

TAB D

**THIS IS EXHIBIT “D” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.

EXECUTION COPY**CANADIAN PLEDGE AND SECURITY AGREEMENT**

CANADIAN PLEDGE AND SECURITY AGREEMENT, dated as of October 23, 2012, made by B&W Heat Treating Canada ULC, an Alberta unlimited liability company (the "Canadian Borrower"), together with any other entity that may become a party hereto as provided herein, each a "Grantor" and collectively, the "Grantors", in favour of Cerberus Business Finance, LLC, a Delaware limited liability company ("Cerberus"), in its capacity as collateral agent for the Secured Parties referred to below (in such capacity, together with its successors and assigns in such capacity, if any, the "Collateral Agent").

W I T N E S S E T H:

WHEREAS, BWT LLC, a Delaware limited liability company (the "Parent") as the initial term loan borrower and immediately upon consummation of the Acquisition, Harbor Metals LLC, a Delaware limited liability company ("Harbor"), Benton Harbor LLC, a Delaware limited liability company ("Benton"), Hi-Temp LLC, a Delaware limited liability company ("Hi-Temp"), Hi-Temp Northlake LLC, a Delaware limited liability company ("Hi-Temp Northlake"), Brazing Concepts LLC, a Delaware limited liability company ("Brazing"), PIHT LLC, a Delaware limited liability company ("PIHT"), B&W Heat Trading LLC, a Delaware limited liability company ("B&W"), B&W Canada LLC, a Delaware limited liability company ("B&W Canada") Saginaw LLC, a Delaware limited liability company ("Saginaw"), each subsidiary of Harbor, Benton, Hi-Temp, Hi-Temp Northlake, Brazing, PIHT, B&W, B&W Canada and Saginaw listed as a "US Borrower" on the signature pages thereto (together with Parent, Harbor, Benton, Hi-Temp, Hi-Temp Northlake, Brazing, PIHT, B&W, B&W Canada, Saginaw and each other Person that executes a joinder agreement and becomes a "US Borrower" thereunder, each a "US Borrower" and collectively, the "US Borrowers"), the Canadian Borrower (together with the US Borrowers, collectively and, subject to Section 4.06 of the Financing Agreement, jointly and severally, the "Borrowers"), BWT Holdings LLC, a Delaware limited liability company (the "Ultimate Parent") each subsidiary of the Ultimate Parent listed as a "Guarantor" on the signature pages thereto (together with the Ultimate Parent, the Canadian Borrower, and each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder or otherwise guaranties all or any part of the Obligations, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), Cerberus, as administrative agent for the Lenders, and the Collateral Agent are parties to a Financing Agreement, dated as of October 23, 2012 (such agreement, as amended, restated, supplemented, modified or otherwise changed from time to time, including any replacement agreement therefor, being hereinafter referred to as the "Financing Agreement");

WHEREAS, pursuant to the Financing Agreement, the Lenders have agreed to make certain revolving loans and term loans (each a "Loan" and collectively, the "Loans") to the Borrowers in an aggregate principal amount at any one time outstanding not to exceed the Total Revolving Credit Commitment and the Total Term Loan Commitment (as such terms are defined in the Financing Agreement);

WHEREAS, it is a condition precedent to the Lenders making any Loan and providing any other financial accommodation to the Borrowers pursuant to the Financing Agreement that each Grantor shall have executed and delivered to the Collateral Agent a pledge

to the Collateral Agent, for the benefit of the Secured Parties, and the grant to the Collateral Agent, for the benefit of the Secured Parties, of (a) a security interest in and Lien on the outstanding Equity Interests (as defined in the Financing Agreement) and indebtedness from time to time owned by such Grantor of each Person now or hereafter existing and in which such Grantor has any interest at any time, and (b) a security interest in all or substantially all other personal property and fixtures of such Grantor;

WHEREAS, the Grantors and the other Loan Parties are dependent on each other in the conduct of their respective businesses, with credit needed from time to time by each Grantor often being provided through financing obtained by the other Loan Parties and the ability to obtain such financing being dependent on the successful operations of all of the Grantors and the Loan Parties as a whole; and

WHEREAS, each Grantor has determined that the execution, delivery and performance of this Agreement directly benefit, and are in the business interest of such Grantor;

NOW, THEREFORE, in consideration of the premises and the agreements herein and in order to induce the Collateral Agent and the Lenders to make and maintain the Loans to the Borrowers pursuant to the Financing Agreement, the Grantors hereby jointly and severally agree with the Collateral Agent, for the benefit of the Secured Parties, as follows:

SECTION 1. Definitions.

(a) Reference is hereby made to the Financing Agreement for a statement of the terms thereof. All capitalized terms used in this Agreement and the recitals hereto which are defined in the Financing Agreement and which are not otherwise defined herein shall have the same meanings herein as set forth therein.

(b) Capitalized terms used herein and defined in the PPSA which are not otherwise defined in this Agreement have the meanings provided in the PPSA, including, without limitation: "Accessions", "Accounts", "Chattel Paper", "Document of Title", "Equipment", "Goods", "Instruments", "Intangible", "Inventory", "Investment Property", "financing statement", "financing change statement", "Money", "Proceeds" and "verification statement". However, the term "Goods" when used herein does not include "Consumer Goods" as that term is defined in the PPSA.

(c) Capitalized terms used herein and defined in the STA which are not otherwise defined in this Agreement or the PPSA have the meanings provided in the STA, including, without limitation: "Certificated Security", "Entitlement Holder", "Entitlement Order", "Financial Asset", "Securities", "Securities Account", "Securities Intermediary", "Security Entitlement" and "Uncertificated Security".

(d) As used in this Agreement, the following terms shall have the respective meanings indicated below, such meanings to be applicable equally to both the singular and plural forms of such terms:

"Additional Collateral" has the meaning specified therefor in Section 4(a)(i) hereof.

"Collateral" has the meaning given to it in Section 2.

"Control" means, with respect to a specified form of Investment Property, "control" as defined in sections 23 through 26 of the STA as applicable to such form of Investment Property.

"Copyright Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensee or licensor and providing for the grant of any right to use or sell any works covered by any Copyright (including, without limitation, all such licenses, contracts or other agreements set forth in Schedule II hereto).

"Deposit Accounts" means any demand, time, savings, passbook or like account maintained with a depository institution.

"Design Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensee or licensor and providing for the grant of any right concerning any Design (including, without limitation, all Design Licenses described in Schedule II hereto).

"Excluded Property" shall mean:

(a) any Investment Property or Intangibles or assets governed thereby (including any license, contract, permit, lease or franchise to the extent deemed an Intangible), now or hereafter held or owned by any Grantor, to the extent, in each case, that (i) a security interest may not be granted by a Grantor in such Investment Property or Intangibles as a matter of law or (ii) a security interest may not be granted under the express terms of the governing documents applicable to such Intangible or Investment Property, without the consent of one or more applicable parties thereto so long as such consent from such applicable party or parties is not from either Parent or another Loan Party under the Financing Agreement,

(b) fixtures located on premises leased by any Grantor to the extent the pledge thereof or grant of a security interest therein is (i) validly prohibited by the lease governing such premises and (ii) would result in the forfeiture of any Grantor's right, title or interest thereunder under applicable law; provided, however, that at such time as any such grant of a security interest in any fixture shall not result in a forfeiture thereunder under applicable law, such fixture shall (without any further act or delivery by any Person) constitute Collateral hereunder,

(c) equipment owned by any Grantor that is subject to a Permitted Lien or a Lien securing Permitted Indebtedness if the contract or other agreement applicable to such Permitted Indebtedness validly prohibits the creation of any other Lien on such equipment,

(d) any intent-to-use trademark application or other Intellectual Property to the extent and for so long as creation by a Grantor of a security interest therein would result in the abandonment, cancellation, invalidation or unenforceability thereof provided however, that Excluded Property shall not include any Proceeds, substitutions or replacements of any Excluded Property referred to in this clause (d) (unless such Proceeds, substitutions or replacements would constitute Excluded Property referred to in this clause (d)),

(e) any permit or License to the extent a grant of a security interest or Lien therein would result in a breach or termination pursuant to the terms of, or a default under, any such License, and

(f) any accounts used in connection with pledges or deposits permitted under the definition of "Permitted Liens" in the Financing Agreement.

"Existing Issuer" has the meaning specified therefor in the definition of the term "Pledged Shares".

"Intellectual Property" means all U.S and non-U.S. (i) published and unpublished works of authorship (including, without limitation, computer software), copyrights therein and thereto, copyrighted works and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof, including, without limitation, all copyright registrations and applications listed in Schedule II hereto (collectively, "Copyrights"); (ii) inventions and discoveries and all patents, registrations, and applications therefor, including, without limitation, divisionals, continuations, continuations-in-part and renewal applications, and all renewals, extensions and reissues, including, without limitation, all patents and patent applications listed in Schedule II hereto (collectively, "Patents"); (iii) trademarks, service marks, brand names, certification marks, collective marks, d/b/a's, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names, and other indicia of origin, all applications and registrations for all of the foregoing, and all goodwill associated therewith and symbolized thereby, and all extensions, modifications and renewals of same, including, without limitation, all trademark registrations and applications listed in Schedule II hereto (collectively, "Trademarks"); (iv) confidential and proprietary information, trade secrets and know-how, including, without limitation, processes, schematics, databases, formulae, drawings, prototypes, models, designs and customer lists (collectively, "Trade Secrets"); (v) right, title and interest in and to all industrial designs and intangibles of like nature (whether registered or unregistered), all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the Canadian Intellectual Property Office or in any similar office or agency in any other country or any political subdivision thereof, and all reissues, extensions or renewals thereof (collectively, "Designs"); and (vi) all other intellectual property or proprietary rights and claims or causes of action arising out of or related to any infringement, misappropriation or other violation of any of the foregoing, including, without limitation, rights to recover for past, present and future violations thereof (collectively, "Other Proprietary Rights").

"Investment Property Control Agreement" means: (a) with respect to any Uncertificated Securities included in the Collateral, an agreement between the issuer of such Uncertificated Securities and another Person whereby such issuer agrees to comply with instructions that are originated by such Person in respect of such Uncertificated Securities, without the further consent of the Grantor; and (b) with respect to any Security Entitlements in respect of Financial Assets included in the Collateral, an agreement between the Securities Intermediary in respect of such Security Entitlements and another Person pursuant to which such Securities Intermediary agrees to comply with any Entitlement Orders with respect to such Security Entitlements that are originated by such Person, without the further consent of the Grantor.

"Licenses" means the Copyright Licenses, the Patent Licenses, the Trademark Licenses and the Design Licenses.

"Patent Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensee or licensor and providing for the grant of any right to manufacture, use or sell any invention covered by any Patent (including, without limitation, all such licenses, contracts or other agreements set forth in Schedule II hereto).

"Perfection Requirements" has the meaning specified therefor in Section 5(1) hereof.

"Pledged Debt" means the indebtedness described in Schedule VI hereto and all indebtedness from time to time owned or acquired by a Grantor, the promissory notes and other Instruments evidencing any or all of such indebtedness, and all interest, cash, Instruments, Investment Property, financial assets, securities, Equity Interests, stock options and commodity contracts, notes, debentures, bonds, promissory notes or other evidences of indebtedness and all other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such indebtedness.

"Pledged Interests" means, collectively, (a) the Pledged Debt, (b) the Pledged Shares and (c) all Security Entitlements in any and all of the foregoing.

"Pledged Issuer" has the meaning specified therefor in the definition of the term "Pledged Shares".

"Pledged Shares" means (a) the Equity Interests described in Schedule VII hereto, whether or not evidenced or represented by any stock certificate, Certificated Security or other Instrument, issued by the Persons described in such Schedule VII (the "Existing Issuers"), (b) the Equity Interests at any time and from time to time acquired by a Grantor of any and all Persons now or hereafter existing (such Persons, together with the Existing Issuers, being hereinafter referred to collectively as the "Pledged Issuers" and each individually as a "Pledged Issuer"), whether or not evidenced or represented by any stock certificate, Certificated Security or other Instrument, and (c) the certificates representing such Equity Interests, all options and other rights, contractual or otherwise, in respect thereof and all dividends, distributions, cash, Instruments, Investment Property, financial assets, securities, Equity Interests, stock options and commodity contracts, notes, debentures, bonds, promissory notes or other evidences of indebtedness and all other property (including, without limitation, any stock dividend and any distribution in connection with a stock split) from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such Equity Interests; provided, however, the term "Pledged Shares" shall not include any Excluded Property.

"PPSA" means the *Personal Property Security Act* (Ontario), including the regulations thereto, provided that, if perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on the Collateral is governed by the personal property security legislation or other applicable legislation with respect to personal property security as in effect in a jurisdiction of Canada other than Ontario, "PPSA" means the *Personal Property Security Act* or such other applicable legislation as in effect from time to time in such other

jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

"Secured Parties" means, collectively, the Agents and the Lenders.

"Secured Obligations" has the meaning specified therefor in Section 3 hereof.

"STA" means the *Securities Transfer Act, 2006* (Ontario), including the regulations thereto, provided that, to the extent that perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on Collateral that is Investment Property is governed by the laws in effect in any province or territory of Canada other than the Province of Ontario in which there is in force legislation substantially the same as the *Securities Transfer Act, 2006* (Ontario) (an "Other STA Province"), then "STA" shall mean such other legislation as in effect from time to time in such Other STA Province for purposes of the provisions hereof referring to or incorporating by reference provisions of the STA; and to the extent that such perfection or the effect of perfection or non-perfection or the priority of any Lien created hereunder on the Collateral is governed by the laws of a jurisdiction other than Ontario or an Other STA Province, then references herein to the STA shall be disregarded except for the terms "Certificated Security" and "Uncertificated Security", which shall have the meanings herein as defined in the *Securities Transfer Act, 2006* (Ontario) regardless of whether the STA is in force in the applicable jurisdiction.

"Trademark Licenses" means all licenses, contracts or other agreements, whether written or oral, naming any Grantor as licensor or licensee and providing for the grant of any right concerning any Trademark, together with any goodwill connected with and symbolized by any such trademark licenses, contracts or agreements (including, without limitation, all such licenses, contracts or other agreements set forth in Schedule II hereto).

"ULC" means an unlimited liability company.

"ULC Shares" means any Equity Interests of a ULC.

SECTION 2. Grant of Security Interest.

(a) As collateral security for the payment, performance and observance of all of the Secured Obligations, each Grantor hereby pledges and collaterally assigns to the Collateral Agent (and its agents and designees), and grants to the Collateral Agent (and its agents and designees), for the benefit of the Secured Parties, a continuing security interest in, all right, title and interest in all of the present and after-acquired property of such Grantor, wherever located and whether now or hereafter existing and whether now owned or hereafter acquired, of every kind and description, tangible or intangible, including, without limitation the following personal property and fixtures of such Grantor (all being collectively referred to herein as the "Collateral"):

(i) all Accounts, including, without limitation, all book debts, claims, demands, moneys and choses in action whatsoever and Deposit Accounts, all cash, and all other property from time to time deposited therein or otherwise credited thereto and the

monies and property in the possession or under the control of any Agent or any Lender or any affiliate, representative, agent or correspondent of any Agent or any Lender;

- (ii) all Chattel Paper;
- (iii) all Documents of Title;
- (iv) all Equipment;
- (v) all Goods;
- (vi) all Instruments;
- (vii) all Intangibles;
- (viii) all Intellectual Property;
- (ix) all Inventory;
- (x) all Investment Property;
- (xi) all Money;
- (xii) all Pledged Interests;
- (xiii) all Securities;
- (xiv) all Securities Accounts;

(xv) all other tangible and intangible personal property of such Grantor (whether or not subject to the PPSA), including, without limitation, all bank and other accounts and all cash and all investments therein, all proceeds, products, offspring, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the property of such Grantor described in the preceding clauses of this Section 2 hereof (including, without limitation, any proceeds of insurance thereon and all causes of action, claims and warranties now or hereafter held by such Grantor in respect of any of the items listed above), and all books, correspondence, files and other records, including, without limitation, all tapes, disks, cards, software, data and computer programs in the possession or under the control of such Grantor or any other Person from time to time acting for such Grantor that at any time evidence or contain information relating to any of the property described in the preceding clauses of this Section 2 hereof or are otherwise necessary or helpful in the collection or realization thereof; and

(xvi) all Proceeds, including all cash proceeds and noncash proceeds, and products derived directly or indirectly from any dealing with any and all of the foregoing Collateral, including rights to insurance payments and other payments representing indemnity or compensation for loss or damage to Collateral or Proceeds;

in each case, howsoever such Grantor's interest therein may arise or appear (whether by ownership, security interest, claim or otherwise).

Notwithstanding anything herein to the contrary, the term "Collateral" shall not include Excluded Property (and any references herein to any portion or type of Collateral shall exclude the Excluded Property) unless the provision in the applicable license, contract or agreement to which such Grantor is a party as of the date hereof expressly prohibits the grant of a security interest in such Excluded Property (other than property described in clause (d) of the definition of "Excluded Property") (A) has been waived or (B) would be rendered ineffective pursuant to PPSA or any other applicable law (including the *Bankruptcy and Insolvency Act* (Canada) and the *Companies' Creditors Arrangement Act* (Canada)) or principles of equity; provided, that (x) immediately upon the ineffectiveness, lapse, termination or waiver of any such provision, the Collateral shall include, and such Grantor shall be deemed to have granted a security interest in, all such right, title and interest as if such provision had never been in effect and (y) the foregoing exclusion shall in no way be construed so as to limit, impair or otherwise affect the Collateral Agent's unconditional continuing security interest in and liens upon any rights or interests of a Grantor in or to the proceeds of, or any monies due or to become due under, any such license, contract or agreement.

(b) Exception Respecting Trademarks. Notwithstanding the foregoing, the Grantors' grant of security in Trademarks (as defined in the *Trade-marks Act* (Canada)) under this Agreement shall be limited to a grant by the Grantors of a security interest in all of Grantors' right, title and interest in such Trademarks and not an assignment thereof.

(c) Attachment of Security Interest. The parties hereby acknowledge that (a) value has been given by the Secured Parties; (b) each Grantor has (or in the case of any after-acquired property, will have at the time of acquisition) rights in the Collateral in which it has granted a security interest or the power to transfer rights in the Collateral; (c) this Agreement constitutes a security agreement as that term is defined in the PPSA; (d) the security interest attaches upon the execution of this Agreement (or in the case of any after-acquired property, at the time of acquisition thereof); and (e) the parties have not otherwise agreed to postpone the time of attachment.

(d) Liability for Deficiency. If the Collateral is realized upon and such Collateral or the proceeds of such Collateral is not sufficient to satisfy all Secured Obligations, the Grantors acknowledge and agree that, subject to the provisions of the PPSA, the Grantors shall continue to be liable for any Secured Obligations remaining outstanding and the Collateral Agent shall be entitled to pursue full payment thereof.

(e) Last Day. The security interest granted hereby does not extend or apply to the last day of the term of any lease or sublease of real property or any agreement for a lease or sublease of real property, now held or hereafter acquired by a Grantor, but a Grantor will stand possessed of any such last day upon trust to assign and dispose of it as the Collateral Agent may reasonably direct.

SECTION 3. Security for Secured Obligations. The security interest created hereby in the Collateral constitutes continuing collateral security for all of the following

obligations, whether now existing or hereafter incurred (the "Secured Obligations");

(a) the prompt payment by each Grantor, as and when due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), of all amounts from time to time owing by it in respect of the Financing Agreement and/or the other Loan Documents to which the Grantors are parties, including, without limitation, (i) all Obligations of such Grantor, (ii) in the case of a Guarantor, all Guaranteed Obligations and (iii) all interest, fees, commissions, charges, expense reimbursements, indemnifications and all other amounts due or to become due under any Loan Document (including, without limitation, all interest, fees, commissions, charges, expense reimbursements, indemnifications and other amounts that accrue after the commencement of any Insolvency Proceeding of any Loan Party, whether or not the payment of such interest, fees, commissions, charges, expense reimbursements, indemnifications and other amounts are unenforceable or are not allowable, in whole or in part, due to the existence of such Insolvency Proceeding); and

(b) the due performance and observance by each Grantor of all of its other obligations from time to time existing in respect of the Loan Documents.

SECTION 4. Delivery of the Pledged Interests.

(a) (i) All promissory notes with a value in excess of \$200,000 currently evidencing the Pledged Debt and all certificates currently representing the Pledged Shares shall be delivered to the Collateral Agent (or its custodian, designee or other nominee) on or prior to the execution and delivery of this Agreement. All other promissory notes with a value in excess of \$200,000, certificates representing the Pledged Shares and Instruments with a value in excess of \$200,000 constituting Pledged Interests from time to time required to be pledged to the Collateral Agent pursuant to the terms of this Agreement or the Financing Agreement (the "Additional Collateral") shall be delivered to the Collateral Agent (or its custodian, designee or other nominee) promptly upon, but in any event within ten (10) days of, receipt thereof by or on behalf of any of the Grantors. All such promissory notes, certificates and Instruments shall be held by or on behalf of the Collateral Agent (or its custodian, designee or other nominee) pursuant hereto and shall be delivered in suitable form for transfer by delivery or shall be accompanied by duly executed instruments of transfer or assignment or undated stock powers executed in blank, all in form and substance reasonably satisfactory to the Collateral Agent. If any Pledged Interests consists of Uncertificated Securities, unless the immediately following sentence is applicable thereto, such Grantor shall promptly notify the Collateral Agent thereof and at the Collateral Agent's request cause the Collateral Agent (or its designated custodian or nominee) to become the registered holder thereof, or cause each issuer of such Securities to agree that it will comply with instructions originated by the Collateral Agent with respect to such Securities without further consent by such Grantor. If any Pledged Interests consists of Security Entitlements, such Grantor shall promptly notify the Collateral Agent thereof and at the Collateral Agent's request transfer such Security Entitlements to the Collateral Agent (or its custodian, nominee or other designee), or cause the applicable Securities Intermediary to agree that it will comply with entitlement orders by the Collateral Agent without further consent by such Grantor. Notwithstanding the foregoing, the Collateral Agent hereby agrees that it will (A) not send any instructions or Entitlement Orders to any depository bank, issuer, commodity intermediary or Securities Intermediary unless an Event of Default has occurred and is then

continuing, and (B) so long as no Event of Default has occurred and is continuing, and with regard only to those Pledged Interests consisting of uncertified Securities of which pursuant to this Section 4(a)(i) it is the registered owner, comply with the Grantors' instructions, to the extent such instructions will not violate any applicable law or any provision of the Loan Documents.

(ii) Within fifteen (15) days of the receipt by any Grantor of any Additional Collateral, a Pledge Amendment, duly executed by such Grantor, in substantially the form of Exhibit A hereto (a "Pledge Amendment"), shall, unless waived by the Collateral Agent, be delivered to the Collateral Agent, in respect of the Additional Collateral that must be pledged pursuant to this Agreement and the Financing Agreement. The Pledge Amendment shall from and after delivery thereof constitute part of Schedules VI and VII hereto. Each Grantor hereby authorizes the Collateral Agent to attach each Pledge Amendment to this Agreement and agrees that all promissory notes, certificates or Instruments listed on any Pledge Amendment delivered to the Collateral Agent (or its custodian, designee or other nominee) shall for all purposes hereunder constitute Pledged Interests and such Grantor shall be deemed upon delivery thereof to have made the representations and warranties set forth in Section 5 hereof with respect to such Additional Collateral.

(b) If any Grantor shall receive, by virtue of such Grantor's being or having been an owner of any Pledged Interests, any (i) Certificated Security (including, without limitation, any certificate representing a stock dividend or distribution in connection with any increase or reduction of capital, reclassification, merger, amalgamation, consolidation, sale of assets, combination of shares, stock split, spin-off or split-off), promissory note with a value in excess of \$200,000 or other Instrument, (ii) option or right, whether as an addition to, substitution for, or in exchange for, any Pledged Interests, or otherwise, (iii) dividends payable in cash or in Securities or other property or (iv) dividends, distributions, cash, Instruments, Investment Property and other property in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in surplus, such Grantor shall (but in the case of subclauses (iii) and (iv) of this Section 4(b), to the extent not permitted to be retained hereunder or pursuant to the Financing Agreement) receive such Certificated Security, promissory note, Instrument, option, right, payment or distribution in trust for the benefit of the Collateral Agent, shall segregate it from such Grantor's other property and shall deliver it forthwith to the Collateral Agent (or its custodian, designee or other nominee), in the exact form received, with any necessary endorsement and/or appropriate stock powers duly executed in blank, to be held by the Collateral Agent (or its custodian, designee or other nominee) subject to the terms hereunder, as Pledged Interests and as further collateral security for the Secured Obligations.

(c) Each Grantor agrees that notwithstanding anything else contained in this Agreement such Grantor will remain as registered and beneficial owner of any ULC Shares which may be pledged by such Grantor until such time as such ULC Shares are effectively transferred into the name of the Collateral Agent or any other Person on the books and records of the Pledged Issuer of such ULC Shares. Nothing in this Agreement is intended to or shall constitute any Secured Party or any Person other than the applicable Grantor, a shareholder or member of any Pledged Issuer after its continuation as a ULC for the purposes of the *Business Corporations Act* (Alberta), the *Companies Act* (Nova Scotia), or any similar legislation until such time as notice is given to such Pledged Issuer and further steps are taken

hereunder so as to register the Collateral Agent or any other Person as the holder of such ULC Shares. To the extent any provision hereof would have the effect of constituting any Secured Party or any other Person as a shareholder or member of the Pledged Issuer of any ULC Shares prior to such time, such provision shall be severed therefrom and shall be ineffective with respect to such ULC Shares without otherwise invalidating or rendering unenforceable this Agreement or invalidating or rendering unenforceable such provision insofar as it relates to Pledged Interests which are not ULC Shares. Except upon the exercise of rights to sell or otherwise dispose of ULC Shares following the occurrence and during the continuance of an Event of Default, any Grantor holding ULC Shares shall not cause or permit, or enable any Pledged Issuer in which it holds ULC Shares to cause or permit, any Secured Party to: (a) be registered as shareholders or members of such Pledged Issuer; (b) have any notation entered in their favour in the share register of such Pledged Issuer; (c) be held out as shareholders or members of such Pledged Issuer; (d) receive, directly or indirectly, any dividends, property or other distributions from such Pledged Issuer solely by reason of the Collateral Agent holding a security interest in such Pledged Issuer; or (e) to act as a shareholder or member of such Pledged Issuer, or exercise any rights of a shareholder or member including the right to attend a meeting of, or to vote the shares of, such Pledged Issuer.

SECTION 5. Representations and Warranties. Each Grantor jointly and severally represents and warrants as follows:

(a) Schedule I hereto sets forth as of the date hereof (i) the exact legal name of each Grantor, (ii) the province, territory, state or jurisdiction of incorporation or organization of each Grantor, (iii) the type of organization of each Grantor, (iv) the organizational identification number of each Grantor or states that no such organizational identification number exists, and (v) the location of Collateral.

(b) This Agreement is, and each other Loan Document to which any Grantor is or will be a party, when executed and delivered, will be, a legal, valid and binding obligation of such Grantor, enforceable against such Grantor in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting enforcement of creditors' rights generally.

(c) There is no pending or, to the knowledge of an Authorized Officer of any Grantor, threatened action, suit or proceeding affecting any Grantor before any court or other Governmental Authority or any arbitrator that may adversely affect the grant by any Grantor, or the perfection, of the security interest purported to be created hereby in the Collateral, or the exercise by the Collateral Agent of any of its rights or remedies hereunder.

(d) Each Grantor's chief place of business and chief executive office or domicile, the place where such Grantor keeps its records concerning Accounts and all originals of all Chattel Paper are located at the addresses specified therefor in Schedule III hereto (as amended, supplemented or otherwise modified from time to time in accordance with the terms hereof). Except to the extent the terms hereof have been complied with, none of the Accounts are evidenced by promissory notes (other than as set forth on Schedule VI) or other Instruments (other than items deposited or to be deposited for collection in the ordinary course). Set forth in Schedule IV hereto is a complete and accurate list, as of the date of this Agreement, of each

Deposit Account, Securities Account and commodities account of each Grantor, together with the name and address of each institution at which each such Account is maintained, the account number for each such Account and a description of the purpose of each such Account. Set forth in Schedule II hereto is (x) a complete and correct list of each trade name used by each Grantor as of the Effective Date and (y) the legal name of each Person from which such Grantor has acquired any substantial part of the Collateral within four months prior to the date hereof.

(e) Schedule II hereto sets forth a true and complete list of all Licenses material to the business of each Grantor as of the date hereof (excluding any Licenses of commercially available, off-the-shelf software). Each Grantor has delivered to the Collateral Agent complete and correct copies of each such License, including all schedules and exhibits thereto. As of the date hereof, to the Grantors' knowledge, each License existing is the legal, valid and binding obligation of the Grantor party thereto, enforceable against such Grantor in accordance with its terms, except as limited by applicable bankruptcy, insolvency reorganization, moratorium or other similar laws affecting enforcement of creditors' rights generally or by general equitable principles relating to enforceability. To the applicable Grantor's knowledge, no default under any License that is material to the business of such Grantor has occurred, nor does any defense, offset, deduction or counterclaim exist thereunder in favour of any party to such License, except in each case, as could not reasonably be expected to result in a Material Adverse Effect. As of the date of this Agreement, except as set forth on Schedule II, (i) no party to any License has given any Grantor written notice of its intention to cancel, terminate or fail to renew any License and (ii) to the actual knowledge of the Grantors, no party to any License has given any Grantor any other notice of its intention to cancel, terminate or fail to renew any License.

(f) (i) To Grantor's knowledge, Grantors own and control, or otherwise possess adequate rights to use, all material Intellectual Property necessary to conduct their business in substantially the same manner as conducted as of the date hereof. Schedule II hereto sets forth a true and complete list of all issued, registered, applied-for or otherwise material Intellectual Property owned or exclusively licensed to each Grantor as of the date hereof. To the applicable Grantor's knowledge, as of the date hereof, all such Intellectual Property owned by such Grantor is valid, subsisting and enforceable, and has not been abandoned in whole or in part and no such Intellectual Property is subject to any outstanding order, judgment or decree restricting its use or adversely affecting the Grantor's rights thereto.

(ii) To Grantor's knowledge, no Grantor is violating any Intellectual Property rights material to its business. Except as listed in Schedule II, as of the date hereof, to the Grantors' knowledge, there are no suits, actions, reissues, reexaminations, interferences, arbitrations, mediations, oppositions, cancellations, Internet domain name dispute resolutions or other proceedings (collectively, "Suits") pending, decided, threatened or asserted, by or against a Grantor concerning any claim or position that a Grantor or any of its indemnitees have violated any Intellectual Property rights material to its business. There are no Suits or claims pending, decided or asserted, or to the applicable Grantor's knowledge, threatened, concerning the Intellectual Property owned or controlled by a Grantor and to the Grantor's knowledge, no valid basis for any such Suits or claims exists that could reasonably be expected to be adversely determined, and if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(g) To the applicable Grantor's knowledge, (i) none of the material Other Proprietary Rights or material Trade Secrets owned by such Grantor have been divulged, disclosed or appropriated to the material detriment of such Grantor for the benefit of any other Person other than such Grantor; and (ii) no employee, independent contractor or agent of any Grantor is in material default or material breach of any term of any employment agreement, non-disclosure agreement, assignment of inventions agreement or similar agreement, or contract relating in any way to the protection, ownership, development, use or transfer of such Grantor's Intellectual Property, except for in the case of clauses (i) and (ii) that could not reasonably be expected to cause a Material Adverse Effect.

(h) The Existing Issuers set forth in Schedule VII identified as a Subsidiary of a Grantor are each such Grantor's only Subsidiaries existing on the date hereof. The Pledged Shares of the Existing Issuers have been duly authorized and validly issued and Pledged Shares of any issuer that is a corporation are fully paid and nonassessable and the holders thereof are not entitled to any preemptive, first refusal or other similar rights. Except as noted in Schedule VII hereto, the Pledged Shares constitute 100% of the issued shares of the Equity Interests of the Pledged Issuers as of the date hereof. All other shares of the Equity Interests of each Grantor's Subsidiaries constituting Pledged Interests will be duly authorized and validly issued, fully paid and nonassessable.

(i) The promissory notes currently evidencing the Pledged Debt have been, to the Grantors' knowledge, duly authorized, executed and delivered by the respective makers thereof, and all such promissory notes are legal, valid and binding obligations of such makers, enforceable against such makers in accordance with their respective terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and principles of equity.

(j) Except as otherwise provided in the Financing Agreement, the Grantors are and will be at all times the sole and exclusive owners of, or otherwise have and will have rights in, the Collateral free and clear of any Lien except for the Permitted Liens. No effective financing statement, financing change statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording or filing office or registry except such as may have been filed to perfect or protect any Permitted Lien.

(k) [Reserved].

(l) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other regulatory body, or any other Person, is required on the date hereof for (i) the due execution, delivery and performance by any Grantor of this Agreement, (ii) the grant by any Grantor of the security interest purported to be created hereby in the Collateral or (iii) the exercise by the Collateral Agent of any of its rights and remedies hereunder, except, those that have been made or obtained and are in full force and effect and, in the case of this clause (iii), as may be required in connection with any sale of any Pledged Interests by laws affecting the offering and sale of Securities generally. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other regulatory body, or any other Person, is required for the perfection of the security interest purported to be created hereby in the Collateral, except (A) with respect to

Collateral which can be perfected by filing, for the filing under the PPSA as in effect in the applicable jurisdiction of the financing statements described in Schedule V hereto, all of which financing statements have been duly filed and are in full force and effect, (B) with respect to the perfection of the security interest created hereby in issued, registered, or applied-for United States or Canadian Intellectual Property that is part of the Collateral, for the recording of the appropriate Grant of a Security Interest, substantially in the form of Exhibit B hereto in the United States Patent and Trademark Office, the United States Copyright Office or the Canadian Intellectual Property Office, as applicable, to the extent a security interest in such Intellectual Property Collateral can be perfected by such recordation, (C) with respect to any action that may be necessary to obtain control of Collateral constituting Investment Property, the taking of such actions, (D) the Collateral Agent's having possession of all Documents of Title, Chattel Paper, Instruments and cash constituting Collateral, and (E) with respect to any action that may be necessary to obtain perfection of the security interest hereby in the Collateral governed by the laws of foreign jurisdictions, compliance with local perfection requirements with respect to the laws of such foreign jurisdictions (subclauses (A), (B), (C), (D), and (E), each a "Perfection Requirement" and collectively, the "Perfection Requirements"). Notwithstanding anything to the contrary herein, nothing in this Agreement shall require any Grantor to make any filings or take any other actions to record or perfect the Collateral Agent's security interest in any Intellectual Property outside the United States or Canada.

(m) This Agreement creates a legal, valid and enforceable security interest in favour of the Collateral Agent, for the benefit of the Secured Parties, in the Collateral, as security for the Secured Obligations, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and principles of equity. The compliance with the Perfection Requirements will result in the perfection of such security interests (other than with respect to the perfection of the security interest created hereby in foreign Intellectual Property and Licenses, for registrations and filings in jurisdictions located outside of the United States or Canada and covering rights in such jurisdictions relating to such foreign Intellectual Property and Licenses). After compliance with the Perfection Requirements, such security interests, including in the case of Collateral in which any Grantor obtains rights after the date hereof (except that subsequent filings may be necessary to perfect the security interest in any United States or Canadian Intellectual Property Collateral created or acquired by any Grantor after the date hereof), will be perfected (other than with respect to the perfection of the security interest created hereby in foreign Intellectual Property and Licenses, for registrations and filings in jurisdictions located outside of the United States or Canada and covering rights in such jurisdictions relating to such foreign Intellectual Property and Licenses), first priority security interests, subject in priority only to the Permitted Liens that, pursuant to the definition of the term "Permitted Liens", are not prohibited from being prior to the Liens in favour of the Collateral Agent, for the benefit of the Secured Parties, and the recording of such instruments described above. Such Perfection Requirements and all other action necessary or desirable, to perfect and protect such security interest have been duly made or taken, except for (i) the Collateral Agent's having possession of all Instruments, Documents of Title, Chattel Paper and cash constituting Collateral after the date hereof, (ii) the Collateral Agent's having Control of all, Investment Property constituting Collateral after the date hereof, and (iii) the other filings and recordations and actions described in Section 5(l) hereof.

(n) Each Grantor further represents and warrants that the Pledged

Shares that are an interest in a partnership or a limited liability company and are subject to the STA: (x) are not dealt in or traded on any securities exchange or in any securities market; and (y) each expressly provide by their respective terms that they are a “security” for the purposes of the STA or any other similar provincial legislation.

SECTION 6. Covenants as to the Collateral. So long as any of the Secured Obligations (other than contingent indemnification obligations) shall remain unpaid or any Lender shall have any Commitment under the Financing Agreement, unless the Collateral Agent shall otherwise consent in writing:

(a) Further Assurances. Each Grantor will at its expense, at any time and from time to time, promptly execute and deliver all further instruments and documents and take all further action that the Collateral Agent may reasonably request in order (i) to perfect and protect, or maintain the perfection of, the security interest and Lien purported to be created hereby (other than with respect to the perfection of the security interest created hereby in foreign Intellectual Property and Licenses); (ii) to enable the Collateral Agent to exercise and enforce its rights and remedies hereunder in respect of the Collateral in the manner contemplated herein; or (iii) otherwise to effect the purposes of this Agreement, including, without limitation: (A) marking conspicuously all Chattel Paper, Instruments and Licenses and, at the request of the Collateral Agent, all of its Records pertaining to the Collateral with a legend, in form and substance reasonably satisfactory to the Collateral Agent, indicating that such Chattel Paper, Instrument (other than items deposited or to be deposited for collection), License or Collateral is subject to the security interest created hereby, (B) if any Account shall be evidenced by a Promissory Note with a value in excess of \$200,000 or other Instrument with a value in excess of \$200,000 or Chattel Paper, to the extent required hereunder, delivering and pledging to the Collateral Agent such Promissory Note, other Instrument or Chattel Paper, duly endorsed and accompanied by executed instruments of transfer or assignment, all in form and substance satisfactory to the Collateral Agent, (C) executing and filing (to the extent, if any, that such Grantor's signature is required thereon) or authenticating the filing of, such financing or financing change statements thereto, (D) with respect to issued, registered or applied-for Intellectual Property Collateral hereafter existing and not covered by an appropriate security interest grant, the executing and recording in the United States Patent and Trademark Office, the United States Copyright Office or the Canadian Intellectual Property Office, as applicable, appropriate instruments granting a security interest, as may be necessary or desirable or that the Collateral Agent may request in order to perfect and preserve the security interest purported to be created hereby, (E) after the occurrence and continuance of an Event of Default, at the request of the Collateral Agent, delivering to the Collateral Agent irrevocable proxies in respect of the Pledged Interests, (F) furnishing to the Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Collateral Agent may reasonably request, all in reasonable detail, and (G) taking all actions required by law in any relevant jurisdiction. No Grantor shall take any action, or fail to take any action, which would impair the validity or enforceability of the Collateral Agent's security interest in and Lien on any Collateral.

(b) Location of Equipment and Inventory. Each Grantor will keep the Equipment and Inventory (other than (i) Equipment and Inventory sold in the ordinary course of business in accordance with Section 6(h) hereof, (ii) equipment out for repair and equipment

loaned to employees (e.g., laptops), (iii) Equipment or Inventory in-transit or (iv) Equipment and Inventory having an aggregate value of less than \$200,000), at the locations specified in Schedule III hereto, or, upon not less than fifteen (15) days' prior written notice to the Collateral Agent accompanied by a new Schedule III hereto indicating each new location of the Equipment and Inventory, at such other locations as the Grantors may elect, provided that (i) all reasonable action has been taken to grant to the Collateral Agent a perfected, first priority security interest in such Equipment and Inventory that constitutes Collateral hereunder (subject in priority only to Permitted Liens that, pursuant to the terms of the Financing Agreement, are not prohibited from being prior to the Liens in favour of the Collateral Agent, for the benefit of the Secured Parties), and (ii) the Collateral Agent's rights in such Equipment and Inventory, including, without limitation, the existence, perfection and priority of the security interest created hereby in such Equipment and Inventory, are not adversely affected thereby.

(c) Condition of Equipment. Each Grantor will maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its Equipment which is necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted, except to the extent any such failure to preserve could not reasonably be expected to result in a Material Adverse Effect.

(d) [Reserved]

(e) [Reserved]

(f) Provisions Concerning the Accounts and the Licenses.

(i) The Collateral Agent shall have the right at any time, upon the occurrence and during the continuance of an Event of Default, to notify the Account Debtors or obligors under any Accounts of the assignment of such Accounts to the Collateral Agent and to direct such Account Debtors or obligors to make payment of all amounts due or to become due to such Grantor thereunder directly to the Collateral Agent or its designated agent and, upon such notification and at the expense of such Grantor and to the extent permitted by law, to enforce collection of any such Accounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as such Grantor might have done. If any Event of Default shall have occurred and be continuing after receipt by any Grantor of a notice from the Collateral Agent that the Collateral Agent has notified, intends to notify, or has enforced or intends to enforce a Grantor's rights against the Account Debtors or obligors under any Accounts as referred to in the proviso to the immediately preceding sentence, (A) all amounts and proceeds (including Instruments) received by such Grantor in respect of the Accounts shall be received in trust for the benefit of the Collateral Agent hereunder, shall be segregated from other funds of such Grantor and shall be forthwith paid over to the Collateral Agent or its designated agent in the same form as so received (with any necessary endorsement) to be held as cash collateral and applied as specified in Section 9(c) hereof, and (B) such Grantor will not adjust, settle or compromise the amount or payment of any Account or release wholly or partly any Account Debtor or obligor thereof or allow any credit or discount thereon. In addition, upon the occurrence and during the continuance of an Event of Default, the Collateral Agent may (in its sole and absolute discretion) direct any or all of the banks and financial institutions with which any Grantor either maintains a Deposit Account or a lockbox or deposits

the proceeds of any Accounts to send immediately to the Collateral Agent or its designated agent by wire transfer (to such account as the Collateral Agent shall specify, or in such other manner as the Collateral Agent shall direct) all or a portion of such securities, cash, investments and other items held by such institution. Any such securities, cash, investments and other items so received by the Collateral Agent or its designated agent shall (in the sole and absolute discretion of the Collateral Agent) be held as additional Collateral for the Secured Obligations or distributed in accordance with Section 9 hereof.

(ii) Upon the occurrence and during the continuance of any breach or default under any material License by any party thereto other than a Grantor, the relevant Grantor will, promptly after obtaining knowledge thereof, give the Collateral Agent written notice of the nature and duration thereof, specifying what action, if any, it has taken and proposes to take with respect thereto.

(iii) Each Grantor will, at its expense, promptly deliver to the Collateral Agent a copy of each notice or other communication received by it by which any other party to any material License (A) declares a breach or default by a Grantor of any material term thereunder, or (B) terminates such License, together with a copy of any reply by such Grantor thereto.

(iv) Each Grantor will use commercially reasonable efforts to exercise promptly and diligently the rights which it may have under each License material to its business and will duly perform and observe in all respects all of its material obligations under each such License and will take all action necessary to maintain such Licenses in full force and effect. No Grantor will, without the prior consent of the Collateral Agent, cancel, terminate, amend or otherwise modify in any respect, or waive any provision of, any License material to its business unless otherwise permitted under Section 7.02(c) of the Financing Agreement.

(g) Provisions Concerning the Pledged Interests. Each Grantor will

(i) at the Grantor's joint and several expense, promptly deliver to the Collateral Agent a copy of each material notice or other material communication received by it in respect of the Pledged Interests;

(ii) at the Grantors' joint and several expense, defend the Collateral Agent's right, title and security interest in and to the Pledged Interests against the claims of any Person;

(iii) not make or consent to any amendment or other modification or waiver with respect to any Pledged Interests or enter into any agreement or permit to exist any restriction with respect to any Pledged Interests (other than as permitted pursuant to the Loan Documents); and

(iv) except as expressly permitted under the Financing Agreement not permit the issuance of (A) any additional shares of any class of Equity Interests of any Pledged Issuer, (B) any securities convertible voluntarily by the holder thereof or automatically upon the occurrence or non-occurrence of any event or condition into, or exchangeable for, any such Equity Interests or (C) any warrants, options, contracts or other

commitments entitling any Person to purchase or otherwise acquire any such Equity Interests, in each case, except as otherwise permitted under the Loan Documents.

(h) Transfers and Other Liens.

(i) Except to the extent expressly permitted by the Financing Agreement, no Grantor will sell, convey, lease, or sublease, transfer or otherwise dispose of any of the Collateral.

(ii) Except to the extent expressly permitted by the Financing Agreement, no Grantor will create, suffer to exist or grant any Lien upon or with respect to any Collateral.

(i) Intellectual Property.

(i) Each Grantor has duly executed and delivered the applicable Grant of a Security Interest substantially in the form attached hereto as Exhibit B.

(ii) Each Grantor agrees that it will not do any act or omit to do any act whereby any issued or applied for Patent it owns that is material to the conduct of such Grantor's business may become invalidated or dedicated to the public (other than the expiration of a Patent at the end of its statutory term), and agrees that it shall continue to mark any products covered by an enforceable Patent with the relevant patent number as necessary to establish and preserve its rights under applicable patent laws, except where the failure to do so, together with all other such failures hereunder since the Effective Date, could not reasonably be expected to result in a material diminution in the value of the Collateral.

(iii) Each Grantor will, for each Trademark it owns that is material to the conduct of such Grantor's business, (A) maintain such Trademark in full force free from any claim of abandonment or invalidity for non-use, (B) maintain, and take all commercially reasonable steps to ensure that any licensee of such Trademark maintains, the quality of products and services offered under such Trademark, (C) display such Trademark with notice of U.S. or non-U.S. registration to the extent reasonably necessary to establish and preserve its rights under applicable law, except where the failure to do so, together with all other such failures hereunder since the Effective Date, could not reasonably be expected to result in a material diminution in the value of such Trademarks and (D) not knowingly use or knowingly permit the use of such Trademark in violation of any material third party rights.

(iv) Each Grantor will, for each work covered by a material Copyright it owns, continue to publish, reproduce, display, adopt and distribute the work with, and affix to the work, appropriate copyright notice as necessary to establish and preserve its rights under applicable copyright laws, except where the failure to do so, together with all other such failures hereunder since the Effective Date, could not reasonably be expected to result in a material diminution in the value of the Collateral.

(v) Each Grantor shall notify the Collateral Agent promptly if it knows or has reason to know that any Intellectual Property material to the conduct of its business may become abandoned or dedicated to the public (other than the expiration of Patents

and Copyrights at the end of their statutory terms), or of any final materially adverse determination (including the institution of, or any such determination in, any proceeding in the United States Patent and Trademark Office, United States Copyright Office, the Canadian Intellectual Property Office or any court or similar office of any country that could reasonably be expected to result in a Material Adverse Effect) regarding such Grantor's ownership of any such Intellectual Property, its right to register the same, or its right to keep and maintain the same.

(vi) In the event that any Grantor (A) files an application or registration for any Intellectual Property with the United States Patent and Trademark Office, United States Copyright Office, the Canadian Intellectual Property Office or any provincial, territorial or state office or agency, either itself or through any agent, employee, licensee or designee or (B) obtains rights to or develop any new material Intellectual Property or any reissue, divisional, continuation, renewal, extension or continuation-in-part of any existing Intellectual Property, whether pursuant to any license or otherwise; the provisions of Section 2 hereof shall automatically apply thereto. Each Grantor shall give to the Collateral Agent notice thereof on at least a quarterly basis, and, upon the reasonable request of the Collateral Agent, execute and deliver any and all agreements, instruments, documents and papers as the Collateral Agent may reasonably request to evidence the Collateral Agent's security interest in such Intellectual Property, including execution of a Grant of a Security Interest, substantially in the form of Exhibit B hereto, for filing, with the United States Patent and Trademark Office, United States Copyright Office or Canadian Intellectual Property Office (as applicable), and each Grantor hereby appoints the Collateral Agent as its attorney-in-fact to execute and file such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power, being coupled with an interest, is irrevocable.

(vii) Each Grantor, subject to such Grantor's reasonable business judgment, will take all reasonable steps that are consistent with the practice in any proceeding before the United States Patent and Trademark Office, United States Copyright Office or Canadian Intellectual Property Office (as applicable), to pursue each material application relating to the Intellectual Property of such Grantor (and to obtain the relevant grant or registration when it is feasible to do so), and to maintain each issued Patent and each registration of the Trademarks, Copyrights and Designs that are material to the conduct of any Grantor's business as conducted or currently contemplated to be conducted, including by timely filing applications for renewal, affidavits of use, affidavits of incontestability, and payment of maintenance fees, and, if consistent with good business judgment, to initiate opposition, interference and cancellation proceedings against third parties.

(viii) In the event that any Grantor has reason to believe that any Collateral consisting of Intellectual Property owned by such Grantor that is material to the conduct of such Grantor's business has been infringed, misappropriated or diluted by a third party, such Grantor shall take such actions as are appropriate under the circumstances and consistent with its reasonable business judgment, to protect its rights in such Collateral and promptly shall notify the Collateral Agent of the initiation of any suit with respect thereto.

(ix) Upon and during the continuance of an Event of Default, (A) no Grantor shall abandon or otherwise permit any Intellectual Property to become invalid and (B) upon the request of the Collateral Agent, each Grantor shall use its commercially

reasonable efforts to obtain all requisite consents or approvals by the licensor of each License that constitutes Collateral in order to effect the assignment of such license to the Collateral Agent or its designee.

(x) Each Grantor shall execute, authenticate and deliver any and all agreements, instruments, documents and papers as the Collateral Agent may reasonably request to evidence the Collateral Agent's security interest hereunder in such Intellectual Property and the Intangibles of such Grantor relating thereto or represented thereby, each Grantor hereby appoints the Collateral Agent as its attorney-in-fact to execute and file such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power, being coupled with an interest, is irrevocable.

(j) Deposit, Commodities and Securities Accounts. Each Grantor shall cause each bank and other financial institution with an account referred to in Schedule IV hereto to execute and deliver to the Collateral Agent (or its designee) a Control Agreement, in form and substance satisfactory to the Collateral Agent. Subject to the following sentence, without the prior written consent of the Collateral Agent, no Grantor shall make or maintain any Deposit Account, commodity account or Securities Account except for (i) the accounts set forth in Schedule IV hereto or (ii) accounts with respect to which the applicable bank or financial institution shall have executed and delivered to the Collateral Agent a Control Agreement or a control agreement with respect to such account. The provisions of this Section 6(j) shall not apply to (i) Deposit Accounts or Securities Accounts for which the Collateral Agent is the depository or Securities Intermediary, (ii) Deposit Accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of a Grantor's salaried employees, provided that the funds on deposit in such Deposit Accounts shall at no time exceed the actual payroll, payroll taxes and other employee wage and benefit payments then owing by such Grantor for the immediately succeeding payroll period, (iii) any accounts used in connection with pledges or deposits permitted under the definition of "Permitted Liens" in the Financing Agreement, and (iv) other Deposit Accounts not required to be subject to a control agreement pursuant to Section 8.01(a) of the Financing Agreement.

(k) Cash Management. Each Grantor hereby agrees to take any or all action that the Collateral Agent may request, including entering into a Control Agreement or control agreement, in order for the Collateral Agent to obtain collection rights and if applicable, Control, with respect to the following Collateral: (i) Deposit Accounts (in accordance with Section 6(j) hereof), and (ii) Investment Property. Each Grantor hereby acknowledges and agrees that any agent or designee of the Collateral Agent shall be deemed to be a "secured party" with respect to the Collateral under the control of such agent or designee for all purposes.

(l) Records; Inspection and Reporting.

(i) Each Grantor shall keep adequate records concerning the Accounts, Chattel Paper and Pledged Interests.

(ii) Except as otherwise expressly permitted by Section 7.02(m) of the Financing Agreement, no Grantor shall change (A) its name, identity, location of Collateral or organizational structure, (B) its jurisdiction of incorporation or

organization as set forth in Schedule I hereto or (C) its chief executive office or domicile as set forth in Schedule III hereto. Each Grantor shall promptly notify the Collateral Agent upon obtaining an organizational identification number, if on the date hereof such Grantor did not have such identification number.

(iii) Except as otherwise expressly permitted by Section 7.01(I) of the Financing Agreement, no Grantor shall change the location of its assets from any of the jurisdictions set out in Schedule III hereto.

(m) Partnership and Limited Liability Company Interest. Except with respect to partnership interests and membership interests evidenced by a certificate, which certificate has been pledged and delivered to the Collateral Agent pursuant to Section 4 hereof, no Grantor that is a partnership or a limited liability company shall, nor shall any Grantor with any Subsidiary that is a partnership or a limited liability company, permit such partnership interests or membership interests to (i) be dealt in or traded on securities exchanges or in securities markets, (ii) become a security for purposes of the STA, (iii) be evidenced by a certificate, or (iv) be held in a Securities Account, unless the Collateral Agent has Control over such partnership interests or membership interests. Each Grantor agrees that such partnership interests or membership interests shall constitute Intangibles.

SECTION 7. Voting Rights, Dividends, Etc. in Respect of the Pledged Interests.

(a) So long as no Event of Default shall have occurred and be continuing and the Collateral Agent has not provided written notice to the Administrative Borrower of its exercise of its rights hereunder:

(i) each Grantor may exercise any and all voting and other consensual rights pertaining to any Pledged Interests for any purpose not inconsistent with the terms of this Agreement, the Financing Agreement or the other Loan Documents; provided, however, that (A) each Grantor will give the Collateral Agent prior notice of the manner in which it intends to exercise, or the reasons for refraining from exercising any such right that could reasonably be expected to adversely affect in any material respect the value, liquidity or marketability of any Collateral or the creation, perfection and priority of the Collateral Agent's Lien and (B) such Grantor shall refrain from exercising any voting or other consensual right if the effect thereof could reasonably be likely to adversely affect in any material respect the value, liquidity or marketability of any Collateral or the creation, perfection and priority of the Collateral Agent's Lien;

(ii) each of the Grantors may receive and retain any and all dividends, interest or other distributions paid in respect of the Pledged Interests to the extent permitted by the Financing Agreement; provided, however, that (A) dividends and interest paid or payable other than in cash in respect of, and Instruments and other property received, receivable or otherwise distributed in respect of or in exchange for, any Pledged Interests, (B) dividends and other distributions paid or payable in cash in respect of any Pledged Interests in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in surplus, and (C) cash paid, payable or otherwise distributed in redemption of, or in exchange for, any Pledged Interests, together with any dividend, interest or

other distribution or payment which at the time of such payment was not permitted by the Financing Agreement shall be, and shall forthwith be delivered to the Collateral Agent, to hold as, Pledged Interests and shall, if received by any of the Grantors, be received in trust for the benefit of the Collateral Agent, shall be segregated from the other property or funds of the Grantors, and shall be forthwith delivered to the Collateral Agent in the exact form received with any necessary endorsement and/or appropriate stock powers duly executed in blank, to be held by the Collateral Agent as Pledged Interests and as further collateral security for the Secured Obligations; and

(iii) the Collateral Agent will execute and deliver (or cause to be executed and delivered) to a Grantor all such proxies and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and other rights which it is entitled to exercise pursuant to Section 7(a)(i) hereof and to receive the dividends, interest and/or other distributions which it is authorized to receive and retain pursuant to Section 7(a)(ii) hereof.

(b) Upon the occurrence and during the continuance of an Event of Default and after written notice from the Collateral Agent to the Administrative Borrower of its exercise of its rights hereunder:

(i) all rights of each Grantor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 7(a)(i) hereof, and to receive the dividends, distributions, interest and other payments that it would otherwise be authorized to receive and retain pursuant to Section 7(a)(ii) hereof (other than in respect of tax distributions permitted by the Financing Agreement), shall cease, and all such rights shall thereupon become vested in the Collateral Agent, which shall thereupon have the sole right to exercise such voting and other consensual rights and to receive and hold as Pledged Interests such dividends, distributions and interest payments;

(ii) the Collateral Agent is authorized to notify each debtor with respect to the Pledged Debt to make payment directly to the Collateral Agent (or its designee) and may collect any and all moneys due or to become due to any Grantor in respect of the Pledged Debt, and each of the Grantors hereby authorizes each such debtor to make such payment directly to the Collateral Agent (or its designee) without any duty of inquiry;

(iii) without limiting the generality of the foregoing, the Collateral Agent may at its option exercise any and all rights of conversion, exchange, subscription or any other rights, privileges or options pertaining to any of the Pledged Interests as if it were the absolute owner thereof, including, without limitation, the right to exchange, in its discretion, any and all of the Pledged Interests upon the merger, amalgamation, consolidation, reorganization, recapitalization or other adjustment of any Pledged Issuer, or upon the exercise by any Pledged Issuer of any right, privilege or option pertaining to any Pledged Interests, and, in connection therewith, to deposit and deliver any and all of the Pledged Interests with any committee, depository, transfer agent, registrar or other designated agent upon such terms and conditions as it may determine; and

(iv) all dividends, distributions, interest and other payments that

are received by any of the Grantors contrary to the provisions of Section 7(b)(i) hereof shall be received in trust for the benefit of the Collateral Agent, shall be segregated from other funds of the Grantors, and shall be forthwith paid over to the Collateral Agent as Pledged Interests in the exact form received with any necessary endorsement and/or appropriate stock powers duly executed in blank, to be held by the Collateral Agent as Pledged Interests and as further collateral security for the Secured Obligations.

SECTION 8. Additional Provisions Concerning the Collateral.

(a) To the maximum extent permitted by applicable law, and for the purpose of taking any action that the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement, each Grantor hereby (i) authorizes the Collateral Agent to execute any such agreements, instruments or other documents in such Grantor's name and to file such agreements, instruments or other documents in such Grantor's name and in any appropriate filing office or registry, (ii) authorizes the Collateral Agent at any time and from time to time to file, one or more financing statements and financing change statements thereto, relating to the Collateral (including, without limitation, any such financing statements or financing change statements that (A) describe the Collateral as "all assets" or "all personal property" (or words of similar effect) or that describe or identify the Collateral by type or in any other manner as the Collateral Agent may determine, regardless of whether any particular asset of such Grantor falls within the scope of the PPSA or whether any particular asset of such Grantor constitutes part of the Collateral, and (B) contain any other information required by the PPSA for the sufficiency or filing office or registry acceptance of any financing statement or financing change statement, including, without limitation, whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor) and (iii) ratifies such authorization to the extent that the Collateral Agent has filed any such financing statements or financing change statements thereto, prior to the date hereof. A photocopy or other reproduction of this Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(b) Each Grantor hereby irrevocably appoints the Collateral Agent as its attorney-in-fact and proxy, with full authority in the place and stead of such Grantor and in the name of such Grantor or otherwise, from time to time after the occurrence and during the continuance of an Event of Default in the Collateral Agent's discretion, to take any action and to execute any instrument that the Collateral Agent may deem necessary or advisable to accomplish the purposes of this Agreement (subject to the rights of a Grantor under Section 6 hereof and Section 7(a) hereof), including, without limitation, after the occurrence and during the continuance of an Event of Default (i) to obtain and adjust insurance required to be paid to the Collateral Agent pursuant to the Financing Agreement, (ii) to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any Collateral, (iii) to receive, endorse, and collect any drafts or other Instruments, Documents of Title and Chattel Paper in connection with clause (i) or (ii) above, (iv) to receive, endorse and collect all Instruments made payable to such Grantor representing any dividend, interest payment or other distribution in respect of any Pledged Interests and to give full discharge for the same, (v) to file any claims or take any action or institute any proceedings which the Collateral Agent may deem necessary or desirable for the collection of any Collateral or otherwise to enforce the rights of the Collateral Agent and the Lenders with

respect to any Collateral, (vi) to execute assignments, licenses and other documents to enforce the rights of the Collateral Agent and the Lenders with respect to any Collateral, (vii) to pay or discharge taxes or Liens levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Collateral Agent in its sole discretion, and such payments made by the Collateral Agent to become Obligations of such Grantor to the Collateral Agent, due and payable immediately without demand, and (viii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, assignments, verifications and notices in connection with Accounts, Chattel Paper and other documents relating to the Collateral. This power is coupled with an interest and is irrevocable until the date on which all of the Secured Obligations (other than unasserted contingent indemnification obligations) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents.

(c) For the purpose of enabling the Collateral Agent to exercise rights and remedies hereunder, at such time after the occurrence and during the continuance of an Event of Default as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, each Grantor hereby grants to the Collateral Agent an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to any Grantor) to use or sublicense any Intellectual Property now or hereafter owned by any Grantor, wherever the same may be located, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof (to the extent permitted by licenses for such computer programs); provided that any such Trademark license will contain reasonable and customary quality control provisions. Notwithstanding anything contained herein to the contrary, but subject to the provisions of the Financing Agreement that limit the right of a Grantor to dispose of its property and Section 6(i) hereof, so long as no Event of Default shall have occurred and be continuing, each Grantor may exploit, use, enjoy, protect, license, sublicense, assign, sell, dispose of or take other actions with respect to the Intellectual Property in the ordinary course of its business. In furtherance of the foregoing, unless an Event of Default shall have occurred and be continuing, the Collateral Agent shall from time to time, upon the request of a Grantor, execute and deliver any instruments, certificates or other documents, in the form so requested, which such Grantor shall have certified are appropriate (in such Grantor's judgment) to allow it to take any action permitted above (including relinquishment of the license provided pursuant to this clause (c) as to any Intellectual Property). Further, upon the date on which all of the Secured Obligations (other than unasserted contingent indemnification obligations) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents, the licenses granted to Collateral Agent pursuant to this clause (c) shall automatically terminate and the Collateral Agent (subject to Section 13(e) hereof) shall release and reassign to the Grantors all of the Collateral Agent's right, title and interest in and to the Intellectual Property, and the Licenses, all without recourse, representation or warranty whatsoever and at the Grantors' sole expense. The exercise of rights and remedies hereunder by the Collateral Agent shall not terminate the rights of the holders of any licenses or sublicenses theretofore granted by any Grantor either prior to the date of this Agreement or granted in accordance with the second sentence of this clause (c). Each Grantor hereby releases the Collateral Agent from any claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by the Collateral Agent

under the powers of attorney granted herein other than actions taken or omitted to be taken through the Collateral Agent's gross negligence, bad faith or willful misconduct, as determined by a final determination of a court of competent jurisdiction.

(d) If any Grantor fails to perform any agreement or obligation contained herein, the Collateral Agent may itself perform, or cause performance of, such agreement or obligation, in the name of such Grantor or the Collateral Agent, and the expenses of the Collateral Agent incurred in connection therewith shall be jointly and severally payable by the Grantors pursuant to Section 10 hereof and shall be secured by the Collateral.

(e) The powers conferred on the Collateral Agent hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Other than the exercise of reasonable care to assure the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, the Collateral Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral and shall be relieved of all responsibility for any Collateral in its possession upon surrendering it or tendering surrender of it to any of the Grantors (or whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct). The Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in its possession if such Collateral is accorded treatment substantially equal to that which the Collateral Agent accords its own property, it being understood that the Collateral Agent shall not have responsibility for ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters. The Collateral Agent shall not be liable or responsible for any loss or damage to any of the Collateral, or for any diminution in the value thereof, by reason of the act or omission of any warehouseman, carrier, forwarding agency, consignee or other agent or bailee selected by the Collateral Agent in good faith.

(f) Anything herein to the contrary notwithstanding (i) each Grantor shall remain liable under the Licenses and otherwise in respect of the Collateral to the extent set forth therein to perform all of its obligations thereunder to the same extent as if this Agreement had not been executed, (ii) the exercise by the Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its obligations under such Licenses or otherwise in respect of the Collateral, and (iii) the Collateral Agent shall not have any obligation or liability by reason of this Agreement under such Licenses or otherwise in respect of the Collateral, nor shall the Collateral Agent be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

(g) The Collateral Agent may at any time after the occurrence during the continuance of an Event of Default in its discretion (i) without notice to any Grantor, transfer or register in the name of the Collateral Agent or any of its nominees any or all of the Pledged Interests, subject only to the revocable rights of such Grantor under Section 7(a) hereof, and (ii) exchange certificates or Instruments constituting Pledged Interests for certificates or Instruments of smaller or larger denominations.

SECTION 9. Remedies Upon Default. If any Event of Default shall have occurred and be continuing:

(a) The Collateral Agent may exercise in respect of the Collateral, in addition to any other rights and remedies provided for herein or otherwise available to it, all of the rights and remedies of a secured party upon default under the PPSA (whether or not the PPSA applies to the affected Collateral), and also may (i) take absolute control of the Collateral, including, without limitation, transfer into the Collateral Agent's name or into the name of its nominee or nominees (to the extent the Collateral Agent has not theretofore done so) and thereafter receive, for the benefit of the Collateral Agent and the Lenders, all payments made thereon, give all consents, waivers and ratifications in respect thereof and otherwise act with respect thereto as though it were the outright owner thereof, (ii) require each Grantor to, and each Grantor hereby agrees that it will at its expense and upon request of the Collateral Agent forthwith, assemble all or part of the Collateral as directed by the Collateral Agent and make it available to the Collateral Agent at a place or places to be designated by the Collateral Agent that is reasonably convenient to both parties, and the Collateral Agent may enter into and occupy any premises owned or leased by any Grantor where the Collateral or any part thereof is located or assembled for a reasonable period in order to effectuate the Collateral Agent's rights and remedies hereunder or under law, without obligation to any Grantor in respect of such occupation, and (iii) without notice except as specified below and without any obligation to prepare or process the Collateral for sale, (A) sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Collateral Agent's offices, at any exchange or broker's board or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable and/or (B) lease, license or otherwise dispose of the Collateral or any part thereof upon such terms as the Collateral Agent may deem commercially reasonable. Each Grantor agrees that, to the extent notice of sale or any other disposition of the Collateral shall be required by law, at least ten (10) days' prior notice to the applicable Grantor of the time and place of any public sale or the time after which any private sale or other disposition of the Collateral is to be made shall constitute reasonable notification, unless such shorter time is permitted by applicable law. The Collateral Agent shall not be obligated to make any sale or other disposition of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the extent not prohibited by law, each Grantor hereby waives any claims against the Collateral Agent and the Lenders arising by reason of the fact that the price at which the Collateral may have been sold at a private sale was less than the price which might have been obtained at a public sale or was less than the aggregate amount of the Secured Obligations, even if the Collateral Agent accepts the first offer received and does not offer the Collateral to more than one offeree, and to the extent not prohibited by law, waives all rights that such Grantor may have to require that all or any part of the Collateral be marshaled upon any sale (public or private) thereof. Each Grantor hereby acknowledges that (i) any such sale of the Collateral by the Collateral Agent shall be made without warranty, (ii) the Collateral Agent may specifically disclaim any warranties of title, possession, quiet enjoyment or the like, (iii) the Collateral Agent may bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness), if permitted by law, for the purchase, lease, license or other disposition of the Collateral or any portion thereof for the account of the Collateral Agent (on behalf of itself and the Lenders) and (iv) such

actions set forth in clauses (i), (ii) and (iii) above shall not adversely affect the commercial reasonableness of any such sale of the Collateral. In addition to the foregoing, (i) upon written notice to any Grantor from the Collateral Agent, each Grantor shall cease any use of the Intellectual Property or any trademark, patent or copyright similar thereto for any purpose described in such notice; (ii) the Collateral Agent may, at any time and from time to time, upon ten (10) days' prior notice to any Grantor, license, on a non-exclusive basis, any of the Intellectual Property, throughout the universe for such term or terms, on such conditions, and in such manner, as the Collateral Agent shall in its sole discretion determine; and (iii) the Collateral Agent may, at any time, pursuant to the authority granted in Section 8 hereof (such authority being effective solely upon the occurrence and during the continuance of an Event of Default), execute and deliver on behalf of a Grantor, one or more instruments of assignment of the Intellectual Property Collateral owned by such Grantor (or any application or registration in the United States Patent and Trademark Office, the United States Copyright Office or the Canadian Intellectual Property Office). If an assignment of Intellectual Property shall have been made as provided herein, and if such Event of Default is no longer continuing (and no other Event of Default shall have occurred and be continuing), the Collateral Agent shall promptly execute and deliver to each Grantor, at such Grantor's sole cost and expense, any assignment or assignments as may be necessary to reassign to such Grantor any such Intellectual Property then-owned by the Collateral Agent; provided, after giving effect to such reassignment, the security interest granted pursuant to this Agreement, and all other rights and remedies of the Collateral Agent granted hereunder, shall continue to be in full force and effect.

(b) Each Grantor recognizes that the Collateral Agent may deem it impracticable to effect a public sale of all or any part of the Pledged Shares or any other securities constituting Pledged Interests and that the Collateral Agent may, therefore, determine to make one or more private sales of any such securities to a restricted group of purchasers who will be obligated to agree, among other things, to acquire such securities for their own account, for investment and not with a view to the distribution or resale thereof. Each Grantor acknowledges that any such private sale may be at prices and on terms less favourable to the seller than the prices and other terms which might have been obtained at a public sale and, notwithstanding the foregoing, agrees that such private sales shall be deemed to have been made in a commercially reasonable manner and that the Collateral Agent shall have no obligation to delay the sale of any such securities for the period of time necessary to permit the issuer of such securities to register such securities for public sale under applicable securities laws.

(c) Any cash held by the Collateral Agent (or its agent or designee) as Collateral and all cash proceeds received by the Collateral Agent (or its agent or designee) in respect of any sale of or collection from, or other realization upon, all or any part of the Collateral may, in the discretion of the Collateral Agent, be held by the Collateral Agent (or its agent or designee) as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Collateral Agent pursuant to Section 10 hereof) in whole or in part by the Collateral Agent against, all or any part of the Secured Obligations in such order as the Collateral Agent shall elect, consistent with the provisions of the Financing Agreement. Any surplus of such cash or cash proceeds held by the Collateral Agent (or its agent or designee) and remaining after the date on which all of the Secured Obligations (other than unasserted contingent indemnification obligations) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents, shall be paid over to

whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct.

(d) In the event that the proceeds of any such sale, collection or realization are insufficient to pay all amounts to which the Collateral Agent and the Lenders are legally entitled, the Grantors shall be jointly and severally liable for the deficiency, together with interest thereon at the highest rate specified in any applicable Loan Document for interest on overdue principal thereof or such other rate as shall be fixed by applicable law, together with the costs of collection and the reasonable fees, out-of-pocket costs and expenses of any attorneys employed by the Collateral Agent to collect such deficiency.

(e) Each Grantor hereby acknowledges that if the Collateral Agent complies with any applicable requirements of law in connection with a disposition of the Collateral, such compliance will not adversely affect the commercial reasonableness of any sale or other disposition of the Collateral.

(f) The Collateral Agent shall not be required to marshal any present or future collateral security (including, but not limited to, this Agreement and the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of the Collateral Agent's rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that any Grantor lawfully may, such Grantor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Collateral Agent's rights under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

(g) If an Event of Default shall have occurred and be continuing, the Collateral Agent may appoint or reappoint by instrument in writing, any Person or Persons, whether an officer or officers or an employee or employees of any Grantor or not, to be an interim receiver, receiver, receiver and manager or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of the Collateral of the Grantors (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his/her/its stead. Any such Receiver shall, to the extent permitted by applicable law, so far as concerns responsibility for his/her/its acts, be deemed the agent of the Grantors and not of the Collateral Agent, and the Collateral Agent shall not be in any way responsible for any misconduct, negligence or non-feasance on the part of any such Receiver or his/her/its servants, agents or employees. Subject to the provisions of the instrument appointing him/her/it, any such Receiver shall (i) have such powers as have been granted to the Collateral Agent under this Section 9, and (ii) shall be entitled to exercise such powers at any time that such powers would otherwise be exercisable by the Collateral Agent under this Section 9, which powers shall include the power to take possession of the Collateral, to preserve the Collateral or its value, to carry on or concur in carrying on all or any part of the business of any Grantor and to sell, lease, license or otherwise dispose of or concur in selling, leasing, licensing

or otherwise disposing of the Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including any Grantor, enter upon, use and occupy all premises owned or occupied by any Grantor wherein the Collateral may be situate, maintain the Collateral upon such premises, borrow money on a secured or unsecured basis and use the Collateral directly in carrying on any Grantor's business or as security for loans or advances to enable the Receiver to carry on any Grantor's business or otherwise, as such Receiver shall, in its reasonable discretion, determine. Except as may be otherwise directed by the Collateral Agent, all money received from time to time by such Receiver in carrying out his/her/its appointment shall be received in trust for and be paid over to the Collateral Agent, and any surplus shall be applied in accordance with Requirements of Law. Every such Receiver may, in the discretion of the Collateral Agent, be vested with all or any of the rights and powers of the Collateral Agent.

SECTION 10. Indemnity and Expenses.

(a) Each Grantor jointly and severally agrees to defend, protect, indemnify and hold harmless each Agent and each other Indemnatee from and against any and all claims, losses, damages, liabilities, obligations, penalties, fees, reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees, costs, expenses and disbursements) incurred by such Agent or such Indemnatee to the extent that they arise out of or otherwise result from or relate to or are in connection with this Agreement (including, without limitation, enforcement of this Agreement), except claims, losses or liabilities caused by such Agent's or such Indemnatee's bad faith, gross negligence or willful misconduct, or the bad faith, gross negligence or willful misconduct of any of its Related Parties as determined by a final judgment of a court of competent jurisdiction.

(b) Each Grantor jointly and severally agrees to pay to the Agents upon demand the amount of any and all costs and expenses as set forth in Section 12.04 of the Financing Agreement.

SECTION 11. Notices, Etc. All notices and other communications provided for hereunder shall be given in accordance with the notice provision of the Financing Agreement.

SECTION 12. Security Interest Absolute; Joint and Several Obligations.

(a) All rights of the Secured Parties, all Liens and all obligations of each of the Grantors hereunder shall be absolute and unconditional irrespective of (i) any lack of validity or enforceability of the Financing Agreement or any other Loan Document, (ii) any change in the time, manner or place of payment of, or in any other term in respect of, all or any of the Secured Obligations, or any other amendment or waiver of or consent to any departure from the Financing Agreement or any other Loan Document, (iii) any exchange or release of, or non-perfection of any Lien on any Collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations, or (iv) any other circumstance that might otherwise constitute a defense available to, or a discharge of, any of the Grantors in respect of the Secured Obligations. All authorizations and agencies contained herein with respect to any of the Collateral are irrevocable and powers coupled with an interest.

(b) Each Grantor hereby waives to the extent permitted by applicable

law (i) promptness and diligence, (ii) notice of acceptance and notice of the incurrence of any Obligation by any Borrower, (iii) notice of any actions taken by any Agent, any Lender, any Guarantor or any other Person under any Loan Document or any other agreement, document or instrument relating thereto, (iv) all other notices, demands and protests, and all other formalities of every kind in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this subsection (b), might constitute grounds for relieving such Grantor of any such Grantor's obligations hereunder and (v) any requirement that any Agent or any Lender protect, secure, perfect or insure any security interest or other lien on any property subject thereto or exhaust any right or take any action against any Grantor or any other Person or any collateral.

(c) All of the obligations of the Grantors hereunder are joint and several. The Collateral Agent may, in its sole and absolute discretion, enforce the provisions hereof against any of the Grantors and shall not be required to proceed against all Grantors jointly or seek payment from the Grantors ratably. In addition, the Collateral Agent may, in its sole and absolute discretion, select the Collateral of any one or more of the Grantors for sale or application to the Secured Obligations, without regard to the ownership of such Collateral, and shall not be required to make such selection ratably from the Collateral owned by all of the Grantors. The release or discharge of any Grantor by the Collateral Agent shall not release or discharge any other Grantor from the obligations of such Person hereunder.

SECTION 13. Miscellaneous.

(a) No amendment of any provision of this Agreement (including any Schedule attached hereto) shall be effective unless it is in writing and signed by each Grantor affected thereby and the Collateral Agent, and no waiver of any provision of this Agreement, and no consent to any departure by any Grantor therefrom, shall be effective unless it is in writing and signed by the Collateral Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) No failure on the part of the Secured Parties to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Secured Parties provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Secured Parties under any Loan Document against any party thereto are not conditional or contingent on any attempt by such Person to exercise any of its rights under any other Loan Document against such party or against any other Person, including but not limited to, any Grantor.

(c) This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect, subject to paragraph (e) below, until the date on which all of the Secured Obligations (other than contingent indemnification obligations upon which no claim has been made) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents and (ii) be binding on each Grantor and all other Persons who become bound as debtor to this Agreement in

accordance with the PPSA, and shall inure, together with all rights and remedies of the Secured Parties hereunder, to the benefit of the Secured Parties and their respective successors, transferees and assigns. Without limiting the generality of clause (ii) of the immediately preceding sentence, the Secured Parties may assign or otherwise transfer their respective rights and obligations under this Agreement and any other Loan Document to any other Person pursuant to the terms of the Financing Agreement, and such other Person shall thereupon become vested with all of the benefits in respect thereof granted to the Secured Parties herein or otherwise. Upon any such assignment or transfer, all references in this Agreement to any Secured Party shall mean the assignee of any such Secured Party. None of the rights or obligations of any Grantor hereunder may be assigned or otherwise transferred without the prior written consent of the Collateral Agent, and any such assignment or transfer shall be null and void.

(d) Each Grantor acknowledges and agrees that in the event it amalgamates with any other corporation or corporations it is the intention of the parties hereto that the term "Grantor" when used herein shall apply to each of the amalgamating corporations and to the amalgamated corporation, such that the security interest granted hereby:

(i) shall extend to Collateral" (as that term is herein defined) owned by each of the amalgamating corporations and the amalgamated corporation at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated corporation, and

(ii) shall secure the "Secured Obligations" (as that term is herein defined) of each of the amalgamating corporations and the amalgamated corporation to the Collateral Agent at the time of amalgamation and any "Secured Obligations" of the amalgamated corporation to the Collateral Agent thereafter arising. The security interest shall attach to "Collateral" owned by each corporation amalgamating with any Grantor, and by the amalgamated corporation, at the time of the amalgamation, and shall attach to any "Collateral" thereafter owned or acquired by the amalgamated corporation when such becomes owned or is acquired.

(e) Upon the date on which all of the Secured Obligations (other than unasserted contingent indemnification obligations upon which no claim has been made) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents, (i) subject to paragraph (e) below, this Agreement and the security interests and licenses created hereby shall automatically terminate and all rights to the Collateral shall revert to the Grantors and (ii) the Collateral Agent will, upon the Grantors' request and at the Grantors' expense, without any representation, warranty or recourse whatsoever, (A) return to the Grantors (or whomsoever shall be lawfully entitled to receive the same or as a court of competent jurisdiction shall direct) such of the Collateral as shall not have been sold or otherwise disposed of or applied pursuant to the terms hereof and (B) execute and deliver to the Grantors such documents as the Grantors shall reasonably request to evidence such termination.

(f) This Agreement shall (i) remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or

reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor's assets at any time prior to the date on which all of the Secured Obligations (other than unasserted contingent indemnification obligations upon which no claim has been made) have been indefeasibly and irrevocably paid in full in cash after the termination of each Lender's Commitment and each of the Loan Documents and (ii) continue to be effective or be reinstated, as the case may be, if at any time payment or performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(g) Upon the execution and delivery, or authentication, by any Person of a security agreement supplement in substantially the form of Exhibit C hereto (each a "Security Agreement Supplement"), (i) such Person shall be referred to as an "Additional Grantor" and shall be and become a Grantor, and each reference in this Agreement to "Grantor" shall also mean and be a reference to such Additional Grantor, and each reference in this Agreement and the other Loan Documents to "Collateral" shall also mean and be a reference to the Collateral of such Additional Grantor, and (ii) the supplemental Schedules I-VII attached to each Security Agreement Supplement shall be incorporated into and become a part of and supplement Schedules I-VII, respectively, hereto, and the Collateral Agent may attach such Schedules as supplements to such Schedules, and each reference to such Schedules shall mean and be a reference to such Schedules, as supplemented pursuant hereto.

(h) The security interests created hereby shall automatically terminate and be released with respect to any Collateral or any Grantor that is sold as part of or in connection with any sale permitted under the Financing Agreement or under any other Loan Document. With respect to any such termination the Collateral Agent shall, upon the reasonable request of the Grantors and at the Grantor's expense, execute and deliver to the Grantors such documents as the Grantors shall reasonably request to evidence such termination, all without any representation, warranty or recourse whatsoever.

(i) THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, EXCEPT AS REQUIRED BY MANDATORY PROVISIONS OF LAW AND EXCEPT TO THE EXTENT THAT THE VALIDITY AND PERFECTION OR THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, OR REMEDIES HEREUNDER, IN RESPECT OF ANY PARTICULAR COLLATERAL ARE GOVERNED BY THE LAW OF A JURISDICTION OTHER THAN THE PROVINCE OF ONTARIO.

(j) In addition to and without limitation of any of the foregoing, this Agreement shall be deemed to be a Loan Document and shall otherwise be subject to all of terms and conditions contained in Sections 12.10 and 12.11 of the Financing Agreement, *mutatis*

mutandi.

(k) Each Grantor acknowledges receipt of an executed copy of this Agreement.

(l) Each Grantor waives the right to receive any verification statement, financing statement or financing change statement related to this Agreement or related to any other security agreement in respect of the Secured Obligations.

(m) Each party hereto irrevocably and unconditionally waives to the extent permitted by applicable law any right it may have to claim or recover in any legal action, suit or proceeding with respect to this Agreement any special, exemplary, punitive or consequential damages.

(n) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

(o) Section headings herein are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(p) This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which shall be deemed an original, but all of such counterparts taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile or electronic mail shall be equally effective as delivery of an original executed counterpart.

(q) The parties confirm that it is their wish that this Agreement, as well as any other documents relating to this Agreement, including notices, schedules, exhibits and authorizations, have been and shall be drawn up in the English language only. Les Parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en anglais seulement.

SECTION 14. Effectiveness of the Borrowers. Immediately upon consummation of the Acquisition (as defined in the Financing Agreement), the execution and delivery of the signature pages of the Grantors to this Agreement shall become effective.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Grantor has caused this Agreement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

GRANTORS:

B&W HEAT TREATING CANADA ULC

By: 

Name: Brandon Bethea

Title: President

SCHEDULE I

LEGAL NAMES; ORGANIZATIONAL IDENTIFICATION NUMBERS; JURISDICTIONS
OF ORGANIZATION

B&W Heat Treating Canada ULC; 2012488850; Alberta, Canada

SCHEDULE II

INTELLECTUAL PROPERTY AND LICENSES; TRADE NAMES

A. COPYRIGHTS

1. Registered Copyrights
2. Copyright Applications

B. PATENTS

1. Patents
2. Patent Applications

C. TRADEMARKS

1. Registered Trademarks

Mark	Country	Owner of Record	Serial or Reg. No.
B & W HEAT TREATING	Canada	B&W Heat Treating Canada ULC	TMA413867

2. Trademark Applications

D. DESIGNS

1. Registered Industrial Designs
2. Industrial Design Applications

E. OTHER PROPRIETARY RIGHTS

F. TRADE NAMES

B&W Heat Treating Canada ULC uses “Bluewater Thermal Services” and “Bluewater Thermal Solutions” in Ontario, Canada

G. NAME OF, AND EACH TRADE NAME USED BY, EACH PERSON FROM WHICH A GRANTOR HAS ACQUIRED ANY SUBSTANTIAL PART OF THE COLLATERAL WITHIN THE PRECEDING FIVE YEARS

H. LICENSES

I. NOTICES TO TERMINATE, CANCEL OR FAIL TO RENEW ANY LICENSE

J. SUITS

SCHEDULE III

LOCATIONS OF GRANTORS

<u>LOCATION</u>	Description of Location (state if Location (i) contains Equipment, fixtures, Inventory or other Goods (ii) is chief place of business and chief executive office or domicile, or (iii) contains records concerning Accounts and originals of Chattel Paper)
-----------------	--

B&W Heat Treating Canada ULC:

- 1) 400 3rd Avenue SW, Suite 3700, Calgary AB T2P 4H2 – registered head office
- 2) 60 Steckle Place, Kitchener, ON N2G 4W6 – contains Equipment, fixtures, Inventory or other Goods
- 3) 40 Adam Ferrie Place, Kitchener, ON – contains Equipment, fixtures, Inventory or other Goods
- 4) 201 Brookfield Parkway, Suite 102, Greenville, SC 29607 – location of chief executive office and place of books and records

SCHEDULE IV

DEPOSIT ACCOUNTS, SECURITIES ACCOUNTS AND COMMODITIES ACCOUNTS

Name and Address
of Institution

Maintaining Account

TD Bank

Account Number

02752 5230662

Type of Account

CDN Account

TD Commercial Banking
2nd Floor, 381 King Street West
Kitchener, Ontario, N2G 1B8

TD Bank

02752 7310334

USD Account

TD Commercial Banking
2nd Floor, 381 King Street West
Kitchener, Ontario, N2G 1B8

SCHEDULE V
PPSA FINANCING STATEMENTS

PPSA Financing Statements have been filed in the jurisdictions below against the Grantors:

<u>Name of Grantor</u>	<u>Jurisdiction</u>
B&W Heat Treating Canada ULC	Alberta, Canada
B&W Heat Treating Canada ULC	Ontario, Canada

SCHEDULE VI

PLEDGED DEBT

<u>Grantor</u>	<u>Name of Maker</u>	<u>Description</u>	<u>Principal Amount Outstanding as of</u>
N/A			

SCHEDULE VII

PLEDGED SHARES

Grantor	Name of Pledged Issuer	Number of Shares	Percentage of Outstanding Shares	Class	Certificate Number
N/A					

EXHIBIT A

PLEDGE AMENDMENT

This Pledge Amendment, dated _____, 20__, is delivered pursuant to Section 4 of the Canadian Pledge and Security Agreement referred to below. The undersigned hereby agrees that this Pledge Amendment may be attached to the Canadian Pledge and Security Agreement, dated October 23, 2012, as it may heretofore have been or hereafter may be amended, restated, supplemented, modified or otherwise changed from time to time (the "Security Agreement") and that the promissory notes or shares listed on this Pledge Amendment shall be hereby pledged and collaterally assigned to the Collateral Agent and become part of the Pledged Interests referred to in such Pledge Agreement and shall secure all of the Secured Obligations referred to in such Security Agreement.

<u>Pledged Debt</u>			
<u>Grantor</u>	<u>Name of Maker</u>	<u>Description</u>	<u>Principal Amount Outstanding as of</u>

<u>Pledged Shares</u>					
<u>Grantor</u>	<u>Name of Pledged Issuer</u>	<u>Number of Shares</u>	<u>Percentage of Outstanding Shares</u>	<u>Class</u>	<u>Certificate Number</u>

[GRANTOR]

By: _____
 Name:
 Title:

CERBERUS BUSINESS FINANCE, LLC,
 as the Collateral Agent

By: _____
 Name:
 Title:

EXHIBIT B

GRANT OF A SECURITY INTEREST--[TRADEMARKS] [PATENTS] [COPYRIGHTS]
[DESIGNS]

This [Trademark][Copyright][Patent][Design] Security Agreement (this "[Trademark][Copyright][Patent][Design] Security Agreement") is made as of _____, 20__, by _____ ("Grantor"), in favour of Cerberus Business Finance, LLC, in its capacity as collateral agent for the Secured Parties (together with its successors and assigns in such capacity, "Grantee").

WHEREAS, Grantor owns and holds all right, title and interest in [the trademarks and service marks listed on the attached Schedule A, which trademarks and service marks are registered or applied for in the United States Patent and Trademark Office / the Canadian Intellectual Property Office (the "Trademarks") [the letter patents, design patents and utility patents listed on the attached Schedule A, which patents are issued or applied for in the United States Patent and Trademark Office / the Canadian Intellectual Property Office (the "Patents") [the copyrights listed on the attached Schedule A, which copyrights are registered in the United States Copyright Office / the Canadian Intellectual Property Office (the "Copyrights") [the industrial designs listed on the attached Schedule A, which industrial designs are registered in the Canadian Intellectual Property Office (the "Designs")];

WHEREAS, the Grantor has entered into a Canadian Pledge and Security Agreement, dated October 23, 2012 (as amended, restated, supplemented, modified or otherwise changed from time to time, the "Security Agreement"), in favour of Agent, as the Collateral Agent for itself and the Lenders; and

WHEREAS, pursuant to the Security Agreement, the Grantor has granted to the Grantee for the benefit of the Secured Parties (each such term as defined in the Security Agreement), a continuing security interest in all [Trademarks, together with all goodwill associated therewith and symbolized thereby] [Patents] [Copyrights] [Designs] and the applications and registrations thereof, and all proceeds thereof, including, without limitation, any and all causes of action arising out of or relating to any infringement thereof and any and rights to recover from past, present and future violations thereof (the "IP Collateral"), as collateral security for the payment, performance and observance of the Secured Obligations (as defined in the Security Agreement).

NOW, THEREFORE, as collateral security for the payment, performance and observance of all of the Secured Obligations, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby pledges and grants to the Grantee, for the benefit of the Secured Parties, a continuing security interest in the IP Collateral (other than, to the extent provided in the Security Agreement, any Excluded Property).

All capitalized terms used but not otherwise defined herein have the meanings given to them in the Security Agreement.

The Grantor does hereby further acknowledge and affirm that the rights and remedies of the Grantee with respect to the IP Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN.

This [Trademark][Patent][Copyright][Design] Security Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Grantor has caused this
[Trademark][Copyright][Patent][Design] Security Agreement to be duly executed by its officer
thereunto duly authorized as of the date first set forth above.

[GRANTOR],
a [] [],
as Grantor

By: _____
Name:
Title:

SCHEDULE A TO GRANT OF A SECURITY INTEREST

[Trademark Registrations and Applications]

[Patents and Patent Applications]

[Copyright Registrations and Applications]

[Industrial Design Registrations and Applications]

EXHIBIT C

FORM OF SECURITY AGREEMENT SUPPLEMENT

[Date of Security Agreement Supplement]

Cerberus Business Finance, LLC, as Collateral Agent
 875 Third Avenue
 New York, NY 10022

Ladies and Gentlemen:

Reference hereby is made to (i) the Financing Agreement, dated as of October 23, 2012, by and among BWT LLC, a Delaware limited liability company (the "Parent"), Benton Harbor LLC, a Delaware limited liability company ("Benton"), Hi-Temp LLC, a Delaware limited liability company ("Hi-Temp"), Hi-Temp Northlake LLC, a Delaware limited liability company ("Hi-Temp Northlake"), Brazing Concepts LLC, a Delaware limited liability company ("Brazing"), PIHT LLC, a Delaware limited liability company ("PIHT"), B&W Heat Trading LLC, a Delaware limited liability company ("B&W"), B&W Canada LLC, a Delaware limited liability company ("B&W Canada"), Saginaw LLC, a Delaware limited liability company ("Saginaw"), each subsidiary of Benton, Hi-Temp, Hi-Temp Northlake, Brazing, PIHT, B&W, and Saginaw listed as a "US Borrower" on the signature pages hereto (together with Parent, Benton, Hi-Temp, Hi-Temp Northlake, Brazing, PIHT, B&W, B&W Canada, Saginaw and each other Person (as hereinafter defined) that executes a joinder agreement and becomes a "US Borrower" hereunder, each a "US Borrower" and collectively, the "US Borrowers"), B&W Heat Treating Canada ULC, an Alberta unlimited liability company (the "Canadian Borrower"), together with the US Borrowers, collectively and, subject to Section 4.06 of the Financing Agreement, jointly and severally, the "Borrowers"), BWT Holdings LLC, a Delaware limited liability company (the "Ultimate Parent") each subsidiary of the Ultimate Parent listed as a "Guarantor" on the signature pages hereto (together with the Ultimate Parent, the Canadian Borrower and each other Person that executes a joinder agreement and becomes a "Guarantor" hereunder or otherwise guaranties all or any part of the Obligations (as hereinafter defined), each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), Cerberus Business Finance, LLC, a Delaware limited liability company ("Cerberus"), as collateral agent for the Lenders (in such capacity, together with any successor collateral agent, the "Collateral Agent"), and Cerberus, as administrative agent for the Lenders (in such capacity, together with any successor administrative agent, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents") and (ii) the Canadian Pledge and Security Agreement, dated as of October 23, 2012 (as amended, restated, supplemented or otherwise modified from time to time, the "Security Agreement"), made by the Grantors from time to time party thereto in favour of the Collateral Agent. Capitalized terms defined in the Financing Agreement or the Security Agreement and not otherwise defined herein are used herein as defined in the Financing Agreement or the Security Agreement.

SECTION 1. Grant of Security. The undersigned hereby grants to the Collateral Agent, for the ratable benefit of the Secured Parties, a security interest in, all of its right, title and interest in and to all of the Collateral (as defined in the Security Agreement) of the undersigned, whether now owned or hereafter acquired by the undersigned, wherever located and whether now or hereafter existing or arising, including, without limitation, the property and assets of the undersigned set forth on the attached supplemental schedules to the Schedules to the Security Agreement.

SECTION 2. Security for Obligations. The grant of a security interest in the Collateral by the undersigned under this Security Agreement Supplement and the Security Agreement secures the payment of all Secured Obligations of the undersigned now or hereafter existing under or in respect of the Loan Documents, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, premiums, penalties, fees, indemnifications, contract causes of action, costs, expenses or otherwise. Without limiting the generality of the foregoing, each of this Security Agreement Supplement and the Security Agreement secures the payment of all amounts that constitute part of the Secured Obligations and that would be owed by the undersigned to the Collateral Agent or any Secured Party under the Loan Documents but for the fact that such Secured Obligations are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving a Grantor.

SECTION 3. Supplements to Security Agreement Schedules. The undersigned has attached hereto supplemental Schedules I through VII to Schedules I through VII, respectively, to the Security Agreement, and the undersigned hereby certifies, as of the date first above written, that such supplemental Schedules have been prepared by the undersigned in substantially the form of the equivalent Schedules to the Security Agreement, and such supplemental Schedules include all of the information required to be scheduled to the Security Agreement and do not omit to state any information material thereto.

SECTION 4. Representations and Warranties. The undersigned hereby makes as of the date hereof each representation and warranty set forth in Section 5 of the Security Agreement (as supplemented by the attached supplemental Schedules) to the same extent as each other Grantor.

SECTION 5. Obligations Under the Security Agreement. The undersigned hereby agrees, as of the date first above written, to be bound as a Grantor by all of the terms and provisions of the Security Agreement to the same extent as each of the other Grantors. The undersigned further agrees, as of the date first above written, that each reference in the Security Agreement to an "Additional Grantor" or a "Grantor" shall also mean and be a reference to the undersigned.

SECTION 6. Governing Law. This Security Agreement Supplement shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

SECTION 7. Loan Document. In addition to and without limitation of any of the foregoing, this Security Agreement Supplement shall be deemed to be a Loan Document and

shall otherwise be subject to all of terms and conditions contained in Sections 12.10 and 12.11 of the Financing Agreement, *mutatis mutandi*.

Very truly yours,

[NAME OF ADDITIONAL LOAN PARTY]

By: _____
Name:
Title:

Acknowledged and Agreed:

CERBERUS BUSINESS FINANCE, LLC,
as Collateral Agent

By: _____
Name:
Title:

GRANT OF A SECURITY INTEREST --TRADEMARKS

This Trademark Security Agreement (this "Trademark Security Agreement") is made as of October 23, 2012, by B&W Heat Treating Canada ULC ("Grantor"), in favour of Cerberus Business Finance, LLC, in its capacity as collateral agent for the Secured Parties (together with its successors and assigns in such capacity, "Grantee").

WHEREAS, Grantor owns and holds all right, title and interest in the trademarks and service marks listed on the attached Schedule A, which trademarks and service marks are registered or applied for in the Canadian Intellectual Property Office (the "Trademarks");

WHEREAS, the Grantor has entered into a Canadian Pledge and Security Agreement, dated October 23, 2012 (as amended, restated, supplemented, modified or otherwise changed from time to time, the "Security Agreement"), in favour of Agent, as the Collateral Agent for itself and the Lenders; and

WHEREAS, pursuant to the Security Agreement, the Grantor has granted to the Grantee for the benefit of the Secured Parties (each such term as defined in the Security Agreement), a continuing security interest in all Trademarks, together with all goodwill associated therewith and symbolized thereby and the applications and registrations thereof, and all proceeds thereof, including, without limitation, any and all causes of action arising out of or relating to any infringement thereof and any and rights to recover from past, present and future violations thereof (the "IP Collateral"), as collateral security for the payment, performance and observance of the Secured Obligations (as defined in the Security Agreement).

NOW, THEREFORE, as collateral security for the payment, performance and observance of all of the Secured Obligations, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby pledges and grants to the Grantee, for the benefit of the Secured Parties, a continuing security interest in the IP Collateral (other than, to the extent provided in the Security Agreement, any Excluded Property).

All capitalized terms used but not otherwise defined herein have the meanings given to them in the Security Agreement.

The Grantor does hereby further acknowledge and affirm that the rights and remedies of the Grantee with respect to the IP Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.


THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN.

This Trademark Security Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, Grantor has caused this Trademark Security Agreement to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

B&W HEAT TREATING CANADA ULC,
as Grantor

By: 
Name: Brandon Bethea
Title: President

GRANT OF SECURITY INTEREST

SCHEDULE A TO GRANT OF A SECURITY INTEREST

Mark	Country	Owner of Record	Serial or Reg. No.
B & W HEAT TREATING	Canada	B&W Heat Treating Canada ULC	TMA413867

TAB E

**THIS IS EXHIBIT “E” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.

RUN NUMBER : 213
 RUN DATE : 2019/08/01
 ID : 20190801151340.97

PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE

REPORT : PSSR060
 PAGE : 1
 (4933)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
 OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC

FILE CURRENCY : 31JUL 2019

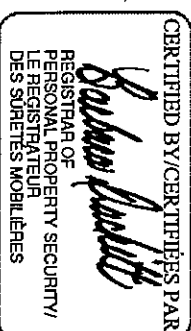
ENQUIRY NUMBER 20190801151340.97 CONTAINS 8 PAGE(S), 2 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
 WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
 SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

CHAITONS LLP (ADP) - ANTOINETTE DE PINTO
 5000 YONGE STREET, 10TH FLOOR
 TORONTO ON M2N 7E9

CONTINUED...

2



(e/s 06/2019)

RUN NUMBER : 213
 RUN DATE : 2019/08/01
 ID : 20190801151340.97

PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE

REPORT : PSSR060
 PAGE : 2
 (4934)

TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
 FILE CURRENCY : 31 JUL 2019

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
 720917781

01 CATION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTRATION
 FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD
 01 003 20160923 1936 1531 9913 P PSA 4

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
 03 NAME BUSINESS NAME B&W HEAT TREATING CANADA ULC
 04 ADDRESS 60 STECKLE PLACE KITCHENER ONTARIO CORPORATION NO.
 ON N2G 4W6

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
 06 NAME BUSINESS NAME
 07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / DE LAKE LANDEN FINANCIAL SERVICES CANADA INC.
 09 LITEN CLAIMANT ADDRESS 3450 SUPERIOR COURT, UNIT 1 OAKVILLE ON L6L 0C4

10 COLLATERAL CLASSIFICATION CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO. FIXED
 609DS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE
 X X X X

11 MOTOR YEAR MAKE MODEL V.I.N.
 2006 CROWN / C51000-50 9A228966
 12 VEHICLE 2016 CROWN / C51000-50 9A228967

13 GENERAL ALL PERSONAL PROPERTY OF THE DEBTOR DESCRIBED HEREIN BY VEHICLE
 14 COLLATERAL IDENTIFICATION NUMBER OR SERIAL NUMBER, AS APPLICABLE, WHEREVER
 15 DESCRIPTION SITUATED, TOGETHER WITH ALL PARTS AND ACCESSORIES RELATING THERETO,

16 REGISTERING D+H LIMITED PARTNERSHIP
 17 AGENT ADDRESS SUITE 200, 4126 NORLAND AVENUE BURNABY BC V5G 3S8

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY ***
 CONTINUED... 3

CERTIFIED BY/CERTIFIÉS PAR
Barbara Plouffe
 REGISTRAR OF
 PERSONAL PROPERTY SECURITY/
 LE REGISTRATEUR
 DES SÛRETÉS MOBILIÈRES

(c) (fin 06/2019)

RUN NUMBER : 213
 RUN DATE : 2019/08/01
 ID : 20190801151340.97

PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE

REPORT : PSSR060
 PAGE : 3
 (4935)

TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
 FILE CURRENCY : 31JUL 2019

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER
 720911781

CAPTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION
 FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD
 02 003 20160923 1936 1531 9913

01 DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

02 DEBTOR BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

03 NAME BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

04 DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

05 DEBTOR BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

06 NAME BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

07 SECURED PARTY / INITIAL CLIENT NAME ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / INITIAL CLIENT NAME ADDRESS ONTARIO CORPORATION NO.

09 COMPLETION CLASSIFICATION ADDRESS

10 COMPLETION CLASSIFICATION MOTOR VEHICLE AMOUNT DATE OF NO. FIXED
 CONSUMER INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MAJORITY OR MAJORITY DATE

11 YEAR MAKE MODEL VIN
 2016 CROWN / C51000-60 10020035

12 VEHICLE 2016 CROWN / C51000-60 10020033

13 GENERAL ALL ATTACHMENTS, ACCESSORIES AND ACCESSIONS THEREON OR THEREON, ALL
 REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS OF ALL OR
 ANY PART OF THE FOREGOING AND ALL PROCEEDS IN ANY FORM DERIVED

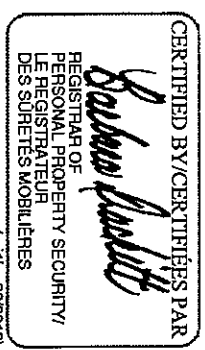
14 COLLATERAL DESCRIPTION

15 REGISTERING ADDRESS

16 AGENT ADDRESS

17 *** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED...



TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA LTD
 FILE CURRENCY : 31JUL 2019

FORM 10 FINANCING STATEMENT / CLAIM FOR UEN

00 FILE NUMBER
 720911781

01 CAVITION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTRATION
 FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD
 03 003 20160923 1936 1531 9913

02 DEBTOR NAME OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

03 NAME BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

04 ADDRESS ONTARIO CORPORATION NO.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

06 NAME BUSINESS NAME ADDRESS ONTARIO CORPORATION NO.

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / WHEN CLAIMANT ADDRESS

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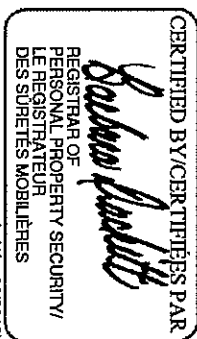
15 DESCRIPTION

16 REGISTERING

17 AGENT ADDRESS

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY ***

CONTINUED...



RUN NUMBER : 213
RUN DATE : 2019/08/01
ID : 20190801151340.97

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 5
(4937)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
FILE CURRENCY : 31JUL 2019

FORM 10 FINANCING STATEMENT / CLAIM FOR LITEN

FILE NUMBER
681898986

CAUTION PAGE 001
KILLING NO. OF PAGES 2
MOTOR VEHICLE REGISTRATION NUMBER 20121003 1103 1590 8621
SCHEDULE 20121003 1103 1590 8621
REGISTERED UNDER P
REGISTRATION PERIOD 7
P PSA

01 DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

02 DIRECTOR BUSINESS NAME B&W HEAT TREATING CANADA ULC
03 NAME ADDRESS 201 BROOKFIELD PARKWAY, SUITE 102 GREENVILLE
ONTARIO CORPORATION NO. SC 29607

04 DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

05 DIRECTOR BUSINESS NAME B&W HEAT TREATING CANADA ULC
06 NAME ADDRESS 60 STECKLE PLACE KITCHENER
ONTARIO CORPORATION NO. ON N2E 2C3

07 SECURED PARTY / GREEN CHAIRMAN ADDRESS 875 THIRD AVENUE NEW YORK NY 10022

08 COMINGRAT CLASSIFICATION CONSUMER INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MOTOR VEHICLE AMOUNT DATE OF MATURITY OR NO. FIXED MATURITY DATE

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16 REGISTERING ADDRESS 181 BAY ST, SUITE 4400, BROOKFIELD PLACE TORONTO ON M5J 2T3
17 AGENT

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***
CONTINUED... 6

CERTIFIED BY/CERTIFIES PAR
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SURETES MOBILIERES

(c) 11u 06/2019



RUN NUMBER : 213
RUN DATE : 2019/08/01
ID : 20190801151340.97

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 6
(4938)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
FILE CURRENCY : 31JUL 2019

FORM 1C FINANCING STATEMENT / CLAIM FOR LITEN

00 TITLE NUMBER
681898986

01 CAPTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD
002 2 20121003 1103 1590 8621

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03 NAME BUSINESS NAME B&W HEAT TREATING CANADA ULC
04 ADDRESS 400 - 3RD AVENUE S.W., SUITE 3700 CALGARY
ONTARIO CORPORATION NO.
AB T2P 4H2

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
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07 ADDRESS
ONTARIO CORPORATION NO.

08 SECURED PARTY /
09 LITEN CLAIMANT ADDRESS

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17 AGENT ADDRESS

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

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CERTIFIED BY/CERTIFIES PAR
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SURETES MOBILIERES
Barbara Macleod

(e/f) 06/2019



RUN NUMBER : 213
RUN DATE : 2019/08/01
ID : 20190801151340.97

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 7
(4939)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
FILE CURRENCY : 31 JUL 2019

FORM 2C FINANCING CHANGE STATEMENT / CHANGE STATEMENT

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FILING NO. OF PAGES SCHEDULE NUMBER UNDER
01 001 20190722 1451 1590 1564

21 RECORD REFERENCED
FILE NUMBER 681898986

22 PAGE AMENDED NO SPECIFIC PAGE AMENDED
CHANGE REQUIRED RENEWAL
B RENEWAL 1

23 REFERENCE FIRST GIVEN NAME INITIAL SURNAME
DEBTOR/ BUSINESS NAME B&W HEAT TREATING CANADA ULC
TRANSFER

24 OTHER CHANGE
REASON/ DESCRIPTION

25 DEBTOR/ DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME
02/ TRANSFEREE BUSINESS NAME
05/ ADDRESS
06/ ONTARIO CORPORATION NO.
04/07

29 ASSIGNOR
08 SECURED PARTY/LIEN CLAIMANT/ASSIGNER
09 COLLATERAL CLASSIFICATION ADDRESS
10 CONSUMER INVENTORY EQUIPMENT ACCOUNTS OTHER INCURRED AMOUNT DATE OF NO. FIXED
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12 VEHICLE
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15 DESCRIPTION
16 REGISTERING AGENT OR
17 SECURED PARTY/ ADDRESS
181 BAY ST, SUITE 4400, BROOKFIELD PLACE TORONTO ON M5J 2T3

*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***

CONTINUED... 8

CERTIFIED BY/CERTIFIES PAR
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SURETES MOBILIERES
[Signature]
(c)2019 06/2019



413
RUN NUMBER : 213
RUN DATE : 2019/08/01
ID : 20190801151340.97

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

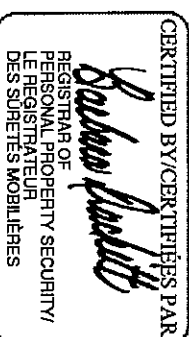
REPORT : PSSR060
PAGE : 8
(4940)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : B&W HEAT TREATING CANADA ULC
FILE CURRENCY : 31JUL 2019

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
720911781	20160923	1936	1531	9913
681890986	20121003	1103	1590	8621
	20190722	1451	1590	1564

3 REGISTRATON(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



(crtfs 06/2019)

TAB F

**THIS IS EXHIBIT “F” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.



28 June 2019

Farber Group
150 York Street, Suite 1600
Toronto, ON M5H 3S5

Attn: Peter Crawley, Managing Director, Restructuring

Re: B&W Heat Treating Canada ULC ("BW")

Dear Sir,

This is a follow up to our various discussions concerning the sale of BW operating assets.

As requested, this letter sets out our intent to acquire all of the operating assets of BW, including all machinery and equipment, office furniture and computer hardware/ software presently utilized in the business and customer contracts/ list.

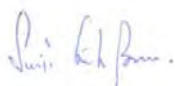
Accordingly, we offer CDN as total consideration for the above noted assets.

Our offer is conditional upon the following:

1. Physical inspection of the machinery and equipment. Purchaser shall be allowed reasonable time to complete its inspection.
2. Supporting written opinion from your Counsel that the collective bargaining rights of the union contract presently in place with BW, will not extend to the Purchaser.
3. BW facilitating introduction of Purchaser to existing BW customers for an orderly transition of existing orders/ contracts (this will be a condition subsequent to the formal execution of APA between BW and the Purchaser).
4. A formal agreement of purchase and sale with terms and conditions reviewed and approved by Purchaser's Counsel.

The above is a Non-binding LOI. If the terms as set out above are acceptable, kindly indicate your acceptance in the space provided below, no later than close of business, July 12, 2019.

Yours truly,

A handwritten signature in blue ink, appearing to read "Surjit Bawa".

Surjit Bawa, President and Chief Executive Officer
Metex Group
225 Wilkinson Road
Brampton ON L6T 4M2

We hereby accept your offer on terms noted above:

Name:

Position:

On behalf of B&W Heat Treating Canada ULC

TAB G

**THIS IS EXHIBIT “G” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.



Proposal prepared for



Delivered on:

August 14, 2019

Submitted by:

John Sharpe

Client:

Bluewater Thermal Solutions

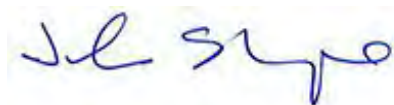
Mr. Stuart Mitchell
Senior Managing Director - Restructuring
Farber Group
(in its capacity as proposed receiver of Bluewater Thermal Solutions)
150 York Street
Suite 1600
Toronto, ON M5H 3S5
smitchell@farbergroup.com

Mr. Mitchell,

Enclosed for your review is our asset disposition and monetization proposal for the assets of Bluewater Thermal Solutions located in Kitchener, Ontario. Our mission is to report on the means to maximize your company's return on the sale of your assets. This is consistent with the client-based focus which has enabled us to grow to one of the largest, most active, and successful asset disposition companies in the world.

The decision to select an asset management firm is an important one. One vital aspect to the success of these projects is creating positive visibility. For more than 30 years, our team has successfully marketed and managed many similar projects. Our global marketing experience, depth of market knowledge, and efficient operational systems make Hilco Industrial the best choice to handle this project in a professional, safe, and expeditious fashion, while maximizing return for Bluewater Thermal Solutions.

Respectfully Submitted on Behalf of Hilco Industrial,

A handwritten signature in blue ink, appearing to read "J. Sharpe".

John Sharpe
Executive Vice President
Hilco Global | Industrial

Fee Structure

Outright Purchase

Pursuant to our inspection on July 10, 2019, Hilco Industrial will purchase the surplus assets of Bluewater Thermal Solutions located in Kitchener, Ontario, for USD \$

**This proposal is subject to a final inspection.*

Guaranteed Minimum Revenue ¹

In this option, Hilco Industrial would provide a minimum cash guarantee payment to Bluewater Thermal Solutions. In addition, Bluewater Thermal Solutions would participate in any upside sharing of proceeds, less a modest holdback to cover expenses, as follows:

- Bluewater Thermal Solutions will receive a minimum cash guarantee payment in the amount of USD \$
- Hilco Industrial will retain the next USD \$ to cover expenses.
- Hilco Industrial will share proceeds as follows:
 - » \$ to \$ will split proceeds 90% Bluewater Thermal Solutions, 10% Hilco;
 - » \$ to \$ will split proceeds 80% Bluewater Thermal Solutions, 20% Hilco;
 - » \$ and over will split proceeds 70% Bluewater Thermal Solutions, 30% Hilco.

Hilco Industrial will charge and retain a Buyer's Premium of 16% for its own account.²

**This proposal is subject to a final inspection.*

Commission-Based

As compensation for our complete suite of services, Hilco Industrial:

- » Will charge Bluewater Thermal Solutions a seller's commission of 10%.
- » Will charge and retain a Buyer's Premium of 16% for its own account. ²
- » Will be entitled to reimbursement of up to \$ from gross sales proceeds for all expenses incurred, including, but not limited to sales, marketing, and operations.

¹ Due to the volatility in the marketplace, the above offer(s) shall remain valid for acceptance or further discussions until end-of-business on Wednesday August 21, 2019.

² A Buyer's Premium is a fee charged in addition to the sale price of the assets and is paid for by the buyer.

A minimum 6 months occupancy required. This offer is subject to the execution of a mutually agreeable Asset Management Agreement or Asset Purchase Agreement and final inspection.

TAB H

**THIS IS EXHIBIT “H” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.

ASSET PURCHASE AGREEMENT

This Agreement (this “**Agreement**”) is dated as of the 25th day of September, 2019, by and between A. Farber & Partners Inc. (“**Farber**”), in its capacity as Court-appointed receiver (“**Seller**” or “**Receiver**”) of B&W Heat Treating Canada ULC (“**B&W**”) and Hilco Industrial Acquisitions Canada ULC (the “**Purchaser**”), for the sale and purchase of the Assets (defined below), on the terms and conditions set forth herein. Seller and Purchaser are referred to, collectively, as the “**Parties**” and each, individually, as a “**Party**.”

RECITALS

WHEREAS it is anticipated that Farber will be appointed as Receiver of all of the assets, undertakings and properties of B&W pursuant to and in accordance with the terms of an Appointment Order issued by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) (the “**Receivership Appointment**”);

AND WHEREAS the Seller is willing to sell and the Purchaser is willing to purchase the Assets upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby agree as follows:

ARTICLE 1 **DEFINITIONS**

SECTION 1.1 “**Access Period**” has the meaning set forth in section 9.1.

SECTION 1.2 “**Agreement**” has the meaning set forth in the introductory paragraph.

SECTION 1.3 “**Approval and Vesting Order**” has the meaning set forth in section 5.1(a).

SECTION 1.4 “**Assets**” means the items of personal property identified on Exhibit A.

SECTION 1.5 “**B&W**” has the meaning set forth in the introductory paragraph.

SECTION 1.6 “**Closing**” has the meaning set forth in section 4.1.

SECTION 1.7 “**Court**” has the meaning set forth in the recitals.

SECTION 1.8 “**Encumbrances**” has the meaning set forth in the Approval and Vesting Order.

SECTION 1.9 “**ETA**” means the *Excise Tax Act* (Canada).

SECTION 1.10 “**Facility**” means the location set forth on Exhibit B.

SECTION 1.11 “**Farber**” has the meaning set forth in the introductory paragraph.

SECTION 1.12 “**Future Sale(s)**” has the meaning set forth in section 6.1.

SECTION 1.13 “**Hazardous Substances**” means air pollutants, water pollutants, solid wastes or process waste water contaminants, hazardous wastes, materials, or substances, or toxic substances howsoever occurring (as those or similar terms are defined by applicable environmental Laws).

SECTION 1.14 “**Laws**” means any domestic (federal, provincial or municipal) or foreign statute, law (including common and civil law), code, ordinance, rule, regulation, restriction or by-law (zoning or otherwise), any judgment, order, writ, injunction, directive, decision, ruling, decree or award, any regulatory policy, practice or guideline, any published administrative position, or any permit, authorizations, governmental restrictions and requirements relating to the Assets or the Facility, including (without limitation), tax, occupational health and safety and environmental laws.

SECTION 1.15 “**Party**” and “**Parties**” have the meanings set forth in introductory paragraph.

SECTION 1.16 “**Purchase Price**” has the meaning set forth in section 3.1.

SECTION 1.17 “**Purchaser**” has the meaning set forth in the introductory paragraph.

SECTION 1.18 “**Receiver**” has the meaning set forth in the introductory paragraph.

SECTION 1.19 “**Receivership Appointment**” has the meaning set forth in the recitals.

SECTION 1.20 “**Seller**” has the meaning set forth in the introductory paragraph.

SECTION 1.21 “**Seller Access Period**” has the meaning set forth in section 9.1(a).

ARTICLE 2

SALE AND PURCHASE OF ASSETS

SECTION 2.1 Sale and Purchase of the Assets. Effective as of the Closing, on the terms and conditions set forth herein, Seller agrees to sell, transfer, convey, and assign to Purchaser, and Purchaser agrees to purchase from Seller, all of B&W’s rights, title, and interest in and to the Assets on an “as-is, where is” basis free and clear of all Encumbrances pursuant to the Approval and Vesting Order.

SECTION 2.2 No Assumption of Liabilities. Except for any liabilities arising out of the ownership of the Assets after the Closing, Purchaser does not and shall not be deemed to assume

any obligations and/or liabilities in connection with the transactions contemplated by this Agreement other than as expressly provided for herein.

ARTICLE 3 **PURCHASE PRICE**

SECTION 3.1 Purchase Price for the Assets. The aggregate purchase price for the Assets shall be (the “**Purchase Price**”). The Purchase Price shall be paid at Closing.

ARTICLE 4 **CLOSING**

SECTION 4.1 Closing. The closing of the transactions contemplated by this Agreement shall take place at 5:00 p.m. Eastern Standard Time on the first day following the day that all of the conditions precedent contained in Section 5 of this Agreement are either satisfied or waived by the Parties whose favour the condition is made, or such other date as the Parties may mutually agree (the “**Closing**”).

ARTICLE 5 **CONDITIONS TO CLOSING**

SECTION 5.1 Purchaser Closing Conditions. The obligations of the Purchaser hereunder are, at Purchaser’s option, subject to the satisfaction, on or prior to the date of the Closing, of the following conditions:

(a) *Receivership Appointment.* The Receivership Appointment shall have taken place and the Court shall have issued an Order approving the sale transaction contemplated by this Agreement and vesting the Assets to the Purchaser free and clear of all Encumbrances (the “**Approval and Vesting Order**”), and the Approval and Vesting Order shall not have been stayed or set aside. For certainty, the Approval and Vesting Order shall be substantially in the form of the Commercial List Users’ Committee Model Approval and Vesting Order and obtained at the expense of B&W.

(b) *Bill of Sale.* The Seller will have executed and delivered to the Purchaser a Bill of Sale, in substantially the form attached as Exhibit C, transferring to the Purchaser all of B&W’s right, title and interest in and to the Assets free and clear of all Encumbrances.

(c) *Insurance Certificates.* The Seller shall have delivered to Purchaser certificates of insurance with respect to the insurance requirements set out herein.

(d) *Additional Documents.* The Purchaser will have received all such further consents, instruments and documents as the Purchaser may reasonably request for the more effective conveyance, sale, assignment or transfer to the Purchaser of title to any of the Assets.

SECTION 5.2 Seller Closing Conditions. The obligations of the Seller hereunder are, at its option, subject to the satisfaction, on or prior to the date of the Closing, of the following conditions:

(a) *Receivership Appointment.* The Receivership Appointment shall have taken place and the Court shall have issued the Approval and Vesting Order and the Approval and Vesting Order shall not have been stayed or set aside. For certainty, the Approval and Vesting Order shall be obtained at the expense of B&W.

(b) *Purchase Price.* The Purchaser will have paid the Purchase Price pursuant to section 3.1, by wire transfer to an account designated by Seller in immediately available funds, on the date of the Closing.

(c) *Insurance Certificates.* The Purchaser shall have delivered to Seller certificates of insurance with respect to the insurance requirements set out herein.

(d) *Additional Documents.* The Seller will have received all such further instruments and documents as the Seller may reasonably request for the more effective conveyance, sale, assignment or transfer by the Seller to the Purchaser of any of the Assets.

ARTICLE 6

FURTHER DISPOSITION

SECTION 6.1 Public and Private Sale. Immediately upon the Closing, Purchaser may, in Purchaser's sole and absolute discretion, make preparations for and conduct one or more private or public sales (including, but not limited to, one or more public auction sales) of the Assets at the Facility (each a "**Future Sale**" and collectively, the "**Future Sales**") and Purchaser shall retain for its sole and exclusive benefit all proceeds from such Future Sales.

SECTION 6.2 Advertising. The Purchaser shall be permitted to implement an advertising and marketing plan with respect to the Future Sales, including without limitation advertising the sale of the Assets through print media (including major newspapers, color brochures and direct mail flyers), web site promotion and electronic mail. During the Access Period (as it may be extended hereunder), the Purchaser is hereby granted a non-exclusive royalty free license to use the name "Bluewater Thermal Solutions", "B&W Heat Treating Canada ULC", "B&W Heat Treating" and similar derivations thereof, and any marks and logos related thereto, in all of its advertising and promotional activities related to this Agreement and the Future Sales. During the Access Period (as it may be extended hereunder), the Purchaser's advertising and promotional materials may state that assets formerly owned by B&W Heat Treating Canada ULC, B&W Heating Treating, the Canadian division of Bluewater Thermal Solutions are available for immediate sale (or a similar derivation thereof). Any deviations from the restrictions set forth in this section shall require prior written consent of the Seller and B&W.

SECTION 6.3 Access to the Facility. During the Access Period (as it may be extended hereunder), Seller shall permit Purchaser, its agents and subcontractors and subsequent buyers of

the Assets full and complete access to the Facility and Assets in accordance with Article 9 of this Agreement. For greater certainty, the Purchaser shall gain access to the Facility but shall not assume any of the obligations or liabilities existing in connection with the lease of the Facility.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser as follows:

SECTION 7.1 Appointment and Power of Receiver. Subject to the granting of the Receivership Appointment and the Approval and Vesting Order, the Seller is the Receiver over all of the Assets and has the requisite power and authority to enter into and perform Seller's obligations under this Agreement in accordance with the terms of this Agreement.

SECTION 7.2 No Conflicts. Other than the granting of the Receivership Appointment and the Approval and Vesting Order, no consent, approval or authorization of, or registration or filing with, any third party is required in connection with the execution and delivery by the Seller of this Agreement and the consummation of the transactions contemplated hereby, the failure of which to obtain would have a material adverse effect on the Assets or prevent the Seller from consummating the transactions hereunder.

SECTION 7.3 No Fees. Seller has not incurred any obligation for any finder's, broker's, or agent's fee in connection with the transactions contemplated by this Agreement in a manner that will result in liability on the part of Purchaser.

SECTION 7.4 Insurance. The Seller agrees to procure and retain general comprehensive liability insurance coverage for the Premises for the Access Period (as it may be extended hereunder). The Seller shall provide the Purchaser with evidence of such insurance upon the Purchaser's request.

SECTION 7.5 Taxes. Seller is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada). B&W is duly registered under Subdivision (d) of Division V of Part IX of the ETA and its registration number is 85211 3927 RT0001.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller as follows:

SECTION 8.1 Corporate Existence and Power. The Purchaser is duly organized under the laws of its jurisdiction of organization, validly existing, and in good standing under the laws of its jurisdiction of organization and has the requisite power and authority to enter into and perform the Purchaser's obligations under this Agreement in accordance with the terms of this Agreement.

SECTION 8.2 Authority Relative to Agreement. The execution, delivery, and performance of this Agreement by the Purchaser and the consummation by the Purchaser of the transactions provided for herein, have been duly and effectively authorized by all necessary organizational action. This Agreement, upon execution by the Purchaser and the Seller, will constitute the legal, valid and binding obligation of the Purchaser.

SECTION 8.3 No Conflicts. Neither the execution, delivery and performance of this Agreement, nor the consummation of the transactions provided for herein, will conflict with or result in a breach of any provision of the Purchaser's organizational documents, conflict with, result in a breach of, constitute a default or event of default under any of the terms, conditions or provisions of any agreement or instrument to which the Purchaser is a party, result in a violation of any Laws applicable to the Purchaser. No consent, approval or authorization of, or registration or filing with, any third party is required in connection with the execution and delivery by Purchaser of this Agreement and the consummation of the transactions contemplated hereby.

SECTION 8.4 No Fees. Purchaser has not incurred any obligation for any finder's, broker's, or agent's fee in connection with the transactions contemplated by this Agreement in a manner that will result in liability on the part of Seller.

SECTION 8.5 Insurance. Purchaser agrees to procure and maintain, during the Access Period (as it may be extended hereunder), property damage, fire and other perils insurance in amounts not less than the Purchase Price in respect of the Assets until sold and removed from the Facility. Additionally, the Purchaser has in full force and effect adequate liability insurance coverage to compensate for any claim(s) that might be made against Seller for injury to person or property resulting from Purchaser's access to, and removal of the Assets from, the Facility. The Purchaser shall provide the Seller with evidence of such insurance upon the Seller's request.

SECTION 8.6 Approvals and Financing. The Purchaser has received all corporate and financing party approvals necessary to consummate the transactions contemplated by this Agreement. As of the date hereof, the Purchaser has sufficient funds available to pay the Purchase Price and is not aware of any facts, circumstances or conditions that would reasonably be expected to prevent the Purchaser from having sufficient funds to enable the Purchaser to consummate the transactions contemplated by this Agreement on Closing.

ARTICLE 9

ACCESS TO THE FACILITY; REMOVAL OF ASSETS

SECTION 9.1 Access. In consideration of Purchaser's agreement to purchase the Assets, effective as of the date of the Closing and ending on the date that is four (4) months after the Closing, (such period, the "**Access Period**"), Seller covenants to grant the Purchaser access to use the Facility for the sole purposes of conducting the Future Sales, removing the Assets from the Facility, and all other actions that are related thereto. The Purchaser shall have two options to extend the Access Period by one (1) calendar month on each occasion. The options shall be exercised by providing written notice no less than fourteen (14) days prior to the expiry of the Access Period (as extended) and paying US\$ to the Seller for each extension. Seller, its agents, employees, representatives, and subcontractors shall not be permitted to use any of the Assets purchased by Purchaser hereunder during the Access Period (as it may be extended

hereunder). For the avoidance of doubt, during the first two (2) weeks of the Access Period (the “**Seller Access Period**”), Seller, its representatives, and agents of B&W’s customers that have property situated at the Facility shall be permitted unrestricted access to the Facility (under the supervision of the Seller or its agents) to test and then ship completed customer orders from the Facility and remove property owned by B&W’s customers, so long as such activities do not require the use of the Assets and so long as such activities do not unduly interfere with the Future Sales. For greater certainty, in terms of calculating the end date of the Access Period, if, as an example, the date of Closing is October 2, 2019, the end date of the Access Period would be February 2, 2020.

SECTION 9.2 Rent and Utilities. During the Access Period (as it may be extended), the Seller shall be responsible for payment of base rent payable to the landlord of the Facility and all taxes. During the initial four-month Access Period, the Seller shall be responsible for payment of all hydro and utility costs, and snow removal costs (collectively, the “**Costs**”). In the event that the Purchaser exercises one or both options to extend under section 9.1 hereof, the Purchaser shall be responsible for payment of all Costs during the extension period. At all times during the Access Period (as it may be extended hereunder), the Purchaser shall be responsible for removal of waste and trash from the Facility and payment of all costs related thereto.

SECTION 9.3 Condition of Facility at the Conclusion of Access Period. Upon expiration of the Access Period (as it may be extended), Purchaser agrees to remove all unsold Assets and leave the Facility in a safe, clean and broom-swept condition and shall be responsible for all costs of clean-up of the Facility and removal of waste therefrom. The Purchaser agrees to indemnify the Seller, defend and hold the Seller and its employees, agents and representatives harmless from any claims, demands, liabilities, debts, actions, causes of action, costs, expenses, damages and disbursements (including, without limitation, legal fees on a substantial indemnity basis) for breach of its obligations under this section and for damages, losses or injury caused to property or persons through any acts or omissions of the Purchaser, its invitees or anyone for whom it is in law responsible, including damages arising from the sale and/or removal of the Assets from the Facility by the Purchaser, their invites, or any buyers of the Assets and their respective agents and representatives.

ARTICLE 10 **TERMINATION**

SECTION 10.1 Termination. Notwithstanding anything to the contrary in this Agreement, this Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written consent of the Seller and Purchaser;
- (b) by the Purchaser, upon written notice to the Seller, if the Receivership Appointment has not occurred by September 30, 2019 or such later date as the Parties may agree to in writing;
- (c) by either Party if any condition herein for its benefit is not fulfilled or waived prior to the Closing.

SECTION 10.2 Effect of Termination. In the event of termination by the Seller or Purchaser pursuant to section 10.1, written notice thereof shall forthwith be given to the other Party and the Agreement shall be terminated, without further action by any party.

ARTICLE 11 **ADDITIONAL AGREEMENTS**

SECTION 11.1 Hazardous Substances. The Purchaser shall not be responsible for the removal or disposition of any Hazardous Substances found in the Assets or at the Facility, including any Hazardous Substances that may have been produced, drained, leaked or otherwise released from the Assets prior to Closing. The Purchaser shall be responsible for the costs of removal, clean-up and/or disposition of any Hazardous Substances discharged or spilled caused by the Purchaser or any persons for whom it is responsible.

SECTION 11.2 Commercially Reasonable Efforts. The Parties hereto will each use commercially reasonable efforts to effectuate the transactions contemplated hereby and to fulfill and cause to be fulfilled the conditions to the Closing.

SECTION 11.3 Transfer Taxes. Purchaser shall pay to Seller or, where permitted by Law, directly to the appropriate governmental authorities, all sales and transfer taxes, registration charges and transfer fees payable by it in respect of the purchase and sale of the Assets under this Agreement.

SECTION 11.4 ETA Election. Purchaser and Seller shall jointly elect under subsection 167(1) of the ETA and under any similar provision of any applicable provincial legislation imposing a similar value added or multi-staged tax, that no tax be payable with respect to the purchase and sale of the Assets pursuant to this Agreement. Purchaser and Seller shall make those elections in prescribed form containing prescribed information and shall file those elections in compliance with the requirements of applicable Law.

ARTICLE 12 **POST-CLOSING MATTERS**

SECTION 12.1 Further Assurances. Upon reasonable request from time to time, the parties agree to deliver and/or execute such further instruments, agreements and documents as are reasonably necessary or appropriate to effect the consummation of the transactions provided for in this Agreement.

ARTICLE 13 **MISCELLANEOUS**

SECTION 13.1 Notices. Any notices or communications required or permitted hereunder shall be sufficiently given if delivered in person or e-mail addressed as follows:

Seller: A. Farber & Partners Inc., solely in its capacity
as Receiver of B&W Heat Treating Canada
ULC
Stuart Mitchell
Tel: (416) 496-3774
E-Mail: smitchell@farbergroup.com

Purchaser: Hilco Industrial Acquisitions Canada ULC
5 Revere Drive, Suite 206
Northbrook, Illinois 60062
Tel: 1-847-509-1100
Attn: Sarah K. Baker, Esq.
E-Mail: sbaker@hilcoglobal.com

or such address as shall be furnished by such notice to the other parties. All notices shall be deemed delivered when delivered in person or e-mail.

SECTION 13.2 Binding Agreement; Assignment. This Agreement and the right of the parties hereunder shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions of this Agreement are intended for the sole benefit of Purchaser and Seller as specifically provided herein, and shall not inure to the benefit of any other entity or person (other than successors and permitted assigns of the Parties hereto) either as a third party beneficiary or otherwise. No Party may assign either this Agreement or any of his or its rights, interests, or obligations hereunder without the prior written approval of the other Party, and any attempt to do so will be void.

SECTION 13.3 Entire Agreement; Amendment. This Agreement and the documents delivered pursuant hereto constitute the entire agreement and understanding among the Parties hereto and supersede and revoke any prior agreement or understanding relating to the subject matter of this Agreement. No change, amendment, termination or attempted waiver of any of the provisions hereof shall be binding upon the other Party unless reduced to writing and signed by the Party against whom such change, amendment, termination or waiver is sought to be enforced.

SECTION 13.4 Counterparts and Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. A manual signature on this Agreement or other documents to be delivered pursuant to this Agreement, an image of which shall have been transmitted electronically, will constitute an original signature for all purposes. The delivery of copies of this Agreement or other documents to be delivered pursuant to this Agreement, including executed signature pages where required, by electronic transmission will constitute effective delivery of this Agreement or such other document for all purposes.

SECTION 13.5 Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden

of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. The word “including” shall mean including without limitation.

SECTION 13.6 Captions. The captions and headings used in this Agreement are inserted for convenience only and shall not constitute a part hereof.

SECTION 13.7 No Third Party Beneficiaries or Setoff. Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties hereto or their respective successors, any right, remedies, obligations or liabilities under or by reason of this Agreement, and neither Seller nor any affiliate of Seller shall have any right of offset or setoff whatsoever.

SECTION 13.8 Legal Matters.

(a) *Governing Law.* This Agreement and any dispute arising from or in relation to this Agreement are governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province.

(b) *Non-Merger.* Except as otherwise provided in this Agreement, the covenants, representations and warranties set out in this Agreement do not merge but survive Closing and, notwithstanding Closing or any investigation by or on behalf of a Party, continue in full force and effect. Closing does not prejudice any right of one Party against the other Party in respect of any remedy in connection with anything done or omitted to be done under this Agreement.

(c) *Jurisdiction.* Each Party irrevocably and unconditionally attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

(d) *Limitation of Liability.* IN NO EVENT SHALL EITHER PARTY BE OBLIGATED OR LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.


(e) *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

(f) *Language.* The Parties do hereby agree that this Agreement and related documents be drawn up in the English language only. Les Parties aux présentes ont convenu que cette convention et les documents s'y rattachant soient rédigés en langue anglaise seulement.

IN WITNESS WHEREOF, the undersigned parties have entered into and executed this Agreement to be effective as of the day and year first above written.

PURCHASER:

**HILCO INDUSTRIAL ACQUISITIONS
CANADA ULC**

By: 
Name: Sarah Baker
Title: Assistant Secretary

SELLER:

A. FARBER & PARTNERS INC. solely in its capacity as Court-appointed Receiver of B&W Heat Treating Canada ULC and not in its personal or corporate capacity

By: _____
Name: _____
Title: _____

EXHIBIT A

Assets

Bluewater Thermal Solutions

Exhibit A

Description

Manufacturer Unknown 36" x 72" Spray/Dunk Cylinder Washer, with (4) Agitators, Oil Skimmer, Filter, Etc.

Manufacturer Unknown 36" x 72" Gas Fired Spray Washer, with Oil Skimmer

Surface Combustion Model Super 36 Allcase, 36" x 72" Furnace, S/N 540A (New 1985), 104-KVA, 575V, 3-PH, 105-Amps, 60Hz

Surface Combustion Model Super 36 Allcase, 36" x 72" Furnace, S/N 540B (New 1985), 108-KVA, 575V, 3-PH, 109-Amps, 60Hz

B&W 36" x 72" Allcase Furnace, S/N CA-9 (New 1995), 575V, 72-Amps, 3-Ph, 60-Cy

Surface Combustion Model DEDP, 36" x 72" Charge Car, S/N BC-45275 (New 2014), 575V, 3-Ph, 60Hz

B&W 36" x 72" Allcase Furnace, S/N CA-10 (New 1995), 575V, 72-Amps, 3-Ph, 60-Cy

#Furnace #8 B&W Allcase Natural Gas Tempering Furnace, S/N ACD8, Max. Temp. 1400°F, 0.95 MBTU

SBS Oil Cooler, S/N 7298 (New 2013), 100 MAWP

Surface Combustion Model 36-72-36, Allcase Furnace, S/N BC-45231-01, with Top Cool, 4110-CFH, 1800°F Max. Temperature, 110-KW

Surface Combustion Model Uni-Draw, Furnace, S/N BC-45232-1 (New 2013), 910-SCFH, 1400°F

Manufacturer Unknown Orange Oil Storage Tank

(2) Manufacturer Unknown Holding Stations

#Furnace #7 B&W Natural Gas Tempering Furnace, S/N ACD7, 1400°F Max Temperature, 0.95 MBTU

Manufacturer Unknown Holding Station

#Furnace #6 B&W Natural Gas Tempering Furnace, S/N ACD6, 1400°F Max Temperature, 1.0 MBTU

#Furnace #5 B&W Natural Gas Tempering Furnace, S/N ACD5, 1400°F Max Temperature, 1.0 MBTU

Manufacturer Unknown Holding Station

(4) Manufacturer Unknown Lifting Stations

Can Eng Rotary Hearth Furnace, S/N 104007/15, 575/3/60/90 FLA, Max. Input 2,750,000 BTUH Gross, Complete with B&W Rotary Aging Furnace #1, S/N P8; (2) Fanuc M9000iA Pick & Place Robots

Can Eng Rotary Hearth Furnace, S/N 104007/16, 575/3/60/90 FLA, Max. Input 2,750,000 BTUH Gross, Complete with Mfg. Unknown Rotary Aging Furnace; (2) Fanuc M9000iA Pick & Place Robots

Manufacturer Unknown Heat Treat Salt Line

Can Eng Mesh Belt Line & Quench Furnace, S/N 94446, Complete with Loader, Oil Skimmer and Controls

Can Eng Mesh Belt Line & Quench Furnace, S/N N/A, Complete with Loader, Oil Skimmer and Controls

Surface Combustion Model S3RX-3600, Gas Generator, S/N 592 (New 1989), 6-KVA, 575/3/60/7-Amp

(3) Brinnell Hardness Testers

#3260

Park Thermal 2000°F High Heat Furnace

Manufacturer Unknown Cut-Off Saw

Surface Combustion Model DEDP, Charge Car, S/N 540C

Indentron Digital Hardness Tester

Wilson Model 3JR, Hardness Tester

Wilson Model 4JR, Hardness Tester

Wilson Series 500, Hardness Tester

Buehler Series Pneumet II, Mounting Press

Buehler Series Ecomet III, Grinder

Metkon Model Ecopress 50, Mounting Press

Buehler Model Abrasimet 250, Cutter

Buehler Model Hardimet, Grinder

Lot- Miscellaneous Lab Cabinetry

Affri Micro Hardness Tester

Leco Model RT240, Hardness Tester

New Age Model 43001000, Tester

(2) Beuhler Sample Cabinets

Beuhler Model Micromet II, Micro Hardness Tester

Unimet Microscope

Lot- Spare Parts, (New Handler/Burner Tubes)

Lot- Miscellaneous Spare Parts

#Furnace #5

B&W Temper Furnace, S/N AD-5 (New 1998), 575/3/60

#Furnace #3

B&W 1350°F Temper Furnace, S/N J507

Lot- Misc. Fixtures, Baskets and Grids

Phoenix Automatic Stretch Wrapper, S/N N/A, 48" Table,
48" Vertical Travel

Tennant Model 365, LPG Ride On Floor Sweeper, S/N 365-
4290

(2) Motivation Model LCH-5, 10,000-Lb. Forklift Truck
Boom Extensions

Culligan Water Treatment System, with (2) 250-Gallon Storage Tanks, UV Pure Upstream NC10-75 Reverse Osmosis System, Culligan Plus Series Control, Water Conditioner, Tanks, Pumps

Lot- Machine Shop Contents Including Upstairs Mezzanine, Consisting of: Welders, Parts Washer, Enerpac Shop Press, Drills, Landa Pressure Washer, Pallet Trucks, Grinders, Tool Boxes, Tables, Vises, Hand & Power Tools, Hardware, Store Inventory, Jacks, Ladders, Oxy-Acet Torches, Hoists, Welding Supplies, Steel Inventory, Ridgid Threaders & Dies, Etc.

MSA Model GX2 Galaxy, Gas Detector

O'Brien 2-Ton Bridge Crane, Mounted Floor to Wall, with Trolley, No Hoist

O'Brien 275-Lb. Jib Arm

O'Brien 4,000-Lb. Free Standing Jib Arm, with 12' Arm, 18" Column

WF Wells Horizontal Band Saw

Stelco Mobile Pump, with Filter

Skyjack Model SJ III 3220, Scissor Lift

Manufacturer Unknown 48" x 30" Approx. 500-Ton Hydraulic Shop Press

(2) Custom Designed & Fabricated 22" x 72" Shaker Tables

(2) Manufacturer Unknown 18"W Incline Conveyors, with Cooling Blower Units

Pennsylvania Model 7600, Digital Floor Scale, with 48" x 48" Platform

Kaeser Model DB130, Air Compressor, with Omega Dryer (Please Note: Not Hooked Up)

Kohler Model 30RZ262, 30-kw Generator (Please Note:
Not Hooked Up)

Richard Wilcox 10-Ton x 30' Approx. Bridge Crane

(2) Demag 1-Ton x 12' Approx. Single Girder Cranes

Atlas Copco Model GA75, Rotary Screw Air Compressor

Devair Model K100 Iroquois, Rotary Screw Air
Compressor

Devair Model Proday, Refrigerated Air Dryer

Domnick Hunter Model RDM-0630 Eco Smart,
Refrigerated Air Dryer

Large Receiver Tank

Manufacturer Unknown Small Receiver Tank

Manufacturer Unknown Elevator/Bucket Loader

(2) Nederman Portable Fume Exhaust Hoods

Atlas Copco Model FD40, Tank, with Air Compressor

Empire Model PF3645, Shot Blast Cabinet, S/N 143079,
with Empire DCR80 Dust Collector

(2) Manufacturer Unknown 4,000-Lb. x 48" x 48" Scissor
Lift Tables

O'Brien 1-Ton x 30' Single Girder Bridge Crane, with CM 1-
Ton Chain Hoist

Lot- Yard Scrap

Lot- Misc. Equipment Throughout Consisting of: Scales,
Nissan Forklift
Strapping Caddies, Dump Hoppers, Dollies, Chains,
Slings, Totes, Bucket Loaders

Lot- Front Offices, Shop Offices, First Aid, Cafeteria,
furniture etc

EXHIBIT B

Facility

Bluewater Thermal Solutions, 60 Steckle Place, Kitchener, Ontario Canada N2E 2C3

EXHIBIT C

Form of Bill of Sale

BILL OF SALE

This Bill of Sale (this “Bill of Sale”), is executed and delivered as of _____, 2019, by A. Farber & Partners Inc., solely in his capacity as Receiver of B&W Heat Treating Canada ULC and not in its personal or corporate capacity (the “Seller” or “Receiver”), to Hilco Industrial Acquisitions Canada ULC (the “Purchaser”).

WHEREAS, on the terms and subject to the conditions of the Asset Purchase Agreement, dated as _____, 201_, by and between Seller and Purchaser (as modified, amended, or supplemented, the “Asset Purchase Agreement”), Seller agreed to sell, convey, transfer, assign, and deliver to Purchaser the assets set forth on attached Exhibit A (the “Transferred Assets”) free and clear of all Encumbrances (as defined in the Asset Purchase Agreement).

NOW, THEREFORE, for the consideration set forth in the Asset Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

Section 1. Defined Terms. All initially capitalized terms used but not defined herein have the meaning given them in the Asset Purchase Agreement.

Section 2. Transfer of Transferred Assets. On the terms and subject to the conditions set forth in the Asset Purchase Agreement, Seller hereby sells, conveys, transfers, assigns, and delivers to Purchaser, and Purchaser’s successors and assigns, all of the right, title, and interest B&W in and to the Transferred Assets owned by B&W free and clear of all Encumbrances.

Section 3. Further Assurances. If Purchaser shall consider or be advised that any deeds, bills of sale, instruments of conveyance, assignments, assurances, or any other actions or things are necessary or desirable to vest, perfect, or confirm ownership (of record or otherwise) in Purchaser (or Purchaser’s designee), Purchaser’s right, title, or interest in, to, or under any or all of the Transferred Assets transferred and conveyed by Seller hereunder, Seller shall execute and deliver all deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, and assurances and take and do all such other actions and things as may be reasonably requested by Purchaser (or Purchaser’s designee) in order to vest, perfect, or confirm any and all right, title, and interest in, to, and under such rights, properties, or assets in Purchaser, in each case at Purchaser’s cost and expense.

Section 4. Binding on Successors; No Third Party Beneficiaries. This Bill of Sale shall be binding upon and inure to the benefit of the parties hereto and the successors in interest and permitted assigns of such parties. This Bill of Sale is not intended to confer any rights or remedies upon any Person other than the parties hereto.

Section 5. Copies of Originals. Copies of this Bill of Sale transmitted by telecopy or other electronic transmission service shall be considered original executed documents.

Section 6. Governing Law. This Bill of Sale and any dispute arising from or in relation to this Bill of Sale are governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in that Province.

IN WITNESS WHEREOF, the undersigned hereby execute this Bill of Sale as of the day and year first above written.

**HILCO INDUSTRIAL ACQUISITIONS
CANADA ULC**

By: _____
Name: _____
Title: _____

A. FARBER & PARTNERS INC. solely in its capacity as Court-appointed Receiver of B&W Heat Treating Canada ULC and not in its personal or corporate capacity

By: _____
Name: _____
Title: _____

TAB I

**THIS IS EXHIBIT “I” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.

FORM 86

Notice of Intention to Enforce a Security

(Rule 124)

To: B&W Heat Treating Canada ULC (“**Debtor**”)

Take notice that:

1. Cerberus Business Finance LLC (“**Cerberus**”), the secured creditor, intends to enforce its security on the Debtor’s property described in Schedule “A” attached hereto.
2. The security that is to be enforced is in the form of the security listed in Schedule “B” attached hereto (the “**Security**”).
3. The total amount of indebtedness secured by the Security as at August 30, 2019, is USD\$3,023,725 together with additional accrued and unpaid interest and fees, costs, and expenses.

DATED at Toronto, Ontario, this 30th day of August, 2019.

CERBERUS BUSINESS FINANCE LLC,
by its solicitors McMillan LLP



Per:

McMillan LLP

SCHEDULE “A”

DESCRIPTION OF COLLATERAL

Personal Property

All present and after acquired personal property and undertaking of the Debtor.

Intellectual Property

Trademarks:

Mark	Country	Owner of Record	Serial or Reg. No.
B & W Heat Treating	Canada	B&W Heat Treating Canada ULC	TMA413867

SCHEDULE “B”**SECURITY**

1. Canadian pledge and security agreement dated October 23, 2012 granted by the Debtor in favour of Cerberus; and
2. Trademark security agreement dated October 23, 2012 granted by the Debtor in favour of Cerberus.

TAB J

**THIS IS EXHIBIT “J” TO
THE AFFIDAVIT OF ERIC MANNIX
SWORN BEFORE ME THIS 26th
DAY OF SEPTEMBER, 2019.**

A Commissioner etc.

Court File No.

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

B E T W E E N:

CERBERUS BUSINESS FINANCE, LLC

Applicant

- and -

B&W HEAT TREATING CANADA ULC

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

CONSENT

A. FARBER & PARTNERS INC. (“Farbers”) hereby consents to act as Court-appointed receiver, without security, of all of the assets, undertakings and properties of the Respondent pursuant to subsection 243(1) of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, in accordance with an order substantially in the form requested by the Applicant, or as such order may be amended in a manner satisfactory to Farbers.

DATED this 26th day of September, 2019

A. FARBER & PARTNERS INC.By: 

Name: Stuart Mitchell

Position: Senior Managing Director

I have authority to bind the corporation

CERBERUS BUSINESS FINANCE, LLC

-and-

B&W HEAT TREATING CANADA ULC

Applicant

Respondent

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
 TORONTO

CONSENT

MCMILLAN LLP

Brookfield Place
 181 Bay St, Suite 4400
 Toronto, ON M5J 2T3

Tushara Weerasooriya LS#: 51186K

tushara.weerasooriya@mcmillan.ca
 Tel: (416) 865-7890 / Fax: (416) 865-7048

Jeffrey Levine LS#: 55582H

jeffrey.levine@mcmillan.ca
 Tel: (416) 865-7791 / Fax: (416) 865-7048

Mitch Kocerginski LS#: 67818B

mitch.kocerginski@mcmillan.ca
 Tel: (416) 865-7262 / Fax: (416) 865-7048

Lawyers for the Applicant

TAB 3

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE –
COMMERCIAL LIST**

THE HONOURABLE

FRIDAY, THE 27TH

JUSTICE PATTILLO

DAY OF SEPTEMBER, 2019

B E T W E E N :

CERBERUS BUSINESS FINANCIAL, LLC

Applicant

- and -

B & W HEAT TREATING CANADA, ULC

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. C.43

**ORDER
(appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing A. Farber and Partners Inc. ("Farber") as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of B & W Heat Treating Canada, ULC (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, 8th Floor, Toronto, Ontario.

ON READING the affidavit of Eric Mannix sworn September 26, 2019 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, Respondent and proposed Receiver, no one appearing for Canada Revenue Agency or Ministry of Finance (Ontario), although duly served as appears from the affidavit of service of Jeffrey Levine sworn September 26, 2019 and on reading the consent of A. Farber and Partners Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the *BIA* and section 101 of the *CJA*, A. Farber and Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**") with effect from such time on Monday, September 30, 2019, that the Debtor notifies the Receiver in writing that it has terminated the employment of all its employees.

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such

proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court, and notice under subsection 63(4) of the Ontario Personal Property Security Act shall not be required.
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor and nothing in this order shall be interpreted as precluding Farber from acting as trustee in bankruptcy;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence

of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *BIA*, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent

the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit

of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that the Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the *BIA*, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of

a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the *BIA* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

(a) FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://farbergroup.com/engagements/bwheattreating/>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their

advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

28. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that A. Farber and Partners Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties B & W Heat Treating Canada, ULC acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ____ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

A. Farber and Partners Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
 Name:
 Title:

ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

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Lawyers for the Applicant

TAB 4

Revised: January 21, 2014
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. _____:

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE _____) ~~WEEKDAY~~ FRIDAY, THE # 27TH
)
JUSTICE ~~_____~~ PATILLO) DAY OF ~~MONTH~~ SEPTEMBER,
) ~~20YR~~ 2019

~~PLAINTIFF~~¹

~~Plaintiff~~ B E T W E E N:

CERBERUS BUSINESS FINANCIAL, LLC

Applicant

- and -

~~DEFENDANT~~

~~Defendant~~

B & W HEAT TREATING CANADA, ULC

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. C.43

ORDER
(appointing Receiver)

THIS ~~MOTION~~ APPLICATION made by the ~~Plaintiff~~² Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "*BIA*") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the

¹ ~~The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application.
This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~
² ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

"CJA") appointing ~~[RECEIVER'S NAME]~~A. Farber and Partners Inc. ("Farber") as receiver ~~and manager~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~B & W Heat Treating Canada, ULC (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, 8th Floor, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Eric Mannix sworn ~~[DATE]~~September 26, 2019 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~the Applicant, Respondent and proposed Receiver, no one appearing for ~~[NAME]~~Canada Revenue Agency or Ministry of Finance (Ontario), although duly served as appears from the affidavit of service of ~~[NAME]~~Jeffrey Levine sworn ~~[DATE]~~September 26, 2019 and on reading the consent of ~~[RECEIVER'S NAME]~~A. Farber and Partners Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated³ so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the *BIA* and section 101 of the *CJA*, ~~[RECEIVER'S NAME]~~A. Farber and Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property") with effect from such time on Monday, September 30, 2019, that the Debtor notifies the Receiver in writing that it has terminated the employment of all its employees.

³~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

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- 4 -

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.⁴ The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

⁴ ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

- 5 -

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;

~~(i) without the approval of this Court in respect of any transaction not exceeding \$ _____, provided that the aggregate consideration for all such transactions does not exceed \$ _____; and (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause; and in each such case notice under subsection 63(4) of the Ontario Personal Property Security Act, [or section 31 of the Ontario *Mortgages Act*, as the case may be,]⁵ shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

⁵ ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor and nothing in this order shall be interpreted as precluding Farber from acting as trustee in bankruptcy;
- (q) ~~(p)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) ~~(q)~~ to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (s) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations,

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governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and

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providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *BIA*, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business

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which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this

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Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that ~~all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees.~~ The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the *BIA*, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

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LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the *BIA* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on

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the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.⁶

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

(a) FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the

⁶ ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA*.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule "A"** hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/> <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://farbergroup.com/engagements/bwheattreating/>.

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26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

28. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

30. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this

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Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, provided for by the terms of the ~~Plaintiff~~Applicant's security or, if not so provided by the ~~Plaintiff~~Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~A. Farber and Partners Inc., the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~B & W Heat Treating Canada, ULC acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ____ day of _____, 20__ (the "Order") made in an action having Court file number __-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [~~daily~~][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

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5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

~~[RECEIVER'S NAME]~~

A. Farber and Partners Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____
Name:
Title:

CERBERUS BUSINESS FINANCIAL, LLC B & W HEAT TREATING CANADA, ULC
Applicant and Respondent

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

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Lawyers for the Applicant

Document comparison by Workshare Compare on Thursday, September 26, 2019 6:16:40 PM

Input:	
Document 1 ID	interwovenSite://DMS/LEGAL/31845991/1
Description	#31845991v1<LEGAL> - Receivership Model Order Form
Document 2 ID	interwovenSite://DMS/LEGAL/31846023/3
Description	#31846023v3<LEGAL> - Order - Receivership Application - DRAFT
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	93
Deletions	80
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	173

TAB 5

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY, THE 27TH
)	
JUSTICE PETILLO)	DAY OF SEPTEMBER, 2019

B E T W E E N:

CERBERUS BUSINESS FINANCIAL, LLC

Applicant

- and -

B & W HEAT TREATING CANADA, ULC

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. C.43

APPROVAL AND VESTING ORDER

THIS MOTION, made by A. Farber and Partners Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of B & W Heat Treating Canada, ULC (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Hilco Industrial Acquisitions Canada ULC (the “**Purchaser**”) dated September 25, 2019, and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and counsel for the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Jeffrey Levine sworn September 26, 2019, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver and the Purchaser may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Pattillo dated September 27, 2019; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the

sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

5. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

SEALING OF CONFIDENTIAL MATERIALS

7. THIS COURT ORDERS that the Record of Confidential Exhibits containing the confidential exhibits referred to in the Affidavit of Eric Mannix sworn September 26, 2019 is

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sealed until the completion the transaction contemplated by the Sale Agreement, or until further order of this Court.

Schedule A – Form of Receiver’s Certificate

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

CERBERUS BUSINESS FINANCIAL, LLC

Applicant

- and -

B & W HEAT TREATING CANADA, ULC

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE*
ACT, R.S.O. 1990, C. C.43

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Pattillo of the Ontario Superior Court of Justice (the “**Court**”) dated September 27, 2019, A. Farber and Partners Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of B & W Heat Treating Canada, ULC (the “**Debtor**”).

B. Pursuant to an Order of the Court dated September 27, 2019, the Court approved the agreement of purchase and sale made as of September 25, 2019 (the “**Sale Agreement**”) between the Receiver and Hilco Industrial Acquisitions Canada ULC (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set

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out in section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

A. Farber and Partners Inc., in its capacity as Receiver of the undertaking, property and assets of B & W Heat Treating Canada, ULC and not in its personal capacity

Per: _____

Name:

Title:

Schedule B – Claims to be Released, Discharged and Expunged from Purchased Assets

Secured Party	File No.
Cerberus Business Finance, LLC	681898986

CERBERUS BUSINESS FINANCIAL, LLC
Applicant

and

B & W HEAT TREATING CANADA, ULC
Respondent

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at Toronto

SALE APPROVAL AND VESTING ORDER

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Lawyers for the Applicant

CERBERUS BUSINESS FINANCE, LLC
Applicant

and

B & W HEAT TREATING CANADA, ULC
Respondent

Court File No.: CV-19-00628115-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

APPLICATION RECORD

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