“**Counterparty**”) shall be deemed an Adhering Party; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Covered Agreement, J.P. Morgan shall be deemed a Covered Entity and Counterparty shall be deemed a Counterparty Entity; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available

upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a “Covered Agreement,” J.P. Morgan shall be deemed a “Covered Entity” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “the Agreement” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to J.P. Morgan replaced by references to the covered affiliate support provider.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

JPMorgan Chase Bank, National Association

By: /s/ Derek W. Brown

Authorized Signatory

Name: Derek W. Brown

Accepted and confirmed

as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Base Capped Call Confirmation]

HSBC Bank USA, National Association
 452 Fifth Avenue
 New York, NY 10018

March 16, 2021

To: IMAX Corporation
 2525 Speakman Drive
 Mississauga, Ontario, Canada L5K 1B1
 Attention: Natasha Fernandes, Vice-President, Finance
 & Corporate Treasurer
 Telephone No.: (905) 403-6457
 Email: N Fernandes@imax.com; KWeissman@imax.com

Re: Base Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between HSBC Bank USA, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by up to an aggregate principal amount of USD 30,000,000 if and to the extent that the Initial Purchasers (as defined herein) exercise their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part

of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:

- (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
- (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided* that “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 16, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	200,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	15%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.
Strike Price:	USD 28.7550

Cap Price: USD 37.2750
Premium: USD 2,487,000
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred shall be deemed to be automatically exercised; provided that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; provided that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation

imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

- Settlement Method: For any Option, Net Share Settlement; provided that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.
- Relevant Settlement Method: Relevant Settlement Method: In respect of any Option:
- (i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;
 - (ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and
 - (iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.
- Net Share Settlement: If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Combination Settlement:

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied* by the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:

If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “**Cash Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period

for such Option, of (i) the Daily Option Value for such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.

Daily Option Value:

For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, *multiplied by* (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, *less* (B) the Strike Price on such Valid Day; *provided* that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.

Applicable Limit:

For any Option, an amount of cash equal to the Applicable Percentage *multiplied by* the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.

Applicable Limit Price:

On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).

Valid Day:

A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.

Scheduled Valid Day:

A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.

Business Day:

Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

Relevant Price:

On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by

the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

Settlement Averaging Period:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Date:	For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “Securities Act”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. Additional Terms applicable to the Transaction.

Adjustments applicable to the Transaction:

Potential Adjustment Events:	Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP”, “Daily Conversion Value”, “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or
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(y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided that*, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;
- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case,

the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and

- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers: Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events /
Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however,* that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be commercially reasonable to do so, shall)”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event”

shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of “Merger Event” following the definition of “Reverse Merger” therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the

same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided that*, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:

“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and

- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential

data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party:

For all applicable Extraordinary Events, Dealer; *provided* that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments
Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation

Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
To be provided by Dealer.
Account for delivery of Shares from Dealer:
To be provided by Dealer.

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: Inapplicable, Dealer is not a Multibranch Party.

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: N Fernandes@imax.com

With a copy to:

IMAX Corporation

902 Broadway, Floor 20,

New York, New York 10010

Attention: Kenneth Weissman, General Counsel

Email: KWeissman@imax.com

- (b) Address for notices or communications to Dealer:

HSBC Bank USA, National Association

452 Fifth Avenue

New York, NY 10018

Attention: Equities Documentation

Email: EQUITIESDOCUMENTATION@hsbc.com

With a copy to:

HSBC Bank USA, National Association

452 Fifth Avenue

New York, NY 10018

Attention: David Potterbaum

Email: david.potterbaum@us.hsbc.com

8. Representations and Warranties of Counterparty.

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.

- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants

that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time

after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
 - (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;

- (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty's consent, transfer or assign (a "**Transfer**") all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of

the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an “**Excess Ownership Position**”), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer’s commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the “**Terminated Portion**”), such that (after giving effect to such transfer or assignment and any resulting change in Dealer’s commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The “**Section 16 Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the “beneficial ownership” test under Section 13 of the Exchange Act, or any “group” (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The “**Option Equity Percentage**” as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The “**Share Amount**” as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a “**Dealer Person**”) under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares (“**Applicable Restrictions**”), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The “**Applicable Share Limit**” means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and

any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).

- (f) *Staggered Settlement*. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer's commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [*Reserved.*]
- (h) *Extraterritoriality Acknowledgment*. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) *Additional Termination Events*.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a "Notice of Conversion" (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the "Conversion Date" (as defined in the Indenture) for such Early Conversion, provide written notice (an "**Early Conversion Notice**") to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the "**Affected Convertible Notes**") and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
 - (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the "**Affected Number of Options**") equal

- to the lesser of (x) the number of Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
- (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
- (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
- (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional

Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided that* in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant

Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”

- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.
- (m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty’s control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a “**Payment Obligation**”), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date

when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:

A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price:

The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:

One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the “**Exchange Property**”), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver:

Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction.

Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.

- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“**Hedge Shares**”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer’s commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.
- (r) Status of Claims in Bankruptcy. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’s right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer’s rights in respect of any transactions other than the Transaction.

- (s) Securities Contract; Swap Agreement. The parties hereto intend for (i) the Transaction to be a “securities contract” and a “swap agreement” as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party’s right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a “contractual right” as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a “margin payment” or “settlement payment” and a “transfer” as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an “eligible financial contract” as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) Notice of Certain Other Events. Counterparty covenants and agrees that:
- (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the “**Consideration Notification Date**”); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
- (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) Wall Street Transparency and Accountability Act. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 (“WSTAA”), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party’s otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).
- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Underwritten Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the

Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.
- (z) Delivery of Tax Certificates. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.

- (aa) Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) Incorporation of ISDA 2015 Section 871(m) Protocol Provisions. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) Payee Tax Representations. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable: Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer is a national banking association organized and existing under the laws of the United States of America, its federal taxpayer identification number is 20-1177241, and it is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) U.S. QFC Contractual Stay Requirements.
- (1) Recognition of U.S. Special Resolution Regimes. In the event Dealer becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Confirmation, any transaction under this Confirmation or any related Credit Enhancement between the parties and any interest and obligation in or under, and any property securing, this Confirmation from Dealer will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Confirmation and any interest and obligation in or under, and any property securing, this Confirmation were governed by the laws of the United States or a state of the United States. In the event Dealer or any Affiliate of HSBC becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Confirmation that may be exercised against Dealer are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Confirmation were governed by the laws of the United States or a state of the United States. The requirements of this Section (1) apply notwithstanding Section (2) below.
- (2) Limitation on Exercise of Certain Default Rights. Notwithstanding anything to the contrary in this Confirmation, the parties expressly agree that: (i) Counterparty shall not be permitted to exercise any Default Right with respect to this Confirmation that is related, directly or indirectly, to an Affiliate of Dealer becoming subject to an Insolvency Proceeding, except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 283.4, as applicable; and (ii) nothing in this Confirmation shall prohibit

the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement, to a transferee upon or following an Affiliate of Dealer becoming subject to an Insolvency Proceeding, unless the transfer would result in Counterparty being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to Counterparty. After an Affiliate of Dealer has become subject to an Insolvency Proceeding, if Counterparty seeks to exercise any Default Right with respect to this Confirmation, Counterparty shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

(3) *Definitions.* For the purposes of this Section 10(dd), the following definitions apply:

“**Affiliate**” means an “affiliate” defined under, and interpreted in accordance with, 12 U.S.C. 1841(k) and section 225.2 of the Board of Governors of the Federal Reserve System’s Regulation Y (12 C.F.R. 225.2(a)).

“**Credit Enhancement**” means any credit enhancement or other credit support arrangement in support of the obligations of Dealer under or with respect to this Confirmation, including any guarantee, pledge, charge, mortgage or other security interest in collateral or title transfer collateral arrangement, trust or similar arrangement, letter of credit, transfer of margin, reimbursement obligation or any similar arrangement.

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, the QFC Stay Rules, including without limitation any right of a party to liquidate, terminate, cancel, rescind, or accelerate an agreement or transactions thereunder; set off or net amounts owed; exercise remedies in respect of collateral or other credit support or related property; demand payment or delivery; suspend, delay, or defer payment or performance; alter the amount of, demand the return of or modify any right to reuse collateral or margin provided; otherwise modify the obligations of a party; or any similar rights.

“**Insolvency Proceeding**” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.81–8; 12 C.F.R. 382.1-7; and 12 C.F.R. 47.1-8. All references herein to the QFC Stay Rules shall be construed, with respect to Dealer, to the particular QFC Stay Rule(s) applicable to it.

“**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act (12 U.S.C. §§ 1811-1835(a)) and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. §§ 5381-5384) and the regulations promulgated thereunder.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

HSBC Bank USA, National Association

By: /s/ Suzette Scott

Authorized Signatory

Name: Suzette Scott

Accepted and confirmed
as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Base Capped Call Confirmation]

Wells Fargo Bank, National Association
30 Hudson Yards
New York, NY 10001-2170
Email: CorporateDerivativeNotifications@wellsfargo.com

March 18, 2021

To: IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance
& Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com; KWeissman@imax.com

Re: Additional Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between Wells Fargo Bank, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by an aggregate principal amount of USD 30,000,000 pursuant to the exercise by the Initial Purchasers (as defined herein) of their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
 - (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided* that “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 18, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	30,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	25%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.

Strike Price: USD 28.7550
Cap Price: USD 37.2750
Premium: USD 621,750
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to (x) the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred minus (y) the number of Options that are or are deemed to be automatically exercised on such Conversion Date under the Base Call Option Transaction Confirmation letter agreement dated March 16, 2021 between Dealer and Counterparty (the “**Base Call Option Confirmation**”), shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a

Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; provided that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or

regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement

Combination Settlement:

Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:	If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “ Cash Settlement Amount ”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, <i>less</i> (B) the Strike Price on such Valid Day; <i>provided that</i> if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity>

AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

Settlement Averaging Period:

For any Option, the 40 consecutive Valid Days commencing on, and including, the 41st Scheduled Valid Day immediately prior to the Expiration Date.

Settlement Date:

For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.

Settlement Currency:

USD

Other Applicable Provisions:

The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.

Representation and Agreement:

Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “**Securities Act**”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. Additional Terms applicable to the Transaction.

Adjustments applicable to the Transaction:

Potential Adjustment Events:

Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined

in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as

determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers:

Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events /
Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however*, that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be

commercially reasonable to do so, shall)", (y) the phrase "exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)" shall be replaced with the phrase "Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)" and the words "whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event" shall be inserted prior to the word "which" in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of "Merger Event" following the definition of "Reverse Merger" therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or

its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted

on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:
“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and
- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and

manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party:

For all applicable Extraordinary Events, Dealer; *provided* that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments
Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the

parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:

To be provided by Counterparty.

Account for delivery of Shares to Counterparty:

To be provided by Counterparty.

- (b) Account for payments to Dealer:

ABA: 121-000-248

Wells Fargo Bank, National Association

Charlotte, NC

Internal Acct No. 01020304464228

A/C Name: WFB Equity Derivatives

Account for delivery of Shares from Dealer:

DTC Number: 2072

Agent ID: 52196

Institution ID: 52196

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

- (b) The Office of Dealer for the Transaction is: Charlotte

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

- (b) Address for notices or communications to Dealer:

Notwithstanding anything to the contrary in the Agreement, all notices to Dealer in connection with the Transaction are effective only upon receipt of email message to

CorporateDerivativeNotifications@wellsfargo.com

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.

- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.
- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”)) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity

securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which

any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in

writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
 - (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;

- (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “Code”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;
 - (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty’s consent, transfer or assign (a “**Transfer**”) all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer’s credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer’s ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty’s consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating

of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).
- (f) Staggered Settlement. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer’s commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [Reserved.]
- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a “Notice of Conversion” (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the “Conversion Date” (as defined in the Indenture) for such Early Conversion, provide written notice (an “**Early Conversion Notice**”) to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the “**Affected Convertible Notes**”) and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);

- (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the “**Affected Number of Options**”) equal to the lesser of (x) the number of Affected Convertible Notes *minus* the “Affected Number of Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
 - (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
 - (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
 - (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any

Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice; *provided further* that any “Repayment Notice” delivered to Dealer pursuant to the Base Call Option Confirmation shall be deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, *mutatis mutandis*, to this Confirmation. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) (x) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, *minus* (y) the number of “Repayment Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Convertible Notes (and for the purposes of determining whether any Options under this Confirmation or under the Base Call Option Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Call Option Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated first to the Base Call Option Confirmation until all Options thereunder are exercised or terminated), and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination

Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”
- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.

(k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.

(l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.

(m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of

the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remarques the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:

A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price:

The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:

One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "**Exchange Property**"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by

holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver:

Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption "Representation and Agreement" in Section 2 will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Termination Settled" and all references to "Shares" shall be read as references to "Share Termination Delivery Units". "Share Termination Settled" in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.
- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares ("Hedge Shares") acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no "comfort letter" or accountants' consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the

case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.

- (r) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.
- (s) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an "eligible financial contract" as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) *Notice of Certain Other Events*. Counterparty covenants and agrees that:
 - (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) *Wall Street Transparency and Accountability Act*. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Option Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.
- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication

of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.

- (z) *Delivery of Tax Certificates*. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.
- (aa) *Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act*. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) *Incorporation of ISDA 2015 Section 871(m) Protocol Provisions*. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) *Payee Tax Representations*. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable:
Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.

Dealer represents that it is a national banking association organized or formed under the laws of the United States and is a United States resident for United States federal income tax purposes and is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.

(dd) *U.S. Resolution Stay Protocol*. The parties agree that (i) to the extent that prior to the date hereof all parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a Protocol Covered Agreement and each party shall be deemed to have the same status as Regulated Entity and/or Adhering Party as applicable to it under the Protocol; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of this Agreement and each party shall be deemed to have the status of “Covered Entity” or “Counterparty Entity” (or other similar term) as applicable to it under the Bilateral Agreement; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a “Covered Agreement,” Wells Fargo Bank, National Association shall be deemed “Covered Entities” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of this Agreement, all parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “this Agreement” include any related credit enhancements entered into between the parties or provided by one to the other.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

Wells Fargo Bank, National Association

By: /s/ Cathleen Burke

Authorized Signatory

Name: Managing Director

Accepted and confirmed as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Additional Capped Call Confirmation]

Mizuho Markets Americas LLC
 c/o Mizuho Securities USA LLC, as agent
 1271 Avenue of the Americas
 New York, NY 10020

March 18, 2021

To: IMAX Corporation
 2525 Speakman Drive
 Mississauga, Ontario, Canada L5K 1B1
 Attention: Natasha Fernandes, Vice-President, Finance
 & Corporate Treasurer
 Telephone No.: (905) 403-6457
 Email: N Fernandes@imax.com; KWeissman@imax.com

Re: Additional Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between Mizuho Markets Americas LLC (“**MMA**”) (with Mizuho Securities USA LLC (“**MSUSA**”) acting as agent) (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto. MMA is acting as principal in its capacity as Dealer hereunder and MSUSA, its affiliate, is acting as agent for MMA, in its capacity as Dealer hereunder, and Counterparty hereunder. This Confirmation is a confirmation for purposes of Rule 10b-10 promulgated under the Exchange Act (as defined below). **MMA is not a member of the Securities Investor Protection Corporation.**

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by an aggregate principal amount of USD 30,000,000 pursuant to the exercise by the Initial Purchasers (as defined herein) of their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency;
 - (b) (i) the election of an executed guarantee of Mizuho Bank, Ltd. ("**Guarantor**") dated as of the Trade Date in substantially the form attached hereto as Schedule 1 as a Credit Support Document, and (ii) the election of Guarantor as Credit Support Provider in relation to Dealer; and
 - (c) (i) the election that the "Cross Default" provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a "Threshold Amount" of three percent of Dealer's ultimate parent's shareholders' equity as of the Trade Date; *provided* that "Specified Indebtedness" shall not include obligations in respect of deposits received in the ordinary course of Dealer's banking business, (ii) the phrase "or becoming capable at such time of being declared" shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay."

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 18, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	"Modified American", as described under "Procedures for Exercise" below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: "IMAX").
Number of Options:	30,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.

Applicable Percentage: 25%
Option Entitlement: A number equal to the product of the Applicable Percentage and 34.7766.
Strike Price: USD 28.7550
Cap Price: USD 37.2750
Premium: USD 621,750
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to (x) the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred *minus* (y) the number of Options that are

or are deemed to be automatically exercised on such Conversion Date under the Base Call Option Transaction Confirmation letter agreement dated March 16, 2021 between Dealer and Counterparty (the “**Base Call Option Confirmation**”) shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; provided that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Combination Settlement:

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such

Option *multiplied* by the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

- Cash Settlement: If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “**Cash Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
- Daily Option Value: For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, *multiplied by* (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, *less* (B) the Strike Price on such Valid Day; *provided* that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
- Applicable Limit: For any Option, an amount of cash equal to the Applicable Percentage *multiplied* by the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note *multiplied* by the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
- Applicable Limit Price: On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
- Valid Day: A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
- Scheduled Valid Day: A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.

Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.
Settlement Averaging Period:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41 st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Date:	For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “ Securities Act ”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. **Additional Terms applicable to the Transaction.**

Adjustments applicable to the Transaction:

Potential Adjustment Events:

Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP”, “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided that*,

notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with

its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:	Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.
Extraordinary Events applicable to the Transaction:	
Merger Events:	Applicable; <i>provided</i> that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.
Tender Offers:	Applicable; <i>provided</i> that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.
Consequences of Merger Events / Tender Offers:	Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; <i>provided, however,</i> that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; <i>provided further</i> that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; <i>provided further</i> that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; provided that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be commercially reasonable to do so, shall)”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event” shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of “Merger Event” following the definition of “Reverse Merger” therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention

to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting: Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law: Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver: Applicable

Hedging Disruption: Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:

“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and

- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging: Not Applicable

Hedging Party:	<p>For all applicable Additional Disruption Events, Dealer.</p> <p>Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.</p>
Determining Party:	<p>For all applicable Extraordinary Events, Dealer; <i>provided</i> that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.</p> <p>Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.</p>
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
4. <u>Calculation Agent.</u>	<p>Dealer; <i>provided</i> that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the</p>

Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:

To be provided by Counterparty.

Account for delivery of Shares to Counterparty:

To be provided by Counterparty.

- (b) Account for payments to Dealer:

ABA: 021000018

BIC: IRVTUS3N

Account: 8901498653

Beneficiary: Mizuho Markets Americas LLC

Account for delivery of Shares from Dealer:

To be provided by Dealer

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: New York

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

- (b) Address for notices or communications to Dealer:

Mizuho Securities USA LLC
1271 Avenue of the Americas
New York, NY 10020
Attention: Mariano Gaut, Managing Director
Telephone: (212) 205-7608
Email: mariano.gaut@mizuhogroup.com

With a copy to:

Mizuho Markets Americas LLC
c/o Mizuho Securities USA LLC, as agent
1271 Avenue of the Americas
New York, NY 10020
Attention: US Equity Derivatives Notices
Telephone: (646) 949-9531
Email: Derivs-EQNoticesUS@mizuhogroup.com

Notwithstanding any provisions of the Agreement, all communications relating to the Transaction, this Confirmation or the Agreement shall be transmitted exclusively through MSUSA at the address provided in Section 7(b) above.

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly

authorized by all necessary corporate action on Counterparty's part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.

- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.
- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction's) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute "plan assets" under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.

- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty's assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**") and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the "**CARES Act**"), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, "**Restricted Financial Assistance**"); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration's "Paycheck Protection Program", that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had

executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.

- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
- (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
- (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
- (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;
- (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
- (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
- (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
- (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
- (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.

- (ii) Dealer may, (A) without Counterparty's consent, transfer or assign (a "**Transfer**") all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any

day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The “**Share Amount**” as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a “**Dealer Person**”) under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares (“**Applicable Restrictions**”), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The “**Applicable Share Limit**” means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).
- (f) *Staggered Settlement*. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer’s commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) as follows:
 - (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.

- (g) Role of Agent.
- (i) MSUSA received or will receive other remuneration from MMA in relation to this Confirmation and the Transaction hereunder. The amount and source of such other remuneration will be furnished upon written request.
 - (ii) Counterparty understands and agrees that MSUSA will act as agent for MMA with respect to the Transaction and has no obligation, by way of issuance, endorsement, guarantee or otherwise with respect to the performance of either party under the Transaction. MSUSA shall have no responsibility or personal liability to Counterparty arising from any failure by MMA to pay or perform any obligations hereunder or to monitor or enforce compliance by MMA or Counterparty with any obligation hereunder, including, without limitation, any obligations to maintain collateral. MSUSA is so acting solely in its capacity as agent for MMA pursuant to instructions from MMA. Each of MMA and Counterparty agrees to proceed solely against the other to collect or recover any securities or monies owing to it in connection with or as a result of the Transaction.
- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a “Notice of Conversion” (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the “Conversion Date” (as defined in the Indenture) for such Early Conversion, provide written notice (an “**Early Conversion Notice**”) to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the “**Affected Convertible Notes**”) and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
 - (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the “**Affected Number of Options**”) equal to the lesser of (x) the number of Affected Convertible Notes *minus* the “Affected Number of Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
 - (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount

- payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
- (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
- (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice; *provided further* that any “Repayment Notice” delivered to Dealer pursuant to the Base Call Option Confirmation shall be deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, *mutatis mutandis*, to this Confirmation. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) (x) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, *minus* (y) the number of “Repayment Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Convertible Notes (and for the purposes of determining whether any Options under this Confirmation or under the Base Call Option Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Call Option Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated

first to the Base Call Option Confirmation until all Options thereunder are exercised or terminated), and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “Holders” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “Reference Property” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

(iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

(i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”

- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.
- (m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty’s control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a “**Payment Obligation**”), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of

the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:

A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price:

The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:

One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the “**Exchange Property**”), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver:

Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.

- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“**Hedge Shares**”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer’s commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.
- (r) Status of Claims in Bankruptcy. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer’s right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer’s rights in respect of any transactions other than the Transaction.
- (s) Securities Contract; Swap Agreement. The parties hereto intend for (i) the Transaction to be a “securities contract” and a “swap agreement” as defined in the Bankruptcy Code, and the parties

hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an "eligible financial contract" as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.

- (t) Notice of Certain Other Events. Counterparty covenants and agrees that:
- (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) Wall Street Transparency and Accountability Act. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).
- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the "Option Securities" (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**") on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged

by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.
- (z) Delivery of Tax Certificates. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.

- (aa) Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) Incorporation of ISDA 2015 Section 871(m) Protocol Provisions. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) Payee Tax Representations. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable: Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer is a U.S. limited liability company organized under the laws of the State of Delaware. For U.S. Federal income tax purposes, it is a Disregarded Entity of Mizuho Americas LLC, a limited liability company organized under the laws of the State of Delaware. For U.S. Federal income tax purposes, Mizuho Americas LLC has elected to be classified as a corporation. Dealer is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) U.S. Resolution Stay Protocol. The parties acknowledge and agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement, the Dealer shall be deemed a Regulated Entity and Counterparty shall be deemed an Adhering Party; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Covered Agreement, Dealer shall be deemed a Covered Entity and Counterparty shall be deemed a Counterparty Entity; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. GSIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a “Covered Agreement,” Dealer shall be deemed a “Covered Entity” and Counterparty shall be deemed a “Counterparty Entity.” In the event

that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “the Agreement” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to Dealer replaced by references to the covered affiliate support provider.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

- (ee) MMA hereby provides notice that the Securities Investor Protection Act of 1970 does not protect Counterparty and MMA is not a member of the Securities Investor Protection Corporation.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

MIZUHO MARKETS AMERICAS LLC

By: /s/ Adam Hopkins

Name: Adam Hopkins

Title: Authorized Signatory

**MIZUHO SECURITIES USA LLC,
acting solely as Agent in connection with this
Confirmation**

By: /s/ Mariano Gaut

Name: Mariano Gaut

Title: Managing Director

Accepted and confirmed
as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Additional Capped Call Confirmation]

Guaranty

Guaranty, dated as of [], [] by Mizuho Bank, Ltd., a banking corporation organized and existing under the laws of Japan (the “Guarantor”), in favor of [] (the “Counterparty”).

1. Guaranty. In connection with certain equity derivative transactions by and between Mizuho Markets Americas LLC (“Mizuho Obligor”), a wholly-owned subsidiary of the Guarantor, and the Counterparty and related terms evidenced by a trade confirmation dated on or about [], [] (together with any Additional Confirmations, the “Confirmation”), the Guarantor hereby unconditionally and irrevocably guaranties to the Counterparty, its successors and assigns the prompt payment when due, subject to any applicable grace period under such Confirmation(s), of all present and future obligations and liabilities of all kinds of Mizuho Obligor to the Counterparty arising out of such Confirmations (the “Obligations”). Capitalized terms used and not otherwise defined in this Guaranty shall have in this Guaranty the respective meanings provided for them in the relevant Confirmation.

2. Absolute Guaranty. The Guarantor’s obligations hereunder shall not be affected by the genuineness, validity or enforceability of the Obligations or any instrument evidencing any Obligations, or by the existence, validity, enforceability, perfection, or extent of any collateral therefor or by any other circumstance relating to the Obligations which might vary the risk of the Guarantor or otherwise constitute a defense to this Guaranty. Further, the Guarantor shall not be discharged, nor shall its liability be affected, by any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Counterparty makes no representation or warranty in respect of any such circumstance and has no duty or responsibility whatsoever to the Guarantor in respect of the management and maintenance of the Obligations or any collateral therefor. The Counterparty shall not be obligated to file any claim relating to the Obligations in the event that Mizuho Obligor becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Counterparty so to file shall not affect the Guarantor’s obligations hereunder. This Guaranty constitutes a guaranty of payment when due and not of collection. In the event that any payment by Mizuho Obligor or the Guarantor in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable hereunder in respect of such Obligations as if such payment had not been made.

3. Consents, Waivers and Renewals. The Guarantor agrees that the Counterparty may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, exchange or surrender any collateral for, or renew any of the Obligations, and may also make any agreement with Mizuho Obligor or with any other party to or person liable on any of the Obligations, or interested therein, for the extension, renewal, payment, compromise, discharge or release thereof, in whole or in part, or for any modification of the terms thereof or of any agreement between the Counterparty and Mizuho Obligor or any such other party or person, without in any way impairing or affecting this Guaranty. The Guarantor agrees that the Counterparty may resort to the Guarantor for payment of any of the Obligations, whether or not the Counterparty shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Obligations.

4. Expenses. The Guarantor agrees to pay on demand all out-of-pocket expenses, including without limitation the reasonable fees and disbursements of Counterparty’s counsel, in any way relating to the enforcement or protection of the rights of the Counterparty hereunder; provided, that the Guarantor shall not be liable for any expenses of the Counterparty if no payment under this Guaranty is due.

5. Subrogation. The Guarantor shall not exercise any rights which it may acquire by way of subrogation in consequence of its payment of any of the Obligations until all the Obligations shall have been paid in full. If any amount shall be paid to the Guarantor in violation of the preceding sentence, such amount shall be held in trust for the benefit of the Counterparty and shall forthwith be paid to the Counterparty to be credited and applied to the Obligations, whether matured or unmatured. Subject to the foregoing, upon payment of all the Obligations, the Guarantor shall be subrogated to the rights of the Counterparty against Mizuho Obligor, and the Counterparty agrees to take at the Guarantor’s expense such steps as the Guarantor may reasonably request to implement such subrogation.

6. Continuing Guaranty. This Guaranty is absolute and unconditional and shall remain in full force and effect and be binding upon the Guarantor, its successors and assigns until all the Obligations have been satisfied in full. If any of the present or future Obligations are guaranteed by persons, partnerships or corporations in addition to the Guarantor, the death, release or discharge, in whole or in part, or the bankruptcy, liquidation or dissolution of one or more of them shall not discharge or affect the liabilities of the Guarantor under this Guaranty.

7. No Waiver; Cumulative Rights. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to the Counterparty or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by the Counterparty from time to time.

8. Waiver of Notice. The undersigned waives notice of the acceptance of this Guaranty, presentment to or demand of payment from anyone whomsoever liable upon any of the Obligations, presentment, promptness, diligence, order, notice of nonpayment by Mizuho Obligor, demand, notice of dishonor, protest, notice of any sale of collateral security and all other notices whatsoever.

9. Representations and Warranties.

- (a) The Guarantor is a Japanese corporation duly organized, validly existing and in good standing under the laws of Japan and has full corporate power to execute, deliver and perform this Guaranty.
- (b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of the Guarantor's certificate of incorporation or By-laws, as amended to date, or any law, regulation, rule, decree, order, judgement or contractual restriction binding on the Guarantor or its assets.
- (c) All consents, licenses, clearances, authorizations and approvals of, and registrations and declarations with, any governmental authority or regulatory body necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority or regulatory body is required in connection with the execution, delivery or performance of this Guaranty.
- (d) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

10. Assignment. Neither the Guarantor nor the Counterparty may assign its rights or interests or delegate its obligations hereunder to any other person without the prior written consent of the Guarantor or the Counterparty, as the case may be; provided, however, that the Counterparty may assign its rights, interests and obligations hereunder to an assignee or transferee to which it has transferred its interests and obligations under the Confirmation pursuant to the terms thereof.

11. Governing Law and Jurisdiction. (a) **THIS GUARANTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED WITHIN SUCH STATE, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.**

(b) Section 13(b) of the Agreement (as defined in the Confirmation) is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, the words "this Agreement" in such Section shall be deemed to refer to this Guaranty, the words "each party" in line two of such Section shall be deemed to refer to the Guarantor and the words "either party" in line eleven of such Section shall be deemed to refer to the Counterparty.

(c) The Guarantor irrevocably consents to service of process given in the manner provided for notices in Section 14 of this Guaranty. Nothing in this Guaranty will affect the right of the Counterparty to serve process in any other manner permitted by law.

12. Taxes. Section 2(d) of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, (i) the words “this Agreement” in such Section shall be deemed to refer to this Guaranty, (ii) any references in such Section to defined terms shall have the same meanings as defined in the Agreement, except that for purposes hereof (A) all references in such defined terms to the words “this Agreement” shall be deemed to be references to the word “Guaranty”, and (B) the references in such defined terms to the words “or a Credit Support Document” shall be deemed to be deleted, (iii) the words “Section 2(d)” in such Section shall be deemed to refer to such Section as incorporated herein, (iv) other references in such Section to Sections of the Agreement shall continue to refer to such Sections and (v) “X” in such Section shall be deemed to refer to the Guarantor and “Y” in such Section shall be deemed to refer to the Counterparty.

13. Contractual Currency. Section 8 of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, the words “this Agreement” in such Section shall be deemed to refer to this Guaranty and the words “Section 8” in such Section shall refer to such Section as incorporated herein; provided, however, that in line two of Section 8(a) of the Agreement, the words “this Agreement” shall continue to refer to the Agreement.

14. Notices. Section 12 of the Agreement is hereby incorporated in this Guaranty by reference. For purposes of interpreting such Section as incorporated herein, (a) the words “this Agreement” in such Section shall be deemed to refer to this Guaranty and (b) the address and numbers of the Guarantor described in line three of Section 12(a) of the Agreement shall be deemed to be the following:

Mizuho Bank, Ltd.
Global Markets Coordination Department
Otemachi Tower, 1-5-5, Otemachi, Chiyoda-ku,
Tokyo, Japan 100-8176
Attention: Mitsuhsa Hirose
Facsimile number: (813) 3211-5848
Telephone number: (813) 6838-6258

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on the date specified below with effect from the date specified on the first page of this Guaranty.

MIZUHO BANK, LTD.

By:

Name: Hiroshi Minegishi

Title: Joint General Manager
Global Markets Coordination Department
Mizuho Bank, Ltd.

JPMorgan Chase Bank, National Association
New York Branch
383 Madison Avenue
New York, NY 10179

March 18, 2021

To: IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com; KWeissman@imax.com

Re: Additional Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between JPMorgan Chase Bank, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by an aggregate principal amount of USD 30,000,000 pursuant to the exercise by the Initial Purchasers (as defined herein) of their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:
 - (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
 - (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided* that “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 18, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	30,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	35%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.

Strike Price: USD 28.7550
Cap Price: USD 37.2750
Premium: USD 870,450
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to (x) the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred *minus* (y) the number of Options that are or are deemed to be automatically exercised on such Conversion Date under the Base Call Option Transaction Confirmation letter agreement dated March 16, 2021 between Dealer and Counterparty (the “**Base Call Option Confirmation**”), shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a

Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notice of Exercise:

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or

regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement

Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Combination Settlement:

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

- (i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and
- (ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:	If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the “Cash Settlement Amount”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, <i>less</i> (B) the Strike Price on such Valid Day; <i>provided</i> that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity>

AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

Settlement Averaging Period:

For any Option, the 40 consecutive Valid Days commencing on, and including, the 41st Scheduled Valid Day immediately prior to the Expiration Date.

Settlement Date:

For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.

Settlement Currency:

USD

Other Applicable Provisions:

The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.

Representation and Agreement:

Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “**Securities Act**”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. **Additional Terms applicable to the Transaction.**

Adjustments applicable to the Transaction:

Potential Adjustment Events:

Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined

in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as

- determined by it, to the terms hereof in order to account for such Potential Adjustment Event;
- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and
 - (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.
- Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Dilution Adjustment Provisions:

Extraordinary Events applicable to the Transaction:

Merger Events:

Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.

Tender Offers:

Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.

Consequences of Merger Events /
Tender Offers:

Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; *provided, however*, that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:

Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be

commercially reasonable to do so, shall)", (y) the phrase "exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)" shall be replaced with the phrase "Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)" and the words "whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event" shall be inserted prior to the word "which" in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of "Merger Event" following the definition of "Reverse Merger" therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or

its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below .

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted

on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

- (i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:
“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and
- (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and

manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party: For all applicable Extraordinary Events, Dealer; *provided* that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the

parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
Bank: JPMorgan Chase Bank, N.A.
ABA#: 021000021
Acct No.: 099997979
Beneficiary: JPMorgan Chase Bank, N.A. New York
Ref: Derivatives
Account for delivery of Shares from Dealer:
To be provided by Dealer

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: New York

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: NFernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

- (b) Address for notices or communications to Dealer:

JPMorgan Chase Bank, National Association
EDG Marketing Support
Email: edg_notices@jpmorgan.com and edg.us.flow.corporates.mo@jpmorgan.com
Facsimile No: 1-866-886-4506

With a copy to:

Attention: Santosh Sreenivasan Title: Managing Director
Telephone No: (212) 622-5604
Email: santosh.sreenivasan@jpmorgan.com

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrance or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or

any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.

- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.
- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be

required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the

Dealer is not located or resident in a province or territory of Canada and the Dealer's last address as shown on the books of the Counterparty is not in any province or territory of Canada.

- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an "**Indemnified Person**") from and against any and all losses (including losses relating to Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider" or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney's fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty's failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in

connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty's failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others. Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the "**Transfer Options**"); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:

- (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “Code”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;
 - (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty’s consent, transfer or assign (a “**Transfer**”) all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer’s credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B)

with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).
- (f) Staggered Settlement. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer’s commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [Reserved.]
- (h) Extraterritoriality Acknowledgment. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) Additional Termination Events.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a “Notice of Conversion” (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the “Conversion Date” (as defined in the Indenture) for such Early Conversion, provide written notice (an “**Early Conversion Notice**”) to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the “**Affected Convertible Notes**”) and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);

- (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the “**Affected Number of Options**”) equal to the lesser of (x) the number of Affected Convertible Notes *minus* the “Affected Number of Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;
 - (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
 - (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
 - (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
- (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any

Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice; *provided further* that any “Repayment Notice” delivered to Dealer pursuant to the Base Call Option Confirmation shall be deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, *mutatis mutandis*, to this Confirmation. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) (x) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, *minus* (y) the number of “Repayment Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Convertible Notes (and for the purposes of determining whether any Options under this Confirmation or under the Base Call Option Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Call Option Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated first to the Base Call Option Confirmation until all Options thereunder are exercised or terminated), and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination

Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

(j) Amendments to Equity Definitions.

- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”
- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.

(k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.

(l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.

(m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of

the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:

If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.

Share Termination Delivery Property:

A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.

Share Termination Unit Price:

The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.

Share Termination Delivery Unit:

One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "**Exchange Property**"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by

holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Failure to Deliver:

Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.
- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“**Hedge Shares**”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the

case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.

- (r) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.
- (s) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an "eligible financial contract" as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) *Notice of Certain Other Events*. Counterparty covenants and agrees that:
 - (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) *Wall Street Transparency and Accountability Act*. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption,

Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Option Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.
- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication

of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further* that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.

- (z) *Delivery of Tax Certificates*. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.
- (aa) *Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act*. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) *Incorporation of ISDA 2015 Section 871(m) Protocol Provisions*. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) *Payee Tax Representations*. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable:

Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.

Dealer represents that it is a “U.S. person” (as that term is used in Section 1.1441-4(a)(3)(ii) of the United States Treasury Regulations) for U.S. federal income tax purposes and is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.

- (dd) Communications with Employees of J.P. Morgan Securities LLC. If Counterparty interacts with any employee of J.P. Morgan Securities LLC with respect to the Transaction, Counterparty is hereby notified that such employee will act solely as an authorized representative of JPMorgan Chase Bank, N.A. (and not as a representative of J.P. Morgan Securities LLC) in connection with such Transaction.
- (ee) U.S. Resolution Stay Protocol. The parties acknowledge and agree that (i) to the extent that prior to the date hereof both parties have adhered to the 2018 ISDA U.S. Resolution Stay Protocol (the “**Protocol**”), the terms of the Protocol are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Protocol Covered Agreement, the J.P. Morgan entity that is a party to the Agreement (“**J.P. Morgan**”) shall be deemed a Regulated Entity and the other entity that is a party to the Agreement (“**Counterparty**”) shall be deemed an Adhering Party; (ii) to the extent that prior to the date hereof the parties have executed a separate agreement the effect of which is to amend the qualified financial contracts between them to conform with the requirements of the QFC Stay Rules (the “**Bilateral Agreement**”), the terms of the Bilateral Agreement are incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a Covered Agreement, J.P. Morgan shall be deemed a Covered Entity and Counterparty shall be deemed a Counterparty Entity; or (iii) if clause (i) and clause (ii) do not apply, the terms of Section 1 and Section 2 and the related defined terms (together, the “**Bilateral Terms**”) of the form of bilateral template entitled “Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)” published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org and, a copy of which is available upon request), the effect of which is to amend the qualified financial contracts between the parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of the Agreement, and for such purposes the Agreement shall be deemed a “Covered Agreement,” J.P. Morgan shall be deemed a “Covered Entity” and Counterparty shall be deemed a “Counterparty Entity.” In the event that, after the date of the Agreement, both parties hereto become adhering parties to the Protocol, the terms of the Protocol will replace the terms of this paragraph. In the event of any inconsistencies between the Agreement and the terms of the Protocol, the Bilateral Agreement or the Bilateral Terms (each, the “**QFC Stay Terms**”), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to “the Agreement” include any related credit enhancements entered into between the parties or provided by one to the other. In addition, the parties agree that the terms of this paragraph shall be incorporated into any related covered affiliate credit enhancements, with all references to J.P. Morgan replaced by references to the covered affiliate support provider.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

JPMorgan Chase Bank, National Association

By: /s/ Derek W. Brown

Authorized Signatory

Name: Derek W. Brown

Accepted and confirmed
as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Additional Capped Call Confirmation]

HSBC Bank USA, National Association
 452 Fifth Avenue
 New York, NY 10018

March 18, 2021

To: IMAX Corporation
 2525 Speakman Drive
 Mississauga, Ontario, Canada L5K 1B1
 Attention: Natasha Fernandes, Vice-President, Finance
 & Corporate Treasurer
 Telephone No.: (905) 403-6457
 Email: N Fernandes@imax.com; KWeissman@imax.com

Re: Additional Call Option Transaction

The purpose of this letter agreement (this “**Confirmation**”) is to confirm the terms and conditions of the call option transaction entered into between HSBC Bank USA, National Association (“**Dealer**”) and IMAX Corporation (“**Counterparty**”) as of the Trade Date specified below (the “**Transaction**”). This letter agreement constitutes a “Confirmation” as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with the Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the “**Equity Definitions**”), as published by the International Swaps and Derivatives Association, Inc. (“**ISDA**”) are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum, dated March 16, 2021 (the “**Offering Memorandum**”), relating to the 0.50% Convertible Senior Notes due 2026 (as originally issued by Counterparty, the “**Convertible Notes**” and each USD 1,000 principal amount of Convertible Notes, a “**Convertible Note**”) issued by Counterparty in an aggregate initial principal amount of USD 200,000,000 (as increased by an aggregate principal amount of USD 30,000,000 pursuant to the exercise by the Initial Purchasers (as defined herein) of their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)), pursuant to an Indenture to be dated March 19, 2021 between Counterparty and U.S. Bank, National Association, as trustee (the “**Indenture**”). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture, subject, in the case of this clause (y), to the second paragraph under “Method of Adjustment” in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation (other than as provided in Section 10(i)(iv) below) unless the parties agree otherwise in writing. For the purposes of the Equity Definitions, the Transaction shall be deemed to be a Share Option Transaction.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties’ entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part

of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the “**Agreement**”) as if Dealer and Counterparty had executed an agreement in such form on the Trade Date but without any Schedule except for:

- (a) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine) and the election of USD as the Termination Currency; and
- (b) (i) the election that the “Cross Default” provisions of Section 5(a)(vi) of the Agreement shall apply to Dealer with a “Threshold Amount” of three percent of Dealer’s ultimate parent’s shareholders’ equity as of the Trade Date; *provided* that “Specified Indebtedness” shall not include obligations in respect of deposits received in the ordinary course of Dealer’s banking business, (ii) the phrase “or becoming capable at such time of being declared” shall be deleted from clause (1) of such Section 5(a)(vi) and (iii) the following language shall be added to the end thereof “Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature; (y) funds were available to enable the party to make the payment when due; and (z) the payment is made within two Local Business Days of such party’s receipt of written notice of its failure to pay.”

In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement. If there exists any ISDA Master Agreement between Dealer and Counterparty or any confirmation or other agreement between Dealer and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Dealer and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Dealer and Counterparty are parties, the Transaction shall not be considered a Transaction under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	March 18, 2021
Effective Date:	The Trade Date, subject to Section 10(w) below
Option Style:	“Modified American”, as described under “Procedures for Exercise” below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common shares of Counterparty, no par value (Exchange symbol: “IMAX”).
Number of Options:	30,000. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	15%
Option Entitlement:	A number equal to the product of the Applicable Percentage and 34.7766.
Strike Price:	USD 28.7550

Cap Price: USD 37.2750
Premium: USD 373,050
Premium Payment Date: March 19, 2021
Exchange: The New York Stock Exchange
Related Exchange(s): All Exchanges
Excluded Provisions: Section 5.06 and Section 5.07 of the Indenture.

Procedures for Exercise.

Conversion Date: With respect to any conversion of a Convertible Note (other than any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date (any such conversion, an “**Early Conversion**”), to which the provisions of 10(i)(i) of this Confirmation shall apply), the date on which the Holder (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 5.02 of the Indenture; *provided* that if Counterparty has not delivered to Dealer a related Notice of Exercise, then in no event shall a Conversion Date be deemed to occur hereunder (and no Option shall be exercised or deemed to be exercised hereunder) with respect to any surrender of a Convertible Note for conversion in respect of which Counterparty has elected to designate a financial institution for exchange in lieu of conversion of such Convertible Note pursuant to Section 5.08 of the Indenture.

Free Convertibility Date: January 1, 2026

Expiration Time: The Valuation Time

Expiration Date: April 1, 2026, subject to earlier exercise.

Multiple Exercise: Applicable, as described under “Automatic Exercise” below.

Automatic Exercise: Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date in respect of which a Notice of Conversion that is effective as to Counterparty has been delivered by the relevant converting Holder, a number of Options equal to (x) the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred *minus* (y) the number of Options that are or are deemed to be automatically exercised on such Conversion Date under the Base Call Option Transaction Confirmation letter agreement dated March 16, 2021 between Dealer and Counterparty (the “**Base Call Option Confirmation**”), shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with “Notice of Exercise” below.

Notice of Exercise:

Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.

Notwithstanding anything to the contrary in the Equity Definitions or under “Automatic Exercise” above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; provided that if the Relevant Settlement Method for such Options is (x) Net Share Settlement and the Specified Cash Amount (as defined below) is not USD 1,000, (y) Cash Settlement or (z) Combination Settlement, Counterparty shall provide Dealer a separate notice (the “**Notice of Final Settlement Method**”) (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to Holders (as such term is defined in the Indenture) of the related Convertible Notes (the “**Specified Cash Amount**”) and if Counterparty fails to timely provide such Notice of Final Settlement Method, it shall be deemed to have provided a Notice of Final Settlement Method indicating that the Relevant Settlement Method is Net Share Settlement and that the settlement method for the related Convertible Notes is a combination of cash and shares with a Specified Cash Amount of USD 1,000. Counterparty acknowledges its responsibilities under applicable Canadian and United States securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes that is not Net Share Settlement with a Specified Cash Amount of USD1,000 that applies pursuant to Section 5.03(A) of the Indenture.

Valuation Time:

At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.

Market Disruption Event:

Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following:

“‘Market Disruption Event’ means, in respect of a Share, (i) a failure by the primary United States national or regional securities exchange or market on which the Shares are then listed, or if the Shares are not then listed on a United States national or regional securities exchange, the

principal other market on which the Shares are then traded, to open for trading during its regular trading session or (ii) the occurrence or existence, for more than one half-hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on any Scheduled Valid Day.”

Settlement Terms.

Settlement Method:

For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.

Relevant Settlement Method:

Relevant Settlement Method: In respect of any Option:

(i) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount equal to USD 1,000, then, in each case, the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 5.03(B)(i)(2) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 5.03(B)(i)(1) of the Indenture (such settlement method, “**Settlement in Cash**”), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the “**Net Share Settlement Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option

Combination Settlement:

divided by the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

(i) cash (the “**Combination Settlement Cash Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the “**Daily Combination Settlement Cash Amount**”) equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and

(ii) Shares (the “**Combination Settlement Share Amount**”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the “**Daily Combination Settlement Share Amount**”) equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero; *provided* that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Cash Settlement:

If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount

	of cash (the “ Cash Settlement Amount ”) equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, <i>divided by</i> (ii) the number of Valid Days in the Settlement Averaging Period; provided that in no event shall the Cash Settlement Amount exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, <i>multiplied by</i> (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, less (B) the Strike Price on such Valid Day; <i>provided</i> that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage <i>multiplied by</i> the excess of (i) the aggregate of (A) the amount of cash, if any, paid to the Holder of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the Holder of the related Convertible Note upon conversion of such Convertible Note <i>multiplied by</i> the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.
Applicable Limit Price:	On any day, the opening price as displayed under the heading “Op” on Bloomberg page IMAX <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the principal United States national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Valid Day” means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal United States national or regional securities exchange on which the Shares are listed or, if the Shares are not then listed on a United States national or regional securities exchange, on the principal other market on which the Shares are then traded. If the Shares are not so listed or traded, “Scheduled Valid Day” means a Business Day.
Business Day:	Any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price of the Shares as displayed under the heading “Bloomberg VWAP” on Bloomberg page IMAX <equity> AQR (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading to the scheduled close of trading of the primary trading session on such Valid Day (or if such

Settlement Averaging Period:	volume-weighted average price is unavailable, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session.
Settlement Date:	For any Option, the 40 consecutive Valid Days commencing on, and including, the 41st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Settled”. “Share Settled” in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.
Representation and Agreement:	Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty’s status as issuer of the Shares under applicable Canadian and United States securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be “restricted securities” (as defined in Rule 144 under the Securities Act of 1933, as amended (the “ Securities Act ”)) and subject to restrictions on transfer by the Counterparty or any subsequent transferee under applicable Canadian and United States securities laws.

3. **Additional Terms applicable to the Transaction.**

Adjustments applicable to the Transaction:

Potential Adjustment Events:	Notwithstanding Section 11.2(e) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), a “Potential Adjustment Event” means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the “Conversion Rate” or the composition of a “Reference Property Unit” or to any “Last Reported Sale Price”, “Daily VWAP,” “Daily Conversion Value,” “Daily Share Amount” or “Daily Cash Amount” (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash,
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property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the proviso to the first sentence of Section 5.05(A)(iii)(1) of the Indenture or the proviso to the first sentence of Section 5.05(A)(iv) of the Indenture).

Method of Adjustment:

Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions (which Section shall not apply for purposes of the Transaction, except as provided in Section 10(y) below), upon any Potential Adjustment Event, the Calculation Agent shall make a commercially reasonable adjustment to any one or more of the Strike Price, the Option Entitlement, the Relevant Price and/or other applicable price with respect to the Shares and the composition of the “Shares” hereunder, in each case, corresponding to the applicable adjustment required to be made pursuant to the Indenture.

Notwithstanding the foregoing and “Consequences of Merger Events / Tender Offers” below:

- (i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 5.05(H) of the Indenture, Section 5.09 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will determine in good faith and in a commercially reasonable manner the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant Holder (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;
- (ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth

in Section 5.05(A)(ii) of the Indenture or Section 5.05(A)(iii) of the Indenture where, in either case, the period for determining “Y” (as such term is used in Section 5.05(A)(ii) of the Indenture) or “SP” (as such term is used in Section 5.05(A)(iii) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the commercially reasonable costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and

- (iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the “Conversion Rate” (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the “Conversion Rate” (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a “**Potential Adjustment Event Change**”) then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, for hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:

Sections 5.05(A)(i), (ii), (iii), (iv) and (v) and Section 5.05(H) of the Indenture.

Extraordinary Events applicable to the Transaction:

Merger Events:	Applicable; <i>provided</i> that notwithstanding Section 12.1(b) of the Equity Definitions, a “Merger Event” means the occurrence of any event or condition set forth in the definition of “Common Share Change Event” in Section 5.09(A) of the Indenture.
Tender Offers:	Applicable; <i>provided</i> that notwithstanding Section 12.1(d) of the Equity Definitions, a “Tender Offer” means the occurrence of any event or condition set forth in Section 5.05(A)(v) of the Indenture.
Consequences of Merger Events / Tender Offers:	Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions (which Section shall not apply for purposes of the Transaction except as provided in Section 10(y) below), upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, subject to the second paragraph under “Method of Adjustment”; <i>provided, however</i> , that such adjustment shall be made without regard to any adjustment to the Conversion Rate pursuant to any Excluded Provision; <i>provided further</i> that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof, the District of Columbia or, so long as the representation of Counterparty or any successor in Section 8(n) remains true and correct, Canada or any province thereof, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer’s reasonable election; <i>provided further</i> that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.
Consequences of Announcement Events:	Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; <i>provided</i> that, in respect of an Announcement Event, (w) references to “Tender Offer” shall be replaced by references to “Announcement Event” and references to “Tender Offer Date” shall be replaced by references to “date of such Announcement Event”, (x) the word “shall” in the second line shall be replaced with “may (and, if it would be commercially reasonable to do so, shall)”, (y) the phrase “exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)” shall be replaced with the phrase “Cap Price (provided that in no event shall the Cap Price be less than the Strike

Price)” and the words “whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event” shall be inserted prior to the word “which” in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall determine, in good faith and in a commercially reasonable manner, whether the relevant Announcement Event has had a material economic effect on the Transaction (and, if so, shall adjust the Cap Price accordingly to account for such economic effect in a commercially reasonable manner) on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and shall not be duplicative with any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement; *provided* that in no event shall the Cap Price be adjusted to be less than the Strike Price (subject in all cases to clause (ii) of Section 12.3(d) of the Equity Definitions). In making any adjustment the Calculation Agent shall take into account stock price, volatility, expected dividends, stock loan rate, liquidity relevant to the Shares or to the Transaction, and other commercially reasonable option pricing inputs that the Calculation Agent determines in a commercially reasonable manner to be relevant, whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after such Announcement Event. An Announcement Event shall be an “Extraordinary Event” for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:

(w) An Announcement Date occurs in respect of a potential Merger Event (for the avoidance of doubt, determined without regard to the language in the definition of “Merger Event” following the definition of “Reverse Merger” therein) or Tender Offer or any transaction or event or series of transactions and/or events that, if consummated, would lead to a Merger Event or Tender Offer (as determined by the Calculation Agent), (x) Counterparty, a subsidiary, affiliate, agent or representative of Counterparty makes a public announcement of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include a Merger Event, Tender Offer or an Acquisition Transaction, (y) there occurs a public announcement by (1) any Valid Third-Party Entity in respect of the relevant transaction, (2) Counterparty or (3) any subsidiary, affiliate, agent or representative of Counterparty, in each case, of any potential acquisition or disposition by Counterparty and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Counterparty as of the date of such announcement (an “**Acquisition Transaction**”) or (z) there occurs any subsequent public announcement of a change to a transaction or intention that

is the subject of an announcement of the type described in clause (w), (x) or (y) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement (and only if such announcement) is made by Counterparty, its subsidiary, affiliate, agent or representative, or a Valid Third-Party Entity) (any event described in clause (w), (x), (y) or (z), an “**Announcement Event**”) as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of “Announcement Event,” each of “Merger Event” and “Tender Offer” shall mean such term as defined under Section 10(y) below.

Valid Third-Party Entity:

In respect of any potential transaction, any third party that the Calculation Agent determines has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining whether such third party has such a bona fide intent, the Calculation Agent may take into consideration the effect of the relevant announcement by such third party on the Shares and/or options relating to the Shares).

Announcement Date:

The definition of “Announcement Date” in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words “the first” with “any” and replacing the words “a firm” with the word “any” in the second and fourth lines thereof, (ii) replacing the word “leads to the” with the words “, if completed, would lead to a” in the third and the fifth lines thereof, (iii) replacing the words “voting shares” with the word “Shares” in the fifth line thereof, (iv) inserting the words “by Counterparty, a subsidiary, affiliate, agent or representative of Counterparty, or any Valid Third-Party Entity” after the word “announcement” in the second and the fourth lines thereof and (v) inserting the word “potential” following the words “in the case of a” at the beginning of clauses (i) and (ii) therein.

Nationalization, Insolvency or Delisting:

Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law:

Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase “the interpretation” in the third line thereof with the phrase “, or public announcement of, the formal or informal interpretation”, (ii) replacing the word “Shares” where it appears in clause (X) thereof with the words “Hedge Position”, (iii) replacing the parenthetical beginning after the word “regulation” in the second line thereof the words “(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)” and (iv) adding the words “provided that, in the case of clause (Y) hereof where such determination is based on Dealer’s policies and procedures, such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner;” after the semi-colon in the last line thereof.

Failure to Deliver:

Applicable

Hedging Disruption:

Applicable; *provided* that:

(i)Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:

“For the avoidance of doubt, the term “equity price risk” shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms.”; and

(ii)Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words “to terminate the Transaction”, the words “or a portion of the Transaction affected by such Hedging Disruption”.

Increased Cost of Hedging:

Not Applicable

Hedging Party:

For all applicable Additional Disruption Events, Dealer.

Following any determination or calculation by Hedging Party hereunder, upon a written request by Counterparty (which may be by email), Hedging Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being

understood that in no event will Hedging Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Determining Party:

For all applicable Extraordinary Events, Dealer; provided that when making any determination or calculation as “Determining Party,” Dealer shall be bound by the same obligations relating to required acts of the Calculation Agent as set forth in Section 1.40 of the Equity Definitions and this Confirmation as if Determining Party were the Calculation Agent.

Following any determination or calculation by Determining Party hereunder, upon a written request by Counterparty (which may be by email), Determining Party will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such determination or calculation), it being understood that in no event will Determining Party be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such determination or calculation or any information that is subject to an obligation not to disclose such information.

Non-Reliance:

Applicable

Agreements and Acknowledgments
Regarding Hedging Activities:

Applicable

Additional Acknowledgments:

Applicable

4. **Calculation Agent.**

Dealer; *provided* that, following the occurrence and during the continuance of an Event of Default of the type described in Section 5(a) (vii) of the Agreement with respect to which Dealer is the sole Defaulting Party, if the Calculation Agent fails to timely make any calculation, adjustment or determination required to be made by the Calculation Agent hereunder or to perform any obligation of the Calculation Agent hereunder and such failure continues for two Exchange Business Days following notice to the Calculation Agent by Counterparty of such failure, Counterparty shall have the right to designate a nationally recognized independent equity derivatives dealer to replace Dealer as the Calculation Agent, and the parties shall work in good faith to execute any appropriate documentation required by such replacement Calculation Agent.

Following any adjustment, determination or calculation by the Calculation Agent hereunder, upon a written request by Counterparty (which may be by email), the Calculation Agent will promptly (but in any event within five Exchange Business Days) provide to Counterparty by email to the email address provided by Counterparty in such written request a report (in a commonly used file format for the storage and manipulation of financial data) displaying in reasonable detail the basis for such adjustment, determination or calculation (including any quotations, market data or information from internal or external sources, and any assumptions used in making such adjustment, determination or calculation), it being understood that in no event will the Calculation Agent be obligated to share with Counterparty any proprietary or confidential data or information or any proprietary or confidential models used by it in making such adjustment, determination or calculation or any information that is subject to an obligation not to disclose such information.

All calculations and determinations by the Calculation Agent shall be made in good faith and in a commercially reasonable manner.

5. **Account Details.**

- (a) Account for payments to Counterparty:
To be provided by Counterparty.
Account for delivery of Shares to Counterparty:
To be provided by Counterparty.
- (b) Account for payments to Dealer:
To be provided by Dealer.
Account for delivery of Shares from Dealer:
To be provided by Dealer.

6. **Offices.**

- (a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.
- (b) The Office of Dealer for the Transaction is: Inapplicable, Dealer is not a Multibranch Party.

7. **Notices.**

- (a) Address for notices or communications to Counterparty:

IMAX Corporation
2525 Speakman Drive
Mississauga, Ontario, Canada L5K 1B1
Attention: Natasha Fernandes, Vice-President, Finance & Corporate Treasurer
Telephone No.: (905) 403-6457
Email: N Fernandes@imax.com

With a copy to:

IMAX Corporation
902 Broadway, Floor 20,
New York, New York 10010
Attention: Kenneth Weissman, General Counsel
Email: KWeissman@imax.com

(b) Address for notices or communications to Dealer:

HSBC Bank USA, National Association
452 Fifth Avenue
New York, NY 10018
Attention: Equities Documentation
Email: EQUITIESDOCUMENTATION@hsbc.com

With a copy to:

HSBC Bank USA, National Association
452 Fifth Avenue
New York, NY 10018
Attention: David Potterbaum
Email: david.potterbaum@us.hsbc.com

8. **Representations and Warranties of Counterparty.**

Each of the representations and warranties of Counterparty set forth in Section 3 of the Purchase Agreement (the “**Purchase Agreement**”) dated as of March 16, 2021 between Counterparty and J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the Initial Purchasers party thereto (the “**Initial Purchasers**”), are true and correct on and as of the Trade Date and the Premium Payment Date and are hereby deemed to be repeated to Dealer as if set forth herein. Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date (or such other date as specified below) that:

- (a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty’s part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors’ rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by applicable Canadian and United States federal, provincial or state securities laws or public policy relating thereto.
- (b) In lieu of the representation set forth in Section 3(a)(iii) of the Agreement, neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the articles of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.
- (c) No consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty

of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or United States state securities laws.

- (d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an “investment company” as such term is defined in the Investment Company Act of 1940, as amended.
- (e) Counterparty is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (f) Counterparty is not, on the date hereof, aware of any material non-public information with respect to Counterparty or the Shares.
- (g) To the knowledge of Counterparty, no state or local (including any Canadian or other non-U.S. jurisdiction’s) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares; *provided* that Counterparty makes no representation or warranty regarding (i) any such requirement that is applicable generally to the ownership of, or transactions in, common equity securities of a Canadian incorporated corporation listed on the Exchange that is a reporting issuer in a Canadian province or territory by Dealer or any of its affiliates solely as a result of it or any of such affiliates being a financial institution or broker-dealer and (ii) any such requirement for the Dealer to comply with the early warning and insider reporting requirements of applicable securities laws in Canada.
- (h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.
- (i) The assets of Counterparty do not constitute “plan assets” under the Employee Retirement Income Security Act of 1974, as amended, the Department of Labor Regulations promulgated thereunder or similar law.
- (j) As of and immediately after each of the Trade Date and the Premium Payment Date, (x) there are no reasonable grounds for believing that (a) the Counterparty is, or would after the payment of the Premium be, unable to pay its liabilities as they become due; or (b) the realizable value of the Counterparty’s assets would after the payment of the Premium be less than the aggregate of its liabilities and stated capital of all classes of shares and (y) (A) the capital of Counterparty is adequate to conduct its business, and its entry into the Transaction will not impair its capital, (B) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (C) Counterparty will be able to continue as a going concern, (D) Counterparty is not “insolvent” (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the “**Bankruptcy Code**”) and (E) Counterparty would be able to purchase the Number of Shares with respect to the Transaction in compliance with the laws of its jurisdiction incorporation.
- (k) Counterparty acknowledges that the Transaction may constitute a purchase of its equity securities or a capital distribution. Counterparty further acknowledges that, pursuant to the provisions of the Coronavirus Aid, Relief and Economic Security Act (the “**CARES Act**”), the Counterparty will be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under section 4003(b) of the CARES Act. Counterparty further acknowledges that it may be required to agree to certain time-bound restrictions on its ability to purchase its equity securities or make capital distributions if it receives loans, loan guarantees or direct loans (as that term is defined in the CARES Act) under programs or facilities established by the Board of

Governors of the Federal Reserve System or the U.S. Department of Treasury for the purpose of providing liquidity to the financial system, and may be required to agree to similar restrictions under programs or facilities established in the future. Accordingly, Counterparty represents and warrants that neither it nor any of its subsidiaries has applied for, and throughout the term of this Transaction shall not apply, for a loan, loan guarantee, direct loan (as that term is defined in the CARES Act) or other investment, or to receive any financial assistance or relief (howsoever defined) under any program or facility that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement thereunder), as a condition of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief, that Counterparty or any of its subsidiaries agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in such condition, made a capital distribution or will not make a capital distribution (collectively, “**Restricted Financial Assistance**”); *provided*, that Counterparty may apply for Restricted Financial Assistance if Counterparty either (a) determines, based on the advice of outside counsel of national standing, that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such loan, loan guarantee, direct loan (as that term is defined in the CARES Act), investment, financial assistance or relief based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence of a waiver or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with attributes of the Transaction in all relevant respects). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration’s “Paycheck Protection Program”, that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of this Transaction (either by specific reference to this Transaction or by general reference to transactions with the attributes of this Transaction in all relevant respects).

- (l) Counterparty understands and acknowledges that, in the event the entering into the Transaction is construed by any securities regulatory body with competent jurisdiction as a purchase or sale of a “security” as defined in the *Securities Act* (Ontario) and/or the securities legislation of any other province or territory of Canada, such security will not have been qualified for distribution by way of prospectus pursuant to the *Securities Act* (Ontario) and/or the securities laws of any other province or territory of Canada and, therefore, could not (in the event of such construction) be sold, pledged, hypothecated, transferred or otherwise disposed of unless an exemption from the requirements thereof is available.
- (m) Counterparty is an “accredited investor” as defined in National Instrument 45-106 – Prospectus Exemptions.
- (n) The exercise or deemed exercise of any Option hereunder and the delivery of Shares to the Counterparty upon such exercise or deemed exercise of any Option hereunder (in each case whether at maturity, upon early termination or cancellation or otherwise) shall not constitute an “issuer bid” as such term is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids if the Dealer is not located or resident in a province or territory of Canada and the Dealer’s last address as shown on the books of the Counterparty is not in any province or territory of Canada.
- (o) For purposes of disclosure pursuant to the *Interest Act* (Canada), as amended, restated, replaced or re-enacted from time to time, the parties hereto acknowledge that the yearly rate of interest to which any rate of interest or other amount payable under this Agreement, which is to be calculated on the basis of a number of days that is less than a full calendar year, is equivalent may be determined by

multiplying such rate by a fraction, the numerator of which is the actual number of days in the calendar year in which such yearly interest is to be ascertained and the denominator of which is the number of days comprising such other basis.

9. **Representation and Warranty of the Dealer.**

- (a) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is an “eligible contract participant” (as such term is defined in Section 1a(18) of the Commodity Exchange Act, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).
- (b) Dealer hereby represents and warrants to Counterparty on the date hereof and on and as of the Premium Payment Date, that Dealer is not resident in, or is located outside of, Canada.

10. **Other Provisions.**

- (a) *Opinions.* On or prior to the Premium Payment Date, Counterparty shall deliver to Dealer an opinion of U.S. counsel and an opinion of Canadian counsel, each dated as of the Premium Payment Date, collectively with respect to the matters set forth in Sections 8(a) through (d) of this Confirmation, subject to customary exceptions and limitations (and, with respect to absence of conflicts with agreements or instruments, limited to those agreements and instruments filed by Counterparty as exhibits to its Form 10-K filed with the SEC, as updated by any subsequent filings). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.
- (b) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a “**Repurchase Notice**”) on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than 53.3 million (in the case of the first such notice) or (ii) thereafter more than 4.6 million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that Counterparty may provide Dealer advance notice on or prior to any such day, which may include the maximum number of Shares that may be repurchased under a repurchase program entered into in reliance on Rule 10b5-1(c) and the approximate period in which such purchases may occur, to the extent it expects that repurchases effected on such day may result in an obligation to deliver a Repurchase Notice (and in such case, any such advance notice shall be deemed a Repurchase Notice to the maximum extent of repurchases set forth in such advance notice as if Counterparty had executed such repurchases); *provided further* that, if such repurchase, or the intention to effect the same, would constitute material non-public information with respect to Counterparty or the Shares, Counterparty shall make public disclosure thereof at or prior to delivery of such Repurchase Notice. Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an “**Indemnified Person**”) from and against any and all losses (including losses relating to Dealer’s hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 “insider” or insider under applicable Canadian securities laws, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney’s fees of one outside counsel in each relevant jurisdiction), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred (and supported by invoices or other documentation setting forth in reasonable detail such expenses) in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty’s failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others

Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable to the extent that the Indemnified Person fails to notify Counterparty within a commercially reasonable period of time after any action is commenced against it in respect of which indemnity may be sought hereunder (it being understood that any such notice delivered within 30 calendar days of the commencement of any such action shall be deemed to have been delivered within a commercially reasonable period of time for such purpose), but only to the extent that Counterparty is materially prejudiced by such failure to provide such notice. In addition, Counterparty shall not have liability for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. Counterparty shall not be liable for any losses, claims, damages or liabilities (or expenses relating thereto) of any Indemnified Person that result from the bad faith, gross negligence, willful misconduct or fraud of such Indemnified Person (in each case, as conclusively determined by a court of competent jurisdiction in a final and non-appealable judgment). If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

- (c) Regulation M. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Effective Date, engage in any such distribution.
- (d) No Manipulation. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act or applicable Canadian securities laws.
- (e) Transfer or Assignment.
 - (i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the “**Transfer Options**”); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose that are generally applicable in similar situations (if any) and applied in a non-discriminatory manner, including but not limited, to the following conditions:
 - (A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 10(b) or any obligations under Section 10(o) or 10(t) of this Confirmation;
 - (B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the “**Code**”) or that is a resident of Canada for purposes of the *Income Tax Act* (Canada) and any applicable tax treaty or convention;

- (C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable Canadian and United States securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable Canadian and United States securities laws) and execution of any documentation and delivery of legal opinions with respect to applicable Canadian and United States securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;
 - (D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay to Counterparty in the absence of such transfer and assignment, nor receive from the transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Dealer would have received from Counterparty in the absence of such transfer and assignment;
 - (E) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;
 - (F) Without limiting the generality of clause (B), Counterparty shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and
 - (G) Counterparty shall be responsible for all commercially reasonable costs and expenses, including commercially reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.
- (ii) Dealer may, (A) without Counterparty's consent, transfer or assign (a "**Transfer**") all or any part of its rights or obligations under the Transaction to any affiliate or branch of Dealer who is not resident in, or is located outside of, Canada (1) that has a rating for its long term, unsecured and unsubordinated indebtedness that is equal to or better than Dealer's credit rating at the time of such Transfer, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent, provided that, (i) under the applicable law effective on the date of such transfer or assignment, (1) Counterparty will not, as a result of such transfer or assignment, be required to pay the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (2) Counterparty will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date an amount under Section 2(d)(i)(4) of the Agreement that is less than the amount that Counterparty would have received from Dealer in the absence of such transfer or assignment and (ii) Dealer shall cause the transferee to make such Payee Tax Representations and to provide such tax documentation as may be reasonably requested by Counterparty to permit Counterparty to determine that results described in clause (i) of this proviso will not occur upon or after such transfer or assignment or (B) with Counterparty's consent (which consent will not be unreasonably withheld) to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than the lesser of (1) the credit rating of Dealer at the time of the Transfer and (2) BBB+ by Standard and Poor's Rating Group, Inc. or its successor ("**S&P**"), or Baa1 by Moody's Investor Service, Inc. ("**Moody's**") or,

if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that such transferee is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended); and *provided further* that Dealer shall provide prompt written notice to Counterparty following any such Transfer. If at any time at which (A) the Section 16 Percentage exceeds 7.5%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) no Excess Ownership Position exists, then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions) following such partial termination no Excess Ownership Position exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number of Shares that could reasonably be expected to give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could reasonably be expected to result in an adverse effect on a Dealer Person, under any Applicable Restriction, as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

- (iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its

affiliates located outside of Canada (each, a “**Dealer Designated Affiliate**”) to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer’s obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that, to the extent applicable, such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. Dealer shall be discharged of its obligations to Counterparty to the extent such Dealer Designated Affiliate fully performs the obligations designated by Dealer to such Dealer Designated Affiliate under this Section 10(e)(iii).

- (f) *Staggered Settlement*. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer’s commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a “**Nominal Settlement Date**”), elect to deliver the Shares on two or more dates (each, a “**Staggered Settlement Date**”) as follows:
- (i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to the Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;
 - (ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and
 - (iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.
- (g) [*Reserved*.]
- (h) *Extraterritoriality Acknowledgment*. Dealer and Counterparty acknowledge that Dealer is not organized under the laws of Canada and that it is the intent of the parties that any purchase of securities by Dealer and its affiliates in relation to the Transaction is expected to be conducted in the United States public markets or otherwise outside of each province and territory of Canada.
- (i) *Additional Termination Events*.
- (i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a “Notice of Conversion” (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting Holder:
 - (A) Counterparty shall, within five Scheduled Trading Days of the “Conversion Date” (as defined in the Indenture) for such Early Conversion, provide written notice (an “**Early Conversion Notice**”) to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the “**Affected Convertible Notes**”) and the anticipated settlement date, and the giving of such Early Conversion Notice shall constitute an Additional Termination Event as provided in this clause (i);
 - (B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall correspond to a settlement date in respect of the Affected Number of Options (as defined below) that occurs on or as

promptly as reasonably practicable after the related conversion settlement date for the Affected Convertible Notes for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the “**Affected Number of Options**”) equal to the lesser of (x) the number of Affected Convertible Notes *minus* the “Affected Number of Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Affected Convertible Notes and (y) the Number of Options as of the Conversion Date for such Early Conversion;

- (C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 10(m) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this Section 10(i)(i)(C) as if, solely for the purpose of electing the settlement method, Counterparty were not the Affected Party); *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, multiplied by (2) the Affected Number of Options, multiplied by (3) (x) the sum of (i) the amount of cash paid (if any) and (ii) the number of Shares delivered (if any) to the Holder (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, multiplied by the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, minus (y) USD 1,000.
 - (D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding until their final maturity date; and
 - (E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options.
- (ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 7.01 of the Indenture and such event of default results in the Convertible Notes being accelerated and declared due and payable, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement (which Early Termination Date shall be on or as promptly as reasonably practicable after Dealer becomes aware of the occurrence of such acceleration).
 - (iii) Within five Scheduled Trading Days following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a “Fundamental Change” (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer in

writing of such Repayment Event, in each case, including the aggregate principal amount of Convertible Notes (the “**Repayment Convertible Notes**”) subject to such Repayment Event (any such notice, a “**Repayment Notice**”); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) as of the date of such Repayment Notice; *provided further* that any “Repayment Notice” delivered to Dealer pursuant to the Base Call Option Confirmation shall be deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, mutatis mutandis, to this Confirmation. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 10(i)(iii). Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the “**Repayment Options**”) equal to the lesser of (A) (x) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD 1,000, *minus* (y) the number of “Repayment Options” (as defined in the Base Call Option Confirmation), if any, that relate to such Convertible Notes (and for the purposes of determining whether any Options under this Confirmation or under the Base Call Option Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Call Option Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated first to the Base Call Option Confirmation until all Options thereunder are exercised or terminated), and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the “**Repayment Unwind Payment**”) shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (3) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that in the event of a Repayment Event pursuant to Section 4.02 of the Indenture or Section 4.03 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess, if any, of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. “**Repayment Event**” means that (i) any Convertible Notes are repurchased or redeemed (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to Section 10(i)(ii)), or (iv) any Convertible Notes are exchanged by or for the benefit of the “**Holders**” (as defined in the Indenture) thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, “**Reference Property**” (as defined in the Indenture) or any combination thereof) pursuant to the terms of the Indenture shall not constitute a Repayment Event.

- (iv) Notwithstanding anything to the contrary in this Confirmation, the occurrence of an Amendment Event shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement. “**Amendment Event**” means that Counterparty amends, modifies, supplements, waives or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon,

maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion rate, conversion rate adjustment provisions, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend (other than, in each case, any amendment or supplement (x) pursuant to Section 8.01(I) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 5.09 of the Indenture), in each case, without the consent of Dealer (such consent not to be unreasonably withheld or delayed).

- (j) Amendments to Equity Definitions.
- (i) Solely in respect of adjustments to the Cap Price pursuant to Section 10(y), Section 11.2(e)(vii) of the Equity Definitions is hereby amended by deleting the words “that may have a diluting or concentrative effect on the theoretical value of the relevant Shares” and replacing them with the words “that is the result of a corporate event involving the Issuer or its securities that has a material economic effect on the Shares or options on the Shares; *provided* that such event is not based on (a) an observable market, other than the market for Issuer’s own stock or (b) an observable index, other than an index calculated and measured solely by reference to Issuer’s own operations.”
- (i) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting “(1)” immediately following the word “means” in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: “or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer; provided that the period for dismissal, discharge, stay or restraint therein shall be increased from within 15 days to within 30 days.”
- (ii) Without derogating from the provisions of Section 5(b)(i) of the Agreement, Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing “either party may elect” with “Dealer may elect” and (2) replacing “notice to the other party” with “notice to Counterparty” in the first sentence of such section.
- (k) Setoff. Neither party shall have the right to set off any obligation that it may have to the other party under the Transaction against any obligation such other party may have to it, whether arising under the Agreement, this Confirmation or any other agreement between the parties hereto, by operation of law or otherwise and each party hereby waives any such right to setoff.
- (l) Adjustments. For the avoidance of doubt, whenever the Hedging Party, Determining Party or Calculation Agent is required or permitted to make a calculation, adjustment, determination or election pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of an event (other than on adjustments made by reference to the Indenture), the Hedging Party, Determining Party or Calculation Agent shall make such adjustment in a commercially reasonable manner by reference to the effect of such event on Dealer, assuming that Dealer maintains a commercially reasonable hedge position.
- (m) Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, a Merger Event or Tender Offer that is within Counterparty’s control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty’s control), and if Dealer would owe any amount to

Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a “**Payment Obligation**”), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) and Section 6(e) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:	If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its reasonable discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the “Exchange Property”), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent in a commercially reasonable manner. If such Nationalization, Insolvency, or Merger Event involves a choice of Exchange Property to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Failure to Deliver:	Applicable.

Other applicable provisions:

If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption “Representation and Agreement” in Section 2 will be applicable, except that all references in such provisions to “Physically-settled” shall be read as references to “Share Termination Settled” and all references to “Shares” shall be read as references to “Share Termination Delivery Units”. “Share Termination Settled” in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

- (n) Waiver of Jury Trial. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.
- (o) Registration. Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on the advice of counsel, the Shares (“Hedge Shares”) acquired by Dealer for the purpose of effecting a commercially reasonable hedge of its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement customary for a registered secondary offering of a similar size in respect of a similar issuer; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities of a similar size in respect of a similar issuer, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any commercially reasonable discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement) *provided* that no “comfort letter” or accountants’ consent shall be required to be delivered in connection with any private placements, or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), reasonably requested by Dealer.
- (p) Tax Disclosure. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.
- (q) Right to Extend. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in the case of clause (i), in its commercially reasonable judgment or, in the case of clause (ii), based on advice of counsel, that such action is reasonably necessary or appropriate (i) to preserve Dealer’s commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the stock loan market or other relevant market or (ii) to enable Dealer to effect

transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures adopted by Dealer in good faith so long as such policies and procedures are generally applicable in similar situations and applied in a non-discriminatory manner; *provided* that no such Valid Day or other date of valuation, payment or delivery may be postponed or added more than 40 Valid Days after the original Valid Day or other date of valuation, payment or delivery, as the case may be.

- (r) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common shareholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.
- (s) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code. The parties intend for the Confirmation and the Transaction to constitute an "eligible financial contract" as such term is defined in the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) and the *Winding Up and Restructuring Act* (Canada), each as amended, restated, replaced or re-enacted from time to time.
- (t) *Notice of Certain Other Events*. Counterparty covenants and agrees that:
 - (i) promptly following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and
 - (ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event, Merger Event or Tender Offer and (B) promptly following any such adjustment, Counterparty shall give Dealer written notice of the details of such adjustment.
- (u) *Wall Street Transparency and Accountability Act*. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

- (v) Agreements and Acknowledgements Regarding Hedging. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Counterparty shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.
- (w) Early Unwind. In the event the sale of the “Option Securities” (as defined in the Purchase Agreement) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 10(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date, the “**Early Unwind Date**”), the Transaction shall automatically terminate (the “**Early Unwind**”) on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that, upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.
- (x) Payment by Counterparty. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.
- (y) Other Adjustments Pursuant to the Equity Definitions. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms “Potential Adjustment Event,” “Merger Event,” and “Tender Offer” shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 10(j)(i)); *provided* that Section 12.1(d) of the Equity Definitions is hereby amended by replacing “10%” with “20%” in the third line thereof, and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine in a commercially reasonable manner whether such occurrence or declaration, as applicable, has had a material economic effect on the Transactions and, if so, shall adjust the Cap Price to preserve the fair value of the Options (including adjustments to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares as determined by the Calculation Agent in a commercially reasonable manner, but, for the avoidance of doubt, solely in the case of Section 11.2(e)(i), (ii)(A) and (iv), no adjustments will be made to account for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares); *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that, if no adjustment to the Cap Price will preserve such fair value of the Options, Cancellation and Payment will be deemed to apply and any payment to be made by one party to the other shall be calculated in accordance with Section 12.7 of the Equity Definitions, and the Calculation Agent shall determine the amount of such payment as if “Calculation Agent Determination” applied to the Option Transaction; *provided further* that (i) any adjustment to the Cap Price made pursuant to this Section 10(y) shall be made without duplication of any other adjustment hereunder (including, for the avoidance of doubt, adjustment made pursuant to the provisions opposite the captions “Method of Adjustment,” “Consequences of Merger Events / Tender Offers” and “Consequence of Announcement Events” in Section 3 above); *provided further*

that any Share repurchases by Counterparty, whether pursuant to Rule 10b-18 of the Exchange Act, Rule 10b5-1 of the Exchange Act or pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions on customary terms, at prevailing market prices, volume-average weighted prices or discounts thereto shall not be considered Potential Adjustment Events, to the extent that (x) the aggregate number of Shares so repurchased during any twelve-month period during the term of the Transaction would not exceed 20% of the number of Shares outstanding as of the Trade Date, and (y) the aggregate number of Shares repurchased during the term of the Transaction pursuant to forward contracts or accelerated stock repurchase contracts or similar derivatives transactions would not exceed 25% of the number of Shares outstanding as of the Trade Date, in each case as determined by Calculation Agent.

- (z) Delivery of Tax Certificates. For purposes of Section 4(a)(i) and (ii) of the Agreement, Counterparty shall have delivered to Dealer a properly completed Internal Revenue Service Form W-8BENE (or successor thereto) and Dealer agrees to deliver to Counterparty a complete and duly executed Internal Revenue Service Form W-9 (or successor thereto). Such forms shall be delivered (i) upon execution and delivery of this Confirmation, (ii) upon reasonable request by the other party and (iii) promptly upon learning that any such tax form previously provided by it has become obsolete or incorrect.
- (aa) Withholding Tax Imposed on Payments to Non-U.S. Counterparties under the United States Foreign Account Tax Compliance Act. “Tax” and “Indemnifiable Tax”, each as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to FATCA (a “**FATCA Withholding Tax**”). “FATCA” is defined as Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code. For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.
- (bb) Incorporation of ISDA 2015 Section 871(m) Protocol Provisions. To the extent that either party to the Agreement with respect to this Transaction is not an adhering party to the ISDA 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015 and available at www.isda.org, as may be amended, supplemented, replaced or superseded from time to time (the “**871(m) Protocol**”), the parties agree that the provisions and amendments contained in the Attachment to the 871(m) Protocol are incorporated into and apply to the Agreement with respect to this Transaction as if set forth in full herein. The parties further agree that, solely for purposes of applying such provisions and amendments to the Agreement with respect to this Transaction, references to “each Covered Master Agreement” in the 871(m) Protocol will be deemed to be references to the Agreement with respect to this Transaction, and references to the “Implementation Date” in the 871(m) Protocol will be deemed to be references to the Trade Date of this Transaction.
- (cc) Payee Tax Representations. For purposes of Section 3(f) of the Agreement, each party makes the following representations, as applicable: Counterparty represents that it is (i) a resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980 and (ii) a “foreign person” (as that term is used in Section 1.6041-4(a)(4) of the United States Treasury Regulations) for U.S. federal income tax purposes.
- Dealer is a national banking association organized and existing under the laws of the United States of America, its federal taxpayer identification number is 20-1177241, and it is a non-resident of Canada for purposes of the *Income Tax Act (Canada)* and the *Canada-US Income Tax Convention*, 1980.
- (dd) U.S. QFC Contractual Stay Requirements.

(1) *Recognition of U.S. Special Resolution Regimes.* In the event Dealer becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of this Confirmation, any transaction under this Confirmation or any related Credit Enhancement between the parties and any interest and obligation in or under, and any property securing, this Confirmation from Dealer will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Confirmation and any interest and obligation in or under, and any property securing, this Confirmation were governed by the laws of the United States or a state of the United States. In the event Dealer or any Affiliate of HSBC becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Confirmation that may be exercised against Dealer are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Confirmation were governed by the laws of the United States or a state of the United States. The requirements of this Section (1) apply notwithstanding Section (2) below.

(2) *Limitation on Exercise of Certain Default Rights.* Notwithstanding anything to the contrary in this Confirmation, the parties expressly agree that: (i) Counterparty shall not be permitted to exercise any Default Right with respect to this Confirmation that is related, directly or indirectly, to an Affiliate of Dealer becoming subject to an Insolvency Proceeding, except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 283.4, as applicable; and (ii) nothing in this Confirmation shall prohibit the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement, to a transferee upon or following an Affiliate of Dealer becoming subject to an Insolvency Proceeding, unless the transfer would result in Counterparty being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to Counterparty. After an Affiliate of Dealer has become subject to an Insolvency Proceeding, if Counterparty seeks to exercise any Default Right with respect to this Confirmation, Counterparty shall have the burden of proof, by clear and convincing evidence, that the exercise of such Default Right is permitted hereunder.

(3) *Definitions.* For the purposes of this Section 10(dd), the following definitions apply:

“**Affiliate**” means an “affiliate” defined under, and interpreted in accordance with, 12 U.S.C. 1841(k) and section 225.2 of the Board of Governors of the Federal Reserve System’s Regulation Y (12 C.F.R. 225.2(a)).

“**Credit Enhancement**” means any credit enhancement or other credit support arrangement in support of the obligations of Dealer under or with respect to this Confirmation, including any guarantee, pledge, charge, mortgage or other security interest in collateral or title transfer collateral arrangement, trust or similar arrangement, letter of credit, transfer of margin, reimbursement obligation or any similar arrangement.

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, the QFC Stay Rules, including without limitation any right of a party to liquidate, terminate, cancel, rescind, or accelerate an agreement or transactions thereunder; set off or net amounts owed; exercise remedies in respect of collateral or other credit support or related property; demand payment or delivery; suspend, delay, or defer payment or performance; alter the amount of, demand the return of or modify any right to reuse collateral or margin provided; otherwise modify the obligations of a party; or any similar rights.

“**Insolvency Proceeding**” means a receivership, insolvency, liquidation, resolution, or similar proceeding.

“**QFC Stay Rules**” means the regulations codified at 12 C.F.R. 252.81–8; 12 C.F.R. 382.1-7; and 12 C.F.R. 47.1-8. All references herein to the QFC Stay Rules shall be construed, with respect to Dealer, to the particular QFC Stay Rule(s) applicable to it.

“**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act (12 U.S.C. §§ 1811-1835(a)) and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. §§ 5381-5384) and the regulations promulgated thereunder.

Counterparty hereby agrees to check this Confirmation and to confirm that the foregoing correctly sets forth the terms of the Transaction by signing in the space provided below and returning to Dealer the fully executed Confirmation via e-mail.

Very truly yours,

HSBC Bank USA, National Association

By: /s/ Suzette Scott

Authorized Signatory

Name: Suzette Scott

Accepted and confirmed
as of the Trade Date:

IMAX Corporation

By: /s/ Patrick McClymont

Authorized Signatory

Name: Patrick McClymont

By: /s/ Robert D. Lister

Authorized Signatory

Name: Robert D. Lister

[Signature Page to Additional Capped Call Confirmation]

SECOND AMENDMENT TO FIFTH AMENDED AND RESTATED CREDIT AGREEMENT

SECOND AMENDMENT TO FIFTH AMENDED AND RESTATED CREDIT AGREEMENT (this "Amendment"), dated as of March 15, 2021, among IMAX CORPORATION, a corporation incorporated pursuant to the laws of Canada (the "Borrower"), the Guarantors (as defined in the Credit Agreement referred to below) party hereto, each of the Lenders party hereto that is consenting to the amendments set forth in Section 1 below (collectively, the "Consenting Lenders") and WELLS FARGO BANK, NATIONAL ASSOCIATION, as administrative agent (the "Agent"). Unless otherwise indicated, all capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided such terms in the Credit Agreement referred to below.

WITNESSETH:

WHEREAS, the Borrower, the lenders party thereto (the "Lenders"), the Agent and the other parties thereto have entered into that certain Fifth Amended and Restated Credit Agreement, dated as of June 28, 2018 (as previously amended by that certain First Amendment to Fifth Amended and Restated Credit Agreement dated as of June 10, 2020, as amended hereby and as further amended, restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement" and the Credit Agreement prior to giving effect to this Amendment being referred to as the "Existing Credit Agreement");

WHEREAS, the Borrower has requested certain amendments to certain terms of the Existing Credit Agreement as provided herein, and the Agent and each of the Consenting Lenders have agreed to such requests, subject to the terms and conditions of this Amendment;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

SECTION 1. Amendments to Credit Agreement. Effective as of the Second Amendment Effective Date (as defined below) and subject to the terms and conditions set forth herein and in reliance upon representations and warranties set forth herein, the body of the Existing Credit Agreement (excluding the Schedules and Exhibits thereto) is hereby amended to (a) delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~), (b) add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) and (c) move the green double-underlined text (indicated textually in the same manner as the following example: double-underlined text), in each case, as set forth in the Credit Agreement attached hereto as Annex A.

SECTION 2. Acknowledgement and Confirmation. Each of the Credit Parties party hereto hereby agrees that with respect to each Financing Agreement to which it is a party, after giving effect to the Amendment and the transactions contemplated hereunder:

(a) all of its obligations, liabilities and indebtedness under such Financing Agreement, including guarantee obligations, shall, except as expressly set forth herein or in the Credit Agreement, remain in full force and effect on a continuous basis; and

(b) all of the Liens and security interests created and arising under such Financing Agreement remain in full force and effect on a continuous basis, and the perfected status and priority to the extent provided for in Section 6.4 of the Credit Agreement of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged as collateral security for the Obligations, to the extent provided in such Financing Agreements.

SECTION 3. Conditions of Effectiveness of this Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied or waived (such date, the “Second Amendment Effective Date”):

(a) The Agent’s receipt of counterparts of this Amendment, duly executed by the Borrower, the Guarantors existing as of the Second Amendment Effective Date, the Agent and the Consenting Lenders constituting Required Lenders, each of which shall be originals or facsimiles (followed by originals to be delivered as soon as practicable) unless otherwise specified, each in form and substance reasonably satisfactory to the Agent.

(b) Payment of all fees and reasonable expenses of the Agent and Wells Fargo Securities, LLC (including, without limitation, the fees and expenses of legal counsel to the Agent and Wells Fargo Securities, LLC), and in the case of expenses, to the extent invoiced in reasonable detail at least one Business Day prior to the Second Amendment Effective Date (or as otherwise set forth in a fund flows approved by the Borrower).

(c) The representations and warranties in Section 5 of this Amendment shall be true and correct (i) in all material respects, if not subject to materiality or Material Adverse Effect qualifications, or (ii) in all respects, if subject to materiality or Material Adverse Effect qualifications, in each case with the same effect as though such representations and warranties had been made on and as of the Second Amendment Effective Date (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct in all material respects, if not subject to materiality or Material Adverse Effect qualifications as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects as of such earlier date).

(d) (i) The Agent and the Lenders shall have received all documentation and other information requested in writing by the Agent or any Lender no less than three Business Days prior to the Second Amendment Effective Date in order for the Agent and the Lenders to comply with requirements of any Anti-Money Laundering Laws, including the Patriot Act and any applicable “know your customer” rules and regulations.

For purposes of determining compliance with the conditions specified in this Section 3, each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Second Amendment Effective Date specifying its objection thereto.

SECTION 4. Costs and Expenses. The Borrower hereby reconfirms its obligations pursuant to Section 12.6 of the Credit Agreement to pay and reimburse the Agent in accordance with the terms thereof.

SECTION 5. Representations and Warranties. To induce the Agent and the other Lenders to enter into this Amendment, each Credit Party represents and warrants to the Agent and the other Lenders on and as of the Second Amendment Effective Date that, in each case:

(a) the representations and warranties of each Credit Party set forth in Article 6 of the Credit Agreement and in each other Financing Agreement are true and correct in all material respects on and as of the Second Amendment Effective Date with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case

they shall be true and correct in all material respects as of such earlier date; provided that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates;

(b) no Default or Event of Default exists and is continuing;

(c) Borrower qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation; and

(d) attached hereto as Schedule 1 is a list of all Deposit Accounts and Securities Accounts owned by a Credit Party organized under the laws of the United States or Canada (or any state, province, or political subdivision thereof) as of the Second Amendment Effective Date.

SECTION 6. Reference to and Effect on the Credit Agreement and the Financing Agreements.

(a) On and after the Second Amendment Effective Date, each reference in the Credit Agreement to “this Agreement,” “herein,” “hereto,” “hereof” and “hereunder” or words of like import referring to the Credit Agreement, and each reference in the notes and each of the other Financing Agreements to “the Credit Agreement,” “thereunder,” “thereof” or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by this Amendment.

(b) The Credit Agreement and each of the other Financing Agreements, as specifically amended by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed.

(c) This Amendment shall not be deemed (i) to be a waiver of, or consent to, or a modification or amendment of, any other term or condition of the Existing Credit Agreement or any other Financing Agreement other than as expressly set forth herein (including Annex A hereto), (ii) to prejudice any right or rights which the Agent or the Lenders may now have or may have in the future under or in connection with the Existing Credit Agreement or the other Financing Agreements or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or modified from time to time, or (iii) to be a commitment or any other undertaking or expression of any willingness to engage in any further discussion with the Borrower, any of its Subsidiaries or any other Person with respect to any other waiver, amendment, modification or any other change to the Existing Credit Agreement or the Financing Agreements or any rights or remedies arising in favor of the Lenders or the Agent, or any of them, under or with respect to any such documents.

(d) This Amendment is a Financing Agreement and is subject to the terms and conditions of the Credit Agreement.

SECTION 7. Governing Law; Jurisdiction and Waiver of Right to Trial By Jury. THIS AMENDMENT IS SUBJECT TO THE PROVISIONS OF **SECTION 12.1** OF THE CREDIT AGREEMENT RELATING TO GOVERNING LAW, JURISDICTION AND WAIVER OF RIGHT TO TRIAL BY JURY, THE PROVISIONS OF WHICH ARE BY THIS REFERENCE INCORPORATED HEREIN IN FULL.

SECTION 8. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to this Amendment and/or any document to be signed in connection with this Amendment and the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature.

SECTION 9. Entire Agreement. This Amendment is the entire agreement, and supersedes any prior agreements and contemporaneous oral agreements, of the parties concerning its subject matter.

SECTION 10. Successors and Assigns. This Amendment shall be binding on and inure to the benefit of the parties hereto and their successors and permitted assigns.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

BORROWER:

IMAX CORPORATION

By: /s/ Patrick McClymont
Name: Patrick McClymont
Title: Chief Financial Officer and
Executive Vice President

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: Senior Vice President, Legal Affairs and Corporate Secretary

GUARANTOR:

1329507 ONTARIO INC.

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: Secretary

By: /s/ Robert Lister
Name: Robert Lister
Title: Vice President

GUARANTOR:

IMAX U.S.A. INC.

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: President and Secretary

By: /s/ Robert Lister
Name: Robert Lister
Title: Vice President

GUARANTOR:

IMAX POST/DKP INC.

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: President and Secretary

By: /s/ Robert Lister
Name: Robert Lister
Title: Vice President

IMAX Corporation
Second Amendment to Fifth Amended and Restated Credit Agreement
Signature Page

GUARANTOR:

IMAX II U.S.A. INC.

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: President and Secretary

By: /s/ Robert Lister
Name: Robert Lister
Title: Vice President

GUARANTOR:

IMAX THEATRES INTERNATIONAL LIMITED

By: /s/ Alan Nishida
Name: Alan Nishida
Title: Director

By: /s/ Robert Lister
Name: Robert Lister
Title: Director

GUARANTOR:

IMAX (BARBADOS) HOLDING, INC.

By: /s/ Kenneth Weissman
Name: Kenneth Weissman
Title: Sole Director

By: /s/ Robert Lister
Name: Robert Lister
Title: Vice President

IMAX Corporation
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WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Agent, Swingline Lender, Issuing Lender and a
Consenting Lender

By: /s/ Melissa Wong
Name: Melissa Wong
Title: Vice President

IMAX Corporation
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Signature Page

EXPORT DEVELOPMENT CANADA, as a Consenting
Lender

By: /s/ Guillaume Couture

Name: Guillaume Couture

Title: Financing Manager

By: /s/ Alexander Bailey

Name: Alexander Bailey

Title: Senior Associate

IMAX Corporation
Second Amendment to Fifth Amended and Restated Credit Agreement
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CITIBANK, N.A., as a Consenting Lender

By: /s/ Varun Gupta

Name: Varun Gupta

Title: Director

IMAX Corporation
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HSBC BANK CANADA, as a Consenting Lender

By: /s/ Jesse Macmasters

Name: Jesse Macmasters

Title: Head of Large Corporate Ontario

By: /s/ Simon Tobin

Name: Simon Tobin

Title: Director Large Corporate Banking

IMAX Corporation
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NATIONAL BANK OF CANADA, as a Consenting
Lender

By: /s/ Seong Kim

Name: Seong Kim

Title: Director

By: /s/ Suneel Puri

Name: Suneel Puri

Title: Director and Head, Execution

IMAX Corporation
Second Amendment to Fifth Amended and Restated Credit Agreement
Signature Page

Annex A

[amended Credit Agreement attached]

FIFTH AMENDED AND RESTATED CREDIT AGREEMENT
(as amended through First Amendment dated as of June 10, 2020 and Second Amendment dated as of March 15, 2021)

by and between

IMAX CORPORATION
as Borrower

- and -

THE GUARANTORS REFERRED TO HEREIN
as Guarantors

- and -

THE LENDERS REFERRED TO HEREIN
as Lenders

- and -

WELLS FARGO BANK, NATIONAL ASSOCIATION
as Agent, Issuing Lender and Swingline Lender

- and -

WELLS FARGO SECURITIES, LLC
as Sole Lead Arranger

- and -

WELLS FARGO SECURITIES, LLC and

CITIBANK, N.A.
as Joint Bookrunners

- and -

CITIBANK, N.A.
as Syndication Agent

- and -

**EXPORT DEVELOPMENT CANADA,
HSBC BANK CANADA and
NATIONAL BANK OF CANADA**

as Co-Documentation Agents

Dated: June 28, 2018

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FIFTH AMENDED AND RESTATED CREDIT AGREEMENT

This Fifth Amended and Restated Credit Agreement dated June 28, 2018 (as amended, restated, supplemented, extended or otherwise modified, this “**Agreement**”) is entered into by and between IMAX Corporation, a corporation incorporated pursuant to the laws of Canada, as Borrower, the guarantors who are a party to this Agreement and who may become a party hereto pursuant to the terms hereof, as Guarantors, the lenders who are a party to this Agreement and who may become a party hereto pursuant to the terms hereof, as Lenders, and Wells Fargo Bank, National Association, a national banking association, as Agent (as defined below) for the Secured Parties.

WITNESSETH:

WHEREAS Borrower and Congress Financial Corporation (Canada) (“**Original Lender**”) entered into a loan agreement dated February 6, 2004 which was amended pursuant to:

- (a) a first amendment to the loan agreement dated June 30, 2005;
- (b) a second amendment to the loan agreement dated May 16, 2006;
- (c) a second amendment to the loan agreement dated May 16, 2006 (which amended, restated and replaced in its entirety the second amendment to the loan agreement referred to in clause (b) above);
- (d) a third amendment to the loan agreement dated September 30, 2007;
- (e) a fourth amendment to the loan agreement dated December 5, 2007; and
- (f) a fifth amendment to the loan agreement dated May 5, 2008,

(collectively, the “**Original Loan Agreement**”);

WHEREAS Wachovia Capital Finance Corporation (Canada) (formerly known as Congress Financial Corporation (Canada)) as agent (the “**Original Agent**”) and lender, Borrower and Export Development Canada (“**EDC**”), as lender, amended and restated the Original Loan Agreement pursuant to an amended and restated credit agreement dated November 16, 2009 as amended by a first amendment to the amended and restated credit agreement dated January 21, 2011 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**First Amended and Restated Credit Agreement**”);

WHEREAS Wells Fargo Capital Finance Corporation Canada (formerly known as Wachovia Capital Finance Corporation (Canada)), as Original Agent and lender, Borrower and EDC, as lender, amended and restated the First Amended and Restated Credit Agreement pursuant to a second amended and restated credit agreement dated June 2, 2011 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Second Amended and Restated Credit Agreement**”);

WHEREAS Agent (as successor agent to the Original Agent), Borrower and the lenders party thereto amended and restated the Second Amended and Restated Credit Agreement pursuant to a third amended and restated credit agreement dated February 7, 2013 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Third Amended and Restated Credit Agreement**”);

WHEREAS Agent, Borrower and the lenders party thereto amended and restated the Third Amended and Restated Credit Agreement pursuant to a fourth amended and restated credit agreement dated March 3, 2015 (as amended February 22, 2016 and as further amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Fourth Amended and Restated Credit Agreement**”);

WHEREAS Agent, Borrower and the lenders party thereto amended and restated the Fourth Amended and Restated Credit Agreement pursuant to a fifth amended and restated credit agreement dated June 28, 2018 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, including pursuant to the First Amendment to Fifth Amended and Restated Credit Agreement entered into on the First Amendment Effective Date, the “**Fifth Amended and Restated Credit Agreement**”);

WHEREAS on the Second Amendment Effective Date, the Agent, Borrower and Lenders desire to amend the Fifth Amended and Restated Credit Agreement as set forth herein; and

WHEREAS each Lender is willing to (severally and not jointly) make loans and provide such financial accommodations to Borrower according to its Pro Rata Share on the terms and conditions set forth herein and Agent is willing to act as agent for Secured Parties on the terms and conditions set forth herein and the other Financing Agreements;

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 **DEFINITIONS**

All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires. All references to Borrower, Credit Parties, Guarantors, Lenders, Issuing Lender and Agent pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and permitted assigns. The words “**hereof**”, “**herein**”, “**hereunder**”, “**this Agreement**” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. The word “**including**” when used in this Agreement shall mean “**including, without limitation**”. References herein to any statute or any provision thereof include such statute or provision as amended, revised, re-enacted, and/or consolidated from time to time and any successor statute thereto. An Event of Default shall continue or be continuing until such Event of Default is waived in accordance with Section 12.3 or, without derogating from the cure rights, if any, provided to Credit Parties in Article 10 hereof, is cured, if such Event of Default is capable of being cured. Any accounting term used herein unless otherwise defined in this Agreement shall have the meanings customarily given to such

term in accordance with GAAP. If, after the Closing Date, there shall be any change in the application of the accounting principles used in preparation of Borrower's financial statements as a result of any changes in GAAP including International Financial Reporting Standards becoming applicable to Borrower, which changes (a) result in a change in the method of calculation of, or (b) impact on, the financial covenant or other covenants applicable to Borrower found in this Agreement or the other Financing Agreements, and either the Borrower or the Required Lenders shall so request, Borrower and Agent shall promptly enter into negotiations in good faith in order to amend the financial covenant or other covenants so as to reflect equitably such changes with the desired result that the evaluations of Borrower's financial condition shall be the same after such changes as if such changes had not been made. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, the effects of Accounting Standards Codification of the Financial Accounting Standards Board ("FASB ASC") 825 and FASB ASC 470-20 (or any similar accounting principle permitting a Person to value its financial liabilities or Debt at the fair value thereof) on financial liabilities shall be disregarded. For the avoidance of doubt, and without limitation of the foregoing, Permitted Convertible Debt shall at all times prior to the repurchase, conversion or payment thereof be valued at the full stated principal amount thereof and shall not include any reduction or appreciation in value of the shares and/or cash deliverable upon conversion thereof. Canadian Dollars and the sign "CDN\$" mean lawful money of Canada. "U.S. Dollars" and the sign "\$" mean lawful money of the United States of America. All monetary amounts referred to in this Agreement are in U.S. Dollars unless otherwise stated. The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties (both real and personal property), including cash, securities, accounts and contract rights. For purposes of this Agreement, the following terms shall have the respective meanings given to them below:

"Accounts" as defined in the UCC as in effect in the State of New York.

"Actual EBITDA" is defined in the definition of Designated Period Actual EBITDA Notice.

"Adjusted Euro Dollar Rate" means, with respect to each Interest Period for any Euro Dollar Rate Loan, the rate *per annum* (rounded upwards, if necessary, to the next 1/16th of 1%) determined by dividing:

- (a) the Euro Dollar Rate for such Interest Period by:
- (b) a percentage equal to:
 - (i) one (1) minus
 - (ii) the Reserve Percentage.

For purposes hereof, "Reserve Percentage" shall mean the reserve percentage, expressed as a decimal, prescribed by any United States or foreign banking authority for determining the reserve requirement which is or would be applicable to deposits of U.S. Dollars in a non-United States or an international banking office of the US Reference Bank used to fund a Euro Dollar Rate Loan or any Euro Dollar Rate Loan made with the proceeds of such deposit, whether or not the US Reference Bank actually holds or has made any such deposits or loans. The Adjusted Euro Dollar Rate shall be adjusted on and as of the effective day of any change in the Reserve Percentage.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“**Agent**” means Wells Fargo, in its capacity as administrative and collateral agent hereunder, and any successor thereto appointed pursuant to Section 11.11.

“**Agreed Currency**” is defined in Section 13.6 hereof.

“**Alternate Currency**” means each Currency other than U.S. Dollars.

“**Alternate Currency Loan**” means each Revolving Loan denominated in an Alternate Currency.

“**Alternate Currency Revolving Loan Sublimit**” means an amount equal to the lesser of (i) \$100,000,000 and (ii) the aggregate amount of the Revolving Loan Commitment as then in effect. The Alternate Currency Revolving Loan Sublimit is part of, and not in addition to, the Revolving Loan Commitment.

“**AM Calculation Date**” has the meaning set forth in the definition of “Applicable Margin.”

“**Annualized EBITDA**” means, solely for the purposes of determining compliance with the financial covenant in Section 9.1 and the Applicable Margin, (a) for the applicable period ending immediately prior to the date on which a Designated Period Annualized EBITDA Notice is delivered, the sum of Actual EBITDA for the two Fiscal Quarters ended immediately prior to the delivery of such Designated Period Annualized EBITDA Notice (such quarters, the “**Initial Quarters**”) multiplied by two (2) and (b) for the applicable period ending as of the last day of the Fiscal Quarter ending immediately after the Initial Quarters (such quarter, the “**Subsequent Quarter**”), the sum of Actual EBITDA for the Subsequent Quarter and each of the Initial Quarters multiplied by four-thirds (4/3). In determining Annualized EBITDA clause (a) of the last sentence of EBITDA and any applicable Replacement EBITDA Amounts shall be disregarded.

“**Anti-Money Laundering Laws**” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules related to terrorism financing or money laundering, including any applicable provision of the *Patriot Act* and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“**Applicable Law**” means all applicable provisions of constitutions, laws, statutes, ordinances, rules, treaties, regulations and orders of Governmental Authorities and all orders and decrees of all courts and arbitrators.

“Applicable Margin” means the corresponding percentages *per annum* as set forth below based on the Total Leverage Ratio:

Pricing Level	Total Leverage Ratio	Applicable Margin for Euro Rate Loans, CDOR Rate Loans and Letter of Credit Accommodations	Applicable Margin for U.S. Base Rate Loans and Canadian Prime Rate Loans	Applicable Margin for Commitment Fees
I	Less than 1.00:1.00	1.00%	0.25%	0.25%
II	Greater than or equal to 1.00:1.00 but less than 1.50:1.00	1.25%	0.50%	0.30%
III	Greater than or equal to 1.50:1.00 but less than 2.00:1.00	1.50%	0.75%	0.35%
IV	Greater than or equal to 2.00:1.00	1.75%	1.00%	0.375%

The Applicable Margin shall be determined and adjusted quarterly on the date (each an “AM Calculation Date”) ten (10) Business Days after the day by which Borrower is required to provide a Compliance Certificate pursuant to Section 7.6(a) for the most recently ended Fiscal Quarter; provided that (a) the Applicable Margin shall be based on Pricing Level I until the first AM Calculation Date occurring after the Closing Date and, thereafter the Pricing Level shall be determined by reference to the Total Leverage Ratio as of the last day of the most recently ended Fiscal Quarter preceding the applicable AM Calculation Date, (b) notwithstanding anything to the contrary above, from and after the First Amendment Effective Date until the first AM Calculation Date after the date on which the Designated Period has ended, the Applicable Margin for Euro Rate Loans, CDOR Rate Loans and Letter of Credit Accommodations shall be 2.50%, the Applicable Margin for U.S. Base Rate Loans and Canadian Prime Rate Loans shall be 1.75% and the Applicable Margin for commitment fees shall be 0.50% and, thereafter the Pricing Level shall be determined by reference to the Total Leverage Ratio as of the last day of the most recently ended Fiscal Quarter preceding the applicable AM Calculation Date and (c) if Borrower fails to provide the Compliance Certificate as required by Section 7.6(a) for the most recently ended Fiscal Quarter preceding the applicable AM Calculation Date, the Applicable Margin from such AM Calculation Date shall be based on Pricing Level IV until such time as a Compliance Certificate is provided, at which time the Pricing Level shall be determined by reference to the Total Leverage Ratio as of the last day of the most recently ended Fiscal Quarter. The Applicable Margin shall be effective from one AM Calculation Date until the next AM Calculation Date. Any adjustment in the Applicable Margin shall be applicable to all Revolving Loans or Letter of Credit Accommodations then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Compliance Certificate delivered pursuant to Section 7.6(a) is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) the Revolving Loan Commitment is in effect, or (iii) any Loan or Letter of Credit Accommodation is outstanding when such inaccuracy is discovered or such financial statement or Compliance Certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an “**Applicable Period**”) than the Applicable Margin applied for such Applicable Period, then (A) Borrower shall immediately deliver to Agent a corrected Compliance Certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Total Leverage Ratio in the corrected Compliance Certificate were applicable for such Applicable Period, and (C) Borrower shall immediately and retroactively be obligated to pay to Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by Agent in accordance with Section 5.3. Borrower’s obligations under this paragraph shall survive the termination of the Revolving Loan Commitments and the repayment of all other Obligations hereunder.

“**Approved Fund**” means any Fund that is administered or managed by (a) an existing Lender, (b) an Affiliate of an existing Lender or (c) an entity or an Affiliate of an entity that administers or manages an existing Lender.

“**Arranger**” means Wells Fargo Securities, LLC, in its role hereunder as sole lead arranger and joint bookrunner.

“**Assignment and Assumption Agreement**” means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 11.1), and accepted by Agent, in substantially the form attached hereto as Exhibit A or any other form approved by Agent.

“**Attributable Debt**” means, on any date of determination, (a) in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease, the capitalized amount or principal amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease Obligation.

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Bankruptcy Code**” means title 11 of the United States Code, as in effect from time to time.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 CFR § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“**BIA**” means the *Bankruptcy and Insolvency Act* (Canada).

“**BMO**” means Bank of Montreal.

“**BMO Facilities**” means the debt facilities originally described in the term sheet dated July 10, 2014 between Borrower and BMO with respect to the issuance of:

- (a) a \$10,000,000 Demand, Revolving Letter of Credit Facility by BMO in favor of Borrower (the “**BMO LC Facility**”);
- (b) a CDN\$175,000 Mastercard Businesscard Facility by BMO in favor of Borrower (the “**Mastercard Facility**”); and
- (c) a \$3,000,000 Directline for Business – Foreign Exchange Settlement Facility by BMO in favor of Borrower (the “**F/X Facility**”).

“**Borrower**” means IMAX Corporation, a corporation incorporated pursuant to the laws of Canada.

“**Business Day**” means (a) for all purposes other than as set forth in clause (b) below, any day (other than a Saturday, Sunday or legal holiday) on which banks in Toronto, Ontario and New York, New York, are open for the conduct of their commercial banking business and (b) with respect to all notices and determinations in connection with, and payments of principal and interest on, any Euro Rate Loans or any U.S. Base Rate Loan as to which the interest rate is determined by reference to the Adjusted Euro Dollar Rate or the Euro Dollar Rate, as applicable, any day that is a Business Day described in clause (a) and that is also a London Banking Day.

“**Canadian Prime Rate**” means the greater of (a) the rate of interest publicly announced from time to time by the Canadian Reference Bank as its prime rate in effect for determining interest rates on Canadian Dollar denominated commercial loans in Canada (which such rate is not necessarily the most favored rate of such reference bank and such reference bank may lend to its customers at rates that are at, above or below such rate) and (b) the annual rate of interest equal to the sum of (i) the CDOR Rate for a one (1) month interest period at such time plus (ii) 0.75% *per annum*.

“**Canadian Prime Rate Loans**” means any Loans or portion thereof on which interest is payable based on the Canadian Prime Rate in accordance with the terms hereof.

“**Canadian Reference Bank**” means a bank listed in Schedule I to the *Bank Act* (Canada) as Agent may from time to time designate, in its discretion.

“**Canadian Revolving Loans**” means Revolving Loans denominated in Canadian Dollars.

“**Capital Lease Obligations**” means all monetary obligations of Borrower and its consolidated Subsidiaries under a capital or finance lease and, for the purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that obligations or liabilities of any Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations would be required to be classified and accounted for as an operating lease under GAAP as existing on the Closing Date that are recharacterized as Capital Lease Obligations due to a change in GAAP after the Closing Date shall not be treated as Capital Lease Obligations for any purpose under this Agreement, but instead shall be accounted for as if they were operating leases for all purposes under this Agreement as determined under GAAP as in effect on the Closing Date.

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the government of Canada, the United States, the United Kingdom or any country that is a member of the European Union (as it is constituted on the Closing Date) or any agency or instrumentality of any of the foregoing; (b) domestic and euro dollar certificates of deposit and time deposits, bankers’ acceptances and floating rate certificates of deposit issued by any commercial bank organized under the laws of Canada or the United States, any province or state thereof, any foreign bank, or its branches or agencies, the long-term indebtedness of which institution at the time of acquisition is rated A- (or better) by Standard & Poor’s Rating Services (“**S&P**”) or A3 (or better) by Moody’s Investors Service, Inc. (“**Moody’s**”), and which deposits are fully protected against currency fluctuations for any such deposits with a term of more than 90 days; (c) shares of money market, mutual or similar funds having assets in excess of \$100,000,000 and the investments of which are limited to (i) investment grade securities (i.e., securities rated at least BBB by S&P or rated at least Baa by Moody’s) and (ii) commercial paper of Canadian, U.S. and foreign banks and bank holding companies and their subsidiaries and Canadian, U.S. and foreign finance, commercial industrial or utility companies which, at the time of acquisition, are rated A-1 (or better) by S&P or P-1 (or better) by Moody’s (all such institutions being, “**Qualified Institutions**”); (d) commercial paper of Qualified Institutions; (e) auction rate securities (long-term, variable rate bonds tied to short-term interest rates) that are rated AAA by S&P and Aaa by Moody’s; and (f) in the case of any non-U.S. Subsidiary, investments of comparable tenor and credit quality to those described in the foregoing clauses customarily used in any country where such non-U.S. Subsidiary is located or in which the investment is made; provided that the maturities of such Cash Equivalents shall not exceed 365 days from the date of acquisition.

“**Cash Management Agreement**” means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.

“**Cash Management Bank**” means any Person that (i) at the time it enters into a Cash Management Agreement, is a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent, in its capacity as a party to such Cash Management Agreement or (ii) within thirty days after the time such Person enters into the applicable Cash Management Agreement, becomes a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent.

“CCAA” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CDOR Rate**” means, for the applicable Interest Period and as determined on the day of the applicable borrowing, conversion or continuation, a rate of interest *per annum* equal to the stated average appearing on the “Reuters Screen CDOR Page” (as defined in the International Swap Dealer Association, Inc.’s definitions, as amended, restated, supplemented or otherwise modified from time to time), or any successor page, as of 10:00 a.m. (Toronto time) on such day (or if such day is not a Business Day, then on the immediately preceding Business Day), of the rates *per annum* applicable to Canadian Dollar bankers’ acceptances having a term equal to such Interest Period, rounded to the nearest 1/100th of 1% (with 0.005% being rounded up); provided, however, that if, for any reason, such rate does not appear on the Reuters Screen CDOR Page on such day as contemplated, then the “CDOR Rate” on such day shall be calculated as the arithmetic average of the rates *per annum* applicable to Canadian Dollar bankers’ acceptances having a term equal to such Interest Period quoted by the banks listed in Schedule I of the *Bank Act* (Canada) as of 10:00 a.m. (Toronto time) on such day (or if such day is not a Business Day, then on the immediately preceding Business Day). Each calculation by Agent of the CDOR Rate shall be conclusive and binding for all purposes, absent manifest error. Notwithstanding the foregoing, if the CDOR Rate shall be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“**CDOR Rate Loans**” means any Loans or portion thereof on which interest is payable by reference to the CDOR Rate in accordance with the terms hereof.

“**Change in Law**” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by Agent, any Lender or the Issuing Lender with any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the *Dodd-Frank Wall Street Reform and Consumer Protection Act* and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented or issued.

“**Closing Date**” means June 28, 2018.

“**Code**” means the United States Internal Revenue Code of 1986, as amended.

“**Collateral**” means, collectively, all of the property and assets, real or personal, tangible or intangible, now existing or hereafter acquired by any Credit Party that may at any time be or become subject to a Lien in favor of Agent to secure any or all of the Obligations; provided that, for greater certainty, any and all assets of IMAX China Multimedia and IMAX China Theatre, the Mississauga Property, the Playa Vista Property and any other property and assets expressly excluded from the “Collateral” pursuant to the terms of the applicable Financing Agreements shall be excluded from, and not form part of, the Collateral.

“**Commitments**” means, collectively, the Revolving Loan Commitments and the Term Loan Commitments.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

“**Compliance Certificate**” means the compliance certificate substantially in the form attached hereto as Exhibit B or such other form as may be reasonably approved by the Agent.

“**Connection Income Taxes**” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“**Consolidated Total Assets**” means, with respect to Borrower and its consolidated Subsidiaries as of any date, the amount which, in accordance with GAAP, would be set forth under the heading “Total Assets” (or any like heading) on a consolidated balance sheet of Borrower and its Subsidiaries, as of the end of the most recent consolidated balance sheet of Borrower and its Subsidiaries, determined on a *pro forma* basis.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise and “**Controlling**” and “**Controlled**” have meanings correlative thereto.

“**Control Agreement**” means an agreement in form and substance reasonably satisfactory to the Agent establishing the Agent’s “Control” (as defined in the UCC or any comparable concept under the PPSA) with respect to, or otherwise perfecting (in any comparable manner as required under the laws of Canada) the Agent’s Lien on, any Deposit Account or Securities Account as security for the Obligations.

“**Credit Parties**” means, collectively, Borrower and Guarantors.

“**Currency**” means Canadian Dollars, Euros and U.S. Dollars and any other freely transferable currency to the extent that such currency is approved by Agent and each Revolving Lender providing the Revolving Loan in such currency.

“**Debt**” means, with respect to any Person at any time and without duplication:

- (a) all obligations for the deferred purchase price of property or services (other than (x) current trade payables incurred in the ordinary course of business, (y) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (z) expenses accrued in the ordinary course of business);
- (b) all obligations, liabilities and indebtedness evidenced by notes, bonds, debentures or similar instruments;

- (c) the Attributable Debt of such Person with respect to such Person's Capital Lease Obligations and Synthetic Leases;
- (d) the drawn and unreimbursed amount of all issued letters of credit (including Letter of Credit Accommodations and letters of credit issued under the BMO LC Facility);
- (e) Capital Lease Obligations;
- (f) all obligations, liabilities and indebtedness for borrowed money;
- (g) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person to the extent of the value of such property (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business);
- (h) all indebtedness of any other Person secured by a Lien on any asset owned or being purchased by such Person, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (i) all obligations of any such Person in respect of Disqualified Equity Interests;
- (j) all net obligations of such Person under any Hedge Agreements; and
- (k) guarantees of items referenced in subsections (a) through to (j) of this definition.

For all purposes hereof, the Debt of any Person shall include the Debt of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, (i) unless such Debt is expressly made non-recourse to such Person or (ii) except to the extent such Person's liability for such Debt is otherwise limited in recourse or amount, but only up to the amount of the value of the assets to which recourse is limited or the amount of such limit. In respect of Debt of another Person secured by a Lien on the assets of the specified Person, the amount of such Debt as of any date of determination will be the lesser of (x) the fair market value of such assets as of such date and (y) the amount of such Debt as of such date. The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Hedge Termination Value thereof as of such date. Debt shall not include, in the case of Borrower and its Subsidiaries, intercompany loans, intercompany advances, or intercompany Debt having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business. Notwithstanding the foregoing, the obligations of the Borrower under any Permitted Warrant Transaction shall not constitute Debt so long as the terms of such Permitted Warrant Transaction provide for "net share settlement" (or substantially equivalent term) as the default "settlement method" (or substantially equivalent term) thereunder. For purposes hereof, the amount of any Permitted Convertible Debt shall be the aggregate stated principal amount thereof without giving effect to any obligation to pay cash or deliver shares with value in excess of such principal amount, and without giving effect to any integration thereof with any Permitted Bond Hedge Transaction pursuant to U.S. Treasury Regulation § 1.1275-6.

“**Debtor Relief Laws**” means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

“**Default**” means an event, circumstance or omission which, with any of the giving of notice or a lapse of time or both would constitute an Event of Default.

“**Defaulting Lender**” means, subject to Section 3.8(b), any Lender that (a) is a Non-Funding Lender, (b) has notified the Borrower, the Agent, the Issuing Lender or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Agent or the Borrower, to confirm in writing to the Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the FDIC or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets (except, in the case of immunity from attachment of assets, to the extent the liabilities of such Lender (including judgments against it) are otherwise paid out of, or payable from, a fund of a Governmental Authority which was created and is then maintained for such purpose and is funded in an amount at least sufficient to satisfy such liabilities) or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 3.8(b)) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swingline Lender and each Lender.

“**Deposit Accounts**” as defined in the UCC as in effect in the State of New York.

“**Designated Period**” means the period commencing on the First Amendment Effective Date and ending on the earlier to occur of (a) the date on which the duly executed and completed Compliance Certificate required to be delivered under Section 7.6(a)(iii) is delivered to the Agent for the Fiscal Quarter ending December 31, 2022 (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(ii)), and such certificate demonstrates compliance with Section 9.1 and (b) so long as no Default or Event of Default has occurred and is continuing, to the extent the Borrower delivers a Designated Period Suspension Notice, the date on which the applicable Designated Period Suspension Notice and related Compliance Certificate and financial statements are delivered.

“Designated Period Actual EBITDA Notice” means a one-time written notice to the Agent, in form and substance reasonably satisfactory to the Agent, identifying itself as a “Designated Period Actual EBITDA Notice” and confirming the Borrower’s agreement to calculate EBITDA for the four Fiscal Quarter period ending immediately prior to the date of delivery of such notice and for each subsequent four Fiscal Quarter period thereafter based on the actual EBITDA as determined without giving effect to the last sentence of EBITDA and without reference to any Annualized EBITDA or Replacement EBITDA Amounts (EBITDA as so calculated, “**Actual EBITDA**”). For the avoidance of doubt, (a) the Designated Period Actual EBITDA Notice may only be delivered by the Borrower one time and shall be delivered concurrently with the delivery of the duly executed and completed Compliance Certificate pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i) or (ii), as applicable) with respect to the Fiscal Quarter or Fiscal Year ended immediately prior to the date such notice is delivered which demonstrates that the Senior Secured Net Leverage Ratio, as of such quarter end and calculated using Actual EBITDA, was equal to or less than 3.25 to 1.00 and (b) if the Borrower delivers a Designated Period Actual EBITDA Notice it may not thereafter revoke such notice or deliver a Designated Period Annualized EBITDA Notice.

“Designated Period Annualized EBITDA Notice” means a one-time written notice to the Agent, in form and substance reasonably satisfactory to the Agent, identifying itself as a “Designated Period Annualized EBITDA Notice” and confirming the Borrower’s agreement to calculate EBITDA for the four Fiscal Quarter period ending immediately prior to the date of delivery of such notice and the four Fiscal Quarter period ending immediately after the date of delivery of such notice based on the Annualized EBITDA and for each subsequent four Fiscal Quarter period thereafter based on Actual EBITDA. For the avoidance of doubt, (a) the Designated Period Annualized EBITDA Notice may only be delivered by the Borrower one time and shall be delivered concurrently with the delivery of the duly executed and completed Compliance Certificate pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i) or (ii), as applicable) with respect to the Fiscal Quarter or Fiscal Year ended immediately prior to the date such notice is delivered which demonstrates that the Senior Secured Net Leverage Ratio, as of such quarter end and calculated using Annualized EBITDA, was equal to or less than 3.25 to 1.00 and (b) if the Borrower delivers a Designated Period Annualized EBITDA Notice it may not thereafter revoke such notice or deliver a Designated Period Actual EBITDA Notice.

“Designated Period Suspension Notice” means either a Designated Period Actual EBITDA Notice or a Designated Period Annualized EBITDA Notice.

“Disqualified Equity Interests” means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the

holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Debt or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Maturity Date.

“**Dollar Equivalent**” means, at any time for the determination thereof, with respect to an amount of an Alternate Currency, the amount of U.S. Dollars which could be purchased with such amount of such Alternate Currency at the spot exchange rate therefor as quoted by Agent as of 11:00 a.m. (New York time) on the date two (2) Business Days prior to the date of any determination thereof for purchase on such date.

“**EBITDA**” means, for any period with respect to Borrower and its consolidated Subsidiaries, an amount equal to:

- (a) the *sum*, without duplication, of the amounts for such period of:
 - (i) consolidated net income or net loss;
 - (ii) loss from equity accounted investments and cash fees and expenses incurred in connection with Permitted Investments, recapitalization, the issuance of Equity Interests and the incurrence, repayment or exchange of Debt permitted to be incurred hereunder (including a refinancing thereof), in each case, whether or not successful;
 - (iii) provisions for Taxes based on income, profits or capital, including state, franchise and similar Taxes;
 - (iv) total interest expense;
 - (v) total depreciation expense;
 - (vi) total amortization expense (including amortization or write-off of deferred financing fees);
 - (vii) write-downs relating to inventories, financing receivables, accounts receivable, property, plant and equipment, joint revenue sharing arrangements, other intangible assets, other assets or investments and film assets, as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
 - (viii) stock option based compensation expenses and other non-cash equity-based compensation expenses;

- (ix) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, including future lease commitments, costs related to the start up, closure, relocation or consolidation of facilities and costs to relocate employees), as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (x) curtailment of post-retirement benefits;
- (xi) expenses during such period relating to pension payments;
- (xii) the amount of any extraordinary, unusual or non-recurring charges, expenses or losses, as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (xiii) other non-cash charges, expenses and losses as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (xiv) transaction costs in connection with the Financing Agreements;
- (xv) charges, expenses or losses in connection with the termination or write-down of the Hong Kong JV Investment; and
- (xvi) write-downs relating to the virtual reality business of the Borrower and its Subsidiaries as of the Closing Date;

minus

- (b) the *sum*, without duplication, of the amounts for such period of:
 - (i) interest income; and
 - (ii) any credit for income tax.

For purposes of calculating compliance with the financial covenant in Section 9.1 hereof and the Fixed Incremental Amount, EBITDA shall be calculated (a) without taking into account any contribution to consolidated net income or net loss with respect to (i) any Future Permitted Transaction and (ii) non-cash equity income or loss from joint ventures and (b) to reflect the reduction in EBITDA allocable to minority interests owned in any Subsidiary by arm's length third Persons.

Notwithstanding the foregoing or anything to the contrary contained herein, solely for the purposes of determining compliance with the financial covenant in Section 9.1 and, with respect to clause (b), the Applicable Margin, (a) unless and until the Borrower has delivered a Designated Period Suspension Notice, EBITDA for the Fiscal Quarters ending September 30, 2021 and December 31, 2021 shall be \$32,430,000 and \$46,955,000, respectively (each, respectively, a "**Replacement EBITDA Amount**") and (b) in the event that the Borrower has delivered a Designated Period Annualized EBITDA Notice, EBITDA shall be temporarily annualized using Annualized EBITDA as set forth in the definition of Designated Period Annualized EBITDA Notice.

“**EDC Indemnity Agreement**” means the indemnity agreement dated May 3, 2010 given by Borrower in favor of EDC, as amended, modified, supplemented, extended, renewed, restated or replaced from time to time.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Electronic Record**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“**Electronic Signature**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“**Eligible Transferee**” means

- (a) any Lender;
- (b) any Affiliate of such Lender;
- (c) any Approved Fund; and
- (d) any other commercial bank, financial institution or “**accredited investor**” (as defined under Ontario Securities Commission Rule 45-106) approved by Agent and, unless an Event of Default has occurred and is continuing, Borrower (each such approval not to be unreasonably withheld or delayed),

provided, however, that,

- (i) neither Borrower nor any Affiliate of Borrower;
- (ii) nor any natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person);

- (iii) nor any Person that is a competitor of Borrower (if such Person is included on a written list provided by Borrower to Agent prior to or after the Closing Date, which written list Borrower may update from time to time by providing it to Agent);
- (iv) nor any Defaulting Lender or any of its Subsidiaries;

in each case of the foregoing clauses (i), (ii), (iii) and (iv) shall qualify as an Eligible Transferee (each, a “**Prohibited Transferee**”).

“**EMU Legislation**” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“**Environment**” means ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata and natural resources such as wetlands, flora and fauna.

“**Environmental Claim**” means any investigation, notice, notice of violation or of potential responsibility, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, natural resources or the environment.

“**Environmental Laws**” means with respect to any Person, all Applicable Laws, permits, licenses and consent decrees imposed by a Governmental Authority relating to pollution or protection of the Environment or protection of human health (to the extent relating to exposure to Hazardous Materials), including laws relating to emissions, discharges, releases or threatened releases of Hazardous Materials into the Environment or otherwise relating to the generation, use, treatment, storage, transport or handling of Hazardous Materials.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of remediation, fines, penalties or indemnities), of any Credit Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage or treatment of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials or (e) any contract, agreement or other binding consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**Equity Interests**” means (a) in the case of a corporation, capital stock or shares, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person and (f) any and all warrants, rights or options to purchase any of the foregoing; provided that Permitted Convertible Debt, or other debt securities that are or by their terms may be convertible or exchangeable into or for Qualified Equity Interests, or Permitted Warrant Transactions, in each case, shall not constitute capital stock or other Equity Interests prior to settlement, conversion or exchange thereof.

“**ERISA**” means the *Employee Retirement Income Security Act of 1974*, together with all rules, regulations and interpretations thereunder or related thereto.

“**ERISA Affiliate**” means any person required to be aggregated with any Credit Party or any of its Subsidiaries under Sections 414(b), 414(c), 414(m) or 414(o) of the Code.

“**ERISA Event**” means

- (a) any “**reportable event**” as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a U.S. Pension Plan, other than events as to which the requirement of notice has been waived in regulations by the Pension Benefit Guaranty Corporation;
- (b) the adoption of any amendment to a U.S. Pension Plan or Multiemployer Plan that would require the provision of security pursuant to the Code or ERISA;
- (c) a complete or partial withdrawal by any Credit Party or any ERISA Affiliate from a Multiemployer Plan or a cessation of operations which is treated as such a withdrawal;
- (d) the filing of a notice of intent to terminate a U.S. Pension Plan or Multiemployer Plan under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the Pension Benefit Guaranty Corporation to terminate a U.S. Pension Plan or Multiemployer Plan;
- (e) an event or condition which would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan;
- (f) the imposition of any liability under Title IV of ERISA, other than the Pension Benefit Guaranty Corporation premiums due but not delinquent under Section 4007 of ERISA, upon any Credit Party or any ERISA Affiliate in excess of \$1,000,000; and
- (g) any other event or condition with respect to any U.S. Pension Plan or Multiemployer Plan subject to Title IV of ERISA maintained, or contributed to, by any ERISA Affiliate in excess of \$1,000,000.

“**Erroneous Payment**” is defined in Section 11.15(a).

“**Erroneous Payment Notice**” is defined in Section 11.15(b).

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor thereto), as in effect from time to time.

“**Euribor**” means the rate *per annum* determined on the basis of the rate for deposits in Euros for a period equal to the applicable Interest Period as published by the ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by

Agent, at approximately 11:00 a.m. (London time) four (4) Business Days prior to the commencement of such Interest Period, provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provisions, the rate above instead shall be the offered quotation to first-class banks in the London interbank Eurodollar market by Agent for deposits in Euros of amounts in immediately available funds comparable to the principal amount of the Euro Rate Loan of Agent (in its capacity as a Lender (or, if Agent is not a Lender with respect thereto, taking the average principal amount of the Euro Rate Loan then being made by the various Lenders pursuant thereto)) with maturities comparable to the Interest Period applicable to such Euro Rate Loan at approximately 11:00 a.m. (London time) four (4) Business Days prior to the commencement of such Interest Period. Notwithstanding the foregoing, if Euribor shall be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“**Euro**” means the single currency of the participating member states as described in any EMU Legislation.

“**Euro Dollar Rate**” means, subject to the implementation of a Replacement Rate in accordance with Section 3.2(c), the rate of interest, based on a 360 day year, published by the ICE Benchmark Administration Limited, a United Kingdom company, or a comparable or successor quoting service approved by Agent, as the London interbank offered rate for deposits in U.S. Dollars for a term comparable to the applicable Interest Period as selected by Borrower (but if more than one rate is specified on such page, the rate will be an arithmetic average of all such rates rounded upwards, in Agent’s discretion, to the nearest 1/100th of one 1%) at approximately 9:00 a.m. (New York time) three (3) Business Days prior to the commencement of such Interest Period. If, for any reason, such rate is not so published then “Euro Dollar Rate” shall be determined by Agent to be the arithmetic average of the rate *per annum* at which deposits in U.S. Dollars would be offered by first class banks in the London interbank market to Agent at approximately 9:00 a.m. (New York time) three (3) Business Days prior to the commencement of such Interest Period. Each calculation by Agent of the Euro Dollar Rate shall be conclusive and binding for all purposes, absent manifest error. Notwithstanding the foregoing, if the Euro Dollar Rate shall be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

“**Euro Dollar Rate Loans**” means any Loans or portion thereof denominated in U.S. Dollars and on which interest is payable based on the Adjusted Euro Dollar Rate in accordance with the terms hereof.

“**Euro Rate**” means, subject to the implementation of a Replacement Rate in accordance with Section 3.2(c):

- (a) for any Revolving Loans denominated in U.S. Dollars, the Adjusted Euro Dollar Rate;
- (b) for any Revolving Loans denominated in Euros, Euribor; and
- (c) for any Revolving Loans denominated in an Alternate Currency (other than Canadian Dollars and Euros), such rate *per annum* as shall be agreed upon by Agent, Borrower and the Revolving Lenders.

“**Euro Rate Loans**” means any Revolving Loans or portion thereof denominated in U.S. Dollars or an Alternate Currency (other than Canadian Dollars) and on which interest is payable based on the Euro Rate in accordance with the terms hereof.

“**Event of Default**” is defined in Section 10.1.

“**Excluded Accounts**” means, collectively, (a) Deposit Accounts or Securities Accounts established solely for the purpose of funding payroll, payroll taxes and other compensation and benefits to employees, (b) Deposit Accounts established as withholding tax, trust, escrow or fiduciary accounts, (c) Deposit Accounts that are zero balance accounts that are swept daily into Deposit Accounts that are subject to Control Agreements or into other Excluded Accounts, (d) Deposit Accounts maintained at the Agent and (e) Deposit Accounts or Securities Accounts with amounts on deposit that, when aggregated with the amounts on deposit in all other Deposit Accounts or Securities Accounts for which Control Agreements have not been obtained (other than those specified in clauses (a), (b), (c) and (d)), do not exceed \$3,000,000 at any time.

“**Excluded Swap Obligation**” means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the liability of such Credit Party for or the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any liability or guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Credit Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the liability for or the guarantee of such Credit Party or the grant of such security interest becomes effective with respect to such Swap Obligation (such determination being made after giving effect to any applicable keepwell, support or other agreement for the benefit of the applicable Credit Party, including under the keepwell provisions in the applicable Financing Agreement). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal for the reasons identified in the immediately preceding sentence of this definition.

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, United States federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by Borrower under Section 3.6(b)) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.5, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient’s failure to comply with Section 3.5(g), (d) any Taxes imposed under FATCA and (e) any Taxes that are

required to be deducted or withheld under the ITA or in respect of any payment or deemed payment under the ITA, to or for the benefit of any Recipient (i) with which the payor does not deal at arm's length for purposes of the ITA at the time of the making of the payment or deemed payment or (ii) that is a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the applicable Credit Party at any relevant time or does not deal at arm's length for purposes of the ITA with a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the applicable Credit Party at any relevant time.

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"**FDIC**" means the Federal Deposit Insurance Corporation.

"**Federal Funds Rate**" means, for any day, the rate *per annum* equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if such rate is not so published for any day which is a Business Day, the Federal Funds Rate for such day shall be the average of the quotation for such day on such transactions received by Agent from three (3) federal funds brokers of recognized standing selected by Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

"**Fee Letter**" means the separate fee letter agreement dated June 6, 2018 among Borrower, Agent and Arranger.

"**Financing Agreements**" means, collectively, this Agreement, the Fee Letter and all notes, guarantees, security agreements and other agreements, documents and instruments previously, now or at any time hereafter executed and/or delivered by any Credit Party in connection with this Agreement, in each case, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, but excluding any Secured Hedge Agreement and Secured Cash Management Agreement.

"**First Amendment Effective Date**" means June 10, 2020.

"**Fiscal Quarter**" means each of the following 3 month periods in any Fiscal Year of Borrower: January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.

"**Fiscal Year**" means the fiscal year of Borrower being the twelve (12) month period of January 1 to December 31.

“**Fixed Incremental Amount**” means, at any time, (a) an amount equal to the greater of (i) \$140,000,000 and (ii) the EBITDA of Borrower and its consolidated Subsidiaries for the four (4) Fiscal Quarter period most recently ended for which a Compliance Certificate has been executed and delivered by Borrower to Agent less (b) the aggregate principal amount of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Fixed Incremental Amount prior to such time; provided further that during the Designated Period the Fixed Incremental Amount shall be reduced to \$50,000,000 less the aggregate principal of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Fixed Incremental Amount during the Designated Period prior to such time.

“**Fronting Exposure**” means, at any time there is a Defaulting Lender, (a) with respect to any Issuing Lender, such Defaulting Lender’s Pro Rata Share of the outstanding obligations with respect to Letter of Credit Accommodations issued by such Issuing Lender, other than such obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or cash collateralized in accordance with the terms hereof and (b) with respect to the Swingline Lender, such Defaulting Lender’s Pro Rata Share of outstanding Swingline Loans other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or cash collateralized in accordance with the terms hereof.

“**Fund**” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its activities.

“**Future Permitted Transaction**” means any infrequent or unusual transaction requested by Borrower to be designated as such to the extent any such transaction has been pre-approved in writing by Agent and Required Lenders.

“**GAAP**” means generally accepted accounting principles in the United States of America and as in effect from time to time (for all other purposes of the Agreement), including those forth in the opinions and pronouncements of the relevant U.S. public and private accounting boards and institutes which are applicable to the circumstances as of the date of determination consistently applied. If at any time any change in GAAP or the application thereof would affect the computation or interpretation of any financial ratio, basket, requirement or other provision set forth in any Financing Agreement, and either the Borrower or the Required Lenders shall so request, the Agent and the Borrower shall negotiate in good faith to amend such ratio, basket, requirement or other provision to preserve the original intent thereof in light of such change in GAAP or the application thereof (subject to the approval of the Required Lenders not to be unreasonably withheld, conditioned or delayed).

“**General Security Agreement**” means the amended and restated general security agreement dated November 16, 2009 entered into by Borrower in favor of Agent, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**Governmental Authority**” means any government, parliament, legislature, municipal or local government, or any regulatory authority, agency, commission or board of any government, parliament or legislature, or any court or (without limitation to the foregoing) any other law, regulation or rule-making entity (including any central bank, fiscal or monetary authority regulating banks), having or purporting to have jurisdiction in the relevant circumstances, or any Person acting or purporting to act under the authority of any of the foregoing (including any arbitrator).

“**Guarantors**” means, other than Borrower, any guarantor, endorser, acceptor, surety or other person liable on or with respect to the Obligations or who is the owner of any property which is security for the Obligations, including:

- (a) IMAX U.S.A. Inc., a Delaware corporation;
- (b) 1329507 Ontario Inc., an Ontario corporation;
- (c) IMAX II U.S.A. Inc., a Delaware corporation;
- (d) IMAX Post/DKP Inc., a Delaware corporation;
- (e) IMAX Barbados; and
- (f) IMAX Ireland.

“**Hazardous Materials**” means any chemical, material, substance, waste, pollutant or contaminant, or compound in any form of any nature, including petroleum and petroleum products, asbestos and asbestos-containing materials, regulated pursuant to any Environmental Law.

“**Hedge Agreement**” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, all as amended, modified, supplemented, extended, renewed, restated or replaced from time to time. For the avoidance of doubt, the term “Hedge Agreement” shall not include the agreements and arrangements entered into to effect a Permitted Bond Hedge Transaction or a Permitted Warrant Transaction.

“**Hedge Bank**” means any Person that at the time it enters into a Hedge Agreement is a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent, in its capacity as a party to such Hedge Agreement.

“**Hedge Termination Value**” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include Agent, a Lender or any Affiliate thereof).

“**Hong Kong JV Guarantee**” means the unsecured guarantee dated January 6, 2014 issued by Borrower to Sino Leader (Hong Kong) Limited.

“**Hong Kong JV Investment**” means the \$12,500,000 investment by IMAX (Hong Kong) Holding, Limited in TCL-IMAX Entertainment Co., Limited for 50% of the issued and outstanding share capital of TCL-IMAX Entertainment Co., Limited.

“**IMAX Barbados**” means IMAX (Barbados) Holding, Inc., a Barbados corporation.

“**IMAX Cayman**” means IMAX China Holding, Inc., a Cayman Islands exempted company.

“**IMAX China Credit Facility**” means a secured credit facility provided by third party lenders to IMAX Cayman, IMAX China HK and/or IMAX China Multimedia.

“**IMAX China Guarantee**” means an unsecured guarantee issued by Borrower of the obligations, liabilities and indebtedness of any borrower that is a Subsidiary of Borrower under the IMAX China Credit Facility in an amount not to exceed \$5,000,000.

“**IMAX China HK**” means IMAX China (Hong Kong), Limited.

“**IMAX China Multimedia**” means IMAX (Shanghai) Multimedia Technology Co., Ltd., a People’s Republic of China corporation.

“**IMAX China Theatre**” means IMAX (Shanghai) Theatre Technology Services Co., Ltd., a People’s Republic of China corporation.

“**IMAX Film Fund**” means IMAX Documentary Films Capital, LLC.

“**IMAX Film Fund Put**” means the Production, Financing and Distribution Agreement dated as of May 12, 2014, by and between IMAX Film Holding Co. and IMAX Film Fund.

“**IMAX HK**” means IMAX (Hong Kong) Holding, Limited, a Subsidiary of Borrower and a Hong Kong corporation.

“**IMAX Ireland**” means IMAX Theatres International Limited, an Irish corporation.

“**Increased Amount Date**” is defined in [Section 2.6\(b\)](#).

“**Increased-Cost Lender**” is defined in [Section 3.6\(a\)](#).

“**Incremental Equivalent Debt**” is defined in [Section 8.3\(y\)](#).

“**Incremental Lender**” is defined in [Section 2.6\(c\)](#).

“**Incremental Loan Commitments**” is defined in [Section 2.6\(a\)\(ii\)](#).

“**Incremental Loans**” is defined in Section 2.6(a)(ii).

“**Incremental Revolving Loan Commitment**” is defined in Section 2.6(a)(ii).

“**Incremental Revolving Loan Increase**” is defined in Section 2.6(a)(ii).

“**Incremental Term Loan**” is defined in Section 2.6(a)(i).

“**Incremental Term Loan Commitment**” is defined in Section 2.6(a)(i).

“**Indemnified Taxes**” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under this Agreement and any other documents entered into in connection herewith and (b) to the extent not otherwise described in clause (a), Other Taxes.

“**Indemnitee**” is defined in Section 12.5.

“**Information Certificate**” means the Information Certificate substantially in the form of Exhibit C hereto provided by or on behalf of each Credit Party to Agent in connection with the Financing Agreements.

“**Insolvency Laws**” means any of the Bankruptcy Code, BIA, the CCAA (Canada), the *Winding-Up and Restructuring Act* (Canada), and any similar debtor relief laws of any applicable jurisdiction (including common law or equity and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it) now or hereafter in effect relating to bankruptcy, insolvency, receivership, liquidation, dissolution, winding-up, restructuring or reorganization of debtors (including provisions of any applicable corporations legislation dealing with the restructuring or rearrangement of debts), compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of any debtor or its indebtedness.

“**Insolvency Proceeding**” means any proceeding commenced by or against any Person under any provision of Insolvency Law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

“**Intercreditor Agreement**” means an intercreditor agreement that is reasonably satisfactory to Agent and entered into by Agent pursuant to Section 11.10(d), as amended, modified, extended, renewed, restated or replaced from time to time.

“**Interest Period**” means, with respect to each CDOR Rate Loan and Euro Rate Loan, a period of one (1), two (2), three (3) or six (6) months (or, if agreed to by all relevant Lenders, twelve (12) months) duration as Borrower may elect, the exact duration to be determined in accordance with customary practice in the applicable CDOR Rate or Euro Rate market; provided that (a) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day unless no further Business Day occurs in such month, in which case such Interest Period shall expire on the immediately preceding Business Day; (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for

which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c) of this definition, end on the last Business Day of a calendar month; and (c) Borrower may not elect an Interest Period which will end after the Maturity Date.

“**Interest Rate**” means:

- (a) as to Euro Dollar Rate Loans, the Adjusted Euro Dollar Rate plus the Applicable Margin *per annum*; or
- (b) as to U.S. Base Rate Loans, the U.S. Base Rate plus the Applicable Margin *per annum*; or
- (c) as to CDOR Rate Loans, the CDOR Rate plus the Applicable Margin *per annum*;
- (d) as to Canadian Prime Rate Loans, the Canadian Prime Rate plus the Applicable Margin *per annum*;
- (e) as to Euro Rate Loans (other than US Revolving Loans), the Euro Rate plus the Applicable Margin *per annum*;
- (f) notwithstanding the rates described in clause (a) and (e) above, the rate of 2% *per annum* in excess of the applicable Interest Rate described above and all fees payable in connection herewith shall apply (and shall be payable on demand by Agent):
 - (i) automatically upon the occurrence and continuation of a Payment/Insolvency Event of Default; and
 - (ii) at the election of Required Lenders (or Agent at the direction of Required Lenders) upon the occurrence and continuation of any other Event of Default.

“**Investment**” is defined in Section 8.4.

“**IP Collateral**” means all of the Intellectual Property as such term is defined in the General Security Agreement.

“**IP Collateral License Agreement**” means the amended and restated intellectual property license agreement dated November 16, 2009 granting Agent and its successors, transferees and assignees, a non-exclusive, royalty free perpetual license to the IP Collateral, but effective only upon the occurrence and continuance of an IP Grace Period, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**IP Grace Period**” means the period commencing on the date upon which Agent exercises its remedies pursuant to Section 10.2(a) and/or Section 10.2(b) hereof and ending 120 days thereafter.

“**Issuing Lender**” means with respect to Letter of Credit Accommodations issued hereunder on or after the Closing Date, Wells Fargo, in its capacity as issuer thereof, or any successor thereto.

“**ITA**” means the *Income Tax Act*, R.S.C. 1985, c. (5th Supplement).

“**Lender Joinder Agreement**” means a joinder agreement in form and substance reasonably satisfactory to Agent and executed and delivered in connection with Section 2.6.

“**Lenders**” means each Person executing this Agreement as a Lender on the Closing Date (including the Swingline Lender) and any other Person that becomes a party hereto as a Lender pursuant to an Assignment and Assumption Agreement or the relevant Lender Joinder Agreement, other than any Person that ceases to be a party hereto as a Lender pursuant to an Assignment and Assumption Agreement.

“**Lending Office**” means, with respect to any Lender, the office of such Lender maintaining such Lender’s Loans.

“**Letter of Credit Accommodations**” means the letters of credit, merchandise purchase or other guarantees denominated in U.S. Dollars which are from time to time either (a) issued or opened by Issuing Lender for the account of Borrower or any Credit Party or (b) with respect to which Issuing Lender has agreed to indemnify the issuer or guaranteed to the issuer the performance by any Credit Party of its obligations to such issuer, and shall include the existing letters of credit, merchandise purchase and other guarantees issued and currently outstanding under the Fourth Amended and Restated Credit Agreement.

“**Letter of Credit Accommodations Sublimit**” is defined in Section 2.2(c).

“**License Agreements**” shall have the meaning set forth in the General Security Agreement.

“**Lien**” means any security interest, mortgage, pledge, hypothec, lien, charge or other lien of any nature whatsoever (including those created by statute); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

“**Liquidity**” means as of any date of determination, the sum of (a) the aggregate amount of (i) unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of such date of determination less (ii) any such amounts domiciled in the People’s Republic of China plus (b) the aggregate Revolving Loan Commitments as of such date less the Revolving Loan Exposure as of such date.

“**Loans**” means, collectively, the Revolving Loans, the Swingline Loans and the Term Loans.

“**London Banking Day**” means any day on which dealings in U.S. Dollar or Euro deposits are conducted by and between banks in the London interbank Eurodollar market.

“**Material Acquisition**” means any transaction, or any series of related transactions, which is a Permitted Investment consummated on or after the Closing Date, by which any Credit Party or any of its Subsidiaries:

- (a) (i) acquires any business or all or substantially all of the assets of any Person, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction

in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of members of the board of directors or the equivalent governing body (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company; and

- (b) the consideration is payable in an amount equal to or greater than the lesser of (i) \$100,000,000 and (ii) twenty-five percent (25%) of TTM Revenue (other than any consideration paid for by the issuance of Equity Interests and/or using the proceeds received from the sale of Equity Interests).

“Material Adverse Effect” means, with respect to Borrower and its Subsidiaries, (a) a material adverse effect on the properties, business, operations, liabilities (actual or contingent) or financial condition of any such Persons, taken as a whole, (b) a material adverse effect on the ability of any such Persons, taken as a whole, to perform their respective obligations under the Financing Agreements to which any of the Credit Parties is a party, (c) a material adverse effect on the rights and remedies of Agent or the Lenders under any Financing Agreements or (d) a material adverse effect on the legality, validity, binding effect or enforceability against any Credit Party of any Financing Agreement to which it is a party.

“Material Real Property” means any real property owned in fee simple (or local law equivalent) and acquired by a Credit Party after the Closing Date with a market value or purchase price in excess of \$5,000,000; provided that, for the avoidance of doubt, neither the Mississauga Property nor the Playa Vista Property shall constitute “Material Real Property.”

“Material Subsidiary” means any Subsidiary of any Credit Party that accounts for greater than 10% of the revenues of Borrower on a consolidated basis other than (a) IMAX China Multimedia, IMAX China Theatre, IMAX China HK, Playa Vista Borrower and IMAX Cayman and its Subsidiaries; (b) not wholly owned directly by a Credit Party or one or more of its wholly owned Subsidiaries; (c) a charitable or not-for-profit Subsidiary reasonably designated as such by Borrower; (d) any Subsidiary that is prohibited by Applicable Law, or by any contractual obligation from guaranteeing the applicable Obligations or which would require governmental and/or regulatory consent, approval, license or authorization to provide such guarantee, unless such consent, approval, license or authorization has been received (provided Borrower agrees to use commercially reasonable efforts to obtain such contractual or governmental consent and/or regulatory consent, approval, license or authorization if reasonably requested by Agent), or which would result in material adverse tax consequences to any Credit Party and/or any of its Subsidiaries as reasonably determined by Borrower and Agent; (e) any Subsidiary that is created solely for the purpose of consummating a transaction pursuant to an acquisition permitted hereunder but only until such transaction is consummated, if such new Subsidiary at no time holds any assets or liabilities other than any merger or amalgamation consideration contributed to it contemporaneously with the closing of such transactions; (f) acquired pursuant to a Permitted Investment and financed with secured Debt permitted to be incurred hereunder as assumed Debt (and not incurred in contemplation of such acquisition), and each Subsidiary acquired in such Permitted Investments that guarantees such Debt, in each case to the extent that, and for so long as, the documentation relating to such Debt to which such Subsidiary is a party prohibits such

Subsidiary from guaranteeing the Obligations and such prohibition was not created in contemplation of such Permitted Investment; and (g) any other Subsidiary with respect to which, in the reasonable judgment of Borrower (as agreed to in writing by Agent), the cost or other consequences of guaranteeing the Obligations would be excessive in view of the benefits to be obtained by the Lenders therefrom.

“**Maturity Date**” means the earlier of:

- (a) demand for payment under Section 10.2; and
- (b) the 5th anniversary of the Closing Date.

“**Maximum Incremental Amount**” means, collectively, the Fixed Incremental Amount, the Ratio Incremental Amount and the Voluntary Prepayment Amount; provided that the order and combination of the utilization of any component of the Maximum Incremental Amount shall be directed by Borrower in writing in its sole discretion subject to the terms of this Agreement on or prior to the date any commitment therefor is entered into and if not so directed shall be deemed to have been incurred in reliance first on the Ratio Incremental Amount, second on the Voluntary Prepayment Amount and third on the Fixed Incremental Amount; provided further that during the Designated Period the Maximum Incremental Amount shall not exceed the Fixed Incremental Amount.

“**Mississauga Property**” means the property located at 2525 Speakman Drive, Mississauga, Ontario L5K 1B1 legally owned by 1329507 Ontario Inc. and beneficially owned by Borrower.

“**Mortgages**” means the collective reference to each mortgage, deed of trust or other real property security document, encumbering any real property now or hereafter owned by any Credit Party, in each case, in form and substance reasonably satisfactory to Agent and executed by such Credit Party in favor of Agent, for the ratable benefit of the Secured Parties, as any such document now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**Multiemployer Plan**” means a “**multi-employer plan**” as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding 6 years contributed to by Borrower or any ERISA Affiliate or with respect to which Borrower or any ERISA Affiliate may incur any liability.

“**Non-Consenting Lender**” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.14 and (b) has been approved by the Required Lenders.

“**Non-Defaulting Lender**” means, at any time, each Revolving Lender that is not a Defaulting Lender at such time.

“**Non-Funding Lender**” means any Lender that has failed to (a) fund all or any portion of the Revolving Loans or any Term Loan required to be funded by it hereunder within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Agent and the Borrower in writing that such failure is the result of such Lender’s good faith

determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (b) pay to the Agent, any Issuing Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due.

“**Notice of Borrowing**” means a notice of borrowing substantially in the form attached as Exhibit D hereto.

“**Notice of Conversion/Continuation**” means a notice of conversion/continuation substantially in the form attached as Exhibit E hereto.

“**Notice of Prepayment**” means a notice of prepayment substantially in the form attached as Exhibit F hereto.

“**Obligations**” means any and all Revolving Loans, Swingline Loans, Letter of Credit Accommodations, Term Loans and all other obligations, liabilities and indebtedness of every kind, nature and description owing by any Credit Party to Agent, Lenders and their respective Affiliates including principal, interest, charges, indemnifications for Letter of Credit Accommodations or otherwise, fees, costs and expenses, however evidenced, whether as principal or otherwise, arising under or in connection with the Financing Agreements, Secured Hedge Agreements and Secured Cash Management Agreements, as amended, modified, supplemented, extended, renewed, restated, replaced or superseded, in whole or in part, from time to time and/or Applicable Laws, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any proceeding with respect to any Credit Party under Insolvency Laws (including the payment of interest and other amounts which would accrue and become due but for the commencement of such proceeding, whether or not such amounts are allowed or allowable in whole or in part in such proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured; provided that the “Obligations” of a Credit Party shall exclude any Excluded Swap Obligations with respect to such Credit Party. For greater certainty, the obligations, liabilities and indebtedness owing under or in connection with the BMO Facilities are not included in “Obligations”.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**Operating Lease**” means, as to any Person as determined in accordance with GAAP, any lease of property (whether real, personal or mixed) by such Person as lessee which is not a capital or finance lease.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement and any other documents entered into in connection herewith, or sold or assigned an interest in any Loan or this Agreement and any other documents entered into in connection herewith).

“**Other Currency**” is defined in Section 13.6.

“**Other Taxes**” means all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and any other documents entered into in connection herewith, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.5).

“**Patriot Act**” means the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, Pub. L. 107-56, signed into law October 26, 2001.

“**Payment/Insolvency Event of Default**” means the occurrence and continuation of any Event of Default pursuant to Section 10.1(a)(i) and (ii), 10.1(i) or 10.1(j).

“**Pension Plans**” means each of the pension plans, if any, that are registered in accordance with the ITA which any Credit Party sponsors or administers or into which any Credit Party makes contributions.

“**Permitted Bond Hedge Transaction**” means any bond hedge, call or capped call option (or substantively equivalent derivative transaction) relating to the Borrower’s common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) purchased by any Credit Party in connection with the issuance of any Permitted Convertible Debt and settled in common stock of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any substantially concurrently executed Permitted Warrant Transaction, does not exceed the net cash proceeds received by the Borrower or any other Credit Party from the sale of the Permitted Convertible Debt in connection with which such Permitted Bond Hedge Transaction was purchased; provided further that the other terms, conditions and covenants of each such transaction shall be such as are customary for transactions of such type (as determined by the Borrower in good faith).

“**Permitted Convertible Debt**” means unsecured Debt of a Credit Party that (a) as of the date of issuance thereof contains customary conversion or exchange rights and customary offer to repurchase rights for transactions of such type (in each case, as determined by the Borrower in good faith) and (b) is convertible or exchangeable into shares of common stock of the Borrower (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower.

“**Permitted Debt**” means, collectively, the Debt of Borrower and its Subsidiaries permitted pursuant to Section 8.3.

“**Permitted Investments**” means, collectively, the Investments permitted pursuant to Section 8.4.

“**Permitted Liens**” means, collectively, the Liens permitted pursuant to Section 8.2.

“**Permitted Refinancing**” means any renewals, exchanges, extensions, refinancings and refunding of such Debt; provided that:

- (a) any such renewal, exchange, extension, refinancing or refunding is in an aggregate principal amount not greater than the principal amount (or accreted value, if applicable) of the aggregate principal amount of such Debt outstanding at such time (*plus* accrued interest, any reasonable premium and reasonable commission, fees and expenses);
- (b) such Debt has a stated maturity date that is at least 91 days after the Maturity Date and the Weighted Average Life to Maturity of such Debt is not shorter than the Weighted Average Life to Maturity of the Debt being renewed exchanged, extended or refinanced or refunded;
- (c) with respect to which any Liens securing such Debt are limited to the assets or property that secured or would have secured the Debt being renewed, exchanged, extended, refinanced or refunded and without any change in the Lien priority with respect to such assets or property subject to such Liens; provided that any such Lien may be subordinated on terms satisfactory to Agent;
- (d) no obligor that was not obligated with respect to the Debt that is renewed, extended, refinanced or refunded shall become obligated with respect to the renewal, exchange, extension, refinancing or refund of such Debt;
- (e) if the Debt that is renewed, exchanged, extended, refinanced or refunded was subordinated in right of payment to the Obligations, then the terms and conditions of the renewal, exchange, extension, refinancing, refunding must include subordination terms and conditions that are at least as favorable to the Lenders as those that were applicable to the renewed, exchanged, extended, refinanced or refunded Debt; and
- (f) such Debt shall be on terms no more materially restrictive on such obligors than the Debt being renewed, exchanged, extended, refinanced or refunded.

“**Permitted Warrant Transaction**” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) relating to the Borrower’s common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) sold by the Borrower substantially concurrently with any purchase by a Credit Party of a Permitted Bond Hedge Transaction and settled in common stock of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower; provided that the terms, conditions and covenants of each such transaction shall be such as are customary for transactions of such type (as determined by the Borrower in good faith).

“**Person**” or “**person**” means any individual, sole proprietorship, corporation, partnership, limited partnership, corporation, limited liability company, business trust, unincorporated association, joint stock corporation, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

“**Plan**” means an employee benefit plan (as defined in Section 3(3), of ERISA) which Borrower or any ERISA Affiliate sponsors, maintains, or to which it makes, is making, or is obligated to make contributions or, in the case of a Multiemployer Plan, has made contributions at any time during the immediately preceding 6 plan years or with respect to which Borrower may incur liability. For greater certainty, “**Plan**” does not include a Pension Plan that is not a U.S. Pension Plan.

“**Playa Vista Borrower**” means IMAX PV Development Inc., a wholly-owned subsidiary of Borrower.

“**Playa Vista Property**” means the property located at 12582 West Millennium, Playa Vista, California 90094 owned by Playa Vista Borrower.

“**PPSA**” means the *Personal Property Security Act* (Ontario); provided that, if the attachment, perfection or priority of Agent’s security in respect of any Collateral is governed by the laws of any jurisdiction other than Ontario, PPSA shall mean those other laws for the purposes hereof relating to attachment, perfection or priority.

“**Pro Rata Share**” means with respect to a Lender:

- (a) with respect to all Revolving Loans or participations in respect of Letter of Credit Accommodations or Swingline Loans, the percentage obtained by dividing (i) the aggregate Revolving Loan Commitments of such Lender by (ii) the aggregate Revolving Loan Commitments of all Lenders;
- (b) with respect to all Revolving Loans on and after the Maturity Date, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Revolving Loans held by such Lender by (ii) the outstanding principal balance of the Revolving Loans held by all Lenders;
- (c) with respect to all Term Loans, the percentage obtained by dividing (i) the aggregate Term Loan Commitments of such Lender by (ii) the aggregate Term Loan Commitments of all Lenders;
- (d) with respect to all Term Loans on and after the Maturity Date, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Term Loans held by such Lender by (ii) the outstanding principal balance of the Term Loans held by all Lenders; and

- (e) with respect to all Loans on and after the Maturity Date, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Loans held by such Lender by (ii) the outstanding principal balance of the Loans held by all Lenders.

“**Prohibited Transferee**” is defined in the definition of Eligible Transferee.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Qualified Equity Interests**” means any Equity Interests that are not Disqualified Equity Interests.

“**Ratio Debt**” is defined in Section 8.3(m).

“**Ratio Debt Test**” is defined in Section 8.3(m).

“**Ratio Incremental Amount**” means, at any time, the maximum amount of Debt that could be incurred at such time by Borrower so long as on a *pro forma* basis, after giving effect to the incurrence of any applicable Incremental Term Loan Commitment, (a) in the case of secured Debt, the Senior Secured Net Leverage Ratio does not exceed 2.50:1.00 (as calculated by Borrower in a Compliance Certificate executed and delivered by Borrower to Agent) and (b) in all other cases, the Ratio Debt Test is satisfied.

“**Receiver**” is defined in Section 10.2(f).

“**Recipient**” means (a) Agent, (b) any Lender and (c) any Issuing Lender, as applicable.

“**Records**” means all of each Credit Party’s present and future books of account of every kind or nature, purchase and sale agreements, invoices, ledger cards, bills of lading and other shipping evidence, statements, correspondence, memoranda, credit files and other data relating to the Collateral or any account debtor, together with the tapes, disks, diskettes and other data and software storage media and devices, file cabinets or containers in or on which the foregoing are stored (including any rights of a Credit Party with respect to the foregoing maintained with or by any other person).

“**Replacement EBITDA Amount**” is defined in the definition of EBITDA.

“**Replacement Rate**” is defined in Section 3.2(c).

“**Report**” is defined in Section 11.9(a).

“**Required Lenders**” means, on any date of determination, (a) Lenders holding more than 50% of the Commitments or (b) on and after the Maturity Date, Lenders holding more than 50% of the outstanding Loans. The Commitments and outstanding Loans of Defaulting Lenders shall be excluded from the calculation of Required Lenders. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Restricted Payment**” is defined in [Section 8.5](#).

“**Revolving Lenders**” means, at any time, collectively, all Lenders with a Revolving Loan Commitment at such time (and after the termination of all Revolving Loan Commitments, any Lender that holds any outstanding amount in respect of Revolving Loans). Unless the context otherwise requires, the term “Lenders” includes Swingline Lender.

“**Revolving Loan Commitment**” means (a) as to any Revolving Lender with respect to Revolving Loans, the aggregate of such Revolving Lender’s Revolving Loan Commitment as set forth beside such Revolving Lender’s name on [Exhibit G](#) hereto or, if such Revolving Lender’s name does not appear on [Exhibit G](#) hereto, in the most recent Assignment and Assumption Agreement or Lender Joinder Agreement executed by such Revolving Lender, and (b) as to all Revolving Lenders, the aggregate of all Revolving Lenders’ Revolving Loan Commitments to Borrower, which aggregate commitment is \$300,000,000 as of the Closing Date. For greater certainty, the Swingline Commitment of \$5,000,000 as of the Closing Date is a sub-limit of the Revolving Loan Commitment and not in addition thereto.

“**Revolving Loan Exposure**” means, as to any Revolving Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Revolving Lender’s participation in the Letter of Credit Accommodations and Swingline Loans at such time. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

“**Revolving Loan Facility**” means the revolving loan facility established pursuant to [Article 2](#) (including any increase in such revolving loan facility established pursuant to [Section 2.6](#)).

“**Revolving Loan Outstandings**” means the sum of on any date (a) the aggregate outstanding principal amount of Revolving Loans and Swingline Loans (without duplication) after giving effect to any borrowings and prepayments or repayments of Revolving Loans and Swingline Loans (without duplication) occurring on such date; plus (b) the aggregate outstanding amount of all Letter of Credit Accommodations after giving effect to any changes in the aggregate amount of the Letter of Credit Accommodations as of such date. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

“**Revolving Loans**” means Canadian Prime Rate Loans, CDOR Rate Loans, U.S. Base Rate Loans and/or Euro Rate Loans, as the case may be, now or hereafter made by Revolving Lenders to or for the benefit of Borrower on a revolving basis (involving advances, repayments and re-advances) as set forth in [Section 2.1](#) hereof.

“**Sanctioned Entity**” means (a) an agency of the government of, (b) an organization directly or indirectly controlled by, or (c) a person resident in, in each case, a country or territory that is the target of territory-wide or country-wide OFAC sanctions.

“**Sanctioned Person**” means a person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/fac/sdn/index.html>, or as otherwise published from time to time.

“**Second Amendment Effective Date**” means March 15, 2021.

“**Secured Cash Management Agreement**” means any Cash Management Agreement that is entered into by and between any Credit Party and any Cash Management Bank.

“**Secured Hedge Agreement**” means any Hedge Agreement that is entered into by and between any Credit Party and any Hedge Bank.

“**Secured Parties**” means, collectively, Agent, Lenders, and their respective Affiliates (including Hedge Banks under any Secured Hedge Agreements and Cash Management Banks under Secured Cash Management Agreements) and any other person holding any Obligations (and, for greater certainty, if such person ceases to be an Agent or a Lender then for any transaction entered into under a Secured Hedge Agreement or Secured Cash Management Agreement with that Agent or Lender or any of its Affiliates prior to the date that person ceases to be an Agent or Lender, that Person or any of its Affiliates shall continue to be a Secured Party hereunder with respect to Borrower’s obligations relating to any such transaction).

“**Securities Accounts**” as defined in the UCC as in effect in the State of New York.

“**Senior Secured Net Leverage Ratio**” means, as of any date, the ratio of (i) Total Debt secured by a Lien on any assets of Borrower or any of its Subsidiaries as of such date (net of unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of the last day of such period less such amounts domiciled in the People’s Republic of China, and such net amount not to exceed in aggregate \$125,000,000 and excluding any Debt of the Playa Vista Borrower or any guarantee thereof, but only to the extent that such Debt or guarantee thereof is not secured by the assets of the Borrower or any of its Subsidiaries (other than the Playa Vista Borrower)) to (ii) EBITDA for the period of four (4) Fiscal Quarter period ending on or immediately prior to such date.

“**Settlement Date**” is defined in [Section 11.13\(a\)\(iii\)](#).

“**Solvent**” means, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets (including contingent assets) of such Person is greater than the total amount of liabilities (including contingent liabilities) of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent assets or liabilities at any time shall be computed as the amount that, in the light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured assets or liability, as the case may be.

“**Subsidiary**” means, with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person.

“**Swap Obligation**” means, with respect to any Credit Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“**Sweep Arrangement**” is defined in Section 2.1(c).

“**Swingline Commitment**” means the lesser of (a) \$5,000,000 and (b) the Revolving Loan Commitment. For greater certainty, the Swingline Commitment of \$5,000,000 as of the Closing Date is a sub-limit of the Revolving Loan Commitment and not in addition thereto.

“**Swingline Facility**” means the swingline facility established pursuant to Section 2.1(c).

“**Swingline Lender**” means Wells Fargo in its capacity as swingline lender hereunder or any successor thereto.

“**Swingline Loan**” means any swingline loan made by Swingline Lender to Borrower pursuant to Section 2.1(c), and all such swingline loans collectively as the context requires.

“**Swingline Participation Amount**” is defined in Section 2.1(c)(iv).

“**Synthetic Lease**” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease in accordance with GAAP.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

“**Term Lender**” means any Lender with a Term Loan Commitment.

“**Term Loan Commitment**” means (a) as to any Lender with respect to Term Loans, the aggregate of such Lender’s Term Loan Commitment as set forth beside such Lender’s name in the most recent Assignment and Assumption Agreement or Lender Joinder Agreement executed by such Lender, and (b) as to all Lenders, the aggregate of all Lenders’ Term Loan Commitments to Borrower, which aggregate commitment is \$0 as of the Closing Date.

“**Term Loan Exposure**” means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Term Loans.

“**Term Loan Facility**” means the term loan facility, if any, established pursuant to [Section 2.6](#).

“**Term Loan Outstandings**” means, on any date, the aggregate outstanding principal amount of Term Loans after giving effect to any borrowings and prepayments or repayments of Term Loans occurring on such date.

“**Term Loans**” means, collectively, if applicable, each Incremental Term Loans and “**Term Loan**” means any of such Incremental Terms Loans.

“**Total Debt**” means, at any time with respect to Borrower and its consolidated Subsidiaries in accordance with GAAP and to the extent listed on the consolidated balance sheet (without duplication), the sum of all (i) Debt of the type specified in [clauses \(b\), \(c\), \(d\), \(e\), \(f\) and \(h\)](#) of the definition of “Debt” and (ii) non-contingent obligations of the type specified in [clause \(k\)](#) of such definition to the extent such obligations under [clause \(k\)](#) relate to Debt of the type specified in [clauses \(b\), \(c\), \(d\), \(e\), \(f\) and \(h\)](#) of such definition (but (1) excluding surety bonds not in connection with debt for borrowed money, performance bonds or other similar instruments, (2) excluding the effects of any discounting of Debt resulting from the application of purchase accounting in connection with the transactions contemplated by this Agreement or any acquisition, and (3) any Debt that is issued at a discount to its initial principal amount shall be calculated based on the entire stated principal amount thereof, without giving effect to any discounts or upfront payments, excluding obligations in respect of letters of credit, bankers acceptances, bank guarantees, and guarantees on first demand, in each case, except to the extent of unreimbursed amounts thereunder). For the avoidance of doubt, it is understood that obligations under Hedge Agreements and Cash Management Agreements do not constitute Total Debt.

“**Total Leverage Ratio**” means, as of any date of determination, the ratio of (a) Total Debt on such date to (b) EBITDA for the period of four (4) consecutive Fiscal Quarters ending on or immediately prior to such date.

“**Total Net Leverage Ratio**” means, as of any date of determination, the ratio of (a) Total Debt on such date (net of unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of the last day of such period less such amounts domiciled in the People’s Republic of China, and such net amount not to exceed in aggregate \$125,000,000) to (b) EBITDA for the period of four (4) consecutive Fiscal Quarters ending on or immediately prior to such date.

“**Trade-mark**” means any Trade-mark as such term is defined in the General Security Agreement.

“**TTM Revenue**” means, as of any date of determination, with respect to Borrower and its consolidated Subsidiaries the amount which is set forth under the heading “Revenues” on the consolidated statement of operations of Borrower and its Subsidiaries for the most recent four (4) consecutive Fiscal Quarter period ending on or immediately prior to such date as determined in accordance with GAAP.

“**Type**” means (i) for any US Revolving Loan, the type of such US Revolving Loan determined with regard to the interest option available thereto, i.e., whether a U.S. Base Rate Loan or a Euro Dollar Rate Loan, (ii) for a Euro Rate Loan (other than a US Revolving Loan), the Currency of such Euro Rate Loan and (iii) for any Canadian Revolving Loan, the type of such Canadian Revolving Loan determined with regard to the interest option available thereto, i.e., whether a Canadian Prime Rate Loan or a CDOR Rate Loan.

“**UCC**” means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

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

“**USERP**” means the unregistered supplemental executive retirement plan dated July 12, 2000, as amended and restated as of January 1, 2006, made by Borrower in favor of its former Co-Chief Executive Officer and current Chairman of the Board, Bradley J. Wechsler, and its current Chief Executive Officer, Richard L. Gelfond.

“**U.S. Base Rate**” means, at any time, the highest of (a) the U.S. Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) the Euro Dollar Rate for an Interest Period of one month plus the difference between the Applicable Margin for U.S. Base Rate Loans and Euro Dollar Rate Loans; each change in the U.S. Base Rate shall take effect simultaneously with the corresponding change or changes in the U.S. Prime Rate, the Federal Funds Rate or the Euro Dollar Rate.

“**U.S. Base Rate Loans**” means any Loans (including Swingline Loans) or portions thereof denominated in U.S. Dollars and on which interest is payable based on the U.S. Base Rate in accordance with the terms hereof.

“**U.S. First Rate**” is defined in Section 3.1(c).

“**U.S. Pension Plan**” means a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which any Credit Party sponsors, maintains, or to which any Credit Party or any ERISA Affiliate makes, is making, or is obligated to make contributions, other than a Multiemployer Plan.

“**U.S. Person**” means any Person that is a “**United States person**” as defined in Section 7701(a)(30) of the Code.

“**U.S. Prime Rate**” means, at any time, the rate of interest *per annum* publicly announced from time to time by Agent as its prime rate. Each change in the U.S. Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The parties hereto acknowledge that the rate announced publicly by Agent as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks.

“**US Reference Bank**” means Wells Fargo or any successor thereto, or such other major bank in the United States as Agent may from time to time designate, in its discretion, after consultation with Borrower.

“**US Revolving Loans**” means Revolving Loans denominated in U.S. Dollars.

“**Voluntary Prepayment Amount**” means, at any time, the amount equal to all voluntary prepayments by Borrower of the Loans to the extent accompanied by a corresponding permanent reduction in the Revolving Loan Commitment, if applicable, less the aggregate principal amount of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Voluntary Prepayment Amount prior to such time, as applicable.

“**Weighted Average Life to Maturity**” means, when applied to any indebtedness at any date, the number of years (and/or portion thereof) obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such indebtedness, in each case of clauses (a) and (b), without giving effect to the application of any prior prepayment to such installment, sinking fund, serial maturity or other required payment of principal.

“**Wells Fargo**” means Wells Fargo Bank, National Association, a national banking association, and its successors.

“**Withholding Agent**” means any Credit Party and Agent.

“**Write-Down and Conversion Powers**” means (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

ARTICLE 2
CREDIT FACILITIES

2.1 Revolving Loans

- (a) Availability and Repayment. Subject to, and upon the terms and conditions contained herein, each Revolving Lender severally (and not jointly) agrees to make its Pro Rata Share of Revolving Loans by way of Canadian Prime Rate Loans, CDOR Rate Loans, Euro Rate Loans and U.S. Base Rate Loans to Borrower from time to time from the Closing Date through, but not including, the Maturity Date in amounts requested by Borrower in accordance with Section 3.1(h); provided, that (i) after the Closing Date, the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender shall not at any time exceed such Lender's Revolving Loan Commitment and (iii) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans then outstanding shall not exceed the Alternate Currency Revolving Loan Sublimit. Subject to the terms and conditions hereof, Borrower at any time may borrow, repay and reborrow Revolving Loans hereunder until the Maturity Date. On the Maturity Date, the outstanding balance of the Revolving Loans (including principal, accrued and unpaid interest and other amounts due and payable with respect thereto) shall be due and be payable and the Revolving Loan Commitment shall terminate.
- (b) Maximum Amounts. In the event that (i) the Revolving Loan Outstandings exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender exceeds such Lender's Revolving Loan Commitment, (iii) the aggregate outstanding amount of the Letter of Credit Accommodations exceeds the Letter of Credit Accommodations Sublimit, (iv) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans then outstanding exceeds the Alternate Currency Revolving Loan Sublimit or (v) the aggregate principal amount of all Swingline Loans then outstanding exceeds the Swingline Commitment, such event shall not limit, waive or otherwise affect any rights of Agent or Lenders in that circumstance or on any future occasions and Borrower shall, upon demand by Agent, which may be made at any time or from time to time, immediately repay to Agent the entire amount of any such excess(es) for which payment is demanded.
- (c) Swingline Loans.
- (i) Subject to, and upon the terms and conditions contained herein, Swingline Lender may, in its sole discretion, make Swingline Loans in U.S. Dollars by way of U.S. Base Rate Loans to Borrower from time to time from the Closing Date to, but not including, the Maturity Date; provided, that (i) after giving effect to any amount requested, the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment and (ii) the aggregate principal amount of all outstanding Swingline Loans (after giving effect to any amount requested) shall not exceed the Swingline Commitment.

Notwithstanding any provision herein to the contrary, Swingline Lender and Borrower may agree that the Swingline Facility may be used to automatically draw and repay Swingline Loans (subject to the limitations set forth herein) pursuant to cash management arrangements between Borrower and Swingline Lender (the “**Sweep Arrangement**”). Principal and interest on Swingline Loans deemed requested pursuant to the Sweep Arrangement shall be paid pursuant to the terms and conditions agreed to between Borrower and Swingline Lender (without any deduction, setoff or counterclaim whatsoever). The borrowing and disbursement provisions set forth in Section 3.1(h) and any other provision hereof with respect to the timing or amount of payments on the Swingline Loans (other than the requirement that the Swingline Loans be repaid in full on the Maturity Date set forth herein) shall not be applicable to Swingline Loans made and prepaid pursuant to the Sweep Arrangement. Unless sooner paid pursuant to the provisions hereof or the provisions of the Sweep Arrangement, on the Maturity Date, the outstanding balance of the Swingline Loans (including principal, accrued and unpaid interest and other amounts due and payable with respect thereto) shall be due and be payable and the Swingline Commitment shall terminate. Swingline Loans may be made automatically through the Credit Sweep Option under Swingline Lender’s Stagecoach Sweep® Service subject to the additional terms and conditions set forth in Swingline Lender’s standard documentation for such service as agreed to by Borrower.

- (ii) Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of Borrower (which hereby irrevocably directs Swingline Lender to act on its behalf), by written notice given no later than 11:00 a.m. (New York time) on any Business Day request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan as a U.S. Base Rate Loan in an amount equal to such Revolving Credit Lender’s Pro Rata Share of the Revolving Loan Commitment of the aggregate amount of the Swingline Loans outstanding on the date of such notice, to repay Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to Agent in immediately available funds at Agent’s Office not later than 1:00 p.m. (New York time) on the day specified in such notice. The proceeds of such Revolving Loans shall be immediately made available by Agent to Swingline Lender for application by Swingline Lender to the repayment of the Swingline Loans. No Revolving Lender’s obligation to fund its respective Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan shall be affected by any other Revolving Lender’s failure to fund its Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan, nor shall any Revolving Lender’s Pro Rata Share of the Revolving Loan Commitment be increased as a result of any such failure of any other Revolving Lender to fund its Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan.

- (iii) Borrower shall pay to Swingline Lender on demand, and in any event on the Maturity Date, in immediately available funds the amount of such Swingline Loans to the extent amounts received from Revolving Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. In addition, Borrower irrevocably authorizes Agent to charge any account (other than fiduciary accounts as to which a Credit Party is acting as fiduciary for another Person who is not a Credit Party and payroll or trust fund accounts) maintained by Borrower with Swingline Lender (up to the amount available therein) in order to immediately pay Swingline Lender the amount of such Swingline Loans to the extent amounts received from the Revolving Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. If any portion of any such amount paid to Swingline Lender shall be recovered by or on behalf of Borrower from Swingline Lender in an Insolvency Proceeding or otherwise, the loss of the amount so recovered shall be ratably shared among all Revolving Lenders in accordance with their respective Pro Rata Share of the Revolving Loan Commitment.
- (iv) If for any reason any Swingline Loan cannot be refinanced with a Revolving Loan pursuant to Section 2.1(c)(ii), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.1(c)(ii), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to Swingline Lender an amount (the “**Swingline Participation Amount**”) equal to such Revolving Lender’s Pro Rata Share of the Revolving Loan Commitment of the aggregate principal amount of Swingline Loans then outstanding. Each Revolving Lender will immediately transfer to Swingline Lender, in immediately available funds, the amount of its Swingline Participation Amount. Whenever, at any time after Swingline Lender has received from any Revolving Lender such Revolving Lender’s Swingline Participation Amount, Swingline Lender receives any payment on account of the Swingline Loans, Swingline Lender will distribute to such Revolving Lender its Swingline Participation Amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender’s participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Revolving Lender’s Pro Rata Share of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided that in the event that such payment received by Swingline Lender is required to be returned, such Revolving Lender will return to Swingline Lender any portion thereof previously distributed to it by Swingline Lender.
- (v) Each Revolving Lender’s obligation to make the Revolving Loans referred to in Section 2.1(c)(ii) and to purchase participating interests pursuant to Section 2.1(c)(iv) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or Borrower

may have against Swingline Lender, Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article 4, (C) any adverse change in the condition (financial or otherwise) of any Credit Party, (D) any breach of this Agreement or any other Financing Agreement by any Credit Party or any other Lender or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

- (vi) If any Revolving Lender fails to make available to Agent, for the account of Swingline Lender, any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.1(c) by the time specified in Section 2.1(c)(ii) or 2.1(c)(iv), as applicable, Swingline Lender shall be entitled to recover from such Revolving Lender (acting through Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to Swingline Lender at a rate *per annum* equal to the applicable Federal Funds Rate, plus any administrative, processing or similar fees customarily charged by Swingline Lender in connection with the foregoing. If such Revolving Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Lender's Revolving Loan or Swingline Participation Amount, as the case may be. A certificate of Swingline Lender submitted to any Revolving Lender (through Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

2.2 Letter of Credit Accommodations

- (a) Letter of Credit Accommodations. Subject to, and upon the terms and conditions contained herein, at the irrevocable request of Borrower pursuant to a Notice of Borrowing given by Borrower to Agent no later than 12:00 noon (New York time) at least three (3) Business Days prior to the requested issuance date, Issuing Lender agrees to provide or arrange for Letter of Credit Accommodations for the account of Borrower or any Credit Party in U.S. Dollars containing terms and conditions reasonably acceptable to Issuing Lender. Any payments made by Issuing Lender in connection with the Letter of Credit Accommodations shall constitute additional Revolving Loans to Borrower pursuant to this Article 2. Each Lender agrees to purchase an irrevocable and unconditional participation in each Letter of Credit Accommodation issued hereunder based on its Pro Rata Share. Each Letter of Credit Accommodation shall expire on a date no more than twelve (12) months after the date of issuance or last renewal of such Letter of Credit Accommodations (subject to (i) such longer periods agreed to by Issuing Lender and (ii) automatic renewal for additional one (1) year periods pursuant to the terms of the letter of credit application or other documentation acceptable to Issuing Lender), which date shall be no later than the fifth (5th) Business Day prior to the Maturity Date unless Issuing Lender is satisfied that Borrower will cash collateralize the Letter of Credit Accommodations that extend beyond the fifth (5th) Business Day prior to the Maturity Date on terms acceptable to Issuing Lender.

- (b) Fees and Expenses. In addition to any charges, fees or expenses charged by Issuing Lender in connection with the Letter of Credit Accommodations, Borrower shall pay to Agent a letter of credit fee at a rate equal to the Applicable Margin *per annum* for Euro Dollar Rate Loans on the daily outstanding balance of the Letter of Credit Accommodations for the immediately preceding Fiscal Quarter (or part thereof), payable in arrears as of the last Business Day of each Fiscal Quarter. Such letter of credit fee shall be calculated on the basis of a 360 day year and actual days elapsed and the obligation of Borrower to pay such fee shall survive the maturity or termination of this Agreement. This letter of credit fee shall not be payable to a Lender during the period it is a Defaulting Lender.
- (c) Maximum Amount. The amount of all outstanding Letter of Credit Accommodations and all other commitments and obligations made or incurred by Issuing Lender in connection therewith (including charges, fees and expenses with respect thereto) shall not at any time exceed \$25,000,000 (the "**Letter of Credit Accommodations Sublimit**"). At any time an Event of Default has occurred and is continuing, upon Agent's request, Borrower will furnish Agent with cash collateral to secure the reimbursement obligations of the Issuing Lender in connection with any Letter of Credit Accommodations.
- (d) [Reserved].
- (e) Rights of Issuing Lender. Nothing contained herein shall be deemed or construed to grant Borrower any right or authority to pledge the credit of Agent, Issuing Lender or a Lender in any manner. Except as a result of Issuing Lender's own gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Issuing Lender, Borrower shall be bound by any interpretation made by Issuing Lender under or in connection with any Letter of Credit Accommodation or any documents, drafts or acceptances thereunder, notwithstanding that such interpretation may be inconsistent with any instructions of Borrower. At all times other than when an Event of Default has occurred and is continuing, Borrower shall be permitted, with the prior written consent of Issuing Lender to: (i) grant any extensions of the maturity of, time of payment for, or time of presentation of, any drafts, acceptances, or documents, and (ii) agree to any amendments, renewals, extensions, modifications, changes or cancellations of any of the terms or conditions of any of the applications, Letter of Credit Accommodations, or documents, drafts or acceptances thereunder or any letters of credit included in the Collateral.

2.3 Maturity Date

- (a) This Agreement shall continue in full force and effect for a term ending on the Maturity Date. Upon the Maturity Date, Borrower shall pay to Agent, in full, all outstanding and unpaid non-contingent Obligations (except under or in connection with any Secured Hedge Agreement) and shall furnish cash collateral (or backstop letters of credit) to Agent in such amounts as Agent determines are reasonably necessary to secure Agent, Lenders and Secured Parties from loss, cost, damage or expense, including legal fees and expenses, with respect to issued and outstanding Letter of Credit Accommodations, outstanding Secured Hedge Agreements and cheques or other payments provisionally credited to the Obligations and/or as to which Agent and Lenders have not yet received payment. Such payments in respect of the Obligations and cash collateral shall be remitted by wire transfer in U.S. Dollars to such bank account of Agent, as Agent may, in its discretion, designate in writing to Borrower for such purpose. Interest shall be due until and including the next Business Day, if the amounts so paid by Borrower to the bank account designated by Agent are received in such bank account later than 12:00 noon (New York time).
- (b) No termination of this Agreement shall relieve or discharge any Credit Party of its respective duties, obligations and covenants under the Financing Agreements until all Obligations have been fully paid, and Agent's continuing security interest in the Collateral and the rights and remedies of Agent and Lenders, under the Financing Agreements and Applicable Law, shall remain in effect until all such Obligations have been fully paid.

2.4 Optional Cancellation of Unused Revolving Loan Commitments

Borrower shall have the right at any time and from time to time, without premium or penalty, to cancel the unused Revolving Loan Commitments, in whole or in part, with irrevocable prior written notice to Agent pursuant to a Notice of Prepayment given not later than 12:00 noon (New York time) on a Business Day specifying the date and amount of cancellation. Each optional partial cancellation hereunder shall be in an aggregate principal amount of at least \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof. A Notice of Prepayment received after 12:00 noon (New York time) shall be deemed received on the next Business Day. Agent shall promptly notify Revolving Lenders of each Notice of Prepayment.

2.5 Hedge Transactions

Agent or a Lender (or their respective Affiliates) may offer to make available Hedge Agreements to Borrower from time to time (it being understood that nothing contained herein shall be construed to commit any person to enter into any Hedge Agreement) upon terms mutually acceptable to Agent or such Lender or such Affiliate and Borrower.

2.6 Incremental Term Loans and Revolving Loans

- (a) At any time, Borrower may by written notice to Agent elect to request the establishment of:
 - (i) one or more new or incremental term loan commitments (any such new or incremental term loan commitment, an "**Incremental Term Loan Commitment**") to make one or more new or additional term loans, including a borrowing of a new or additional term loan under this Agreement (any such new or additional term loan, an "**Incremental Term Loan**"); or

- (ii) one or more increases in the Revolving Loan Commitments (any such increase, an “**Incremental Revolving Loan Commitment**” and, together with the Incremental Term Loan Commitments, the “**Incremental Loan Commitments**”) to make additional revolving loans under this Agreement (any such increase, an “**Incremental Revolving Loan Increase**” and, together with the Incremental Term Loans, the “**Incremental Loans**”);

provided that (1) the total aggregate principal amount (as of the date of incurrence thereof) of such Incremental Revolving Loan Commitments and Incremental Revolving Loan Increases shall not exceed the Fixed Incremental Amount, (2) the total aggregate principal amount (as of the date of incurrence thereof) of such Incremental Loans shall not exceed the Maximum Incremental Amount, (3) the amount for each Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall not be less than a minimum principal amount of \$10,000,000 or, if less, the remaining amount permitted pursuant to the foregoing clause (2) and (4) the amount for each Incremental Revolving Loan Commitment shall not be less than a minimum principal amount of \$25,000,000.

- (b) Each such notice shall specify the date (each, an “**Increased Amount Date**”) on which Borrower proposes that any Incremental Loan Commitment shall be effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to Agent (or such earlier date as may be approved by Agent).
- (c) Borrower may invite any Lender, any Affiliate of any Lender and/or any Approved Fund, and/or any other Person reasonably satisfactory to Agent, to provide an Incremental Loan Commitment (any such Person, an “**Incremental Lender**”). Any proposed Incremental Lender offered or approached to provide all or a portion of any Incremental Loan Commitment may elect or decline, in its sole discretion, to provide such Incremental Loan Commitment or any portion thereof.
- (d) Any Incremental Loan Commitment shall become effective as of such Increased Amount Date; provided that each of the following conditions has been satisfied or waived as of such Increased Amount Date:
- (i) no Default or Event of Default shall exist on such Increased Amount Date immediately prior to or after giving effect to (1) any Incremental Loan Commitment, and (2) the making of any Incremental Loans pursuant thereto (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to any investment in connection with the incurrence of such Incremental Loan Commitment and (y) such investment);

- (ii) Agent and Lenders shall have received from Borrower a Compliance Certificate demonstrating, in form and substance reasonably satisfactory to Agent, that Borrower is in compliance with (1) the provisos in Section 2.6(a) and (2) (A) at all times other than during the Designated Period, the Senior Secured Net Leverage Ratio pursuant to Section 9.1, and (B) during the Designated Period, the minimum Liquidity covenant pursuant to Section 9.2, in each case under this clause (2) to be based on the financial statements most recently delivered pursuant to Section 7.6(a) both before and after giving effect (on a *pro forma* basis) to (x) any Incremental Loan Commitment, (y) the making of any Incremental Loans pursuant thereto (with any Incremental Loan Commitment being deemed to be fully funded) and (z) any Permitted Investment consummated in connection therewith, in each case, without duplication;
- (iii) [reserved];
- (iv) the proceeds of any Incremental Loans shall be used in accordance with Section 5.5;
- (v) each Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall constitute Obligations of Borrower and shall be secured and guaranteed with the other Obligations on a *pari passu* or junior basis;
- (vi) each Incremental Revolving Loan Commitment (and the Incremental Revolving Loan Increase made thereunder) shall constitute Obligations of Borrower and shall be secured and guaranteed with the other Revolving Loans and applicable Term Loans on a *pari passu* basis;
- (vii) in the case of each Incremental Term Loan (the terms of which shall be set forth in the relevant Lender Joinder Agreement):
 - (A) such Incremental Term Loan will not have a shorter Weighted Average Life to Maturity than the remaining Weighted Average Life to Maturity of the other Term Loans or a maturity date earlier than the Maturity Date;
 - (B) the applicable margin and pricing grid, if applicable, for such Incremental Term Loan shall be determined by Agent, the applicable Incremental Lenders and Borrower on the applicable Increased Amount Date; provided that during the Designated Period, the effective yield applicable to such Incremental Term Loan shall not be greater than the effective yield then applicable to the outstanding Term Loans unless the Applicable Margin for the outstanding Term Loans is increased such that the effective yield of such outstanding Term Loans equals the effective yield of such Incremental Term Loan (with such effective yields being reasonably

determined by the Agent in consultation with the Borrower in a manner consistent with generally accepted financial practices, taking into account: (a) interest rate margins, (b) original issue discount (“OID”) and upfront or similar fees (which shall be deemed to constitute like amounts of OID) payable by the Borrower or any of its Subsidiaries or Affiliates to the lenders under, or holders of, any such Debt in the initial primary syndication thereof (with OID and upfront fees being equated to interest based on assumed four-year life to maturity (or, if less, the stated weighted average life to maturity at the time of its incurrence of the applicable Debt)), and (c) any interest rate floor, but excluding (i) any arrangement, commitment, structuring, agency or underwriting fees that are not paid to or shared with all relevant lenders generally in connection with the commitment or syndication of such Debt, (ii) any ticking, unused line or similar fees or (iii) any other fee that is not paid directly by the Borrower generally to all relevant lenders ratably in the primary syndication of such Debt; provided that (x) to the extent that any interest rate specified for such Debt that is subject to a floor (in each case, without giving effect to any such floor on the date on which the effective yield is being calculated) is less than such floor, the amount of such difference will be deemed added to the interest rate margin applicable to such Debt for purposes of calculating the effective yield and (y) to the extent that any interest rate specified for such Debt that is subject to a floor (in each case, without giving effect to any such floor on the date on which the effective yield is being calculated) is equal to or greater than such floor, the floor will be disregarded in calculating the effective yield); and

- (C) except as provided above, all other terms and conditions applicable to any Incremental Term Loan shall be substantially identical to those applicable to the other Term Loans or not more restrictive than those applicable to the other Term Loans;
- (viii) in the case of each Incremental Revolving Loan Increase (the terms of which shall be set forth in the relevant Lender Joinder Agreement):
- (A) such Incremental Revolving Loan Increase shall mature on the Maturity Date, shall bear interest and be entitled to fees at the rate applicable to the Revolving Loans and shall be subject to the same terms and conditions as the Revolving Loans; and
 - (B) the outstanding Revolving Loans, Swingline Loans and Letter of Credit Accommodations will be reallocated by Agent on the applicable Increased Amount Date among the Revolving Lenders (including the Incremental Lenders providing such Incremental Revolving Loan Increase) in accordance with their revised Pro Rata Share and the Revolving Lenders (including the Incremental

Lenders providing such Incremental Revolving Loan Increase) agree to make all payments and adjustments necessary to effect such reallocation and Borrower shall pay any and all costs required pursuant to Section 3.2(f) in connection with such reallocation as if such reallocation were a repayment;

- (ix) any Incremental Lender making any Incremental Term Loan shall be entitled to the same voting rights as the existing Term Lenders under the Term Loan Facility and (unless otherwise agreed by the applicable Incremental Lenders) each Incremental Term Loan shall receive proceeds of payments on the same basis as the existing Term Loans made hereunder;
 - (x) any Incremental Lender with an Incremental Revolving Loan Increase shall be entitled to the same voting rights as the existing Revolving Lenders under the Revolving Loan Facility and any Revolving Loan made in connection with each Incremental Revolving Loan Increase shall receive proceeds of payments on the same basis as the other Revolving Loans made hereunder;
 - (xi) such Incremental Loan Commitments shall be effected pursuant to one or more Lender Joinder Agreements executed and delivered by Borrower, Agent and the applicable Incremental Lenders (which Lender Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Financing Agreements as may be necessary or appropriate, in the opinion of Agent, to effect the provisions of this Section 2.6); and
 - (xii) Borrower shall deliver or cause to be delivered any customary legal opinions or other documents (including a resolution duly adopted by the board of directors (or equivalent governing body) of Borrower authorizing such Incremental Loan and/or Incremental Loan Commitment) as may be reasonably requested by Agent in connection with any such transaction.
- (e) The Incremental Term Loans shall be deemed to be Term Loans; provided that any such Incremental Term Loan that is not added to the outstanding principal balance of a pre-existing Term Loan shall be designated as a separate tranche of Term Loans for all purposes of this Agreement.
- (f) The Incremental Lenders shall be included in any determination of the Required Lenders and, unless otherwise agreed by the applicable Incremental Lenders that their respective Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall be secured and guaranteed with the other Obligations on a junior basis, the Incremental Lenders will not constitute a separate voting class for any purposes under this Agreement.

- (g) On any Increased Amount Date on which any Incremental Term Loan Commitment becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Term Loan Commitment shall make, or be obligated to make, an Incremental Term Loan to Borrower in an amount equal to its Incremental Term Loan Commitment and shall become a Term Lender hereunder with respect to such Incremental Term Loan Commitment and the Incremental Term Loan made pursuant thereto.
- (h) On any Increased Amount Date on which any Incremental Revolving Loan Increase becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Revolving Loan Commitment shall become a Revolving Lender hereunder with respect to such Incremental Revolving Loan Commitment.
- (i) The incurrence of Incremental Equivalent Debt pursuant to Section 8.3(y) shall reduce, on a dollar-for-dollar basis, the aggregate amount of Incremental Loans permitted to be incurred under Section 2.6(a).

ARTICLE 3

INTEREST, REQUESTS FOR REVOLVING LOANS, INCREASED COSTS AND FEES

3.1 Interest

- (a) Interest Rate. Borrower shall pay to Agent interest on the outstanding principal amount of the Revolving Loans and Swingline Loans at the applicable Interest Rate.
- (b) Payment and Calculation. Interest shall be payable by Borrower to Agent (i) in the case of Canadian Prime Rate Loans and U.S. Base Rate Loans, quarterly in arrears on the last Business Day of each Fiscal Quarter and (ii) in the case of CDOR Rate Loans and Euro Rate Loans, on the last day of each Interest Period (and in the case of an Interest Period of greater than three (3) months, on the last day of each three (3) month period during such Interest Period and on the last day of such Interest Period). All computations of interest for U.S. Base Rate Loans (when the U.S. Base Rate is determined by reference to the U.S. Prime Rate), Canadian Prime Rate Loans and CDOR Rate Loans shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest provided hereunder shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365/366-day year). The interest rate applicable to Canadian Prime Rate Loans and U.S. Base Rate Loans shall increase or decrease by an amount equal to each increase or decrease in the Canadian Prime Rate or U.S. Base Rate after any change in such rate is announced. All interest accruing hereunder on and after an Event of Default that is continuing or maturity or termination hereof shall be payable on demand. In no event shall charges constituting interest payable by Borrower to Agent or Lenders exceed the maximum amount or the rate permitted under any Applicable Law, and if any part or provision of this Agreement is in contravention of any such Applicable Law, such part or provision shall be deemed amended to conform thereto.

- (c) Interest Act (Canada). For purposes of disclosure under the *Interest Act* (Canada), where interest is calculated pursuant hereto at a rate based upon a 360 day year (the “**U.S. First Rate**”), it is hereby agreed that the rate or percentage of interest on a yearly basis is equivalent to such U.S. First Rate multiplied by the actual number of days in the year divided by 360. Each Credit Party confirms that it fully understands and is able to calculate the rate of interest based on the methodology for calculating *per annum* rates provided for in this Agreement. Agent agrees that if requested in writing by Borrower it shall calculate the nominal and effective *per annum* rate of interest on any Loan outstanding at any time and provide such information to Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve Borrower or any other Credit Party of any of its obligations under this Agreement or any other Financing Agreement, nor result in any liability of Agent or any Lender. Each Credit Party hereby irrevocably agrees not to plead or assert, whether by way of defence or otherwise, in any proceeding relating to the Financing Agreements, that the interest payable under the Financing Agreements and the calculation thereof has not been adequately disclosed to Credit Parties, whether pursuant to Section 4 of the *Interest Act* (Canada) or any other Applicable Law or legal principle.
- (d) Criminal Code (Canada). Notwithstanding the provisions of this Article 3 or any other provision of this Agreement, in no event shall the aggregate “**interest**” (as that term is defined in Section 347 of the *Criminal Code* (Canada)) exceed the effective annual rate of interest on the “**credit advanced**” (as defined therein) lawfully permitted under Section 347 of the *Criminal Code* (Canada).
- (e) Agent Certificate. A certificate of an authorized signing officer of Agent as to each amount and/or each rate of interest payable hereunder from time to time shall be conclusive evidence of such amount and of such rate, absent manifest error.
- (f) No deemed reinvestment principle/effective yield method. For greater certainty, whenever any amount is payable under any Financing Agreement by Borrower as interest or as a fee which requires the calculation of an amount using a percentage *per annum*, each party to this Agreement acknowledges and agrees that such amount shall be calculated as of the date payment is due without application of the “**deemed reinvestment principle**” or the “**effective yield method**”. As an example, when interest is calculated and payable monthly, the rate of interest payable per month is 1/12 of the stated rate of interest *per annum*.
- (g) Conversion/Continuation of CDOR Rate Loans and Euro Rate Loans. Each CDOR Rate Loan or Euro Rate Loan shall automatically, at Agent’s option, either (i) convert to Canadian Prime Rate Loans or U.S. Base Rate Loans, respectively, upon the last day of the applicable Interest Period or (ii) be rolled over for a further one (1) month Interest Period, unless Agent has received and approved a Notice of Conversion/Continuation to continue such CDOR Rate Loan or Euro Rate Loan for an Interest Period chosen by Borrower at least five (5) Business Days prior to such last day with respect to CDOR Rate Loans and Euro Rate Loans (other than Euro

Dollar Rate Loans) and three (3) Business Days prior to such last day with respect to Euro Dollar Rate Loans, each in accordance with the terms hereof. Each CDOR Rate Loan and Euro Rate Loan shall, at Agent's option, upon notice by Agent to Borrower, be subsequently converted to Canadian Prime Rate Loans and U.S. Base Rate Loans, respectively, upon the occurrence of any Event of Default which is continuing and otherwise upon the Maturity Date.

(h) Requests for Revolving Loans and Swingline Loans.

- (i) Borrower may from time to time request in writing Revolving Loans and Swingline Loans pursuant to a Notice of Borrowing or may request in writing that Canadian Prime Rate Loans and U.S. Base Rate Loans (other than Swingline Loans) be converted to CDOR Rate Loans or Euro Rate Loans pursuant to a Notice of Conversion/Continuation or that any existing CDOR Rate Loan or Euro Rate Loan continue for an additional Interest Period pursuant to a Notice of Conversion/Continuation. Notices of Borrowing and Notices of Conversion/Continuation received after 12:00 noon (New York time) on any day shall be deemed to have been made as of the opening of business on the immediately following Business Day. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a CDOR Rate Loan or Euro Rate Loan.
- (ii) Each Notice of Borrowing or Notice of Continuation/Conversion, as applicable, from Borrower shall specify:
- (A) whether such Loan is to be a Revolving Loan or Swingline Loan and the amount of the Revolving Loan or Swingline Loan, as applicable;
 - (B) the date (which day shall be a Business Day) of borrowing, conversion or continuation, as the case may be;
 - (C) the Alternate Currency of the Revolving Loan (if applicable) provided that the consent of all Revolving Lenders shall be required for a Revolving Loan in an Alternate Currency other than Canadian Dollars and Euros;
 - (D) the Type of Revolving Loan;
 - (E) the amount of the Canadian Prime Rate Loan or U.S. Base Rate Loan to be converted to CDOR Rate Loans or Euro Rate Loans (if applicable);
 - (F) the amount of the CDOR Rate Loan or Euro Rate Loan to be continued (if applicable); and
 - (G) the Interest Period to be applicable to such Revolving Loan (if applicable).

- (iii) Subject to the terms and conditions contained herein, after receipt by Agent of such a Notice of Borrowing or Notice of Continuation/Conversion from Borrower, such Revolving Loans shall be made, converted or continued, as applicable provided, that:
- (A) a Notice of Borrowing or Notice of Continuation/Conversion with respect to Euro Dollar Rate Loans shall be submitted by Borrower to Agent at least three (3) Business Days prior to the date of such borrowing, conversion or continuation;
 - (B) a Notice of Borrowing or Notice of Continuation/Conversion with respect to Alternate Currency Loans shall be submitted by Borrower to Agent at least five (5) Business Days prior to the date of such borrowing, conversion or continuation;
 - (C) a Notice of Borrowing with respect to Canadian Prime Rate Loans and U.S. Base Rate Loans shall be submitted by Borrower to Agent no later than 12:00 noon (New York time) on the Business Day upon which Borrower requires such Canadian Prime Rate Loan or U.S. Base Rate Loan to be advanced to Borrower and if such request is provided after 12:00 noon (New York time) on a Business Day then such Canadian Prime Rate Loan or U.S. Base Rate Loan shall be advanced on the next following Business Day;
 - (D) any request by Borrower to Agent pursuant to a Notice of Borrowing or Notice of Continuation/Conversion shall be irrevocable;
 - (E) no more than ten (10) Interest Periods (for all outstanding CDOR Rate Loans and Euro Rate Loans) may be in effect at any one time;
 - (F) the aggregate amount of Euro Dollar Rate Loans shall be in an amount not less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof;
 - (G) the aggregate amount of CDOR Rate Loans shall be in an amount not less than CDN\$5,000,000 or an integral multiple of CDN\$1,000,000 in excess thereof;
 - (H) the aggregate amount of Euro Rate Loans in an Alternate Currency (other than Canadian Dollars) shall be in an amount agreed between Agent, Borrower, and the Revolving Lenders; and
 - (I) the aggregate amount of Canadian Prime Rate Loans and U.S. Base Rate Loans (other than Swingline Loans) shall be in an amount not less than CDN\$1,000,000 or an integral multiple of CDN\$500,000 in excess thereof and \$1,000,000 or an integral multiple of \$500,000 in excess thereof, respectively; and

- (J) the aggregate amount of Swingline Loans shall be in an amount not less than \$500,000 or an integral multiple of \$100,000 in excess thereof.
- (iv) Notwithstanding anything to the contrary contained herein, Agent and Lenders shall not be required to purchase Canadian Dollar, Euro or U.S. Dollar deposits in the Canadian bankers' acceptance or London interbank market to fund any Revolving Loans, but the provisions hereof shall be deemed to apply as if Agent or Lenders had purchased such deposits to fund such Revolving Loans.

3.2 Changed Circumstances

- (a) Circumstances Affecting CDOR Rate and Euro Rate Availability. Unless and until a Replacement Rate is implemented in accordance with clause (c) below, in connection with any request for a CDOR Rate Loan or Euro Rate Loan or a conversion to or continuation thereof or otherwise, if (i) in the case of Euro Rate Loans, Agent shall determine (which determination shall be conclusive and binding absent manifest error) that the applicable Currency deposits are not being offered to banks by reason of circumstances affecting the London interbank market for the applicable amount and Interest Period of such Loan, (ii) Agent shall determine (which determination shall be conclusive and binding absent manifest error) that reasonable and adequate means do not exist for ascertaining the CDOR Rate or Euro Rate for such Interest Period with respect to a proposed CDOR Rate Loan or Euro Rate Loan or (iii) the Required Lenders shall determine in good faith that the CDOR Rate or Euro Rate does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during such Interest Period, then Agent shall promptly give notice thereof to Borrower. Thereafter, until Agent notifies Borrower that such circumstances no longer exist, the obligation of the Lenders to make CDOR Rate Loans or Euro Rate Loans and the right of Borrower to convert any Loan to or continue any Loan as a CDOR Rate Loan or Euro Rate Loan shall be suspended, and Borrower shall either (A) repay in full (or cause to be repaid in full) the then outstanding principal amount of each such CDOR Rate Loan or Euro Rate Loan together with accrued interest thereon (subject to Section 5.1), on the last day of the then current Interest Period applicable to such CDOR Rate Loan or Euro Rate Loan; or (B) convert the then outstanding principal amount of each such CDOR Rate Loan or Euro Rate Loan to a Canadian Prime Rate Loan or U.S. Base Rate Loan (or another applicable rate as reasonably determined by Agent in the case of Loans denominated in an currency other than U.S. Dollars or Canadian Dollars) as of the last day of such Interest Period, and any Notice of Borrowing or Notice of Conversion/Continuation given by Borrower with respect to the Loans in respect of which such determination was made shall be deemed to be rescinded by Borrower.

- (b) Laws Affecting CDOR Rate or Euro Rate Availability. If, after the date hereof, the compliance by any of the Lenders (or any of their respective Lending Offices) in good faith with any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof or any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any Lender (or any of their respective Lending Offices) to honor its obligations hereunder to make or maintain any CDOR Rate Loan or Euro Rate Loan, such Lender shall promptly give notice thereof to Agent and Agent shall promptly give notice to Borrower and the other Lenders. Thereafter, until Agent notifies Borrower that such circumstances no longer exist, (i) the obligations of the Lenders to make CDOR Rate Loans or Euro Rate Loans, and the right of Borrower to convert any Loan to a CDOR Rate Loan or Euro Rate Loan or continue any Loan as a CDOR Rate Loan or Euro Rate Loan shall be suspended and thereafter Borrower may select only Canadian Prime Rate Loans or U.S. Base Rate Loans and (ii) if any of the Lenders may not lawfully continue to maintain a CDOR Rate Loan or Euro Rate Loan to the end of the then current Interest Period applicable thereto, the applicable Loan shall automatically be converted to a Canadian Prime Rate Loan or U.S. Base Rate Loan for the remainder of such Interest Period. Notwithstanding the foregoing, to the extent a determination by a Lender as described above relates to CDOR Rate Loans or Euro Rate Loans then being requested by Borrower, Borrower shall have the option, subject to the provisions of Section 3.3, to rescind such Notice of Borrowing or Notice of Conversion/Continuation as to all Lenders by giving notice to Agent of such rescission on the date on which such Lender gives notice of its determination as described above (which notice of rescission Agent shall promptly transmit to each other Lender).
- (c) Replacement Rate. Notwithstanding anything to the contrary in Section 3.2 above, if Agent has made the determination (such determination to be conclusive absent manifest error) that (i) the circumstances described in Section 3.2(a) or (b) have arisen and that such circumstances are unlikely to be temporary, (ii) any applicable interest rate specified herein is no longer a widely recognized benchmark rate for newly originated loans in the U.S. or Canadian (as applicable) syndicated loan market in the applicable currency or (iii) the applicable supervisor or administrator (if any) of any applicable interest rate specified herein or any Governmental Authority having, or purporting to have, jurisdiction over Agent has made a public statement identifying a specific date after which any applicable interest rate specified herein shall no longer be used for determining interest rates for loans in the U.S. or Canadian (as applicable) syndicated loan market in the applicable currency, then Agent may, to the extent practicable (with the consent of Borrower and as determined by Agent to be generally in accordance with similar situations in other transactions in which it is serving as administrative or collateral agent or otherwise consistent with market practice generally), establish a replacement interest rate (the “**Replacement Rate**”), in which case, the Replacement Rate shall, subject to the next two sentences, replace such applicable interest rate for all purposes under the Financing Agreements unless and until (A) an event described in Section 3.2(a), (b), (c)(i), (ii) or (c)(iii) occurs with respect to the Replacement Rate or (B) Agent (or Required Lenders through Agent) notifies Borrower that the

Replacement Rate does not adequately and fairly reflect the cost to Lenders of funding the Loans bearing interest at the Replacement Rate. In connection with the establishment and application of the Replacement Rate, this Agreement and the other Financing Agreements shall be amended solely with the consent of Agent, as may be necessary or appropriate, in the opinion of Agent, to effect the provisions of this Section 3.2(c). Notwithstanding anything to the contrary in this Agreement or the other Financing Agreements (including, without limitation, Section 11.14), such amendment shall become effective without any further action or consent of any other party to this Agreement so long as Agent shall not have received, within five (5) Business Days of the delivery of such amendment to Lenders, written notices from such Lenders that in the aggregate constitute Required Lenders, with each such notice stating that such Lender objects to such amendment (which such notice shall note with specificity the particular provisions of the amendment to which such Lender objects). To the extent the Replacement Rate is approved by Agent in connection with this clause (c), the Replacement Rate shall be applied in a manner consistent with market practice; provided that, in each case, to the extent such market practice is not administratively feasible for Agent, such Replacement Rate shall be applied as otherwise reasonably determined by Agent (it being understood that any such modification by Agent shall not require the consent of, or consultation with, any Lenders).

- (d) Circumstances Affecting Alternate Currencies. In the event that Agent shall have determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) at any time that any Alternate Currency (other than Canadian Dollars and Euros) is not available in sufficient amounts, as determined in good faith by Agent, then Agent shall promptly give written notice thereof to Borrower and Lenders. Thereafter, until Agent notifies in writing Borrower and Lenders that such circumstances no longer exist, the new Alternate Currency Loans denominated in the affected Alternate Currency (other than any such Alternate Currency Loans which have theretofore been funded) shall no longer be available and any Notice of Borrowing given by with respect to such Alternate Currency Loans which have not yet been incurred shall be deemed rescinded by Borrower.

3.3 Compensation for Breakage or Non-Commencement of Interest Periods

Borrower shall compensate each applicable Lender, within ten (10) days of a written request by such Lender, for any loss or expense (including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain a CDOR Rate Loan or Euro Rate Loan or from fees payable to terminate the deposits from which such funds were obtained) which may arise or be attributable to each Lender's obtaining, liquidating or employing deposits or other funds acquired to effect, fund or maintain any Loan (a) as a consequence of any failure by Borrower to make any payment when due of any amount due hereunder in connection with a CDOR Rate Loan or Euro Rate Loan (b) due to any failure of Borrower to borrow or continue a CDOR Rate Loan or Euro Rate Loan or convert to a CDOR Rate Loan or Euro Rate Loan on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation or (c) due to any payment, prepayment or conversion of any CDOR Rate Loan or Euro Rate Loan on a date other than the last

day of the Interest Period therefor. The amount of such loss or expense shall be determined, in the applicable Lender's sole discretion, based upon the assumption that such Lender funded its Commitment of the CDOR Rate Loans or Euro Rate Loans in the London or Canadian interbank market and using any reasonable attribution or averaging methods which such Lender deems appropriate and practical. A certificate of such Lender setting forth in reasonable detail the basis for determining such amount or amounts necessary to compensate such Lender shall be forwarded to Borrower through Agent and shall be conclusively presumed to be correct save for manifest error.

3.4 Increased Costs

- (a) If any Change in Law shall:
- (i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Euro Dollar Rate) or any Issuing Lender;
 - (ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or
 - (iii) impose on any Lender or any Issuing Lender or the London or Canadian interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or CDOR Rate Loans or Euro Rate Loans made by such Lender or any Letter of Credit Accommodations or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender, the Issuing Lender or such other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit Accommodations (or of maintaining its obligation to participate in or to issue any Letter of Credit Accommodations), or to reduce the amount of any sum received or receivable by such Lender, such Issuing Lender or such other Recipient hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, such Issuing Lender or other Recipient, Borrower shall within 30 days after receipt of the certificate referred to in clause (c) below, pay to any such Lender, such Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

- (b) Capital Requirements. If any Lender or any Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Lending Office of such Lender or such Lender's or such Issuing Lender's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or such Issuing Lender's capital or on the capital of such Lender's or such Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by, or participations in Letter of Credit Accommodations or Loans held by, such Lender, or the Letter of Credit Accommodations issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Lender's policies and the policies of such Lender's or such Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Issuing Lender Borrower shall within 30 days after receipt of the certificate referred to in clause (c) below, pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company for any such reduction suffered.
- (c) Certificates for Reimbursement. A certificate of a Lender, or an Issuing Lender or such other Recipient setting forth the amount or amounts necessary to compensate such Lender or such Issuing Lender, such other Recipient or any of their respective holding companies, as the case may be, as specified in clause (a) or (b) of this Section and delivered to Borrower, shall be conclusive absent manifest error.
- (d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Lender or such other Recipient to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Lender's or such other Recipient's right to demand such compensation; provided that Borrower shall not be required to compensate any Lender or an Issuing Lender or any other Recipient pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such Issuing Lender or such other Recipient, as the case may be, notifies Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or such Issuing Lender's or such other Recipient's intention to claim compensation therefor (except that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.5 Taxes

- (a) Defined Terms. For purposes of this Section 3.5, the term "Lender" includes any Issuing Lender and the term "Applicable Law" includes FATCA.

- (b) Payments Free of Taxes. Any and all payments by or on account of any obligation of Borrower under this Agreement and any other documents entered into in connection herewith shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by Borrower shall be increased as necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section), the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.
- (c) Payment of Other Taxes by Borrower. Borrower shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.
- (d) Indemnification by Borrower. Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by a Recipient (with a copy to Agent), or by Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.
- (e) Indemnification by the Lenders. Each Lender shall severally indemnify Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that Borrower has not already indemnified Agent for such Indemnified Taxes and without limiting the obligation of Borrower to do so), and (ii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Agent in connection with this Agreement or any other documents entered into in connection herewith, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to setoff and apply any and all amounts at any time owing to such Lender under any Financing Agreement or otherwise payable by Agent to the Lender under this Agreement or any other documents entered into in connection herewith from any other source against any amount due to Agent under this clause (e).
- (f) Evidence of Payments. As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to this Section 3.5, Borrower shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

- (g) Status of Lenders. Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under this Agreement or any other documents entered into in connection herewith shall deliver to Borrower and Agent, at the time or times reasonably requested by Borrower or Agent, such properly completed and executed documentation reasonably requested by Borrower or Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrower or Agent as will enable Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. If a payment made to a Lender under this Agreement or any other documents entered into in connection herewith would be subject to Tax under FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to Borrower and Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower or Agent as may be necessary for Borrower and Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.5(g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Agent in writing of its legal inability to do so.
- (h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.5 (including by the payment of additional amounts pursuant to this Section 3.5), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (h) (plus any penalties, interest or other charges

imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (i) Survival. Each party's obligations under this Section 3.5 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under this Agreement or any other documents entered into in connection herewith.

3.6 Mitigation Obligations; Replacement of Lenders.

- (a) Designation of a Different Lending Office. If any Lender (an “**Increased-Cost Lender**”) requests compensation under Section 3.2 or Section 3.4, or requires Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.5, then such Lender shall, at the request of Borrower, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.4 or Section 3.5, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.
- (b) Replacement of Lenders. Notwithstanding anything to the contrary contained herein, in the event that any Increased-Cost Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.6(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then Borrower may, at its sole expense and effort, upon notice to such Lender and Agent, require such Lender (and such Lender hereby irrevocably agrees) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.1), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.4 or Section 3.5) and obligations under this Agreement and the related Financing Documents to an Eligible Transferee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

- (i) the assignee (or failing which, Borrower) shall have paid to Agent the assignment fee (if any) specified in Section 11.1;
- (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in Letter of Credit Accommodations and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Financing Agreements (including any amounts under Section 3.3) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower (in the case of all other amounts);
- (iii) in the case of any such assignment resulting from a claim for compensation under Section 3.2 or Section 3.4 or payments required to be made pursuant to Section 3.5, such assignment will result in a reduction in such compensation or payments thereafter;
- (iv) such assignment does not conflict with Applicable Law; and
- (v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply. Upon the prepayment of all amounts owing to any such Lender and the termination of such Lender's Revolving Loan Commitments, such Lender shall no longer constitute a "Lender" for purposes hereof; provided any rights of such Lender to indemnification and to expense reimbursement hereunder shall survive as to such Lender. Each Lender agrees that, if it becomes an Increased-Cost Lender, Defaulting Lender or a Non-Consenting Lender and its rights and claims are assigned hereunder to an assignee pursuant to this Section 3.6(b), it shall execute and deliver to Agent an Assignment and Assumption Agreement to evidence such assignment; provided, however, that the failure of any Lender to execute an Assignment and Assumption Agreement shall not render such assignment invalid.

- (c) Selection of Lending Office. Subject to Section 3.6(a), each Lender may make any Loan to Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligations of Borrower to repay the Obligations in accordance with the terms of this Agreement or otherwise alter the rights of the parties hereto.

3.7 Commitment Fee

- (a) Borrower shall pay to Agent a commitment fee (i) initially after the Closing Date at a rate equal to 0.25% *per annum* and (ii) after the first AM Calculation Date after the Closing Date at the Applicable Margin for commitment fees, in each case calculated on the basis of a 360 day year and actual days elapsed and upon the amount by which the then applicable Revolving Loan Commitment exceeds the sum of (i) the average daily principal balance of the outstanding Revolving Loans and (ii) the average daily face amount of the Letter of Credit Accommodations during the immediately preceding Fiscal Quarter (or part thereof) while this Agreement is in effect and for so long thereafter as any of the Obligations are outstanding, which commitment fee shall be payable on the last Business Day of each Fiscal Quarter in arrears. For further clarity, no Obligations will be outstanding once this Agreement has been terminated and all non-contingent Obligations have been fully satisfied and cash collateral (or a backstop letter of credit) has been provided in the full amount then outstanding of any Letter of Credit Accommodations and Secured Hedge Agreement, if any. This commitment fee shall not be payable to a Lender during the period it is a Defaulting Lender.

3.8 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 10 or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 11.12 shall be applied at such time or times as may be determined by the Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or the Swingline Lender hereunder; *third*, to cash collateralize the Fronting Exposure of the Issuing Lender and the Swingline Lender with respect to such Defaulting Lender in a manner reasonably satisfactory to the Issuing Lender or the Swingline Lender, as the case may be; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan or funded participation in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; *fifth*, if so determined by the Agent and the Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans and funded participations under this Agreement and (B) cash collateralize the Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letter of Credit Accommodations issued under this Agreement, in a manner reasonably satisfactory to the Issuing Lender; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lender or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lender or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result

of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or funded participations in Letter of Credit Accommodations or Swingline Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letter of Credit Accommodations or Swingline Loans were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and funded participations in Letter of Credit Accommodations or Swingline Loans owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or funded participations in Letter of Credit Accommodations or Swingline Loans owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Accommodations and Swingline Loans are held by the Revolving Lenders pro rata in accordance with the Revolving Loan Commitments under the applicable Revolving Loan Facility without giving effect to Section 3.8(a)(iii). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 3.8(a)(i), shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any commitment fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit fees pursuant to Section 2.2(b) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the stated amount of Letter of Credit Accommodations for which it has provided cash collateral.

(C) With respect to any commitment fee or letter of credit fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Accommodations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iii) below, (2) pay to the Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the Issuing Lender's or the Swingline Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iii) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Accommodations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Revolving Loan Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Loan Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Loan Commitment. Subject to Section 13.9, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(iv) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, repay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, cash collateralize the Issuing Lender's Fronting Exposure in a manner reasonably satisfactory to the Issuing Lender.

(b) Defaulting Lender Cure. If the Borrower, the Agent, the Issuing Lender and the Swingline Lender agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letter of Credit Accommodations and Swingline Loans to be held pro rata by the Lenders in accordance with their respective Revolving Loan Commitments (without giving effect to Section 3.8(a)(iii)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE 4 **CONDITIONS PRECEDENT**

4.1 Conditions Precedent to the Availability of Revolving Loans and Letter of Credit Accommodations

Each of the following is a condition precedent to Lenders making available the Revolving Loans and making available the Letter of Credit Accommodations hereunder on the Closing Date:

- (a) Agent and Lenders shall have received the following documents, all in form and substance satisfactory to Agent and Lenders on or prior to the Closing Date:
 - (i) an omnibus information certificate from each of the Credit Parties;

- (ii) this Agreement;
- (iii) a confirmation of existing guarantees and security between the Credit Parties and Agent, acting as agent for and on behalf of the Secured Parties;
- (iv) an amended statement of charge with respect to the equitable share mortgage dated April 8, 2014 by and between IMAX Barbados and Agent, acting as agent for and on behalf of the Secured Parties;
- (v) an amended statement of charge with respect to the general security agreement dated February 7, 2013 granted by IMAX Barbados in favor of Agent, acting as agent for and on behalf of the Secured Parties;
- (vi) an amended statement of charge with respect to the charge over shares of IMAX Barbados dated February 7, 2013 granted by Borrower in favor of Agent acting as agent for and on behalf of the Secured Parties;
- (vii) a deed of confirmation granted by IMAX Ireland in favor of Agent, acting as agent for and on behalf of the Secured Parties;
- (viii) an equitable share mortgage by and between IMAX Barbados and Agent acting as agent for and on behalf of the Secured Parties;
- (ix) resolutions of the Board of Directors or similar governing body of each Credit Party approving and authorizing the execution, delivery and performance of this Agreement and the other Financing Agreements to which it is a party, certified as of the Closing Date by its officer as being executed and delivered and in full force and effect without modification or amendment or, if not applicable under the Applicable Laws of the relevant jurisdiction, in a similar form;
- (x) customary written opinions of (i) Latham & Watkins LLP, U.S. counsel for Credit Parties, (ii) McCarthy Tétrault LLP, Canadian counsel for Credit parties, (iii) Clarke Gittens Farmer, Barbados counsel for Lenders, (iv) Walkers (located in The Cayman Islands), Cayman counsel for Lenders, and (v) Walkers (located in Ireland), Irish counsel for Lenders;
- (xi) any and all documents and instruments required to perfect or evidence Agent's security interest in and liens on the Collateral (including, without limitation, all certificates evidencing pledged capital stock or membership or partnership interests, as applicable, with accompanying executed stock powers, all PPSA and UCC financing statements to be filed in the applicable government PPSA and UCC filing offices and all intellectual property security agreements to be filed with the intellectual property offices in Canada and the United States, as applicable);

- (xii) any PPSA, UCC and other lien searches, intellectual property searches, insurance policies and, where applicable and customary in the relevant jurisdiction, special flood hazard determinations, evidence of flood insurance and endorsements, surveys, title reports and policies, appraisals and environmental reports, landlord waivers and access letters; and
- (xiii) in respect of any written request made no less than two (2) Business Days prior to the Closing Date, all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the *Patriot Act*;
- (b) since December 31, 2017, there shall not have occurred any event or condition that has had or could be reasonably expected, either individually or in the aggregate, to have a Material Adverse Effect;
- (c) all fees and reasonable out-of-pocket expenses due on the Closing Date to the Lenders, Agent and counsel to Agent for which an invoice has been presented at least two (2) Business Days prior to the Closing Date (or such shorter period as may be reasonably requested by Agent and acceptable to Borrower, acting reasonably) will be paid; and
- (d) Arranger will have received, in form and substance reasonably satisfactory to the Arranger, projections prepared by Borrower of balance sheets, income statements and cashflow statements of Borrower and its Subsidiaries.

4.2 Conditions Precedent to the Availability of All Loans and Letter of Credit Accommodations

Each of the following is an additional condition precedent to Lenders making available the Loans and/or making available Letter of Credit Accommodations to Borrower, including the initial Loans and Letter of Credit Accommodations and any future Loans and Letter of Credit Accommodations:

- (a) all steps required with respect to notice and request for the making available of the Loans and/or making available Letter of Credit Accommodations to Borrower set out or contemplated herein have been completed;
- (b) all representations and warranties contained in the Financing Agreements shall be true and correct (i) in all material respects if not subject to materiality or Material Adverse Effect qualifications or (ii) in all respects if subject to materiality or Material Adverse Effect qualifications in each case with the same effect as though such representations and warranties had been made on and as of the date of the making of each such Loan or providing each such Letter of Credit Accommodation (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct in all material respects if not subject to materiality or Material Adverse Effect qualifications as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects as of such earlier date) and after giving effect thereto;

- (c) no Event of Default or Default shall have occurred and be continuing on and as of the date of the making of such Loan or providing, amending or extending each such Letter of Credit Accommodation and after giving effect thereto;
- (d) after giving effect to each Revolving Loan and Letter of Credit Accommodation, (i) the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender shall not exceed such Lender's Revolving Loan Commitment, (iii) the aggregate outstanding amount of the Letter of Credit Accommodations shall not exceed the Letter of Credit Accommodations Sublimit and (iv) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans shall not exceed the Alternate Currency Revolving Loan Sublimit; and
- (e) after giving effect to each Term Loan, (i) the Term Loan Outstandings shall not exceed the Term Loan Commitment and (ii) the Term Loan Exposure of any Term Lender shall not exceed such Term Lender's Term Loan Commitment.

ARTICLE 5
COLLECTION AND ADMINISTRATION

5.1 Borrower's Loan Account

Agent shall maintain one or more loan account(s) on its books in which shall be recorded: (a) all Loans, Letter of Credit Accommodations and other Obligations and the Collateral; (b) all payments made by or on behalf of Borrower; and (c) all other appropriate debits and credits as provided in this Agreement, including fees, charges, costs, expenses and interest. All entries in the loan account(s) shall be made in accordance with Agent's customary practices as in effect from time to time.

5.2 Statements

Agent shall render to Borrower, within a reasonable time following the end of each Fiscal Quarter, statements setting forth the balance in Borrower's loan account(s) maintained by Agent for Borrower pursuant to the provisions of this Agreement, including principal, interest, fees, costs and expenses. Each such statement shall be subject to subsequent adjustment by Agent but shall, absent manifest errors or omissions, be considered correct and deemed accepted by Borrower and conclusively binding upon Borrower as an account stated except to the extent that Agent receives a written notice from Borrower of any specific exceptions of Borrower thereto within 30 days after the date such statement has been mailed by Agent. Until such time as Agent shall have rendered to Borrower a written statement as provided above, the balance in Borrower's loan account(s) shall be presumptive evidence of the amounts due and owing to Agent and Lenders by Borrower.

5.3 Payments

- (a) All Obligations (other than obligations, liabilities and indebtedness in connection with any Secured Hedge Agreement (which shall be paid in accordance with the terms thereof)) shall be payable to Agent as it may designate from time to time.

- (b) Agent shall apply payments received or collected from Credit Parties or for the account of Credit Parties (including the monetary proceeds of collections or of realization upon any Collateral) as follows:
- (i) first, ratably, to pay any fees, indemnities or expense reimbursements then due to Agent and Lenders from Credit Parties;
 - (ii) second, to pay interest then due in respect of any Loans;
 - (iii) third, to pay principal then due in respect of the Loans and outstanding obligations due under Secured Hedge Agreements and Secured Cash Management Agreements; and
 - (iv) fourth, to pay the outstanding Loans and cash collateralize outstanding Letter of Credit Accommodations, Secured Hedge Agreements, and Secured Cash Management Agreements and after the occurrence of and during the continuance of an Event of Default, to pay or pre-pay such of the Obligations, whether or not then due, in such order and manner as Agent determines.
- (c) Notwithstanding clause (b) above, Obligations arising under Secured Hedge Agreements and Secured Cash Management Agreements shall be excluded from the application described above if Agent has not received written notice thereof, together with such supporting documentation as Agent may request, from the applicable Hedge Bank or Cash Management Bank, as the case may be. Each Hedge Bank or Cash Management Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of Agent pursuant to the terms of Article 11 for itself and its Affiliates as if a “Lender” party hereto.
- (d) Payments and collections received in any currency other than Canadian Dollars, Euros and U.S. Dollars will be accepted and/or applied at the sole discretion of Agent. At Agent’s option, and to the extent such amounts are overdue, all principal, interest, fees, costs, expenses and other charges provided for in the Financing Agreements, the Secured Hedge Agreements or the Secured Cash Management Agreements may be charged directly to the loan account(s) of Borrower. Subject to Section 3.5 and except as otherwise required by Applicable Law, Borrower shall make all payments to Agent on the Obligations free and clear of, and without deduction or withholding for or on account of, any set-off, counterclaim, defence, duties, taxes, levies, imposts, fees, deductions, withholding, restrictions or conditions of any kind. If after receipt of any payment of, or proceeds of Collateral applied to the payment of, any of the Obligations, Agent or any Lender is required to surrender or return such payment or proceeds to any Person for any reason, then the Obligations intended to be satisfied by such payment or proceeds shall be reinstated and continue and this Agreement shall continue in full force and effect as if such payment or proceeds had not been received by Agent. Borrower shall be liable to pay to Agent and each Lender, and does hereby indemnify and hold Agent

and each Lender harmless for, the amount of any payments or proceeds surrendered or returned. This Section 5.3 shall remain effective notwithstanding any contrary action which may be taken by Agent or any Lender in reliance upon such payment or proceeds. The indemnification in the second preceding sentence shall survive the payment of the Obligations and the termination of this Agreement.

5.4 Authorization to Make Loans and Letter of Credit Accommodations

Each Lender is authorized to make the Loans and provide the Letter of Credit Accommodations based upon written instructions received by Agent from the persons authorized by Borrower as notified in writing by Borrower to Agent from time to time or, at the discretion of Lenders, if such Loans are necessary to satisfy any Obligations that are overdue. All Loans and Letter of Credit Accommodations under this Agreement shall be conclusively presumed to have been made to, and at the request of and for the benefit of, Borrower when deposited to the credit of Borrower or otherwise disbursed or established in accordance with the instructions of Borrower or in accordance with the terms and conditions of this Agreement.

5.5 Use of Proceeds

Borrower shall use the proceeds of the Loans provided by Lenders to Borrower hereunder to (a) pay costs, expenses and fees in connection with the preparation, negotiation, execution and delivery of the Financing Agreements and (b) finance ongoing working capital requirements and other general corporate purposes of Borrower and its Subsidiaries, including the financing of permitted acquisitions and other permitted investments, permitted stock buybacks and dividends.

5.6 Pro Rata Treatment

Except to the extent otherwise provided in this Agreement, (a) the making and conversion of Revolving Loans shall be made by Revolving Lenders based on their respective Pro Rata Shares as to the Revolving Loans and (b) each payment on account of any Obligations to or for the account of one or more of Lenders or their respective Affiliates in respect of any Obligations due on a particular day shall be allocated among the Lenders and their respective Affiliates, as applicable, entitled to such payments based on their respective Pro Rata Shares and shall be distributed accordingly by Agent.

5.7 Obligations Several; Independent Nature of Lenders' Rights

The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or commitment of any other Lender hereunder. Nothing contained in this Agreement or any of the other Financing Agreements and no action taken by the Lenders pursuant hereto or thereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and subject to Section 11.13(f) hereof, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

Each Credit Party hereby represents and warrants to Agent and each Lender the following (which shall survive the execution and delivery of this Agreement):

6.1 Existence, Power and Authority; Subsidiaries; Solvency

Each Credit Party and each Subsidiary thereof (a) is a Person duly incorporated or organized and validly existing under the laws of its jurisdiction of incorporation or organization and (b) is duly qualified or registered as a foreign or extra-provincial corporation in all provinces, states or other jurisdictions where the nature and extent of the business transacted by it or the ownership of assets makes such qualification necessary, except in each case referred to in clause (a) (other than with respect to each Credit Party) and clause (b) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. The execution, delivery and performance of the Financing Agreements and the transactions contemplated thereunder (a) are all within each Credit Party's and each of its Subsidiaries' corporate or other powers, (b) have been duly authorized, and (c) are not in contravention of law or the terms of its certificate of incorporation, by-laws, or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which it or its property are bound except, in each case, with respect to any contravention of any such law, indenture, agreement or undertaking, to the extent that such contravention could not reasonably be expected to have a Material Adverse Effect. The Financing Agreements constitute legal, valid and binding obligations of each Credit Party which is a party thereto enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, examinership, receivership, moratorium or other laws affecting creditors' rights generally and by general principles of equity. As of the Closing Date, each Credit Party does not have any Subsidiaries except as set forth on the corporate structure chart attached as Schedule 6.1. Credit Parties and their Subsidiaries, taken as a whole, on a consolidated basis, are Solvent. No Credit Party is an Affected Financial Institution.

6.2 Financial Statements; No Material Adverse Change

The audited consolidated financial statements relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 7.6(a)(ii) have been prepared in accordance with GAAP, except as otherwise expressly noted therein, and fairly present in all material respects its financial condition and the results of its operation as at the dates and for the periods set forth therein, except as otherwise expressly noted therein. The unaudited consolidated financial statements relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 7.6(a)(i) have been prepared in accordance with GAAP, except as expressly noted therein, and fairly present in all material respects its financial condition and the results of its operation as at the dates and for the periods set forth therein, subject in each case to the absence of footnotes and to normal year-end audit adjustments. The projections relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 7.6(a)(iv) were prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery (it being understood that such projections may vary from actual results and that such variances may be material). Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect; provided that, solely with respect

to determining whether a Material Adverse Effect under clause (a) of the definition of Material Adverse Effect has occurred or could reasonably be expected to occur during the Designated Period, the effects of the COVID-19 pandemic on the results of operations of the Borrower and its Subsidiaries that have been disclosed in writing to the Agent and the Lenders prior to the Second Amendment Effective Date shall be disregarded.

6.3 Chief Executive Office; Collateral Locations

As of the Closing Date, (a) the chief executive office of each Credit Party is located in the jurisdiction set forth on its Information Certificate and (b) the only locations of Collateral with a value in excess of \$1,500,000 of any of the Credit Parties (other than vehicles and assets temporarily in transit or sent for repair), if any, are the addresses set forth in its Information Certificate.

6.4 Priority of Liens; Title to Properties; Intellectual Property Matters

The Liens granted to Agent under the applicable Financing Agreements constitute valid Liens in favor of Agent for the benefit of the Secured Parties in and upon the Collateral and when (a) financing statements and other filings in appropriate form are filed in the applicable offices of each Credit Party's jurisdiction of organization or formation and in each jurisdiction in which it has assets located (if required by Applicable Law) and applicable documents are filed and recorded, as applicable, in the Intellectual Property Offices in Canada and the United States and (b) upon the taking of possession or control by Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to Agent to the extent possession or control by Agent is required by the applicable Financing Agreement), the Liens created by the applicable Financing Agreements shall constitute fully perfected first priority Liens so far as possible under Applicable Law on, and security interests in (to the extent intended to be created thereby and required to be perfected under the applicable Financing Agreements), all right, title and interest of the grantors in such Collateral in each case free and clear of any Liens other than Permitted Liens. Each Credit Party and each Subsidiary thereof has good and marketable title in fee simple (or local law equivalent) to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for minor defects in title that do not materially interfere with its ability to conduct its business thereon or to utilize such assets for their intended purposes and Permitted Liens. Each Credit Party and each Subsidiary thereof owns or possesses rights to use all material franchises, licenses, copyrights, copyright applications, patents, patent rights or licenses, patent applications, trademarks, trademark rights, service mark, service mark rights, trade names, trade name rights, copyrights and other intellectual property rights (collectively, "**IP Rights**") with respect to the foregoing which are necessary to conduct its business, as currently conducted, except to the extent such failure to own or possess, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. The conduct of the business of any Credit Party or any Subsidiary as currently conducted or as contemplated to be conducted does not infringe upon or violate any IP Rights held by any other Person except for such infringements and violations which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

6.5 Tax Returns

Borrower and its Subsidiaries have filed, or caused to be filed, in a timely manner (with extensions) all Tax returns, reports and declarations which are required to be filed by it (except those in respect of Taxes the calculation or payment of which are being contested in good faith by appropriate proceedings diligently pursued and available to it and except for those returns for those jurisdictions in which failure to do so would not have a Material Adverse Effect). All information in such Tax returns, reports and declarations is complete and accurate in all material respects. Borrower and its Subsidiaries have paid or caused to be paid all Taxes due and payable or claimed due and payable in any assessment received by it, except Taxes (a) the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to it and with respect to which adequate reserves have been set aside on its books or (b) for which the failure to pay would not have a Material Adverse Effect. Adequate provision has been made by Borrower and its Subsidiaries for the payment of all accrued and unpaid Taxes whether or not yet due and payable and whether or not disputed.

6.6 Litigation

Except as disclosed in Borrower's Form 10-K, to its knowledge, there is no action, suit, proceeding or claim by any Person pending or threatened in writing against any Credit Party and each Subsidiary thereof or its assets or business, which in each of the foregoing cases, could reasonably be expected to result in a Material Adverse Effect.

6.7 Compliance with Applicable Laws; Approvals

Each Credit Party and each Subsidiary thereof is in compliance in all respects with all Applicable Laws, licenses, permits, approvals and orders of any Governmental Authority except in such instances in which (a) such Applicable Law or license, permit, approval or order is being contested in good faith by appropriate proceedings diligently conducted or (b) the lack of compliance could not reasonably be expected to have a Material Adverse Effect. The execution, delivery and performance by each Credit Party of the Financing Agreements to which it is a party do not and will not (a) require any governmental approval where the failure to obtain such approval could reasonably be expected to have a Material Adverse Effect or (b) require any consent or authorization of, filing with, or other act in respect of, a Governmental Authority and no consent of any other Person is required in connection with such execution, delivery and performance other than (x) consents, authorizations, filings or other acts or consents for which the failure to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (y) consents, authorizations, filings or other acts or consents which have been duly obtained, taken, given or made and are in full force and effect and (z) notices and filings made in connection with the security interests granted under the Financing Agreements.

6.8 [Reserved]

6.9 Accuracy of Information

As of the Closing Date, no information, taken as a whole, furnished by or on behalf of each Credit Party (other than projected financial information, pro forma financial information and information of a general economic or industry nature) in writing to Agent or a Lender in connection with any of the Financing Agreements or any transaction contemplated hereby or thereby (as modified or supplemented by other written information so furnished), when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein (when taken as a whole), in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected and pro forma financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery, it being understood that such projections may vary from actual results and that such variances may be material.

6.10 Status of Pension Plans and ERISA

Except as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries or except as disclosed in the Borrower's Form 10-K:

- (a) The Pension Plans are duly registered under all applicable provincial pension benefits legislation and there are no other Canadian pension plans of any Credit Party or any Subsidiary thereof other than the Pension Plans.
- (b) All obligations of each Credit Party and each Subsidiary thereof (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Pension Plans or the funding agreements therefor have been performed in a timely fashion. There are no outstanding disputes concerning the assets held pursuant to any such funding agreement.
- (c) All contributions or premiums required to be made by any Credit Party and any Subsidiary thereof to the Pension Plans have been made in a timely fashion in accordance with the terms of the Pension Plans and Applicable Laws.
- (d) All employee contributions to the Pension Plans required to be made by way of authorized payroll deduction have been properly withheld by each Credit Party and each Subsidiary thereof and fully paid into the Pension Plans in a timely fashion.
- (e) All reports and disclosures relating to the Pension Plans required by any Applicable Laws have been filed or distributed in a timely fashion.
- (f) There have been no improper withdrawals, or applications of, the assets of any of the Pension Plans.
- (g) No amount is owing by any of the Pension Plans under the ITA or any provincial taxation statute.
- (h) None of the Pension Plans is a defined benefit registered or unregistered pension plan or contains any defined benefit provision.
- (i) None of the Pension Plans is the subject of an investigation or any other proceeding, action or claim and there exists no state of facts which after notice or lapse of time or both could reasonably be expected to give rise to any such proceeding, action or claim.

- (j) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other U.S. federal or state law. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service and, to the best of each Credit Party's knowledge, nothing has occurred which would cause the loss of such qualification where such loss, when combined with other such occurrences or failures to comply, has or could reasonably be expected to have a Material Adverse Effect. Each Credit Party and its ERISA Affiliates have made all required contributions to any Plan subject to Section 412 of the Code, and no application for a funding waiver has been made with respect to any Plan.
- (k) There are no pending, or to the best of each Credit Party's knowledge, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan and there has been no prohibited transaction or violation of the fiduciary responsibility rules that would reasonably be expected to result in a material liability to the Plan.
- (l) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) each Credit Party and its ERISA Affiliates have not incurred and do not reasonably expect to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iii) each Credit Party and its ERISA Affiliates have not incurred and do not reasonably expect to incur any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 of ERISA with respect to a Multiemployer Plan; and (iv) each Credit Party and its ERISA Affiliates have not engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA.

6.11 Environmental Compliance

- (a) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Hazardous Materials generated, used, treated, handled, or stored at, or transported or arranged for transport to or from, any property or facility currently or, to the knowledge of Borrower, formerly owned or operated by any Credit Party or any of its Subsidiaries have been disposed of in a manner that would not reasonably be expected to result in any Environmental Liability.
- (b) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no Environmental Claims against any Credit Party or any of its Subsidiaries relating to their respective businesses, operations and properties, and their respective businesses, operations and properties are in compliance with applicable Environmental Laws.

- (c) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the properties currently or, to the knowledge of the Credit Parties, formerly owned or operated by any Credit Party or any of its Subsidiaries do not contain any Hazardous Materials in amounts or concentrations which (i) constitute a violation of, (ii) require response or other corrective action under, or (iii) could be reasonably expected to give rise to liability under, Environmental Laws.
- (d) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Credit Party and each Subsidiary thereof has all licenses, permits, certificates, approvals or similar authorizations required to be obtained or filed in connection with its operations under any Environmental Law.

6.12 U.S. Legislation

Without limiting Section 6.7:

- (a) Each Credit Party and each Subsidiary or Affiliate is compliance in material respect with sanctions administered and enforced by OFAC. No Credit Party or any Subsidiary or Affiliate thereof (i) is a Sanctioned Person or a Sanctioned Entity, (ii) has any of its assets in Sanctioned Entities, or (iii) derives any of its operating income from investments in, or transactions with, Sanctioned Persons or Sanctioned Entities. The proceeds of the Loans and other financial accommodation hereunder will (i) not be used and have not been used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity and (ii) comply with sanctions administered and enforced by OFAC or any other applicable sanctions authority in any jurisdiction (A) in which the Borrower or any of its Subsidiaries or Affiliates is located or conducts business, (B) in which any of the proceeds of the Loans or the Letter of Credit Accommodations will be used, or (C) from which repayment of the Loans or Letter of Credit Accommodations will be derived.
- (b) Each Credit Party, their Subsidiaries, and their respective directors, officers and employees, and, to the knowledge of each Credit Party, the Affiliates of each Credit Party, are in compliance with the *Foreign Corrupt Practices Act of 1977* and any other applicable anti-corruption law in all material respects. The Credit Parties have instituted and maintain policies and procedures designed to ensure compliance therewith.
- (c) No part of the proceeds of the Loans or other financial accommodations made or provided hereunder will be used by any Credit Party or any Subsidiary or Affiliate thereof, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the *United States Foreign Corrupt Practices Act of 1977*, as amended or any other anti-corruption law or Anti-Money Laundering Laws.

- (d) No part of the proceeds of the Loans will be used for any purpose that violates the provisions of any of Regulation T, U, or X of the Board of Governors of the Federal Reserve System of the United States of America or to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock and Borrower is not engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock or extending credit for the purpose of purchasing or carrying margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System.
- (e) [Reserved].
- (f) No Credit Party is an “investment company” (as defined in the *Investment Company Act of 1940*, as amended).

6.13 Material Subsidiaries

As of the Closing Date, Guarantors are the only Material Subsidiaries of Borrower.

6.14 Employee Relations

As of the Closing Date, no Credit Party or Subsidiary thereof is party to any collective bargaining agreement and no labor union has been recognized as the representative of any material portion of its employees. Each Credit Party knows of no pending, threatened or contemplated strikes, work stoppage or other collective labor disputes involving its employees or those of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect.

6.15 [Reserved]

6.16 Absence of Defaults

No event, circumstance or omission has occurred or is continuing which constitutes a Default or an Event of Default.

6.17 Senior Indebtedness Status

The Obligations rank and shall continue to rank senior in priority of payment to all subordinated Debt of each Credit Party and shall be designated as “Senior Indebtedness” under all instruments and documents, now or in the future, relating to all subordinated Debt of such Credit Party.

6.18 Flood Hazard Insurance

With respect to each parcel of real property owned by a Credit Party subject to a Mortgage and located in the United States (and no such parcel exists as of the Closing Date), all flood hazard insurance policies required hereunder have been obtained and remain in full force and effect, and the premiums thereon have been paid in accordance with the requirements hereunder.

6.19 Survival of Warranties; Cumulative

All representations and warranties contained in any of the Financing Agreements shall survive the execution and delivery of this Agreement and shall be deemed to have been made again to Agent and each Lender on the date of each additional borrowing or other credit accommodation hereunder and shall be conclusively presumed to have been relied on by Agent and each Lender regardless of any investigation made or information possessed by Agent or any Lender. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which any Credit Party or any Subsidiary thereof shall now or hereafter give, or cause to be given, to Agent or any Lender.

ARTICLE 7 **AFFIRMATIVE COVENANTS**

Until all of the non-contingent Obligations have been paid and satisfied in full, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms satisfactory to Agent) and the Commitment terminated, each Credit Party will, and will cause each of its Subsidiaries to:

7.1 Maintenance of Existence

Except to the extent otherwise permitted herein, preserve, renew and keep in full, force and effect (a) its legal existence and (b) its material rights and franchises, permits, licenses, approvals, authorizations, leases and contracts necessary to carry on the business as presently or proposed to be conducted; provided, no Subsidiary (other than a Credit Party) shall be required to preserve any such existence and no Credit Party or a Subsidiary thereof shall be required to preserve any such right or franchise, permit, license, approval, authorization, lease and contract if such Person shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to Lenders. Each Credit Party shall give Agent prompt written notice of any change in its legal name, which notice shall set forth the new name and it shall deliver to Agent a certified copy of the articles of amendment providing for the name change immediately following its filing.

7.2 New Collateral Locations

Give Agent reasonable prior written notice if a Credit Party intends to have assets (other than goods in transit) with fair market value in excess of \$1,000,000 located in a Province of Canada not set forth in the Information Certificates as of the Closing Date.

7.3 Compliance with Laws

- (a) Comply in all respects with all Applicable Law and duly observe all requirements of any Governmental Authority, including all Applicable Laws relating to environmental pollution and employee health and safety, including all of the Environmental Laws except for any matter (i) that it is contesting in good faith by appropriate proceedings diligently pursued or (ii) which is not reasonably expected to have a Material Adverse Effect.

- (b) Take prompt action necessary to respond to any violation of any applicable Environmental Laws by such Credit Party or its Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) Notify the Agent and each Lender in the event that the Borrower no longer qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation and upon receipt of notice from the Agent or any Lender, provide directly to the Agent or such Lender a Beneficial Ownership Certification in compliance with the Beneficial Ownership Regulation.

7.4 Payment of Taxes

(a) Duly pay and discharge all Taxes, upon or against it or its properties or assets, except for (a) Taxes, the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to it and with respect to which adequate reserves have been set aside on its books or (b) Taxes, for which the failure to pay (i) is not reasonably expected to have a Material Adverse Effect and (ii) does not, and could not, have a trust (including a statutory trust) imposed to provide for payment or Lien ranking or capable of ranking senior to or *pari passu* with the Liens securing the Obligations on any of the Collateral under Applicable Law.

7.5 Insurance

- (a) Maintain, with financially sound and reputable insurers, insurance with respect to the properties and businesses of the Credit Parties and their Subsidiaries as may customarily be insured against or carried by Persons engaged in the same or similar businesses and similarly situated, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons.
- (b) Furnish certificates, policies or endorsements to Agent as Agent shall reasonably require as proof of such insurance, and, if such Credit Party or Subsidiary fails to do so Agent is authorized, but not required, to obtain such insurance at the expense of such Credit Party.
- (c) Cause Agent to be named as a loss payee and/or an additional insured, as applicable (but without any liability for any premiums) under such insurance policies (other than worker’s compensation, directors and officers liability or other insurance where such endorsements or additions are not customarily available) and, in the case of each casualty insurance policy and if available, obtain a loss payee clause or endorsement in form and substance satisfactory to Agent.
- (d) Without limiting the foregoing, (i) maintain, if available, fully paid flood hazard insurance on all real property that is located in the United States in a special flood hazard area, owned by a Credit Party and that is subject to a Mortgage, on such terms and in such amounts as required by the *Flood Insurance Reform Act of 2004 and of 2012*, and (ii) furnish to Agent evidence of renewal (and payment of renewal premiums therefor) of all such policies prior to the expiration or lapse thereof.

7.6 Financial Statements and Other Information

- (a) Keep proper books and records in which true and correct entries shall be made of all financial transactions of or in relation to the Collateral and its business in accordance with GAAP and Borrower shall furnish or cause to be furnished to Agent (for further distribution to the Lenders):
- (i) within 45 days after the end of each of the first 3 Fiscal Quarters of each Fiscal Year, quarterly unaudited consolidated financial statements (including in each case balance sheets, statements of income and loss, statements of cash flow and statements of shareholders' equity with comparisons to the same period in the previous Fiscal Year), all in reasonable detail, fairly presenting, in all material respects, the results of the operations and financial condition of Borrower and its Subsidiaries as of the end of and for the Fiscal Quarter then ended together with a customary management discussion of such financial position and results;
 - (ii) within 90 days after the end of each Fiscal Year, audited consolidated financial statements of Borrower and its Subsidiaries (including in each case balance sheets, statements of income and loss, statements of changes in financial position and statements of shareholders' equity), and the accompanying notes thereto, all in reasonable detail, and the opinion of independent chartered accountants, which accountants shall be an independent accounting firm selected by Borrower (which opinion shall be unqualified as to going concern and scope of audit (other than any exception or explanatory paragraph, but not a qualification, that is expressly solely with respect to, or expressly resulting solely from (x) an upcoming maturity date under this Agreement that is scheduled to occur within one year from the time such report and opinion are delivered or (y) any potential inability to satisfy a financial maintenance covenant, including the financial covenant contained in Section 9.1, on a future date or future period), and shall state that such financial statements have been prepared in accordance with GAAP, and present fairly, in all material respects, the results of operations and financial condition of Borrower and its Subsidiaries as of the end of and for the Fiscal Year then ended;
 - (iii) together with each delivery of financial statements pursuant to Sections 7.6(a)(i) and (ii), a duly executed and completed Compliance Certificate duly executed by the chief financial officer of Borrower;
 - (iv) as soon as practicable and in any event no later than 90 days after the end of each Fiscal Year, projections for the Fiscal Year following such Fiscal Year then ended;
 - (v) as Agent may from time to time reasonably request, and provided that Borrower prepares such information in the ordinary course of business, budgets, forecasts, cash flows and other information respecting the Collateral and the business of each Credit Party; and

- (vi) with respect to each calendar month ending on or prior to the earlier of (x) the receipt by the Agent of a duly executed and completed Compliance Certificate pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i)) with respect to the Fiscal Quarter ending June 30, 2022 demonstrating compliance with Section 9.1 and (y) the end of the Designated Period, within thirty (30) days after the end of each calendar month (or (1) forty-five (45) days in the case of the last month of a Fiscal Quarter or the first month of a Fiscal Year or (2) seventy-five (75) days in the case of the last month of a Fiscal Year; provided that a reasonably detailed summary statement of Liquidity shall be received by the Agent within thirty (30) days of the first month of a Fiscal Year or forty-five (45) days of the last month of such Fiscal Year) a summary unaudited consolidated balance sheet and profit and loss statements for the Borrower and its Subsidiaries as of the end of such calendar month, all in reasonable detail, fairly presenting, in all material respects, the results of the operations and financial condition of Borrower and its Subsidiaries as of the end of and for the calendar month then ended.
- (b) Promptly, after an officer of any Credit Party has obtained knowledge thereof, notify Agent in writing of the details of (i) the institution of any material litigation not previously disclosed by Credit Parties to Agent, or any material development in any material litigation that is reasonably likely to be adversely determined, and would, in either case, if adversely determined be reasonably expected to have a Material Adverse Effect; (ii) the occurrence of any Event of Default or Default; or (iii) any other event that could reasonably be expected to have a Material Adverse Effect.
- (c) Promptly after the sending or filing thereof furnish or cause to be furnished to Agent copies of all reports which it sends to all shareholders generally and copies of all reports and registration statements which it files with any national securities commission or securities exchange, and in any case not otherwise required to be delivered to Agent pursuant hereto.

Notwithstanding the foregoing, (i) in the event that Borrower delivers to Agent an Annual Report for Borrower on Form 10-K for such Fiscal Year within ninety (90) days after the end of such Fiscal Year, such Form 10-K shall satisfy all requirements of paragraph (a)(ii) of this Section to the extent that it does not contain any “going concern” or like qualification, exception or explanatory paragraph or qualification or any exception or explanatory paragraph as to the scope of such audit (other than any such exception or explanatory paragraph, but not a qualification, expressly permitted to be contained therein under clause (a)(ii) of this Section 7.6) and (ii) in the event that Borrower delivers to Agent a Quarterly Report for Borrower on Form 10-Q for such Fiscal Quarter within forty five (45) days after the end of such Fiscal Quarter, such Form 10-Q shall satisfy all requirements of paragraph (a)(i) of this Section 7.6.

7.7 Intellectual Property

- (a) Together with the delivery of each Compliance Certificate pursuant to Section 7.6(a), notify Agent in the event any Credit Party obtains or applies for any material intellectual property rights or obtains any material licenses with respect thereto.
- (b) At Agent's request, promptly execute and deliver to Agent an intellectual property security agreement granting to Agent a security interest in such intellectual property rights of a Credit Party in form and substance satisfactory to Agent.

7.8 Operation of Pension Plans

Except as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries:

- (a) administer the Pension Plans in accordance with the requirements of the applicable pension plan texts, funding agreements, the ITA and applicable provincial pension benefits legislation;
- (b) use commercially reasonable efforts to obtain and to deliver to Agent, upon Agent's request, an undertaking of the funding agent for each of the Pension Plans stating that the funding agent will notify Agent within 30 days of such Credit Party's or its Subsidiary's failure to make any required contribution to the applicable Pension Plan;
- (c) not accept payment of any amount from any of the Pension Plans without the prior written consent of Agent other than payments for forfeitures in connection with terminated employees to be set-off against future contribution obligations;
- (d) not terminate, or cause to be terminated, any of the Pension Plans, if such plan would have a solvency deficiency on termination;
- (e) promptly provide Agent with any documentation relating to any of the Pension Plans as Agent may request; and
- (f) promptly notify Agent within 30 days of: (i) a material increase in the liabilities of any of the Pension Plans; (ii) the establishment of a new registered pension plan; (iii) commencing payment of contributions to a Pension Plan to which a Credit Party or any Subsidiary thereof had not previously been contributing; and (iv) any failure to make any required contribution to a Pension Plan when due.

7.9 ERISA

(a) Not terminate any U.S. Pension Plan so as to incur any liability to the Pension Benefit Guaranty Corporation, (b) make all required contributions to any Plan which it is obligated to pay under Section 302 of ERISA, Section 412 of the Code or the terms of such Plan, (c) not engage in a transaction that could be subject to Section 4069 or 4212(c) of ERISA, or (d) not allow or suffer to exist any occurrence of a reportable event or any other event or condition which presents a risk of termination by the Pension Benefit Guaranty Corporation of any Plan that is a single employer plan, which termination could result in any liability to the Pension Benefit Guaranty Corporation, except, in each case, as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries.

7.10 IP Collateral

With respect to the IP Collateral:

- (a) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, notify Agent forthwith in writing upon obtaining knowledge:
 - (i) of any reason any patent, patent application, patent registration, trademark, trademark application, trademark registration, copyright, copyright application, copyright registration, industrial design application or industrial design registration forming part of the material IP Collateral or any other application, registration or proceeding relating to any of the material IP Collateral may become barred, abandoned, refused, rejected, forfeited, withdrawn, expired, lapsed, cancelled, expunged, opposed or dedicated or of any adverse determination or development (including the institution of any proceeding in any Intellectual Property Office or any court or tribunal) regarding Borrower's ownership of or rights in any of the material IP Collateral, its right to register or otherwise protect the same, or to keep and maintain the exclusive rights in same, or the validity of same; or
 - (ii) of any action, proceeding, or allegation that the IP Collateral infringes upon, misappropriates, violates, or otherwise interferes with the rights of any Person;
- (b) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, do everything commercially necessary to preserve and maintain the material IP Collateral including (unless Borrower receives the prior written consent of Agent):
 - (i) perform all obligations pursuant to the License Agreements;
 - (ii) commence and prosecute such suits, proceedings or other actions for infringement, passing off, unfair competition, dilution or other damage as are, in its reasonable business judgment, necessary to protect the IP Collateral;
 - (iii) enforce its rights under any agreements (including the License Agreements) which materially enhance the value of and/or protect the material IP Collateral; and

- (iv) make all necessary filings and recordings in the Intellectual Property Offices and elsewhere necessary to protect its interest in the material IP Collateral or any new material IP Collateral, including making, maintaining and pursuing (including proceedings before Intellectual Property Offices) each application and registration with respect thereto;
- (c) [reserved];
- (d) perform, at Borrower's sole cost and expense, all acts and execute all documents, including grants of security interests or assignments in forms suitable for filing with the Intellectual Property Offices in Canada and the United States, as may be reasonably requested by Agent at any time and from time to time to evidence, perfect, maintain, record and enforce Agent's Liens in the IP Collateral, or otherwise in furtherance of the provisions of this Agreement;
- (e) unless Agent consents in writing otherwise, or unless such act or failure to act could not reasonably be expected to have a Material Adverse Effect, not do any act or omit to do any act, other than in the ordinary course of its business, whereby any of the IP Collateral, may lapse, become abandoned or dedicated to the public, enter the public domain, lose its quality of confidence, become indistinct, or become unenforceable;
- (f) unless Agent consents in writing otherwise, or unless the failure to so act would not reasonably be expected to have a Material Adverse Effect, with respect to any Trade-mark forming part of the Collateral:
 - (i) continue the use of any such Trade-marks in order to maintain all of the Trade-marks in full force free from any claim of abandonment;
 - (ii) maintain as in the past the character and quality of the wares and services offered in association with such Trade-marks, and use its reasonable best efforts to require its licensees to maintain as in the past the character and quality of the wares and services offered in association with such Trade-marks; and
- (g) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, require that all use by any Person of any such Trade-marks shall be pursuant to a license that provides it with the requisite control and other provisions to maintain the distinctiveness of such Trade-marks.

7.11 Visits and Inspections

- (a) From time to time as requested by Agent, at the cost and expense of Borrower: (i) provide Agent, any Lender or its designee complete access to all of its premises during normal business hours and after reasonable notice to such Person, or at any time if an Event of Default has occurred and is continuing, for the purposes of inspecting, verifying and auditing the Collateral and all of such Person's books and records, including the Records; and (ii) promptly furnish to Agent and such Lender

such copies of such books and records or extracts therefrom as Agent or such Lender may reasonably request, and (iii) permit Agent, any Lender or its designee to use during normal business hours such of such Person's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing and, if an Event of Default has occurred and is continuing, for the realization of the Collateral; provided that all such visits and inspections shall be coordinated through Agent and Borrower shall pay only for costs and expenses of one such inspection or visit per calendar year in the absence of a Payment/Insolvency Event of Default.

- (b) Agent and each Lender shall keep confidential, in accordance with its customary procedures for handling confidential information and safe and sound lending practices, any non-public information made available to Agent or such Lender pursuant to this Agreement, including Section 7.6 or Section 7.11(a), and all copies thereof; provided that nothing in this Section shall limit the disclosure of any such information: (i) to the extent required by Applicable Law (and Agent and each Lender shall provide Borrower with prior notice of such required disclosure to the extent permitted by Applicable Law); (ii) to bank examiners and other regulators, auditors and/or accountants; (iii) in connection with any litigation to which Agent or a Lender is a party; (iv) to any assignee or participant (or prospective assignee or participant), in each case, other than to a Prohibited Transferee, so long as such assignee or participant (or prospective assignee or participant), as applicable, shall have first agreed in writing to treat such information as confidential in accordance with this Section; (v) to counsel for Agent or any Lender or any participant or assignee (or prospective participant or assignee other than a Prohibited Transferee) on a confidential basis; and (vi) to any Person with the prior written consent of Borrower. In no event shall this Section, or any other provision of this Agreement or any Applicable Law be deemed to: (i) apply to or restrict disclosure of information that has been or is made public by any Credit Party or Subsidiary thereof or any third party without breach by Agent or any Lender of this Section or otherwise becomes generally available to the public other than as a result of a disclosure in violation hereof; (ii) apply to or restrict disclosure of information that was or becomes available to Agent or any Lender on a non-confidential basis from a person other than a Credit Party of a Subsidiary thereof so long as Agent or such Lender has determined in its good faith judgment that such information is not confidential; (iii) require Agent or any Lender to return any materials furnished by any Credit Party or Subsidiary thereof to Agent; or (iv) prevent Agent from responding to routine informational requests in accordance with applicable industry standards relating to the exchange of credit information.

7.12 Material Subsidiaries and Real Property Collateral

- (a) Notify Agent of the existence of a Material Subsidiary (including by division) and promptly thereafter (and in any event within thirty (30) days after such notice or such longer period, as Agent may agree in its sole discretion), cause such Material Subsidiary to (i) become a Guarantor hereunder by delivering to Agent such agreements as Agent shall deem appropriate for such purpose, (ii) take, whatever action (including, without limitation, the filing of UCC or PPSA financing

statements) may be necessary or advisable in the reasonable opinion of Agent to vest in Agent valid and subsisting first priority Liens similar to those provided by the existing Credit Parties on the assets of such Person, (iii) subject to Section 7.13, deliver to Agent such original Equity Interests or other certificates and stock or other transfer powers evidencing the Equity Interests of such Person, (iv) deliver to Agent such updated schedules to the Financing Agreements as reasonably requested by Agent with respect to such Person, and (v) deliver to Agent such other documents as may be reasonably requested by Agent, all in form and substance reasonably satisfactory to Agent.

- (b) [Reserved].
- (c) (i) Promptly after the acquisition of any Material Real Property by any Credit Party that is not subject to a Mortgage (and, in any event, within twenty (20) days after such acquisition, as such time period may be extended by Agent in its sole discretion), notify Agent and (ii) promptly thereafter (and in any event, within ninety (90) days of such acquisition (as such time period may be extended by Agent, or such requirement is waived by Agent, in each case in its sole discretion)), deliver a Mortgage, and, to the extent customary in the relevant jurisdiction, title insurance policies, environmental reports, flood hazard determinations, flood insurance (if required), surveys and other documents reasonably requested by Agent as reasonably necessary in connection with granting and perfecting a first priority Lien, other than Permitted Liens, on such Material Real Property in favor of Agent, for the ratable benefit of the Secured Parties, all in form and substance acceptable to Agent. The parties hereto agree that Credit Parties and their respective Subsidiaries shall not be required at any time to execute and deliver a Mortgage granting Agent a Lien on the Mississauga Property or the Playa Vista Property.
- (d) If any Lender determines, acting reasonably, that any applicable law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to hold or benefit from a Lien over real property, such Lender may notify Agent and disclaim any benefit of such Lien to the extent of such illegality; provided, that such determination or disclaimer shall not invalidate or render unenforceable such Lien for the benefit of Agent, any other Lender or Secured Party.

7.13 Grant of Equitable Mortgage by IMAX Barbados

In the case of IMAX Barbados, at all times:

- (a) IMAX Barbados shall own not less than 51% of all of the issued and outstanding Equity Interests of IMAX Cayman;
- (b) IMAX Barbados shall control IMAX Cayman (and, for purposes of this clause (b), “control” means the possession of the power to direct or cause the direction of the management or policies of IMAX Cayman and elect a majority of the board of directors of, or Persons performing similar functions in respect of, IMAX Cayman);

- (c) IMAX Barbados shall mortgage or pledge in favor of Agent (and deliver (but only to the extent such original Equity Interests are in certificated form) to Agent such original Equity Interests or other certificates and stock or other transfer powers evidencing the grant of a mortgage or pledge over) not less than 51% of all of the issued and outstanding Equity Interests of IMAX Cayman; and
- (d) IMAX Barbados shall deliver to Agent such other agreements and make such registrations and filings in connection therewith, in each case, as Agent shall deem necessary or desirable to preserve, protect or perfect such first priority Lien.

From time to time, Borrower may request that Agent release Agent's mortgage or pledge and Lien in the Equity Interests of IMAX Cayman and Agent shall so release (without requiring any consent or approval of any Secured Party) if Agent is satisfied that its remaining mortgage or pledge and Lien in the Equity Interests of IMAX Cayman complies with Section 7.13(a) through (d) above.

7.14 Post-Closing Covenants for Second Amendment

- (a) By no later than May 28, 2021, cause the Borrower to receive at least \$175,000,000 in aggregate gross proceeds from the issuance of unsecured Debt and/or Qualified Equity Interests, in each case that is permitted to be issued or incurred hereunder.
- (b) Within (i) sixty (60) days of the Second Amendment Effective Date (or such later date as agreed to by the Agent in its discretion) in the case of any Deposit Accounts or Securities Account existing on the Second Amendment Effective Date or (ii) thirty (30) days of the receipt of a notice described in Section 7.14(c)(ii) (or such later date as agreed to by the Agent in its sole discretion) in case of any Deposit Accounts or Securities Accounts opened after, or which cease to be Excluded Accounts after, the Second Amendment Effective Date but prior to the termination of the Designated Period, each Credit Party organized under the laws of United States or Canada (or any state, province or political subdivision thereof) shall either (A) cause (1) each depository bank holding a Deposit Account in the United States or Canada that is owned by such Credit Party and (2) each securities intermediary or commodities intermediary holding a Securities Account in the United States or Canada that is owned by such Credit Party, to, in each case deliver to the Agent duly executed Control Agreements with respect to such Deposit Accounts or Securities Accounts or (B) move all amounts on deposit in such Deposit Accounts or Securities Accounts (and, in connection therewith, close such Deposit Accounts or Securities Accounts) to Deposit Accounts or Securities Accounts subject to a Control Agreement; provided that the foregoing requirements of this clause (b) shall not apply with respect to Excluded Accounts.
- (c) During the Designated Period, cause each Credit Party referred to in clause (b) of this Section 7.14 to (i) maintain any and all Control Agreements entered into pursuant clause (b) of this Section 7.14 in full force and effect, (ii) promptly notify the Agent in writing of (A) any new Deposit Accounts or Securities Accounts (other than Excluded Accounts) owned by it and located in the United States or Canada or (B) any of its Deposit Accounts or Securities Accounts located in the United

States or Canada that ceases to be an Excluded Account, and (iii) from and after the applicable time periods specified in clause (b) of this Section 7.14 cause all Deposit Accounts and Securities Accounts in the United States or Canada that are owned by any such Credit Party (other than Excluded Accounts) to be subject to Control Agreements; provided that upon termination of the Designated Period, upon the written request of the Borrower, the Agent shall promptly provide to the Borrower and such depository bank or securities intermediary, as the case may be, notices of termination as required by such Control Agreements to terminate such Control Agreements.

ARTICLE 8

NEGATIVE COVENANTS

Until all of the non-contingent Obligations have been paid and satisfied in full, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms satisfactory to Agent) and the Commitments terminated, the Credit Parties will not, and will not permit any of their respective Subsidiaries to:

8.1 Merger, Sale of Assets, Dissolution, Etc.

- (a) Directly or indirectly: (i) merge, amalgamate or consolidate with any other Person or permit any other Person to merge, amalgamate or consolidate with it, (ii) sell, assign, lease, transfer, abandon or otherwise dispose of any Collateral, assets or property (including by way of a sale-leaseback or a division) to any other Person, (iii) wind up, liquidate or dissolve or (iv) agree to do any of the foregoing.
- (b) Notwithstanding Section 8.1(a) hereof and provided that an Event of Default does not then exist and would not occur as a result thereof (determined upon the earlier to occur of (A) the execution of definitive documentation with respect to such transaction and (B) such transaction), each Credit Party or any Subsidiary thereof shall be permitted to:
 - (i) sell, assign, lease, transfer or otherwise dispose assets or property for fair market value (as determined in good faith by Borrower) so long as (A) such assignment, lease transfer or disposal does not comprise all or substantially all of the assets and properties of Borrower and its Subsidiaries and (B) at least 75% of the consideration for any such sale in excess of \$10,000,000 shall consist of cash and Cash Equivalents;
 - (ii) disposals of obsolete, worn out or surplus property;
 - (iii) the leasing, occupancy agreements or subleasing of property in the ordinary course of business and which do not materially interfere with the business of Borrower or its Subsidiaries;
 - (iv) transfers of property subject to condemnation, takings or casualty events;

- (v) the transfer for fair value of property (including Equity Interests of Subsidiaries) to another Person in connection with a joint venture arrangement with respect to the transferred property; provided that such transfer is permitted under Section 8.4;
- (vi) transfers of condemned property as a result of the exercise of “eminent domain” or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;
- (vii) the sale of cash or Cash Equivalents in the ordinary course of business;
- (viii) dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between the joint venture parties set forth in, joint venture arrangements and similar binding arrangements;
- (ix) non-exclusive licenses, sublicenses or cross-licenses of intellectual property or other general intangibles and exclusive licenses, sublicenses or cross-licenses of intellectual property or other IP Rights or other general intangibles, in each case, in the ordinary course of business of Borrower and its Subsidiaries;
- (x) dispositions of property between or among Borrower and/or its Subsidiaries as a substantially concurrent interim disposition in connection with a disposition otherwise permitted pursuant to clauses (i) through (viii) above and (xiv) below;
- (xi) merge, amalgamate or consolidate with an Affiliate; provided that, in the case of any such transaction involving a Credit Party, the surviving, amalgamated or consolidated Person shall continue to be a Credit Party under the Financing Agreements;
- (xii) in the case of single purpose Subsidiaries formed or acquired for the purpose of entering into the joint ventures and the third party productions permitted pursuant to Section 8.4(d) and 8.4(h) hereof, any such Subsidiary which is a joint venture or third party production may issue Equity Interests in such Subsidiary to the other parties thereto in the ordinary course of business;
- (xiii) transfer all of its property to another Credit Party prior to such first Credit Party’s or Subsidiary’s winding-up, liquidation or dissolution; provided that such transferred property becomes subject to a first priority Lien in favor of Agent (subject to Permitted Liens);
- (xiv) sell, assign, lease, transfer, or otherwise dispose of property (including Equity Interests) to any Credit Party; provided that such sold, assigned, leased, transferred or disposed property is subject to all then existing first priority Liens of Agent (subject to Permitted Liens);

- (xv) issue Equity Interests of IMAX Cayman;
- (xvi) Permitted Investments made in accordance with Section 8.4 and Restricted Payments made in accordance with Section 8.5;
- (xvii) [reserved];
- (xviii) in the case of any Subsidiary of Borrower (other than a Guarantor, IMAX China Multimedia, IMAX China Theatre or IMAX China HK), issue Equity Interests to employees, directors, consultants and other Persons in the ordinary course of business;
- (xix) sell equipment at fair market value in the ordinary course of business;
- (xx) mergers, amalgamations or consolidations among Subsidiaries that are not Credit Parties; and
- (xxi) a sale leaseback with respect to the Playa Vista Property.

Notwithstanding anything to the contrary herein, during the Designated Period, the Borrower and its Subsidiaries shall not sell, assign, lease, transfer, abandon or otherwise dispose of (including by way of a sale-leaseback or a division) any Collateral, assets or property, other than the Playa Vista Property, to any other Person pursuant to clause (b)(i) of this Section 8.1 if the aggregate consideration for all such sales would exceed \$25,000,000.

For the avoidance of doubt, nothing in this Section 8.1(b) shall limit or restrict (a) the sale of any Permitted Convertible Debt by the Borrower, (b) the sale of any Permitted Warrant Transaction by the Borrower, (c) the purchase of any Permitted Bond Hedge Transaction nor (d) the performance by Borrower of its obligations under any Permitted Convertible Debt, any Permitted Warrant Transaction or any Permitted Bond Hedge Transaction.

8.2 Liens

Create, incur, assume or suffer to exist any Lien on any of its assets or properties (other than the Playa Vista Property), including the Collateral and the Mississauga Property except:

- (a) Liens in favor of Agent to secure the Obligations;
- (b) Liens securing the payment of Taxes, either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Credit Party or Subsidiary;

- (c) non-consensual statutory Liens (other than Liens securing the payment of taxes) arising in the ordinary course of its business to the extent:
 - (i) such Liens secure indebtedness which is not overdue or
 - (ii) such Liens secure indebtedness relating to claims or liabilities which are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or being contested in good faith by appropriate proceedings diligently pursued and available to it, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books;
- (d) zoning restrictions, rights-of-way, easements, licenses, covenants and other restrictions affecting the use of real property which do not interfere in any material respect with the use of such real property or ordinary conduct of its business as presently conducted thereon or materially impair the value of the real property which may be subject thereto;
- (e) purchase money security interests and mortgages (including capital or finance leases) to secure Permitted Debt incurred pursuant to Section 8.3(c) and so long as such security interests and mortgages do not apply to any property of a Credit Party or Subsidiary thereof other than the acquired property;
- (f) Liens set forth on Schedule 8.2 hereto and any modifications, replacements, renewals or extensions thereof; provided that the Lien does not extend to any additional property other than after-acquired property that is affixed or incorporated into the property covered by such Lien or proceeds and products thereof;
- (g) Liens securing performance of bids, contracts, statutory obligations, surety, performance and appeal bonds and other like obligations incurred in the ordinary course of business;
- (h) pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security legislation;
- (i) Liens securing Permitted Debt in Section 8.3(n) so long as (i) after giving effect to the incurrence thereof Borrower is in *pro forma* compliance with the Senior Secured Net Leverage Ratio in Section 9.1 as demonstrated in writing by Borrower to Agent prior to any such incurrence being made, and (ii) such Liens were in existence prior to the date of such acquisition, merger, amalgamation or consolidation and were not incurred in anticipation thereof and do not extend to assets other than those acquired;
- (j) Liens granted over the assets and properties of the Playa Vista Borrower to secure the Permitted Debt in Section 8.3(g);
- (k) [reserved];
- (l) Liens granted over the assets and properties of IMAX China Multimedia and/or IMAX China HK to secure the Permitted Debt in Section 8.3(i);
- (m) Liens in favor of EDC over deposits of collateral given by Borrower in favor of EDC pursuant to the terms of the EDC Indemnity Agreement; provided that the Liens and interest of EDC in such collateral shall at all times be subject to and subordinate to any and all interests and Liens of Agent in such collateral;

- (n) [reserved];
- (o) Liens securing the Incremental Loans and/or Incremental Equivalent Debt so long as such Liens are only on the Collateral and, such Liens are secured either (i) on a *pari passu* basis with respect to the Obligations, or (ii) on a junior basis with respect to the Obligations, and, additionally, in the case of all Liens securing Incremental Equivalent Debt, such Liens shall be subject to an Intercreditor Agreement, which such Intercreditor Agreement shall provide that any Liens securing such Incremental Equivalent Debt shall rank no higher in priority than the Liens securing the Obligations;
- (p) Liens securing Permitted Debt not to exceed in the aggregate at any time, the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets; provided that, if such Liens are on the Collateral, such Liens shall be subject to an Intercreditor Agreement;
- (q) Liens securing Permitted Debt in Section 8.3(q);
- (r) [reserved];
- (s) any interest or title of a lessor or sublessor under any lease or sublease permitted hereunder;
- (t) (i) Liens solely on any cash earnest money deposits made by Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder or (ii) Liens on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in a Permitted Investment to be applied against the purchase price for such Permitted Investment;
- (u) purported Liens evidenced by the filing of precautionary PPSA and/or UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;
- (v) Liens in favor of customs and revenue authorities arising as a matter of Applicable Law to secure payment of customs duties in connection with the importation of goods;
- (w) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property and other land use restrictions, including, site plan agreements, development agreements and contract zoning agreements;
- (x) licenses of IP Rights granted by Borrower or any of its Subsidiaries in the ordinary course of business and not interfering in any respect with the ordinary conduct of the business of Borrower or such Subsidiary;

- (y) registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements;
- (z) deposits made or other security provided in the ordinary course of business and the proceeds thereof to secure liability to insurance carriers for insurance premiums or under self-insurance arrangements in respect of such obligations;
- (aa) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other Persons not given in connection with the incurrence of Debt; (ii) relating to pooled deposit or sweep accounts of any Credit Party to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Credit Parties; or (iii) relating to purchase orders and other agreements entered into with customers of any Credit Party in the ordinary course of business; and
- (bb) Liens arising solely by virtue of any statutory or common law provision or customary business provision relating to banker's liens, rights of set off or similar rights.

Notwithstanding anything to the contrary herein, during the Designated Period, (A) the Borrower and its Subsidiaries shall not create, incur or assume (1) Liens securing Permitted Debt pursuant to clause (p) above in an aggregate amount in excess of \$20,000,000 and (2) Liens under clause (i) above unless after giving effect to the creation, incurrence or assumption thereof the Senior Secured Net Leverage Ratio does not exceed 3:25:1.00 as demonstrated in writing by Borrower to Agent prior to any such creation, incurrence or assumption being made and (B) any Liens created, incurred or assumed pursuant to Section 8.2(q) shall be limited solely to the assets of the applicable Subsidiary that is the primary obligor of the Debt and do not extend to the assets or property of the Borrower or any other Credit Party. For the avoidance of doubt no Liens in existence on the First Amendment Effective Date shall be deemed to have been created incurred or assumed during the Designated Period for purposes of determining the amount of the adjusted baskets and thresholds that apply during the Designated Period pursuant to this paragraph.

8.3 Debt

Incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Debt except:

- (a) the Obligations including obligations, liabilities and indebtedness under or in connection with Secured Hedge Agreements and the Secured Cash Management Agreements;

- (b) trade obligations and normal accruals in the ordinary course of business not yet due and payable, or with respect to which such Credit Party is contesting in good faith the amount or validity thereof by appropriate proceedings diligently pursued and available to it, and with respect to which adequate reserves have been set aside on its books;
- (c) purchase money Debt (including Capital Lease Obligations and any refinancings, extensions, renewals or replacements of such Debt) not to exceed at any time, the greater of (i) \$25,000,000 and (ii) three percent (3%) of Consolidated Total Assets, provided that such Debt does not exceed the cost of the acquired property *plus*, in the case of any such refinancings, extensions, renewals or replacements of such Debt, any accrued and unpaid interest thereon being refinanced, extended, renewed or replaced *plus* any other reasonable amounts paid and reasonable fees and expenses incurred in connection with such refinancing, extension, renewal or replacement;
- (d) the Debt set forth on Schedule 8.3(d) hereto, including any refinancings, extensions, renewals or replacements of such Debt; provided that any such refinancings extensions, renewals or replacements of such Debt shall not (i) include Debt of an obligor that was not an obligor with respect to the Debt being refinanced, extended, renewed or replaced or (ii) exceed in a principal amount the Debt and any accrued and unpaid interest thereon being refinanced, extended, renewed or replaced *plus* any other reasonable amounts paid and reasonable fees and expenses incurred in connection with such refinancing, extension, renewal replacement;
- (e) the Debt incurred pursuant to the BMO Facilities; provided that the Debt of Borrower under (i) the BMO LC Facility shall not exceed \$10,000,000, (ii) the Mastercard Facility shall not exceed CDN\$175,000 and (iii) the F/X Facility shall not exceed \$4,000,000, in each case, as may be replaced by Borrower;
- (f) the Debt and indemnity obligations incurred pursuant to the EDC Indemnity Agreement; provided that such Debt and indemnity obligations shall relate solely to Indemnity Bonding Products (as defined in the EDC Indemnity Agreement) issued by EDC in support of the BMO LC Facility and not to exceed \$10,000,000 in the aggregate;
- (g) Debt of the Playa Vista Borrower;
- (h) (i) unsecured Debt (including Permitted Convertible Debt) of the Borrower or any other Credit Party incurred during the Designated Period in an aggregate principal amount of up to \$290,000,000; provided that (A) no Default or Event of Default shall have occurred and be continuing or would be caused by the incurrence of such Debt; (B) Agent and Lenders shall have received from Borrower a Compliance Certificate demonstrating, in form and substance reasonably satisfactory to Agent, that Borrower is in compliance with the minimum Liquidity covenant pursuant to Section 9.2, to be based on the financial statements most recently delivered pursuant to Section 7.6(a), both before and after giving effect (on a *pro forma* basis)

to any such unsecured Debt; (C) such Debt does not mature, require any scheduled payment of principal, require any mandatory payment, redemption or repurchase prior to the date that is 91 days after the latest of the maturity dates of all Loans or Commitments in effect at the time of issuance of such Debt; provided that neither (1) any provision of such Debt requiring an offer to purchase Permitted Convertible Debt as a result of a change of control, delisting or asset sale or other fundamental change nor (2) any early conversion or exchange of (or the ability to convert or exchange early) any Permitted Convertible Debt in accordance with the terms of the documentation governing such Permitted Convertible Debt shall violate this clause (i)(C); and (D) such Debt does not include any financial performance “maintenance” covenants (whether stated as a covenant, default or otherwise, although “incurrence-based” financial tests may be included) or cross-defaults (but may include cross-payment defaults and cross-defaults at the final stated maturity thereof and cross-acceleration); and (ii) any Permitted Refinancings in respect of any Debt incurred under subclause (i) of this clause (h);

- (i) the Debt of IMAX Cayman, IMAX China Multimedia and/or IMAX China HK with respect to the IMAX China Credit Facility in an aggregate principal amount not to exceed \$10,000,000 and the Debt of Borrower with respect to the IMAX China Guarantee; provided that the amount guaranteed by Borrower pursuant to the IMAX China Guarantee shall count against the \$100,000,000 basket amount in Section 8.4(h);
- (j) intercompany Debt among Borrower and any Subsidiary to the extent permitted by Section 8.4(j);
- (k) [reserved];
- (l) Debt in an aggregate principal amount not to exceed, the greater of (i) \$100,000,000 and (ii) twelve percent (12%) of Consolidated Total Assets at the time of such incurrence;
- (m) (i) Debt in any amount so long as immediately after giving effect to the incurrence thereof the Total Net Leverage Ratio is less than or equal to 4.25:1.00 (the “**Ratio Debt Test**” and such Debt, “**Ratio Debt**”) as demonstrated in writing (including with calculations of *pro forma* compliance with the Total Net Leverage Ratio) by Borrower to Agent prior to any such incurrence being made; provided that Debt of a Subsidiary of Borrower (other than Credit Parties) permitted to be incurred pursuant to this clause (m), shall not exceed in the aggregate the greater of (A) \$50,000,000 and (B) six percent (6%) of Consolidated Total Assets and (ii) Permitted Refinancings of Ratio Debt subject to this clause (m);
- (n) the Debt of a Subsidiary acquired after the Closing Date or a Person merged into, amalgamated or consolidated with Borrower or any Subsidiary thereof after the Closing Date and Debt assumed in connection with any Permitted Investment and where, in each case, such acquisition, merger, amalgamation or consolidation is permitted by this Agreement, but only to the extent that such Debt (i) existed at the time such Person became a Subsidiary or the assets subject to such Debt were acquired, (ii) was not incurred in contemplation thereof and (iii) does not exceed in the aggregate the greater of (A) \$25,000,000 and (B) three percent (3%) of Consolidated Total Assets;

- (o) (i) Debt incurred to finance any Permitted Investment in any amount so long as immediately after giving effect to the incurrence thereof (A) Borrower would be permitted to incur at least \$1.00 of additional Debt pursuant to the Ratio Debt Test or (B) the Total Leverage Ratio would be less than immediately prior to such Permitted Investment (“**Ratio Acquisitions Debt**”) as demonstrated in writing (including with calculations of *pro forma* compliance with the foregoing Ratio Debt Test and Total Leverage Ratio set forth in this clause) by Borrower to Agent prior to any such incurrence being made; provided that Debt of a Subsidiary of Borrower (other than Credit Parties) permitted to be incurred pursuant to this clause (o) shall not exceed in the aggregate the greater of (A) \$50,000,000 and (B) six percent (6%) of Consolidated Total Assets and (ii) Permitted Refinancings of Ratio Acquisitions Debt subject to clause (o);
- (p) Debt incurred to finance any Permitted Investment not to exceed in the aggregate, the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets;
- (q) Debt of a Subsidiary of Borrower (other than a Credit Party) in an aggregate principal amount not to exceed the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets;
- (r) Debt of joint ventures of Borrower and its Subsidiaries (or guarantees with respect thereto) not to exceed in the aggregate the greater of (i) \$75,000,000 and (ii) nine percent (9%) of Consolidated Total Assets;
- (s) Debt pursuant to financial guarantees and letters of credit to support Borrower’s operations in China and other financial guarantees in an aggregate amount to exceed \$25,000,000 (less all amounts incurred pursuant to Section 8.3(i));
- (t) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees, lessors, licensees and sub-licensees of Credit Parties and their Subsidiaries;
- (u) any guarantee by any Credit Party or a Subsidiary thereof of Debt or other obligations of any other Credit Party or any of its Subsidiaries so long as the incurrence of such Debt or other obligations by such Credit Party or such Subsidiary is permitted under the terms of this Agreement;
- (v) [reserved];
- (w) Debt pursuant to the Hong Kong JV Guarantee (which shall count against the \$100,000,000 debt basket amount in Section 8.3(1));

- (x) [reserved];
- (y) Debt in the form of secured or unsecured term notes and/or term loans (and/or commitments in respect thereof) issued or incurred by Borrower in lieu of Incremental Term Loans (such term notes or term loans, “**Incremental Equivalent Debt**”); provided that, (i) the aggregate principal amount of such Incremental Equivalent Debt issued or incurred shall not exceed the aggregate principal amount of Incremental Loans permitted to be incurred under Section 2.6(a), (ii) any Incremental Equivalent Debt shall be subject to satisfaction of the requirements of subclauses (i) and (ii) of Section 2.6(d), with all references to “Incremental Loan Commitments” and “Incremental Loan” being deemed to refer to “Incremental Equivalent Debt” and all references therein to “Increase Amount Date” being deemed to refer to the date of incurrence of such Incremental Equivalent Debt, (iii) any Incremental Equivalent Debt that is secured shall be secured only by the Collateral and on a *pari passu* or junior basis with the Collateral securing the Obligations and subject to an Intercreditor Agreement, which such Intercreditor Agreement shall provide that any Liens securing such Incremental Equivalent Debt shall rank no higher in priority than the Liens securing the Obligations, (iv) the incurrence of such Incremental Equivalent Debt shall be subject to the terms and conditions applicable to Incremental Term Loans set forth in Section 2.6(d)(vii) (other than clause (B)) as if set forth in this Section 8.3(y), *mutatis mutandis*, (v) no Incremental Equivalent Debt may be guaranteed by any Person that is not a Credit Party or secured by any assets other than the Collateral, and (vi) prior to the incurrence of such Incremental Equivalent Debt, Borrower shall have delivered to Agent drafts of the documentation relating thereto (provided that at its option, Borrower may deliver a certificate to Agent in good faith at least five (5) Business Days prior to the incurrence of such Debt, together with a reasonably detailed description of the material terms and conditions of such Debt or drafts of the documentation relating thereto, stating that Borrower has determined in good faith that such terms and conditions satisfy the requirement set out in this clause (y), and such certificate shall be conclusive evidence that such terms and conditions satisfy such requirement unless Agent provides notice to Borrower of its objection during such five (5) Business Day period (including a reasonable description of the basis upon which it objects));
- (z) Debt incurred by Borrower or any of its Subsidiaries arising from agreements providing for indemnification, earn-outs, adjustment of purchase price or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of Borrower or any such Subsidiary pursuant to such agreements, in connection with Permitted Investments or permitted dispositions of any business, assets or Subsidiary of Borrower, in each case, to the extent not constituting debt for borrowed money;
- (aa) Debt of Borrower or any of its Subsidiaries which may be deemed to exist pursuant to any worker’s compensation claims, self-insurance obligations, guaranties, performance, surety, statutory, appeal, custom bonds or similar obligations incurred in the ordinary course of business;

- (bb) Debt of Borrower or any of its Subsidiaries in respect of cash management, cash pooling arrangements and related activities to manage cash balances of Borrower and its Subsidiaries and joint ventures including treasury, depository, overdraft, credit, purchasing or debit card, electronic funds transfer and other cash management arrangements, netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs or otherwise in connection with deposit accounts or securities accounts incurred in the ordinary course of business;
- (cc) Debt in respect of Hedge Agreements incurred in the ordinary course of business and not for speculative purposes; and
- (dd) Debt incurred by a Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's-length commercial terms.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.3 shall be further limited as follows: (A) the Borrower shall not, and shall not permit any of its Subsidiaries to incur, create, assume, or become liable in any manner with respect to any Debt pursuant to clauses (m), (o), (p), and (r) above, (B) the Borrower shall not, and shall not permit any of its Subsidiaries to incur, create, assume, or become liable in any manner with respect to any Debt (1) pursuant to clause (c) above in an aggregate amount for all such Debt not in excess of \$15,000,000, (2) pursuant to clause (l) above in an aggregate amount for all such Debt not in excess of (x) \$50,000,000 plus (y) to the extent that the \$50,000,000 in clause (B)(2)(x) of this sentence has been fully utilized, to the extent constituting Debt, up to an additional \$25,000,000 in the form of, or to fund, substantially concurrent Investments permitted under Section 8.4(h) as modified by the last sentence of Section 8.4, and (3) pursuant to clause (q) in an aggregate amount for all such Debt not to exceed \$10,000,000 of Debt of IMAX China HK and/or IMAX HK and \$30,000,000 of Debt of IMAX China Multimedia and/or IMAX China Theatre and (C) any Incremental Equivalent Debt in the form of a pari passu secured term loan shall be subject to Section 2.6(d)(vii)(B), as if references therein to "Incremental Term Loan" referred to such Incremental Equivalent Debt; provided that the Borrower may guarantee any Debt of the Playa Vista Borrower. For the avoidance of doubt no Debt in existence on the First Amendment Effective Date shall be deemed to have been incurred, created or assumed, nor shall the Borrower or any of its Subsidiaries be deemed to have become liable for such Debt, during the Designated Period for purposes of determining amount of the adjusted baskets and thresholds that apply during the Designated Period pursuant this paragraph.

8.4 Investments

Directly or indirectly, make any loans or advance money or property to any person, or invest in (by capital contribution, dividend or otherwise) or purchase or repurchase the Equity Interests or Debt or all or a substantial part of the assets or property of any person, or agree to do any of the foregoing (each, an "**Investment**"), except for:

- (a) the endorsement of instruments for collection or deposit in the ordinary course of business;

- (b) investments in cash and Cash Equivalents;
- (c) equity Investments owned as of the Closing Date in any Subsidiary and other Investments outstanding on the Closing Date, in each case, set forth on Schedule 8.4 hereto;
- (d) investments in joint ventures with strategic partners for the purpose of advancing Borrower's business; provided that such investments in such joint ventures, whether direct or indirect, shall not, at any time and in the aggregate exceed the greater of (A) \$75,000,000 and (B) nine percent (9%) of Consolidated Total Assets and such investments shall not be made if an Event of Default exists and is continuing or would occur as result thereof (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to such investment and (y) such investment);
- (e) loans or advances of money to affiliates in the ordinary course of Borrower's business with the proceeds of issuance of Equity Interests (other than Disqualified Equity Interests) of Borrower, provided that such proceeds are used in the ordinary course of business and shall not, for further clarity, be subject to any other restrictions on use contained herein;
- (f) payments to employees in connection with the repurchase of phantom stock (including stock appreciation rights) in the ordinary course of business; provided that such payments with respect to the repurchase of phantom stock (including stock appreciation rights) not in existence on the Closing Date shall not exceed, together with amounts paid under Section 8.5(c), \$1,000,000 *per annum*;
- (g) payments to counterparties under or in connection with Hedge Agreements;
- (h) other Investments made after the Closing Date in an aggregate principal amount not to exceed the greater of (i) \$100,000,000 and (ii) twelve percent (12%) of Consolidated Total Assets so long as no Event of Default exists and is continuing or would occur as a result thereof (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to such Investment and (y) such Investment);
- (i) loans or advances of money from a Credit Party to another Credit Party whose assets and properties are subject to the first priority Liens of Agent (subject to Permitted Liens);
- (j) (i) Borrower and any Subsidiary may make intercompany loans to and other investments in Credit Parties, (ii) any Subsidiary (other than a Credit Party) may make intercompany loans to and other investments in any Credit Party or any Subsidiary so long as in the case of such intercompany loans to Credit Parties, all payment obligations of the respective Credit Parties are subordinated to their

Obligations under the Financing Agreements on terms reasonably satisfactory to Agent, (iii) the Credit Parties may make intercompany loans to, and other Investments in, Subsidiaries that are not Credit Parties so long as the aggregate amount of outstanding loans and other Investments made pursuant to this subclause (iii) does not exceed the greater of \$50,000,000 and six percent (6%) of Consolidated Total Assets and the proceeds were incurred as Permitted Debt pursuant to Section 8.3(q), (iv) any Subsidiary that is not a Credit Party may make intercompany loans to, and other Investments in, any other Subsidiary that is also not a Credit Party and (v) Credit Parties may make intercompany loans and other Investments in any Subsidiary that is not a Credit Party so long as such intercompany loans and other Investment is part of a series of simultaneous intercompany loans and other Investments by Subsidiaries in other Subsidiaries that simultaneously results in the proceeds of the initial intercompany loan and other Investment being made to or invested in one or more Credit Parties;

- (k) [reserved];
- (l) [reserved];
- (m) the purchase of any Permitted Bond Hedge Transaction or Permitted Warrant Transaction by the Borrower or any of its Subsidiaries and the performance of its obligations thereunder;
- (n) the IMAX Film Fund Put; provided that the fair market value to be paid by Borrower or its Subsidiary for pictures under the IMAX Film Fund Put shall be the fair market value thereof determined in accordance with the terms in the IMAX Film Fund Put, including that any appraiser determining fair market value in connection therewith shall be an investment bank or other entity experienced in determining the value of film assets; and
- (o) the \$4,000,000 preferred share investment by IMAX HK in IMAX China HK;
- (p) Investments in any amount so long as (i) immediately after giving effect to such Investment the Total Net Leverage Ratio is equal to or less than 2:75:1.00 as demonstrated in writing (including with calculations of *pro forma* compliance with the Total Net Leverage Ratio) by Borrower to Agent prior to any such Investment being made and (ii) no Event of Default exists and is continuing or would occur as a result thereof (determined upon the earlier to occur of (A) the execution of definitive documentation with respect to such Investment and (B) the making of such Investment);
- (q) loans to employees not to exceed in the aggregate the greater of (i) \$2,500,000 and (ii) one percent (1%) of Consolidated Total Assets and so long as no Event of Default exists and is continuing or would occur as a result thereof;
- (r) Acquisitions of any single purpose Subsidiaries for the purpose of entering into the joint ventures and the third party productions permitted pursuant to Section 8.4(d) and (h) hereof;

- (s) Deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of Borrower and its Subsidiaries;
- (t) extensions of trade credit in the ordinary course of business;
- (u) Investments of any Person in existence at the time such Person becomes a Subsidiary; provided that such Investment was not created in anticipation of such Person becoming a Subsidiary;
- (v) Investments made in the ordinary course and resulting from pledges and deposits referred to in Section 8.2(h); and
- (w) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property, in each case in the ordinary course of business.

Any Future Permitted Transaction by Borrower and any investment, license, purchase or other transaction reasonably related thereto and in furtherance thereof shall be permitted hereunder and the amount of any such investment, license, purchase or other transaction shall not be included in (or count against) any of the foregoing basket amounts described in this Section 8.4.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.4 shall be further limited as follows: (A) the amount of Investments permitted pursuant to clause (d) shall be reduced to \$0, (B) no Investments may be made pursuant to clauses (p) and (r) above, (C) the amount of Investments permitted pursuant to clauses (h) and (j)(iii) shall not exceed (1) with respect to clause (h) the sum of (x) \$50,000,000 plus (y) to the extent that the \$50,000,000 in clause (C)(1)(x) of this sentence has been fully utilized, up to an additional \$25,000,000 so long as at the time of making of any Investment utilizing the amount under this clause (C)(1)(y), no Default of Event of Default has occurred and is continuing or would result therefrom and Liquidity (as determined based on cash and Cash Equivalents as of the most recent month end for which financial statements have been delivered pursuant to Section 7.6 and after giving effect to such Investment and any Revolving Loan Exposure incurred in connection therewith) shall be at least \$150,000,000 as certified in a certificate, in form and substance reasonably satisfactory to the Agent and duly executed by an authorized officer of the Borrower plus (z) \$30,000,000 of Investments in FiLMiC as previously disclosed to the Agent and the Lenders and (2) with respect to clause (j)(iii), \$0 other than Investments in the form of the intercompany Debt permitted under Section 8.3(q) and capitalization of the Borrower's interest in the Playa Vista Borrower, (D) the Borrower's and its Subsidiaries' Investments existing as of the First Amendment Effective Date in (1) Maoyan Entertainment, in an aggregate amount not to exceed the amount set forth on the most recent Compliance Certificate delivered prior to the First Amendment Effective Date and (2) Dreamscape Immersive Inc., in an aggregate amount not to exceed \$1,000,000, shall each be deemed permitted pursuant to clause (h) without any reduction of the amount described in clause (C)(1) of this sentence.

8.5 Restricted Payments

Directly or indirectly, declare or pay any dividends on account of any of its Equity Interests now or hereafter outstanding, or redeem, retire, defease, purchase or otherwise acquire any of its Equity Interests, or make any other distribution (by reduction of capital or otherwise) in respect of any such Equity Interests or prepay, repay, redeem, purchase, defease or acquire for value (including (x) by way of depositing with any trustee with respect thereto money or securities before due for the purpose of paying when due and (y) at the maturity thereof) any Permitted Convertible Indebtedness or other unsecured Debt incurred pursuant to Section 8.3(h) (each, a “**Restricted Payment**”) with the exception that:

- (a) wholly-owned Subsidiaries of a Subsidiary or the Borrower may pay cash dividends or distributions to their respective shareholders;
- (b) non wholly-owned Subsidiaries of a Subsidiary or the Borrower may pay cash dividends or distributions to its shareholders provided each shareholder receives its ratable share of such dividends or distributions;
- (c) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests which are held by any current, future or former officers, directors or employees of such Person not to exceed, together with amounts paid under Section 8.4(f), \$1,000,000 *per annum*;
- (d) Credit Parties and their Subsidiaries may make Restricted Payments if made by way of Qualified Equity Interests only;
- (e) Borrower may make Restricted Payments in any amount so long as (i) immediately after giving effect thereto the Total Net Leverage Ratio is equal to or less than 2.75:1.00 and (ii) in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;
- (f) the Borrower (or any Credit Party that is an obligor under such Permitted Convertible Debt) may (i) make payments of interest with respect to any Permitted Convertible Debt or the payment upon maturity (or otherwise required pursuant to customary prepayment, redemption, repurchase or defeasance obligations in connection with a change of control, fundamental change or asset sale) thereof, (ii) convert or exchange any Permitted Convertible Debt in accordance with its terms into shares of common stock and make a payment of cash in lieu of fractional shares of the Borrower’s common stock deliverable upon any such conversion or exchange, (iii) deliver cash in connection with any conversion or exchange of Permitted Convertible Debt in an aggregate amount since the date of the indenture governing such Permitted Convertible Debt not to exceed the sum of (A) the principal amount of such Permitted Convertible Debt plus (B) any payments received by the Borrower or any of its Subsidiaries pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transaction, (iv) make any payments in connection with a Permitted Bond Hedge Transaction and make the settlement of any related Permitted Warrant Transaction (A) by delivery

of shares of the Borrower's common stock upon settlement thereof or (B) by (1) set off against the related Permitted Bond Hedge Transaction or (2) payment of an early termination amount thereof in common stock upon any early termination thereof and (v) payments and prepayments in connection with any Permitted Refinancing of Permitted Convertible Debt permitted by Section 8.3(h)(ii);

- (g) [reserved];
- (h) [reserved];
- (i) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests which are held by current, future or former officers, directors or employees of such Person in an amount not to exceed in the aggregate \$25,000,000 in any calendar year with the ability to carry-over any unused amount in a calendar year for the next two (2) succeeding calendar years so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;
- (j) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests not to exceed in the aggregate in any calendar year the greater of (i) \$125,000,000 and (ii) fifteen percent (15%) of Consolidated Total Assets and with the ability to carry-over any unused amount in a calendar year for the next two (2) succeeding calendar years so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;
- (k) Credit Parties and their Subsidiaries may make Restricted Payments not to exceed in the aggregate the greater of (i) \$100,000,000 and (ii) 12% of Consolidated Total Assets so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof; and
- (l) Credit Parties and their Subsidiaries may make Restricted Payments in connection with the purchase of fractional shares of its common stock arising out of stock dividends, splits or combinations or business combinations.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.5 shall be further limited as follows: (A) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or make any Restricted Payment (including pursuant to any carry-over from prior years) pursuant to clauses (e) and (k) above, (B) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or make Restricted Payments (including pursuant to any carry-over from prior years) pursuant to clause (i) in an aggregate amount in excess of \$15,000,000, (C) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or made Restricted Payments (including pursuant to any carry-over from prior years) pursuant to clause (j) above except that IMAX China HK may redeem or purchase its respective Equity Interests in an amount not to exceed \$5,000,000 and (D) the Borrower shall not and shall not permit any of its Subsidiaries to make any prepayment, repayment, redemption, purchase, defeasance or acquisition for value of any Permitted Convertible Debt other than (1) payments of interest thereon,

and mandatory prepayment, redemption, repurchase or defeasance obligations in connection with a change of control, delisting, fundamental change or asset sale in each case in accordance with clause (f)(i) above and any customary redemptions in lieu of payment of withholding taxes arising from a change in Applicable Law after the date of issuance of such Permitted Convertible Debt and (2) in connection with a Permitted Refinancing of such Permitted Convertible Debt. For purposes of determining any carry-over amounts in this Section 8.5, it is acknowledged and agreed that with respect to any calendar year that ends during the Designated Period such carry-over amounts shall be determined based on the basket and threshold amounts set forth in this paragraph and with respect to any calendar year that ends after the Designated Period such carry-over amount shall be determined based on the basket and threshold amounts set forth in the applicable clause of Section 8.5 without giving effect to the adjustments in this paragraph.

8.6 Transactions with Affiliates

Directly or indirectly, (a) purchase, acquire or lease any property from, or sell, transfer or lease any property to, any officer, director, agent or other person affiliated with it, except in the ordinary course of and pursuant to the reasonable requirements of its business and upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's length transaction with an unaffiliated person or (b) make any payments of management, consulting or other fees for management or similar services, or of any Debt (including under the USERP) owing to any officer, employee, shareholder, director or other person affiliated with it except (i) reasonable compensation to officers, employees and directors for services rendered to it in the ordinary course of business and (ii) payments to Bradley J. Wechsler and Richard L. Gelfond in accordance with the USERP.

8.7 [Reserved]

8.8 [Reserved]

8.9 No Material Changes

(a) Change its Fiscal Quarters or its Fiscal Year, (b) make any material change to its business or the conduct thereof from that existing or being conducted as of the Closing Date, other than changes that would not be reasonably expected to have a Material Adverse Effect or (c) make any material changes to its accounting policies in effect as of the Closing Date, except as required or permitted by GAAP.

8.10 No Further Negative Pledges; Restrictive Agreements

- (a) Enter into, assume or be subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets (including contractual provisions restricting the assignability thereof to Agent or to an assignee thereof upon exercise by Agent of any rights or remedies set forth in the Financing Agreements or at law) or requiring the grant of any security for such obligation if security is given for some other obligation, except (i) pursuant to this Agreement and the other Financing Agreements, (ii) pursuant to any document or instrument governing Debt incurred pursuant to Section 8.3(c); provided, that any such restriction contained therein relates only to the asset, properties or interests

acquired in connection therewith, (iii) restrictions in connection with any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or properties subject to such Permitted Lien); (iv) pursuant to any document or instrument governing Permitted Debt; (v) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the property or assets secured by such Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be); (vi) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures (to the extent only affecting the assets of, or the Equity Interests in, each such joint venture); and (vii) any agreement in effect at the time any Person becomes a Subsidiary (to the extent only affecting the assets of, or the Equity Interests in, each such Person), so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary; provided, that this Section 8.10(a) shall not apply to any Subsidiaries that are not Credit Parties and are not required to become Credit Parties hereunder.

- (b) Create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Credit Party or any Subsidiary thereof to (i) pay dividends or make any other distributions to any Credit Party or any Subsidiary on its Equity Interests, (ii) pay any obligations, liabilities and indebtedness owed to any Credit Party, (iii) make loans or advances to any Credit Party, (iv) sell, lease or transfer any of its properties or assets to any Credit Party or (v) act as a Guarantor pursuant to the Financing Agreements, except (in respect of any of the matters referred to in clauses (i) through (v) above) for such encumbrances or restrictions existing under or by reason of (A) this Agreement and the other Financing Agreements, (B) Applicable Law, (C) any document or instrument governing Debt incurred pursuant to Section 8.3(c) (provided, that any such restriction contained therein relates only to the asset or properties acquired in connection therewith), (D) any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or properties subject to such Permitted Lien), (E) obligations that are binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary of a Credit Party, so long as such obligations are not entered into in contemplation of such Person becoming a Subsidiary, (F) any document or instrument governing Permitted Debt, (G) customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and similar agreements entered into in the ordinary course of business, (H) customary encumbrances or restrictions that are or were created by virtue of any transfer of, agreement to transfer or option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement, (I) customary encumbrances or restrictions contained in contracts or agreements for the sale of assets applicable to such assets pending consummation of such sale, including customary restrictions with respect to a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all the Equity Interests or assets of such Subsidiary, (J) restrictions on cash or other

deposits or net worth imposed by customers under contracts entered into in the ordinary course of business, (K) customary provisions in (i) joint venture agreements entered into in the ordinary course of business with respect to the Equity Interests subject to the joint venture and (ii) operating or other similar agreements, asset sale agreements and stock sale agreements entered into in connection with the entering into of such transaction, which limitation is applicable only to the assets that are the subject of those agreements, (L) customary net worth and similar provisions in leases for real property and (M) described in the definition of “Material Subsidiary”.

ARTICLE 9

FINANCIAL COVENANT

9.1 Maximum Senior Secured Net Leverage Ratio

Except during the period from the First Amendment Effective Date through and including the earlier of (a) March 31, 2022 and (b) the date upon which the Borrower provides a Designated Period Suspension Notice, Borrower shall not permit the Senior Secured Net Leverage Ratio as of the last day of any Fiscal Quarter to be greater than 3.25:1.00 (which ratio will be increased by 0.5x to 3.75:1.00 for the four (4) consecutive Fiscal Quarters following a Material Acquisition), which shall be calculated and tested on the last day of each Fiscal Quarter on a trailing four (4) Fiscal Quarter basis.

9.2 Minimum Liquidity

The Borrower shall not permit Liquidity as of the last day of each calendar month to be less than \$75,000,000 at any time from and after the First Amendment Effective Date through and including the earlier of (a) December 31, 2022 and (b) the end of the Designated Period.

ARTICLE 10

EVENTS OF DEFAULT AND REMEDIES

10.1 Events of Default

The occurrence and continuation of any one or more of the following events are referred to herein individually as an “**Event of Default**”, and collectively as “**Events of Default**”:

- (a) Borrower fails to (i) pay any principal due and payable hereunder; (ii) any interest on any Loan or any fee or any other amount due hereunder within three (3) Business Days after the date due; or (iii) perform the covenant contained in Section 9.1 of this Agreement;
- (b) any Credit Party or any Subsidiary thereof fails to:
 - (i) perform any of the covenants contained in Sections 7.1 (with respect to the Credit Parties), 7.14, 8.1, 8.2, 8.3, 8.4, 8.5 or 8.6 of this Agreement, where such failure to perform is not remedied to the satisfaction of Agent, in its sole discretion, within 3 days of such failure to perform; or

- (ii) perform any other terms, covenants, conditions or provisions contained in this Agreement or any of the other Financing Agreements, where such failure to perform is not remedied to the satisfaction of Agent or waived by Agent, in its sole discretion, within 30 days from receipt by any Credit Party of notice by Agent; or
- (iii) perform the covenant contained in Section 9.2 of this Agreement, where such failure to perform is not remedied to the satisfaction of Agent, in its sole discretion, within five (5) Business Days of such failure to perform;
- (c) any representation or warranty made by or on behalf of any Credit Party hereunder or under any other Financing Agreement proves to be false or inaccurate (i) in any material respect when made if not subject to materiality or Material Adverse Effect qualifications or (ii) in any respect if subject to materiality or Material Adverse Effect qualifications, and in each case same is not remedied to the satisfaction of Agent or waived by Agent, in its sole discretion, within 15 days from receipt by any Credit Party of notice by Agent;
- (d) any Credit Party shall contest the validity or enforceability of any Financing Agreement in writing or deny in writing that it has any liability, including with respect to future advances by Lenders, under any Financing Agreement to which it is a party;
- (e) [reserved];
- (f) (i) any final non-appealable judgment for the payment of money is rendered against any Credit Party or any Subsidiary thereof in excess of \$25,000,000 in the aggregate and (A) shall remain undischarged or unvacated for a period in excess of 60 days or (B) execution shall at any time not be effectively stayed; or (ii) any final non-appealable judgment other than for the payment of money, or injunction, attachment, garnishment or execution is rendered against any Credit Party or any Subsidiary thereof or any of their assets that could reasonably be expected to have a Material Adverse Effect and (A) shall remain undischarged or unvacated for a period in excess of 60 days or (B) execution shall at any time not be effectively stayed; provided that, in each case of clause (i) and (ii), no Event of Default shall occur if (x) the applicable judgment is paid, (y) the applicable judgment is covered by third-party insurance as to which the insurer has been notified of such judgment and has not denied full coverage thereof in writing to such Credit Party or Subsidiary or (z) the applicable judgment is covered by an enforceable indemnity by an arms-length third party, to the extent that such Credit Party or Subsidiary shall have made a claim for indemnification and the applicable indemnifying party shall not have disputed such claim;
- (g) [reserved];
- (h) [reserved];

- (i) an Insolvency Proceeding is filed or commenced against any Credit Party or Material Subsidiary thereof or all or any part of its properties and (i) such Insolvency Proceeding is not dismissed within 60 days after the date of its filing, or (ii) any Credit Party or Material Subsidiary thereof shall file any answer admitting or not contesting such Insolvency Proceeding or indicates in writing its consent to, acquiescence in or approval of, any such Insolvency Proceeding or (iii) the relief requested is granted by a court of competent jurisdiction;
- (j) an Insolvency Proceeding is filed or commenced by any Credit Party or Material Subsidiary thereof for all or any part of its property including if any Credit Party or Material Subsidiary shall:
 - (i) apply for or consent to the appointment of a receiver, trustee or liquidator of it or of all or a substantial part of its property and assets;
 - (ii) be unable, or admit in writing its inability, to pay its debts as they mature, or commit any other act of bankruptcy;
 - (iii) make a general assignment for the benefit of creditors;
 - (iv) file a voluntary petition or assignment in bankruptcy or a proposal seeking a reorganization, compromise, moratorium or arrangement with its creditors;
 - (v) take advantage of any Insolvency Law pertaining to arrangements, moratoriums, compromises or reorganizations, or admit the material allegations of a petition or application filed in respect of it in any Insolvency Proceeding; or
 - (vi) take any corporate action for the purpose of effecting any of the foregoing;
- (k)
 - (i) any failure of any Credit Party or any Subsidiary thereof to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Debt (other than with respect to the Obligations hereunder) in an aggregate principal amount in excess of \$25,000,000, which failure continues for more than the applicable cure period, if any, with respect thereto; or
 - (ii) any default by any Credit Party or any Subsidiary thereof with respect to any other term of (A) one or more items of Debt in the aggregate principal amount referred to in clause (i) above or (B) any agreement, document or instrument relating to such item(s) of Debt, in each case after the expiration of the applicable cure period, if any, with respect thereto, if the effect of such default is to cause, or to permit the holder or holders of that Debt, to cause that Debt to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that this clause (k)(ii) shall not

apply to (x) secured Debt that becomes due as a result of the sale or transfer or other disposition of the property or assets securing such Debt permitted hereunder and under the documents providing for such Debt and such Debt is repaid when required under the documents providing for such Debt, (y) conversions or exchanges of (or the ability by holders to convert or exchange) any Permitted Convertible Debt as a result of (or upon the satisfaction of) a contingent conversion trigger (including the passage of time) that does not constitute or arise from a default (other than a delisting) under the definitive documentation for such Permitted Convertible Debt or (z) events of default, termination events or any other similar event under the documents governing Hedge Agreements for so long as such event of default, termination event or other similar event does not result in the occurrence of an early termination date or any acceleration or prepayment of any amounts or other Debt payable thereunder;

- (l) [reserved];
- (m) any acquisition of Control or change in the Controlling ownership of Borrower, if any, which may reasonably be expected to have a Material Adverse Effect;
- (n) [reserved];
- (o) any Lien created by a Financing Agreement shall cease to be a valid and perfected first priority Lien (except for Permitted Liens) in favor of Agent in any material amount of the collateral purported to be covered thereby for any reason other than the failure of Agent or any Secured Party to take any action within its control; or
- (p) an ERISA Event shall occur which results in or would reasonably be expected to result in a Material Adverse Effect.

10.2 Remedies

- (a) At any time an Event of Default has occurred and is continuing, Agent shall (at the request of, or may, with the consent of, the Required Lenders) have all rights and remedies provided in the Financing Agreements, the PPSA, UCC and other Applicable Law, all of which rights and remedies may be exercised without notice to or consent by any Credit Party, except as such notice or consent is expressly provided for hereunder or required by Applicable Law. All rights, remedies and powers granted to Agent and Lenders under any of the Financing Agreements, the PPSA, UCC or other Applicable Law, are cumulative, not exclusive and enforceable, in Agent's or Lenders' discretion, alternatively, successively, or concurrently on any one or more occasions, and shall include the right to apply to a court of equity for an injunction to restrain a breach or threatened breach by any Credit Party of any of the Financing Agreements. Agent shall (at the request of, or may, with the consent of, the Required Lenders) at any time or times, proceed directly against any Credit Party to collect the Obligations (except under or in connection with Secured Hedge Agreements (which shall be collected in accordance with the terms thereof)) without prior recourse to the Collateral.

- (b) Without limiting the foregoing and subject to Section 10.2(c) hereof, upon the occurrence and continuation of any Event of Default, upon notice to Borrower by Agent, Agent shall (at the request of, or may, with the consent of, the Required Lenders): (i) accelerate the payment of all outstanding Obligations (other than Obligations in connection with Secured Hedge Agreements which may be terminated in accordance with their own terms) (provided that, upon the occurrence of any Event of Default described in Section 10.1(i) or 10.1(j), all such outstanding Obligations shall automatically become due and payable without notice to Borrower or demand by Agent) and demand immediate payment thereof to Agent; (ii) with or without judicial process or the aid or assistance of others, enter upon any premises on or in which any of the Collateral may be located and take possession of the Collateral or complete processing, manufacturing and repair of all or any portion of the Collateral and carry on the business of any Credit Party; (iii) require each Credit Party, at such Credit Party's expense, to assemble and make available to Agent any part or all of the Collateral at any place and time designated by Agent; (iv) collect, foreclose, receive, appropriate, set-off and realize upon any and all Collateral; (v) remove any or all of the Collateral from any premises on or in which the same may be located for the purpose of effecting the sale, foreclosure or other disposition thereof or for any other purpose; (vi) sell, lease, transfer, assign, deliver or otherwise dispose of any and all Collateral (including entering into contracts with respect thereto, public or private sales at any exchange, broker's board, at any office of Agent or elsewhere) at such prices or terms as Agent may deem reasonable, for cash, upon credit or for future delivery, with Agent having the right to purchase the whole or any part of the Collateral at any such public sale, all of the foregoing being free from any right or equity of redemption of any Credit Party, which right or equity of redemption is hereby expressly waived and released by each Credit Party; (vii) without limiting clause (vi), grant a general, special or other license in respect of any aspect of the Collateral on an exclusive or non-exclusive basis to any person throughout the world or any part of it and on such terms and on such conditions as Agent may consider appropriate; (viii) enforce against any licensee or other person all rights and remedies of each Credit Party with respect to all or any part of the Collateral, and take or refrain from taking any action that any Credit Party might take with respect to any of those rights and remedies, and for this purpose Agent shall have the exclusive right to enforce or refrain from enforcing those rights and remedies, and may in the name of any Credit Party and at its expense retain and instruct counsel and initiate any court or other proceeding that Agent considers necessary or expedient; (ix) take any step necessary to preserve, maintain or insure the whole or any part of the Collateral or to realize upon any of it or to put it in vendable condition, and any amount paid as a result of any taking any such steps shall be a cost the payment of which is secured by the Financing Agreements; (x) borrow money and use the Collateral directly or indirectly in carrying on any Credit Party's business or as security for loans or advances for any such purposes; (xi) require each Credit Party to immediately begin using commercially reasonable efforts to obtain all consents and to provide all

notices which may be required to permit Agent to assign any agreement or contract; (xii) grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges, and otherwise deal with any Credit Party, debtors of any Credit Party, sureties and others as Agent may see fit without prejudice to the liability of any Credit Party or Agent's right to hold and realize the security interest created under any Financing Agreement; and/or (xiii) terminate this Agreement. If any of the Collateral is sold or leased by Agent upon credit terms or for future delivery, the Obligations shall not be reduced as a result thereof until payment therefor is finally collected by Agent. If notice of disposition of Collateral is required by law, ten (10) days prior notice by Agent to Borrower designating the time and place of any public sale or the time after which any private sale or other intended disposition of Collateral is to be made, shall be deemed to be reasonable notice thereof and each Credit Party waives any other notice. In the event Agent institutes an action to recover any Collateral or seeks recovery of any Collateral by way of prejudgment remedy, each Credit Party waives the posting of any bond which might otherwise be required.

- (c) Notwithstanding anything to the contrary contained in this Section 10.2:
- (i) for the duration of the IP Grace Period, Agent shall not be permitted to enforce its security interest against the IP Collateral, or to exercise its rights under Section 10.2(b) with respect to the IP Collateral hereof except as permitted pursuant to the IP Collateral License Agreement;
 - (ii) for the duration of the IP Grace Period, Borrower shall be permitted to use the IMAX name to carry on business;
 - (iii) upon the commencement of the IP Grace Period, Agent shall have, pursuant to the IP Collateral License Agreement, a royalty-free, freely assignable perpetual license to use the IP Collateral required to enable Agent to perform the obligations of Borrower under any contract or agreement;
 - (iv) upon the commencement of the IP Grace Period, Agent may sell, transfer, assign and/or otherwise dispose of the Collateral, other than the IP Collateral, to any transferee or assignee in accordance with the terms of the Financing Agreements; and
 - (v) subsequent to the expiry of the IP Grace Period, provided that an Event of Default is then continuing, Agent may sell, transfer, assign and/or otherwise dispose of any of the IP Collateral up to a maximum amount equal to the outstanding Obligations together with all costs, charges and expenses incurred by Agent as a result of enforcing against the IP Collateral and Borrower hereby irrevocably designates and appoints Agent (and any officer or agent thereof) as Borrower's true and lawful attorney-in-fact and authorizes Agent (and any officer or agent thereof) to effect the foregoing.

- (d) Agent may apply the cash proceeds of Collateral actually received by Agent from any sale, lease, foreclosure or other disposition of the Collateral to payment of the Obligations in the order set forth in Section 5.3(b).
- (e) [Reserved].
- (f) Without limiting the foregoing, (1) upon the occurrence of any Event of Default described in Section 10.1(i) or 10.1(j), automatically, Agent shall (at the request of, or may, with the consent of, the Required Lenders), and (2) upon the occurrence and continuation of any other Event of Default, upon notice to Borrower by Agent, Agent shall (at the request of, or may, with the consent of, the Required Lenders), (i) cease making Loans or arranging Letter of Credit Accommodations, (ii) terminate any provision of this Agreement providing for any future Loans or Letter of Credit Accommodations to be made by Lenders to Borrower and/or (iii) appoint, remove and reappoint any person or persons, including an employee or agent of Agent or a Lender to be a receiver (the “**Receiver**”) which term shall include a receiver and manager of, or agent for, all or any part of the Collateral (and such Receiver shall have all of the powers and rights of Agent described in this Section 10.2 and Agent may, either directly or through its agents or nominees, exercise any or all powers and rights of a Receiver).
- (g) [Reserved.]
- (h) Where Agent realizes upon any of the Collateral, and in particular upon any of the IP Collateral, to the extent permitted or not prohibited by any agreements relating to such IP Collateral, each Credit Party shall provide without charge its know-how and expertise relating to the use and application of the Collateral, and in particular shall instruct Agent, and any purchaser of the Collateral designated by Agent, concerning any IP Collateral including any confidential information or trade secrets of such Credit Party. For greater certainty, the parties agree that unless such confidential information or trade secrets form part of the Collateral being realized upon, such confidential information or trade secrets shall be provided for use only subject to any agreement regarding the confidentiality thereof or for the protection thereof as may be reasonably requested by a Credit Party.
- (i) [Reserved].
- (j) Each Credit Party hereby irrevocably designates and appoints Agent (and any officer or agent thereof) as such Credit Party’s true and lawful attorney-in-fact, and authorizes Agent, in such Credit Party’s or Agent’s name, to: (a) at any time an Event of Default has occurred and is continuing: (i) demand payment on Accounts or other proceeds of the Collateral, (ii) enforce payment of Accounts by legal proceedings or otherwise, (iii) exercise all of such Credit Party’s rights and remedies to collect any Account or other Collateral, (iv) sell or assign any Account upon such terms, for such amount and at such time or times as Agent deems advisable, (v) settle, adjust, compromise, extend or renew an Account, (vi) discharge and release any Account, (vii) prepare, file and sign such Credit Party’s

name on any proof of claim in bankruptcy or other similar document against an account debtor, (viii) notify the post office authorities to change the address for delivery of such Credit Party's mail to an address designated by Agent, and open and dispose of all mail addressed to such Credit Party, (ix) do all acts and things which are necessary, in Agent's determination, to fulfill such Credit Party's obligations under the Financing Agreements, (x) have access to any lockbox or postal box into which such Credit Party's mail is deposited, (xi) endorse such Credit Party's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Account or any goods pertaining thereto or any other Collateral, (xii) sign such Credit Party's name on any verification of Accounts and notices thereof to account debtors, (xiii) endorse such Credit Party's name upon any items of payment or proceeds thereof and deposit the same in Agent's account for application to the Obligations; and (xiv) take control in any manner of any item of payment or proceeds thereof; and (b) at any time, to execute in such Credit Party's name and file any PPSA, UCC or other financing statements or amendments thereto in respect of the security interests granted to Agent pursuant to any of the Financing Agreements if such Credit Party has not done so within two (2) days from Agent's request. Neither Agent nor its officers, employees and agents shall be responsible to any Credit Party from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of Agent's own gross negligence or willful misconduct or the gross negligence or willful misconduct of its officers, employees or agents, in each case, as determined pursuant to a final non-appealable order of a court of competent jurisdiction.

- (k) Agent may, at any time or times that an Event of Default has occurred and is continuing, at its option: (a) cure any default by any Credit Party or any Subsidiary thereof under any agreement with a third party or pay or bond on appeal any judgment entered against any Credit Party or any Subsidiary thereof; (b) discharge taxes and Liens at any time levied on or existing with respect to the Collateral; and (c) pay any amount, incur any expense or perform any act which, in Agent's good faith judgment, is necessary or appropriate to preserve, protect, insure or maintain the Collateral and the rights of Agent with respect thereto. Agent may add any amounts so expended to the Obligations and charge Borrower's account therefor, such amounts to be repayable by each Credit Party on demand. Agent shall be under no obligation to effect such cure, payment or bonding and shall not, by doing so, be deemed to have assumed any obligation or liability of any Credit Party or any Subsidiary thereof. Any payment made or other action taken by Agent under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed accordingly.

ARTICLE 11
ASSIGNMENT AND PARTICIPATIONS: APPOINTMENT OF AGENT

11.1 Assignment and Participations

- (a) Subject to and in accordance with the terms of this Section 11.1, any Lender may make an assignment or a sale of participations in, at any time or times, the Financing Agreements, any Loans and any Commitment or any portion thereof or interest therein, including any Lender's rights, title, interests, remedies, powers or duties thereunder. Any assignment by a Lender shall:
- (i) be in a minimum amount of \$5,000,000 with respect to Revolving Loans and \$1,000,000 with respect to Term Loans;
 - (ii) require the consent of Agent, Issuing Lender, Swingline Lender and Borrower; provided that:
 - (A) such consent is not to be unreasonably withheld, conditioned or delayed;
 - (B) the consent of Issuing Lender and Swingline Lender shall not be required with respect to assignments of Term Loans;
 - (C) the consent of Borrower shall not be required if:
 - (1) a Payment/Insolvency Event of Default has occurred and is continuing;
 - (2) such assignment is to an Eligible Transferee; or
 - (3) Borrower does not object to such assignment within ten (10) Business Days of receipt of notice of such assignment;
 - (iii) not be to a Prohibited Transferee;
 - (iv) be effected by the execution of an Assignment and Assumption Agreement;
 - (v) be conditioned on such assignee Lender representing to the assigning Lender and Agent that it is purchasing the Loans to be assigned to it for its own account, for investment purposes and not with a view to the distribution thereof; and
 - (vi) include a payment from such assignee to Agent of an assignment fee of \$3,500.

In the case of an assignment by a Lender under this Section 11.1, the assignee shall have, to the extent of such assignment, the same rights, benefits and obligations as all other Lenders hereunder. The assigning Lender shall be relieved of its obligations hereunder with respect to its Commitment or assigned portion thereof from and after the date of such assignment. Borrower hereby acknowledges and agrees that any assignment shall give rise to a direct obligation of Borrower to the assignee and that the assignee shall be considered to be a “**Lender**” hereunder. In all instances, each Lender’s liability to make Loans hereunder shall be several and not joint and shall be limited to such Lender’s Pro Rata Share of the Commitment. In the event any Lender assigns or otherwise transfers all or any part of the Obligations, such Lender shall provide prior notice to Borrower and Borrower shall, upon the request of Agent or such Lender, execute new notes in exchange for the notes, if any, being assigned. Borrower agrees from time to time to execute notes (in form and substance satisfactory to Agent, acting reasonably) evidencing the Loans if requested by Agent. Notwithstanding the foregoing provisions of this Section 11.1(a), any Lender may at any time pledge the Obligations held by it and such Lender’s rights under this Agreement and the other Financing Agreements to a Federal Reserve Bank, the Bank of Canada or the Canada Deposit Insurance Corporation or foreign equivalent; provided, that no such pledge shall release such Lender from such Lender’s obligations hereunder or under any other Financing Agreement or substitute any such pledgee or assignee for such Lender as a party hereto.

- (b) Any sale of a participation by a Lender of all or any part of its Commitment or Loans shall be made with the understanding that all amounts payable by Borrower hereunder shall be determined as if that Lender had not sold such participation, and that the holder of any such participation shall not be entitled to require such Lender to take or omit to take any action hereunder except actions directly affecting (i) any reduction in the principal amount of, or interest rate or fees payable with respect to any Loan in which such holder participates, (ii) any extension of the scheduled amortization of the principal amount of any Loan in which such holder participates or the final maturity date thereof, and (iii) any release of all or substantially all of the Collateral (other than in accordance with the terms of this Agreement or the other Financing Agreements). Neither Agent nor any Lender (other than a Lender selling a participation) shall have any duty to any participant and may continue to deal solely with Lenders selling a participation as if no such sale had occurred. No consent of Borrower, Agent or Issuing Lender is required with respect to the sale of a participation by a Lender of all or any part of its Commitment or Loans; provided that each Lender shall provide Agent and Borrower with prior written notice of each sale of a participation. No sale of a participation by a Lender of all or any part of its Commitment or Loans shall be made to a Prohibited Transferee.
- (c) Each Credit Party shall assist any Lender permitted to sell assignments or participations under this Section 11.1 as reasonably required to enable the assigning or selling Lender to effect any such assignment or participation, including the execution and delivery of any and all agreements, notes and other documents and instruments as shall be requested, the preparation of informational materials for, and the participation of management in meetings with, potential assignees or participants. Each Credit Party shall certify the correctness, completeness and accuracy of all descriptions of it and its respective affairs contained in any selling materials provided by it and all other information provided by it and included in such materials.

- (d) A Lender may furnish any information concerning a Credit Party in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants), in each case, other than to any Prohibited Transferee, provided such Persons agree to maintain the confidentiality of such information in accordance with Section 7.11(b).
- (e) No Credit Party may assign its rights under the Financing Agreements and any other document referred to herein or therein without the prior written consent of Agent and all Lenders.
- (f) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Agent, the applicable pro rata share of Loans previously requested, but not funded by, the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Agent, the Issuing Lender, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letter of Credit Accommodations and Swingline Loans in accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs. Except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

11.2 Appointment of Agent

- (a) Agent is hereby appointed to act on behalf of Secured Parties as Agent under this Agreement and the other Financing Agreements. The provisions of this Section 11.2 are solely for the benefit of Agent and Lenders and neither any Credit Party nor any other Person shall have any rights as a third party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement and the other Financing Agreements, Agent shall act solely as an agent of Secured Parties and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Credit Party or any Person other than Secured Parties. Agent shall have no duties or

responsibilities except for those expressly set forth in this Agreement and the other Financing Agreements. The duties of Agent shall be mechanical and administrative in nature and Agent shall not have, or be deemed to have, by reason of this Agreement, any other Financing Agreement or otherwise a fiduciary relationship in respect of any Secured Party. Except as expressly set forth in this Agreement and the other Financing Agreements, Agent shall not have any duty to disclose, and shall not be liable for failure to disclose, any information relating to any Credit Party or any of their respective Subsidiaries that is communicated to or obtained by Agent or any of its affiliates in any capacity. Neither Agent nor any of its affiliates nor any of their respective officers, directors, employees, agents or representatives shall be liable to any Secured Party for any action taken or omitted to be taken by it hereunder or under any other Financing Agreement, or in connection herewith or therewith, except for damages caused by its or their own gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on them.

- (b) If Agent shall request instructions from all Lenders, all affected Lenders or Required Lenders, as the case may be, with respect to any act or action (including failure to act) in connection with this Agreement or any other Financing Agreement, then Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from all Lenders, all affected Lenders or Required Lenders, as the case may be, and Agent shall not incur liability to any Person by reason of so refraining. Agent shall be fully justified in failing or refusing to take any action hereunder or under any other Financing Agreement (i) if such action would, in the opinion of Agent, be contrary to law or the terms of this Agreement or any other Financing Agreement; (ii) if such action would, in the opinion of Agent, expose Agent to liabilities under Environmental Laws; or (iii) if Agent in good faith believes such action would expose it to personal liability unless such Agent receives an indemnification satisfactory to it from Lenders and Issuing Lender with respect to such action. Without limiting the foregoing, no Secured Party shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting hereunder or under any other Financing Agreement in accordance with the instructions of all Lenders, all affected Lenders or Required Lenders, as the case may be.

11.3 Agent's Reliance, Etc.

Agent: (i) may treat the payee of any note as the holder thereof until Agent receives written notice of the assignment or transfer thereof signed by such payee and in form reasonably satisfactory to Agent; (ii) may consult with legal counsel, independent public accountants and other experts selected by it; (iii) makes no warranty or representation to any Secured Party and shall not be responsible to any Secured Party for any statements, warranties or representations made in or in connection with this Agreement or the other Financing Agreements; (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Financing Agreements on the part of any Credit Party or to inspect the Collateral (including the books and records) of any Credit Party; (v) shall not be responsible to any Secured Party for the due execution, legality, validity, enforceability,

genuineness, sufficiency or value of this Agreement or the other Financing Agreements or any other instrument or document furnished pursuant hereto or thereto; and (vi) shall incur no liability under or in respect of this Agreement or the other Financing Agreements by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopy, telegram, cable or telex) believed by it to be genuine and signed or sent by the proper party or parties.

11.4 Agent as Lender

With respect to its Commitment and Loans hereunder, Agent shall have the same rights and powers under this Agreement and the other Financing Agreements as any other Lender and may exercise the same as though it were not Agent; and the term “**Lender**” or “**Lenders**” hereunder shall, unless otherwise expressly indicated, include Agent in its individual capacity. Agent and its affiliates may lend money to, invest in, and generally engage in any kind of business with any Credit Party, any of its affiliates and any Person who may do business with or own securities of any Credit Party or any such affiliate, all as if Agent were not Agent and without any duty to account therefore to Secured Parties. Agent and its affiliates may accept fees and other consideration from any Credit Party for services in connection with this Agreement or otherwise without having to account for the same to Secured Parties. Each Secured Party acknowledges the potential conflict of interest between Agent as a Lender and Agent as agent hereunder.

11.5 Lender Credit Decision

Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit and financial analysis of each Credit Party and its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement. Each Lender acknowledges the potential conflict of interest of each other Lender as a result of Lenders holding disproportionate interests in the Commitment and the Loans, and expressly consents to, and waives any claim based upon, such conflict of interest.

11.6 Indemnification

Lenders agree to indemnify Agent (to the extent not reimbursed by Credit Parties and without limiting the obligations of Credit Parties hereunder), ratably according to their respective Pro Rata Shares, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any other Financing Agreement or any action taken or omitted to be taken by Agent in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent’s gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Agent. Without limiting the foregoing, each Lender agrees to reimburse Agent promptly upon demand for its ratable share according to its Pro Rata Share of any out-of-pocket expenses (including reasonable fees of counsel) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and each other Financing Agreement, to the extent that Agent is not reimbursed for such expenses by Credit Parties.

11.7 Failure to Act

Except for action expressly required of Agent hereunder and under the other Financing Agreements, Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction from Lenders of their indemnification obligations under Section 11.6 hereof against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action or if any such action may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law.

11.8 Concerning the Collateral and the Related Financing Agreements

Each Lender authorizes and directs Agent to enter into this Agreement and the other Financing Agreements. Each Lender agrees that any action taken by Agent in accordance with the terms of this Agreement or the other Financing Agreements and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon Lenders.

11.9 Reports and other Information; Disclaimer by Lenders.

By signing this Agreement, each Lender:

- (a) is deemed to have requested that Agent furnish such Lender, within a reasonable time after it becomes available to Agent, a copy of each report, Compliance Certificate and/or other documentation (each such report, certificate or documentation being referred to herein as a “**Report**” and collectively, “**Reports**”) provided to Agent by Credit Parties pursuant to the Financing Agreements;
- (b) expressly agrees and acknowledges that Agent (i) does not make any representation or warranty as to the accuracy of any Report, or (ii) shall not be liable for any information contained in any Report; and
- (c) agrees to keep all Reports confidential in accordance with Section 7.11(b).

11.10 Collateral Matters

- (a) Lenders (including in its or any of its Affiliate’s capacities as a potential Hedge Bank or Cash Management Bank) hereby irrevocably authorize Agent at its option and in its discretion to release any Lien upon any of the Collateral (i) upon termination of the Commitment and payment and satisfaction of all of the non-contingent Obligations and delivery of cash collateral to the extent required under Section 2.3(a); or (ii) constituting property being sold or disposed of if such sale or disposition is permitted by this Agreement (or permitted pursuant to a waiver of or consent to a transaction otherwise prohibited by this Agreement); or (iii)

constituting property in which applicable Credit Party did not own an interest at the time the Lien was granted or at any time thereafter; or (iv) if required under the terms of any of the other Financing Agreements, including any intercreditor agreement; or (v) approved, authorized or ratified in writing in accordance with Section 11.14 hereof. Lenders hereby irrevocably authorize Agent to subordinate its Lien upon the specific Collateral on which another Person has a Lien as permitted under Section 8.2 and if such Person will not permit Agent to retain its Lien on such Collateral, Lenders hereby irrevocably authorize Agent to release its Lien upon such Collateral. Except as provided above, Agent will not release any Lien upon any of the Collateral without the prior written authorization required in accordance with Section 11.14 hereof. In addition, each Lender (including in its or any of its Affiliate's capacities as a potential Hedge Bank or Cash Management Bank) hereby irrevocably authorizes Agent at its option and in its discretion to release or terminate any Control Agreements entered into pursuant to Section 7.14(b), as contemplated by Section 7.14(c), without any further consent or action by such Lender or any of its Affiliates.

- (b) Without in any manner limiting Agent's authority to act without any specific or further authorization or consent by applicable Lenders, each Lender, as applicable, agrees to confirm in writing, upon request by Agent, the authority to release Collateral conferred upon Agent under this Agreement. Agent shall (and is hereby irrevocably authorized by Lenders to) execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release of the Liens granted to Agent upon any Collateral or to evidence the release of such Credit Party from its Obligations under the Financing Agreements in each case in accordance with the terms of the Financing Agreements and this Section 11.10; provided, that, such release shall not in any manner discharge, affect or impair the Obligations or any Lien upon (or obligations of any Credit Party in respect of) the Collateral retained by such Credit Party.
- (c) Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Agent shall have no obligation whatsoever to any Lender or any other Person to investigate, confirm or assure that the Collateral exists or is owned by any Credit Party or is cared for, protected or insured or has been encumbered, or that the Liens granted to Agent pursuant hereto or any of the Financing Agreements or otherwise have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent in this Agreement or in any of the other Financing Agreements, it being understood and agreed that in respect of Collateral, or any act, omission or event related thereto, Agent may act in any manner it may deem appropriate, in its discretion, given Agent's own interest in the Collateral as a Lender and that Agent shall have no duty or liability whatsoever to any other Lender.

- (d) Each Lender hereunder (i) agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement, as applicable, and (ii) authorizes and instructs Agent, to the extent required by the terms of the Financing Agreements, to enter into any Intercreditor Agreements contemplated by this Agreement as Agent on behalf of such Lender. Each Lender hereby further agrees that (i) Agent may, from time to time on and after the Closing Date, without any further consent of any Lender, enter into any Intercreditor Agreement, any subordination agreement or other intercreditor agreement contemplated by this Agreement with the collateral agent or other representatives of the holders of Debt that is permitted to be secured by a Lien on the Collateral under this Agreement, in each case, in order to effect the relative priority of Liens on the Collateral and to provide for certain additional rights, obligations and limitations in respect of, any Liens permitted by the terms of this Agreement to be *pari passu* with or junior or senior to the Liens securing the Obligations with respect to part or all of the Collateral, which are, in each case, incurred in accordance with this Agreement, and to establish certain relative rights as between the holders of the Obligations and the holders of the Debt secured by such Liens, and (ii) such Intercreditor Agreements and any other subordination agreement or intercreditor agreement referred to in the foregoing clause (i) entered into by Agent shall be binding on the Secured Parties.

11.11 Successor Agent and Resignation of Swingline Lender

- (a) Agent may resign at any time by giving not less than thirty (30) days' prior written notice thereof to Lenders and Borrower. If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders and the Borrower may, to the extent permitted by Applicable Law, by notice in writing to the Borrower, the Lenders and such Person, remove such Person as Agent. Upon any such resignation or removal, Required Lenders shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by Required Lenders and shall have accepted such appointment within thirty (30) days after the resigning Agent's giving notice of resignation or the date of the applicable notice of removal, then the resigning or removed Agent may, on behalf of Lenders, appoint a successor Agent, which shall be a Lender, if a Lender is willing to accept such appointment, or otherwise shall be a commercial bank or financial institution or a subsidiary of a commercial bank or financial institution if such commercial bank or financial institution or other entity whose business includes making commercial loans, in each case, is organized under the laws of Canada, the United States or any province or state thereof and has total assets in excess of \$1,000,000,000, or the foreign currency equivalent thereof. If no successor Agent has been appointed pursuant to the foregoing, within 30 days after the date such notice of resignation or removal was given, such resignation or removal shall become effective and Required Lenders shall thereafter perform all the duties of Agent hereunder until such time, if any, as Required Lenders appoint a successor Agent as provided above. Any successor Agent appointed by Required Lenders hereunder shall be subject to the approval of Borrower, such approval not to be unreasonably withheld or delayed; provided, that such approval shall not be

required if a Payment/Insolvency Event of Default has occurred and is continuing. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning or removed Agent. Upon the earlier of the acceptance of any appointment as Agent hereunder by a successor Agent or the effective date of the resigning Agent's resignation or the removed Agent's removal (as the case may be), the resigning or removed Agent shall be discharged from its duties and obligations under this Agreement and the other Financing Agreements, except that any indemnity rights or other rights in favor of such resigning or removed Agent shall continue. After any resigning or removed Agent's resignation or removal hereunder, the provisions of this Article 11 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was acting as Agent under this Agreement and the other Financing Agreements.

- (b) Any Swingline Lender may resign at any time by giving 30 days' prior notice to Agent, Lenders and Borrower. After the resignation of a Swingline Lender hereunder, the retiring Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of a Swingline Lender under this Agreement and the other Financing Agreements with respect to Swingline Loans made by it prior to such resignation, but shall not be required to make any additional Swingline Loans.

11.12 Setoff and Sharing of Payments

In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default and subject to Section 11.13(f), each Lender is hereby authorized at any time or from time to time, without notice to Borrower or to any other Person other than Agent, any such notice being hereby expressly waived, to setoff and to appropriate and to apply any and all balances held by it at any of its offices for the account of any Credit Party (regardless of whether such balances are then due to any Credit Party) and any other properties or assets (other than deposits in fiduciary accounts as to which a Credit Party is acting as fiduciary for another Person who is not a Credit Party and other than payroll or trust fund accounts) at any time held or owing by that Lender to or for the credit or for the account of any Credit Party against and on account of any of the Obligations that are not paid when due; provided, that Lenders exercising such setoff rights shall give notice thereof to such Credit Party promptly after exercising such rights; provided further that in the event that any Defaulting Lender or any Affiliate thereof shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 3.8 and, pending such payment, shall be segregated by such Defaulting Lender or Affiliate of a Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agent, the Issuing Lender, the Swingline Lender and the Lenders, and (y) the Defaulting Lender or its Affiliate shall provide promptly to the Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender or any of its Affiliates as to which such right of setoff was exercised. Except in the case of (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), or (B) the application of cash collateral provided for herein, any Lender exercising a right of setoff or otherwise receiving

any payment on account of the Obligations in excess of its Pro Rata Share thereof shall purchase for cash (and the other Lenders shall sell) such participations in each such other Lender's Pro Rata Share of the Obligations as would be necessary to cause such Lender to share the amount so setoff or otherwise received with the other Lenders in accordance with their respective Pro Rata Shares. Each Credit Party agrees, to the fullest extent permitted by law that (a) any Lender may exercise its right to setoff with respect to amounts in excess of its Pro Rata Share of the Obligations and may sell participations in such amounts so setoff to the other Lenders; and (b) any Lender so purchasing a participation in a Loan made or other Obligations held by the other Lenders may exercise all rights of setoff, bankers' lien, counterclaim or similar rights with respect to such participation as fully as if such Lender were a direct holder of the Loan and the other Obligations in the amount of such participation. Notwithstanding the foregoing, if all or any portion of the setoff amount or payment otherwise received is thereafter recovered from a Lender that has exercised the right of setoff, the purchase of participations by that Lender shall be rescinded and the purchase price restored without interest.

11.13 Advances; Payments; Information; Actions in Concert

(a) Advances; Payments.

- (i) In each funding notice provided by Agent to a Lender hereunder, Agent shall provide such Lender with written confirmation (by telephone, teletype or email (if such Lender has provided email notice coordinates to Agent)) that all conditions precedent hereunder to such funding have been satisfied or waived in accordance with the terms hereof.
- (ii) Each Lender shall make the amount of such Lender's Pro Rata Share of such Loan available to Agent in same day funds by wire transfer to Agent's account not later than 12:00 noon (New York time) (or promptly thereafter) on the requested funding date (which must be a Business Day). Swingline Lender shall make the amount of the requested Swingline Loan available to Agent in same day funds by wire transfer to Agent's account not later than 12:00 noon (New York time) (or promptly thereafter) on the requested funding date (which must be a Business Day). After receipt of such wire transfers (or, in Agent's sole discretion, before receipt of such wire transfers), subject to the terms hereof, Agent shall make the requested Loan to Borrower. All payments by each Lender shall be made without setoff, counterclaim or deduction of any kind. Revolving Loans to be made for the purpose of refunding Swingline Loans shall be made by Revolving Lenders as provided in Section 2.1(c).
- (iii) On the fifth (5th) Business Day of each Fiscal Quarter or more frequently at Agent's election (each, a "**Settlement Date**"), Agent shall advise each Lender by telephone, teletype or email (if such Lender has provided email notice coordinates to Agent) of the amount of such Lender's Pro Rata Share of principal, interest and fees paid for the benefit of Lenders with respect to each applicable Loan. Provided that each Lender has funded all payments and Loans required to be made by it and purchased all participations

required to be purchased by it under this Agreement and the other Financing Agreements as of such Settlement Date, Agent shall pay to each Lender such Lender's Pro Rata Share of principal, interest and fees paid by Borrower since the previous Settlement Date for the benefit of such Lender on the portion of the Loans held by it. Notwithstanding the foregoing, if there exists a Defaulting Lender each payment by the Borrower to such Defaulting Lender hereunder shall be applied in accordance with Section 3.8(a)(i). Such payments shall be made by wire transfer to such Lender's account not later than 2:00 p.m. (New York time) on the next Business Day following each Settlement Date. Each payment to Agent on account of the principal of or interest on the Swingline Loans or of any fee, commission or other amounts payable to Swingline Lender shall be made in like manner, but for the account of Swingline Lender.

- (b) Availability of Lender's Pro Rata Share. Agent may assume that each Lender will make its Pro Rata Share of each Loan available to Agent on each funding date (which must be a Business Day). If such Pro Rata Share is not, in fact, paid to Agent by such Lender when due, Agent will be entitled to recover such amount on demand from such Lender without setoff, counterclaim or deduction of any kind. If any Lender fails to pay the amount of its Pro Rata Share forthwith upon Agent's demand, Agent shall promptly notify Borrower and Borrower shall immediately repay such amount to Agent. Nothing in this Section 11.13(b) or elsewhere in this Agreement or the other Financing Agreements shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitment hereunder or to prejudice any rights that a Credit Party may have against any Lender as a result of any default by such Lender hereunder. To the extent that Agent advances funds to Borrower on behalf of any Lender and is not reimbursed therefore on the same Business Day as such Loan is made, Agent shall be entitled to retain for its account all interest accrued on such advance until reimbursed by the applicable Lender.
- (c) Return of Payments.
- (i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.
- (ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to Borrower or paid to any other Person pursuant to any Insolvency Law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Agreement, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to Borrower or such other Person, without setoff, counterclaim or deduction of any kind.

- (d) [Reserved].
- (e) Dissemination of Information. Agent shall use reasonable efforts to provide Lenders with (i) any notice of any Event of Default received by Agent from, or delivered by Agent to, Borrower, (ii) notice of any Event of Default of which Agent has actually become aware, (iii) notice of any action taken by Agent following any Event of Default and (iv) any notice received from any Credit Party pursuant to Section 7.6(b); provided, that Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Agent's gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Agent.
- (f) Actions in Concert. Anything in this Agreement to the contrary notwithstanding, each Lender hereby agrees with Agent and each other Lender that no Lender shall take any action to protect or enforce its rights arising out of this Agreement or the other Financing Agreements (excluding exercising any rights of setoff) without first obtaining the prior written consent of Agent and all other Lenders, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the other Financing Agreements shall be taken in concert and at the direction or with the consent of Agent, all Lenders, affected Lenders or Required Lenders, as the case may be.

11.14 Approval of Lenders and Agent

- (a) Notwithstanding any other provision of this Agreement but subject to Section 11.14(b), (c) and (d) , no amendment or waiver of any provision of this Agreement, nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by Credit Parties and the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given;
 - (i) provided that no amendment, waiver or consent shall, unless in writing and signed by all Lenders directly and adversely affected thereby (other than a Defaulting Lender) do any of the following at any time:
 - (A) reduce the rate or amount of any principal, interest or fees payable by Borrower or alter the currency or mode of calculation or computation thereof;
 - (B) extend the time for payments required to be made by Borrower or the Maturity Date;
 - (C) increase any Lender's Commitment;

- (D) change the definition of Required Lenders, any provision of this Section 11.14, amend the *pro rata* sharing provisions hereunder or amend the voting percentages hereunder; or
- (E) change the payment waterfall in Section 5.3(b) hereof;
- (ii) provided further that no amendment, waiver or consent shall, unless in writing and signed by all Lenders (other than a Defaulting Lender) do any of the following at any time:
 - (A) release all or substantially all of (x) the value of the Collateral under any Financing Agreement or (y) the guarantees of the Obligations; and
 - (B) permit any Credit Party to assign its rights under the Financing Agreements.
- (b) Notwithstanding Section 11.14(a), Agent may, without the consent of Lenders, (i) make amendments to the Financing Agreements that are for the sole purpose of curing any immaterial or administrative ambiguity, omission, defect or inconsistency, (ii) enter into amendments or modifications to this Agreement or any other Financing Agreement or enter into additional Financing Agreements as Agent reasonably deems appropriate in order to implement any Replacement Rate or otherwise effectuate the terms of Section 3.2(c) in accordance with the terms of Section 3.2(c), (iii) amend any provision of any other Financing Agreement to better implement the intentions of this Agreement and the other Financing Agreements, in each case, such amendments shall become effective without any further action or consent of any other party to any Financing Agreement if the same is not objected to in writing by Required Lenders within five (5) Business Days following receipt of notice thereof and (iv) enter into amendments or modifications to this Agreement or any other Financing Agreement or enter into additional Financing Agreements as Agent reasonably deems appropriate in order to implement any provisions related to Term Loans or otherwise effectuate the terms of Section 2.6 with respect to the establishment of any Term Loan Commitments. Agent shall promptly notify Lenders of any such action.
- (c) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Agent in addition to Lenders required above to take such action, affect the rights or duties of Agent under this Agreement or any of the other Financing Agreements.
- (d) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Issuing Lender in addition to Lenders required above to take such action, affect the rights or duties of Issuing Lender under this Agreement or any of the other Financing Agreements.

- (e) No Cash Management Bank or Hedge Bank that obtains the benefits of Section 5.3 or any Collateral by virtue of the provisions hereof or of any Financing Agreement shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Financing Agreement or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Financing Agreements. Notwithstanding any other provision of this Article 11 to the contrary, Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Hedge Agreements and Secured Cash Management Agreements unless Agent has received written notice of such Secured Hedge Agreements and Secured Cash Management Agreements, together with such supporting documentation as Agent may request from the applicable Hedge Bank or Cash Management Bank, as the case may be.
- (f) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Swingline Lender in addition to Lenders required above to take such action, affect the rights or duties of Swingline Lender under this Agreement or any of the other Financing Agreements.

11.15 Erroneous Payments

- (a) Each Lender and the Issuing Lender hereby agrees that (i) if the Agent notifies such Lender or Issuing Lender that the Agent has determined in its sole discretion that any funds received by such Lender or Issuing Lender from the Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Lender or Issuing Lender (whether or not known to such Lender or Issuing Lender) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Lender or Issuing Lender shall promptly, but in no event later than one Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Lender to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect and (ii) to the extent permitted by applicable law, such Lender or Issuing Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Agent to any Lender or Issuing Lender under this clause (a) shall be conclusive, absent manifest error.

- (b) Without limiting immediately preceding clause (a), each Lender and the Issuing Lender hereby further agrees that if it receives an Erroneous Payment from the Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Agent (or any of its Affiliates) with respect to such Erroneous Payment (an “**Erroneous Payment Notice**”), (y) that was not preceded or accompanied by an Erroneous Payment Notice, or (z) that such Lender or Issuing Lender otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case, an error has been made (and that it is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment) with respect to such Erroneous Payment, and to the extent permitted by applicable law, such Lender or Issuing Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. Each Lender and the Issuing Lender agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Agent of such occurrence and, upon demand from the Agent, it shall promptly, but in all events no later than one Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Lender to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect.
- (c) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Agent from the Borrower or any other Credit Party for the purpose of making such Erroneous Payment.
- (d) Each party’s obligations under this Section 11.15 shall survive the resignation or replacement of the Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Agreement.

ARTICLE 12
GOVERNING LAW; JURISDICTION, ETC.

12.1 Governing Law; Jurisdiction, Etc.

- (a) Governing Law. This Agreement and the other Financing Agreements and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Financing Agreements (except, as to any other Financing Agreements, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York.

- (b) Submission to Jurisdiction. Each party hereto irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any other party hereto relating to this Agreement or any other Financing Agreement or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Financing Agreement shall affect any right that Agent, any Lender, or Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Financing Agreement against Borrower or any other Credit Party or their respective properties in the courts of any jurisdiction where the Collateral is located or in any jurisdiction of organization of such Credit Party.
- (c) Waiver of Venue. Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Financing Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.
- (d) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 13.2. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Applicable Law.
- (e) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON

HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER FINANCING AGREEMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION.

- (f) Waiver of Consequential Damages. Each Credit Party hereby waives any claims for special, punitive, exemplary, indirect or consequential damages in respect of any breach or alleged breach by Agent or any Lender of any of the terms of this Agreement or the other Financing Agreements except in the case of gross negligence or willful misconduct of Agent or any Lender as determined by a final and non-appealable judgment or court order binding on Agent or Lender.
- (g) Waiver of Notice. Each Credit Party waives the posting of any bond otherwise required of Agent in connection with any judicial process or proceeding to obtain possession of, replevy, attach or levy upon the Collateral or other security for the Obligations, to enforce any judgment or other court order entered in favor of Agent, or to enforce by specific performance, temporary restraining order, preliminary or permanent injunction or any other Financing Agreement.

12.2 Waiver of Notices

Each Credit Party hereby expressly waives demand, presentment, protest and notice of protest and notice of dishonor with respect to any and all instruments and commercial paper, included in or evidencing any of the Obligations or the Collateral, and any and all other demands and notices of any kind or nature whatsoever with respect to the Obligations, the Collateral and this Agreement, except such as are expressly provided for herein. No notice to or demand on any Credit Party which Agent may elect to give shall entitle any Credit Party to any other or further notice or demand in the same, similar or other circumstances.

12.3 Amendments and Waivers

Subject to Section 11.14, neither this Agreement nor any provision hereof shall be amended or waived, nor consent to any departure by any Credit Party therefrom permitted, orally or by course of conduct, but only by a written agreement signed by an authorized officer of each applicable Lender (if any) and Agent, and as to amendments, as also signed by an authorized officer of each Credit Party. Agent shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Agent. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Agent of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Agent would otherwise have on any future occasion, whether similar in kind or otherwise.

12.4 Waiver of Counterclaim

Each Credit Party waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto.

12.5 Indemnification

Each Credit Party shall indemnify and hold Arranger, Agent, Issuing Lender and each Lender, and their respective directors, officers, agents, representatives, employees and counsel (each such Person, an “**Indemnitee**”), harmless from and against any and all losses, claims, damages, liabilities, costs or expenses imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to (x) the negotiation, preparation, execution, delivery, enforcement, performance or administration of any Financing Agreements, or any undertaking or proceeding related to any of the transactions contemplated hereby or any act, omission, event or transaction related or attendant thereto or the relationship between any Credit Party, on one hand, and an Indemnitee, on the other hand or (y) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by any Credit Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Credit Party or any of its Subsidiaries, including amounts paid in settlement, court costs, and the fees, expenses and disbursements of counsel and others incurred in connection with investigating, preparing to defend or defending any such litigation, investigation, claim or proceeding (but limited, in the case of such fees, expenses and disbursements of counsel, to the reasonable, documented and invoiced fees, expenses and disbursements of one primary counsel for all Indemnitees, taken as a whole, and, if reasonably necessary, a single outside local and a single outside specialty counsel in each other jurisdiction material to the interests of all Indemnitees taken as a whole for all Indemnitees taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs Borrower of such conflict, one additional primary counsel for all Indemnitees subject to such conflict taken as a whole)). Such indemnification described in clauses (x) and (y) above shall not apply to losses, claims, damages, liabilities, costs or expenses (i) resulting from the bad faith, fraud, gross negligence or willful misconduct of an Indemnitee as determined pursuant to a final non-appealable order of a court of competent jurisdiction, (ii) relating to disputes among Indemnitees that does not involve an act or omission by Credit Parties, (iii) resulting from a breach of an Indemnitee’s obligations to a Credit Party hereunder as determined pursuant to a final non-appealable order of a court of competent jurisdiction or (iv) resulting from settlements of any such litigation, investigation, claim or proceeding effected by the Indemnitees without the prior written consent of Borrower (which consent shall not be unreasonably withheld, delayed or conditioned); provided that any indemnification obligations owed by Credit Parties hereunder and not otherwise related to the foregoing settlement shall nonetheless remain an obligation of Credit Parties. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 12.5 may be unenforceable because it violates any Applicable Law, each Credit Party shall pay the maximum portion which it is permitted to pay under Applicable Law to each Indemnitee in satisfaction of indemnified matters under this Section 12.5. The foregoing indemnity shall survive the payment of the Obligations and the termination of this Agreement.

12.6 Costs and Expenses

Upon demand by Agent, each Credit Party agrees within ten (10) days of receipt of a reasonably detailed written invoice therefor (or such longer period as Agent may agree), to pay to Arranger, Agent, Issuing Lender and Lenders all reasonable out-of-pocket costs, expenses and filing fees paid or payable in connection with the structuring, arrangement, syndication, preparation, negotiation, execution, delivery, recording, administration, collection, liquidation, restructuring, enforcement and defense of the Obligations, Agent's and each Lender's rights in the Collateral, the Financing Agreements and all other documents related hereto or thereto, including any amendments, supplements or consents which may hereafter be contemplated (whether or not executed) or entered into in respect hereof and thereof, including: (a) all costs and expenses of filing or recording or searching (including PPSA and UCC financing statement and other similar filing and recording fees, if applicable); (b) reasonable out-of-pocket costs and expenses of remitting loan proceeds and other items of payment, together with Agent's customary, reasonable out-of-pocket charges and fees with respect thereto; (c) reasonable out-of-pocket costs and expenses of preserving and protecting the Collateral; (d) reasonable out-of-pocket costs and expenses paid or incurred in connection with obtaining payment of the Obligations, enforcing the security interests and liens of Agent, selling or otherwise realizing upon the Collateral, and otherwise enforcing the provisions of the Financing Agreements or defending any claims made or threatened against Agent and Lenders arising out of the transactions contemplated hereby and thereby (including preparations for and consultations concerning any such matters); (e) all reasonable out-of-pocket expenses including due diligence, negotiation, arrangement, syndication, restructuring, administration and amending of this Agreement; and (f) the fees, expenses and disbursements of counsel (including legal assistants) to Arranger, Agent, Issuing Lender, and Lenders in connection with any of the foregoing (but limited, in the case of such fees, expenses and disbursements of counsel, to the reasonable, documented and invoiced fees, expenses and disbursements of one primary counsel for Arranger, Agent, Issuing Lender and Lenders, taken as a whole (and, if reasonably determined by Agent to be necessary, a single outside local and a single outside special counsel in each jurisdiction material to the interests of all such Persons taken as a whole for all such Persons taken as a whole and, in the case of an actual or perceived conflict of interest where such Person affected by such conflict informs Borrower of such conflict, one additional primary counsel for all such Persons subject to such conflict taken as a whole)) and counsel otherwise retained with Borrower's consent (which consent shall not be unreasonably withheld or delayed).

12.7 Further Assurances

At the reasonable request of Agent at any time and from time to time, each Credit Party shall, at its expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be necessary to evidence, perfect, maintain and enforce the Liens and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of any of the Financing Agreements. Where permitted by law, each Credit Party hereby authorizes Agent to execute and file one or more PPSA, UCC or other financing statements or notices signed only by Agent or Agent's representative.

ARTICLE 13
MISCELLANEOUS

13.1 Notice

All notices, requests and demands hereunder shall be in writing and (a) made to Agent and Lenders at their respective addresses set forth below and to Borrower (on behalf of itself and each other Credit Party) at its chief executive office set forth below, or to such other address as any party may designate by written notice to the other in accordance with this provision, and (b) deemed to have been given or made: if delivered in person, immediately upon delivery; if by email or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next Business Day, one (1) Business Day after sending; and if by registered mail, return receipt requested, five (5) days after mailing.

13.2 Partial Invalidity

If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by Applicable Law.

13.3 Successors

The Financing Agreements and any other document referred to herein or therein shall be binding upon and inure to the benefit of and be enforceable by Agent, Lenders and each Credit Party and their respective successors and permitted assigns.

13.4 Entire Agreement

The Financing Agreements, any supplements hereto or thereto, and any instruments or documents delivered or to be delivered in connection herewith or therewith represents the entire agreement and understanding concerning the subject matter hereof and thereof between the parties hereto, and supersede all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written. In the event of any inconsistency between the terms of this Agreement and any schedule or exhibit hereto, the terms of this Agreement shall govern.

13.5 Headings

The division of this Agreement into sections and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

13.6 Judgment Currency

To the extent permitted by Applicable Law, the obligations of Borrower in respect of any amount due under this Agreement shall, notwithstanding any payment in any other currency (the “**Other Currency**”) (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the currency in which it is due (the “**Agreed Currency**”) that Agent may, in accordance with normal banking procedures, purchase with the sum paid in the Other Currency (after any premium and costs of exchange) on the Business Day immediately after the day on which Agent receives the payment. If the amount in the Agreed Currency that may be so purchased for any reason falls short of the amount originally due, Borrower shall pay all additional amounts, in the Agreed Currency, as may be necessary to compensate for the shortfall. Any obligation of Borrower not discharged by that payment shall, to the extent permitted by Applicable Law, be due as a separate and independent obligation and, until discharged as provided in this section, continue in full force and effect.

13.7 Counterparts and Facsimile; Electronic Execution

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement. The delivery of a facsimile or pdf copy of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement, but the party delivering a facsimile or pdf copy shall deliver to the other party an original copy of this Agreement as soon as possible after delivering the facsimile or pdf copy.

The words “execute,” “execution,” “signed,” “signature,” “delivery” and words of like import in or related to this Agreement, any other Financing Agreement or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Agreement or any other Financing Agreement or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into PDF format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Agent pursuant to procedures approved by it; provided that without limiting the foregoing, (a) to the extent the Agent has agreed to accept such Electronic Signature from any party hereto, the Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on

behalf of the executing party without further verification and (b) upon the request of the Agent or any Lender, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (i) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Agent, the Lenders and any of the Credit Parties, electronic images of this Agreement or any other Financing Agreement (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (ii) waives any argument, defense or right to contest the validity or enforceability of the Financing Agreements based solely on the lack of paper original copies of any Financing Agreements, including with respect to any signature pages thereto.

13.8 Patriot Act Notice

Agent and each Lender which is subject to the *Patriot Act* or any other Anti-Money Laundering Laws hereby notifies each Credit Party that pursuant to the requirements of the *Patriot Act* or such other Anti-Money Laundering Laws, it is required to obtain, verify and record information that identifies each person or corporation who opens an account and/or enters into a business relationship with it, which information includes the name and address of each Credit Party and its Subsidiaries and other information that will allow Agent and such Lender to identify such person in accordance with the *Patriot Act* and any other Applicable Law. Each Credit Party is hereby advised that any Loans or Letter of Credit Accommodations hereunder are subject to satisfactory results of such verification.

13.9 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Financing Agreement or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Financing Agreement, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing Agreement; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

13.10 Acknowledgement Regarding Any Supported QFCs.

To the extent that the Financing Agreements provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, “QFC Credit Support” and, each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Financing Agreements and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Financing Agreements that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Financing Agreements were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 13.10, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

13.11 Divisions. For all purposes under the Financing Agreements, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

13.12 Certain ERISA Matters.

- (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:
- (i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations or the Commitments or this Agreement;
 - (ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement;

- (iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement; or
 - (iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lender.
- (b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that none of the Agent, the Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Financing Agreement or any documents related hereto or thereto).

ARTICLE 14
ACKNOWLEDGMENT AND RESTATEMENT

14.1 [Reserved].

14.2 Acknowledgment of Security Interests

- (a) Borrower hereby acknowledges, confirms and agrees that Agent, on behalf of itself and Secured Parties, shall continue to have a Lien upon the Collateral heretofore granted to Original Lender and Original Agent pursuant to and in connection with the Original Loan Agreement, the First Amended and Restated Credit Agreement, the Second Amended and Restated Credit Agreement, the Third Amended and Restated Credit Agreement and the Fourth Amended and Restated Credit Agreement, as the case may be, to secure the Obligations, as well as any Collateral granted under or in connection with this Agreement or under any of the other Financing Agreements or otherwise granted to or held by Agent, any Lender, Original Lender, Original Agent, any Secured Party or any of their respective Affiliates.

- (b) The Liens of Agent, on behalf of itself and Secured Parties, in the Collateral shall be deemed to be continuously granted and perfected from the earliest date of the granting and perfection of such Liens to Original Lender, Original Agent or Agent under the Financing Agreements or any Secured Hedge Agreements.
- (c) Notwithstanding any term of any Financing Agreement, Borrower acknowledges, confirms and agrees that all security granted by it under, or in connection with, the Original Loan Agreement, the First Amended and Restated Credit Agreement, the Second Amended and Restated Credit Agreement, the Third Amended and Restated Credit Agreement, the Fourth Amended and Restated Credit Agreement and the other Financing Agreements shall be held by Agent, on behalf of itself and Secured Parties (including those under Secured Hedge Agreements and Secured Cash Management Agreements), to secure the Obligations (including those arising under the Secured Hedge Agreements and Secured Cash Management Agreements).

14.3 [Reserved].

14.4 Restatement

- (a) Except as otherwise stated in Section 14.2 hereof and this Section 14.4, as of the Closing Date, the terms, conditions, agreements, covenants, representations and warranties set forth in the Fourth Amended and Restated Credit Agreement are simultaneously amended and restated in their entirety, and as so amended and restated, replaced and superseded by the terms, conditions, agreements, covenants, representations and warranties set forth in this Agreement and the other Financing Agreements executed and/or delivered on or after the Closing Date, except that nothing herein or in the other Financing Agreements shall impair or adversely affect the continuation of the liability of Borrower for the Obligations heretofore incurred and the Liens and other interests in the Collateral heretofore granted, pledged and/or assigned by Borrower to Agent, Original Lender, Original Agent, any Lender, any Secured Party or any of their respective Affiliates (whether directly, indirectly or otherwise).
- (b) The amendment and restatement contained herein shall not, in any manner, be construed to constitute payment of (other than any actual repayment of outstanding amounts), or impair, limit, cancel or extinguish, or constitute a novation in respect of, the Obligations and other obligations, liabilities and indebtedness of Borrower evidenced by or arising under the Fourth Amended and Restated Credit Agreement, and the Liens of Agent, on behalf of itself and Secured Parties, securing such Obligations and other obligations, liabilities and indebtedness, which shall not in any manner be impaired, limited, terminated, waived or released, but shall continue in full force and effect in favor of Agent, for the benefit of itself and Secured Parties.

- (c) All loans, advances and other financial accommodations under the Fourth Amended and Restated Credit Agreement and all other obligations, liabilities and indebtedness of Borrower outstanding and unpaid as of the Closing Date pursuant to the Fourth Amended and Restated Credit Agreement or otherwise shall be deemed Obligations of Borrower pursuant to the terms hereof (other than any actual repayment of outstanding amounts). The principal amount of the Revolving Loans and the amount of the Letter of Credit Accommodations outstanding as of the Closing Date under the Fourth Amended and Restated Credit Agreement shall be allocated to the Revolving Loans and Letter of Credit Accommodations hereunder in such manner and in such amounts as Agent shall determine in accordance with the terms hereof (other than any actual repayment of outstanding amounts).

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IMAX Corporation Announces Proposed Convertible Senior Notes Offering

New York—March 15, 2021—IMAX Corporation (NYSE: IMAX) (“IMAX”) today announced its intention to offer, subject to market and other conditions, \$200,000,000 aggregate principal amount of convertible senior notes due 2026 (the “notes”) in a private offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”), and pursuant to exemptions from the prospectus requirements of applicable Canadian securities laws. IMAX also expects to grant the initial purchasers of the notes an option to purchase, for settlement within a period of 13 days from, and including, the date the notes are first issued, up to an additional \$30,000,000 principal amount of notes.

The notes will be senior unsecured obligations of IMAX, will accrue interest payable semi-annually in arrears and will mature on April 1, 2026, unless earlier repurchased, redeemed or converted. Noteholders will have the right to convert their notes in certain circumstances and during specified periods. IMAX will settle conversions in cash or a combination of cash and IMAX’s common shares at its election. The notes will be redeemable, in whole or in part, for cash at IMAX’s option at any time, and from time to time, on or after April 6, 2024 and on or before the 40th scheduled trading day immediately before the maturity date, but only if the last reported sale price per common share exceeds 130% of the conversion price for a specified period of time. In addition, the notes will be redeemable, in whole and not in part, at IMAX’s option at any time in connection with certain changes in tax law. The redemption price will be equal to the principal amount of the notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date. The interest rate, initial conversion rate and other terms of the notes will be determined at the pricing of the offering.

IMAX intends to use approximately \$150 million of the net proceeds to repay outstanding indebtedness under its credit facility, and the remainder for working capital or other general corporate purposes.

In connection with the pricing of the notes, IMAX expects to enter into privately negotiated capped call transactions with one or more of the initial purchasers or their affiliates and/or other financial institutions (the “option counterparties”). The capped call transactions are expected to cover, subject to anti-dilution adjustments substantially similar to those applicable to the notes, the number of IMAX’s common shares underlying the notes. If the initial purchasers exercise their option to purchase additional notes, IMAX expects to enter into additional capped call transactions with the option counterparties. IMAX intends to fund the cost of entering into the capped call transactions described above with cash on hand. If the initial purchasers exercise their option to purchase additional notes, then IMAX intends to use additional cash on hand to fund the cost of entering into additional capped call transactions.

The capped call transactions are expected generally to reduce the potential dilution to IMAX’s common shares upon any conversion of the notes and/or offset any potential cash payments IMAX is required to make in excess of the principal amount of converted notes, as the case may be, upon conversion of the notes. If, however, the market price per common share, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions, there would nevertheless be dilution and/or there would not be an offset of such potential cash payments, in each case, to the extent that such market price exceeds the cap price of the capped call transactions.

In connection with establishing their initial hedges of the capped call transactions, the option counterparties or their respective affiliates expect to enter into various derivative transactions with respect to IMAX's common shares and/or purchase common shares concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of IMAX's common shares or the notes at that time.

In addition, the option counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to IMAX's common shares and/or purchasing or selling IMAX's common shares or other securities in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so during any observation period related to a conversion of notes, or following any repurchase, redemption or early conversion of notes). This activity could also cause or avoid an increase or decrease in the market price of IMAX's common shares or the notes, which could affect the ability to convert the notes, and, to the extent the activity occurs during any observation period related to a conversion of notes, it could affect the number of shares, if any, and value of the consideration that noteholders will receive upon conversion of the notes.

The offer and sale of the notes and any common shares issuable upon conversion of the notes have not been, and will not be, registered under the Securities Act or any other securities laws, or qualified by way of a prospectus in any province or territory of Canada. The notes and any such shares cannot be offered or sold except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any other applicable securities laws, and may not be offered or sold to persons located or resident in Canada except pursuant to an exemption from the prospectus requirements of applicable Canadian securities laws. This press release does not constitute an offer to sell, or the solicitation of an offer to buy, the notes or any common shares issuable upon conversion of the notes, nor will there be any sale of the notes or any such shares, in any state or other jurisdiction in which such offer, sale or solicitation would be unlawful.

About IMAX Corporation

IMAX, an innovator in entertainment technology, combines proprietary software, architecture and equipment to create experiences that take you beyond the edge of your seat to a world you've never imagined. Top filmmakers and studios are utilizing IMAX theaters to connect with audiences in extraordinary ways, and, as such, IMAX's network is among the most important and successful theatrical distribution platforms for major event films around the globe.

IMAX is headquartered in New York, Toronto, and Los Angeles, with additional offices in London, Dublin, Tokyo, and Shanghai. As of December 31, 2020, there were 1,650 IMAX theater systems (1,562 commercial multiplexes, 12 commercial destinations, 76 institutional) operating in 84 countries and territories. Shares of IMAX China Holding, Inc., a subsidiary of IMAX Corporation, trade on the Hong Kong Stock Exchange under the stock code "HK.1970."

IMAX®, IMAX® Dome, IMAX® 3D, IMAX® 3D Dome, Experience It In IMAX®, The IMAX Experience®, An IMAX Experience®, An IMAX 3D Experience®, IMAX DMR®, DMR®, IMAX nXos® and Films to the Fullest®, are trademarks and trade names of IMAX or its subsidiaries that are registered or otherwise protected under laws of various jurisdictions.

Forward-Looking Statements

This press release contains forward looking statements, including statements regarding the completion of the offering, the conversion terms of the notes, the expected amount and intended use of the net proceeds, the effects of entering into the capped call transactions described above and the entering into of additional capped call transactions and the funding of such transactions, in each case, that are based on IMAX management's assumptions and existing information and involve certain risks and uncertainties which could cause actual results to differ materially from future results expressed or implied by such forward looking statements. Important factors that could affect these statements include, but are not limited to, references to business and technology strategies and measures to implement strategies, competitive strengths, goals, expansion and growth of business, operations and technology, future capital expenditures (including the amount and nature thereof), plans and references to the future success of IMAX together with its consolidated subsidiaries (the "Company") and expectations regarding the Company's future operating, financial and technological results. These forward-looking statements are based on certain assumptions and analyses made by the Company in light of its experience and its perception of historical trends, current conditions and expected future developments, as well as other factors it believes are appropriate in the circumstances. However, whether actual results and developments will conform with the expectations and predictions of the Company is subject to a number of risks and uncertainties, including, but not limited to, the impact of COVID-19 on the Company's business, financial conditions and results of operations and on the businesses of our customers and exhibitor partners; risks associated with investments and operations in foreign jurisdictions and any future international expansion, including those related to economic, political and regulatory policies of local governments and laws and policies of the United States and Canada; risks related to the Company's growth and operations in China; the performance of IMAX DMR® films; the signing of IMAX Theater System agreements; conditions, changes and developments in the commercial exhibition industry and broader entertainment industry, including both the in-home and out-of-home entertainment markets; risks related to currency fluctuations; the potential impact of increased competition in the markets within which the Company operates, including competitive actions by other companies; the failure to respond to change and advancements in entertainment technology; risks relating to consolidation among commercial exhibitors and movie studios; risks related to new business initiatives that may be presented to and pursued by the Company; risks related to cyber-security and data privacy; risks related to the Company's inability to protect the Company's intellectual property; general economic, market or business conditions; the failure to convert IMAX Theater System backlog into revenue; changes in laws or regulations; the failure to fully realize the projected cost savings and benefits from any of the Company's restructuring initiatives; assumptions related to the foregoing; other risks outlined in our periodic filings with the SEC; and other factors, many of which are beyond the control of the Company. Consequently, all of the forward-looking statements made in this earnings release are qualified by these cautionary statements, and actual results or anticipated developments by the Company may not be realized,

and even if substantially realized, may not have the expected consequences to, or effects on, the Company. These factors, other risks and uncertainties and financial details are discussed in IMAX's most recent Annual Report on Form 10-K and Quarterly Reports on Form 10-Q. The Company undertakes no obligation to update publicly or otherwise revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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IMAX Corporation Prices \$200 Million Convertible Senior Notes Offering

New York—March 16, 2021—IMAX Corporation (NYSE: IMAX) (“IMAX”) today announced the pricing of \$200,000,000 aggregate principal amount of 0.500% convertible senior notes due 2026 (the “notes”) in a private offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”), and pursuant to exemptions from the prospectus requirements of applicable Canadian securities laws. The issuance and sale of the notes are scheduled to settle on March 19, 2021, subject to customary closing conditions. IMAX also granted the initial purchasers of the notes an option to purchase, for settlement within a period of 13 days from, and including, the date the notes are first issued, up to an additional \$30,000,000 principal amount of notes.

The notes will be senior unsecured obligations of IMAX and will accrue interest at a rate of 0.500% per annum, payable semi-annually in arrears on April 1 and October 1 of each year, beginning on October 1, 2021. The notes will mature on April 1, 2026, unless earlier repurchased, redeemed or converted. Before January 1, 2026, noteholders will have the right to convert their notes only upon the occurrence of certain events. From and after January 1, 2026, noteholders may convert their notes at any time at their election until the close of business on the second scheduled trading day immediately before the maturity date. IMAX will have the right to elect to settle conversions either in cash or in a combination of cash and common shares. However, upon conversion of any notes, the conversion value, which will be determined over a period of 40 trading days, will be paid in cash up to at least the principal amount of the notes being converted. The initial conversion rate is 34.7766 common shares per \$1,000 principal amount of notes, which represents an initial conversion price of approximately \$28.75 per common share. The initial conversion price represents a premium of 35% over the last reported sale price of \$21.30 per common share on March 16, 2021 on The New York Stock Exchange. The conversion rate and conversion price will be subject to adjustment upon the occurrence of certain events.

The notes will be redeemable, in whole or in part, for cash at IMAX’s option at any time, and from time to time, on or after April 6, 2024 and on or before the 40th scheduled trading day immediately before the maturity date, but only if the last reported sale price per common share exceeds 130% of the conversion price for a specified period of time. In addition, the notes will be redeemable, in whole and not in part, at IMAX’s option at any time in connection with certain changes in tax law. The redemption price will be equal to the principal amount of the notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date.

If a “fundamental change” (as defined in the indenture for the notes) occurs, then, subject to a limited exception, noteholders may require IMAX to repurchase their notes for cash. The repurchase price will be equal to the principal amount of the notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the applicable repurchase date.

IMAX estimates that the net proceeds from the offering will be approximately \$193.3 million (or approximately \$222.5 million if the initial purchasers fully exercise their option to purchase additional notes), after deducting the initial purchasers’ discounts and commissions and estimated offering expenses. IMAX intends to use approximately \$150 million of the net proceeds to repay outstanding indebtedness under its credit facility, and the remainder for working capital or other general corporate purposes.

In connection with the pricing of the notes, IMAX entered into privately negotiated capped call transactions with certain of the initial purchasers or their affiliates and other financial institutions (the “option counterparties”). The capped call transactions will cover, subject to anti-dilution adjustments substantially similar to those applicable to the notes, the number of IMAX’s common shares underlying the notes. If the initial purchasers exercise their option to purchase additional notes, IMAX expects to enter into additional capped call transactions with the option counterparties. IMAX intends to fund the cost of entering into the capped call transactions described above with cash on hand. If the initial purchasers exercise their option to purchase additional notes, then IMAX intends to use additional cash on hand to fund the cost of entering into additional capped call transactions.

The cap price of the capped call transactions will initially be \$37.2750 per share, which represents a premium of 75% over the last reported sale price of IMAX’s common shares of \$21.30 per share on March 16, 2021, and is subject to certain adjustments under the terms of the capped call transactions.

The capped call transactions are expected generally to reduce the potential dilution to IMAX’s common shares upon any conversion of the notes and/or offset any potential cash payments IMAX is required to make in excess of the principal amount of converted notes, as the case may be, upon conversion of the notes. If, however, the market price per common share, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions, there would nevertheless be dilution and/or there would not be an offset of such potential cash payments, in each case, to the extent that such market price exceeds the cap price of the capped call transactions.

In connection with establishing their initial hedges of the capped call transactions, the option counterparties or their respective affiliates expect to enter into various derivative transactions with respect to IMAX’s common shares and/or purchase common shares concurrently with or shortly after the pricing of the notes. This activity could increase (or reduce the size of any decrease in) the market price of IMAX’s common shares or the notes at that time.

In addition, the option counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to IMAX’s common shares and/or purchasing or selling IMAX’s common shares or other securities in secondary market transactions following the pricing of the notes and prior to the maturity of the notes (and are likely to do so during any observation period related to a conversion of notes, or following any repurchase, redemption or early conversion of notes). This activity could also cause or avoid an increase or decrease in the market price of IMAX’s common shares or the notes, which could affect the ability to convert the notes, and, to the extent the activity occurs during any observation period related to a conversion of notes, it could affect the number of shares, if any, and value of the consideration that noteholders will receive upon conversion of the notes.

The offer and sale of the notes and any common shares issuable upon conversion of the notes have not been, and will not be, registered under the Securities Act or any other securities laws, or qualified by way of a prospectus in any province or territory of Canada. The notes and any such shares cannot be offered or sold except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any other applicable securities laws, and may not be offered or sold to persons located or resident in Canada except pursuant to an exemption from the prospectus requirements of applicable Canadian securities laws. This press release does not constitute an offer to sell, or the solicitation of an offer to buy, the notes or any common shares issuable upon conversion of the notes, nor will there be any sale of the notes or any such shares, in any state or other jurisdiction in which such offer, sale or solicitation would be unlawful.

About IMAX Corporation

IMAX, an innovator in entertainment technology, combines proprietary software, architecture and equipment to create experiences that take you beyond the edge of your seat to a world you've never imagined. Top filmmakers and studios are utilizing IMAX theaters to connect with audiences in extraordinary ways, and, as such, IMAX's network is among the most important and successful theatrical distribution platforms for major event films around the globe.

IMAX is headquartered in New York, Toronto, and Los Angeles, with additional offices in London, Dublin, Tokyo, and Shanghai. As of December 31, 2020, there were 1,650 IMAX theater systems (1,562 commercial multiplexes, 12 commercial destinations, 76 institutional) operating in 84 countries and territories. Shares of IMAX China Holding, Inc., a subsidiary of IMAX Corporation, trade on the Hong Kong Stock Exchange under the stock code "HK.1970."

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